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1921, ON 17 FEBRUARY 2017

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

HELD IN DUBLIN CASTLE  
ON WEDNESDAY, 20TH SEPTEMBER 2017 - DAY 21

21

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

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

3  
4 CHAIRMAN: Ladies and gentlemen, before we go on to  
5 today's business there's just two things I'd like to 10:00  
6 mention, please. Firstly, this: The Tribunal first  
7 sat in February, and asked for assistance from those  
8 who knew about facts that were relevant to the terms of  
9 reference. It's disappointing, not just what happened  
10 yesterday in relation to a lack of instructions, but 10:00  
11 more importantly, there is still correspondence  
12 outstanding, people who haven't answered letters, and  
13 only last Thursday, I am not going to mention any  
14 names, we got statements finally, seven months after  
15 the Tribunal began, in relation to matters which are 10:01  
16 highly pertinent and, in that context, the powers of  
17 compulsion of the Tribunal are the same as the High  
18 Court, but given that it's a matter of public  
19 importance, and given that people have a legal duty to  
20 cooperate and a patriotic duty to cooperate, I think 10:01  
21 they have to examine their own consciences as to where  
22 they stand and as to what relationship to the exercise  
23 of truth finding, which this Tribunal is trying to  
24 represent, they wish to stand.

25  
26 Now, the second matter I wish to mention is this: It  
27 doesn't come as a surprise to me that counsel are under  
28 certain duty. Mr. Marrinan mentioned yesterday that  
29 it's the duty of counsel for the Tribunal to put to

1 witnesses such material as will provide one of a number  
2 of perhaps alternative scenarios of fact which  
3 ultimately the Tribunal may have to make a decision on,  
4 and that job has been scrupulously done by counsel for  
5 the Tribunal, with the assistance of the solicitor for 10:02  
6 the Tribunal, and the Tribunal staff since the Tribunal  
7 began.

8  
9 There is a duty on other counsel as well, and I know I  
10 mentioned this yesterday but I think I have to mention 10:02  
11 it today because it's like as if I have suddenly come  
12 up with something new, a rabbit out of a hat, so to  
13 speak. Well, I haven't. Yesterday, the whole concept  
14 of a criminal case was mentioned, and I wish to refer  
15 to the case of Niall Byrne v. The Judges of the Dublin 10:02  
16 Circuit Court and the Director of Public Prosecutions.

17  
18 Now, that was a criminal case, and as is well-known  
19 there is a right to silence in a criminal case. That  
20 right doesn't exist in a civil case, but even with a 10:03  
21 right to silence, no counsel is entitled to invent a  
22 defence for their client, no counsel is entitled to put  
23 matters to witnesses which are at variance with  
24 instructions. The whole point of legal representation  
25 is that counsel stand in the place of their client. In 10:03  
26 the wider community there can be a controversy as to  
27 whether, in that context, there is a problem with, for  
28 instance, defending people who you know to be guilty.  
29 Well, the answer to that is very simple: That counsel

1 don't ask. And I can understand that. And that  
2 certainly was my practice when at the Bar. But the  
3 practice also is to take a detailed set of instructions  
4 and then to use those set of instructions as the basis  
5 for and as the boundary for any cross-examination. In 10:03  
6 Byrne v. The judges of the Dublin Circuit Court and the  
7 Director of Public Prosecutions, the main issue was the  
8 issue of how many trials could take place where the  
9 jury disagreed; could there be only two or could there  
10 be three? And the Supreme Court answered that 10:04  
11 definitively. Mr. Justice Hardiman dissented from what  
12 was my judgment, but he didn't dissent in respect of a  
13 point that was made in relation to one of the  
14 extraordinary facts of that case, which was that the  
15 victim of the tiger kidnapping, in other words the 10:04  
16 manager of the financial institution, whose family had  
17 been taken, was actually accused by counsel for one of  
18 the accused of being an accomplice. The Supreme Court  
19 condemned that as being incorrect and as being  
20 something which no client could have instructed their 10:04  
21 counsel as being a fact of which they knew.

22  
23 It is the duty of counsel even in a criminal case -  
24 particularly in a criminal case - to cross-examine on  
25 the basis only of instructions. That doesn't mean that 10:05  
26 witnesses can't be challenged as to their recollection,  
27 as to their means of knowledge as to whether, for  
28 instance, they have some issue as to credit, but in  
29 relation to facts put, the whole point of a

1 cross-examination is to get to the point where a  
2 relevant fact is put, which is relevant to the Defence  
3 and that is defined by instructions given by the client  
4 to counsel. It's not made up.

10:05

5  
6 In the context of a civil case, Martin McDonagh v.  
7 Sunday Newspapers is the leading authority, because in  
8 that case Mr. McDonagh was arrested and questioned in  
9 relation to a drug importation at Tubbercurry, County  
10 Sligo on Monday, 30th August 1999, and the issue in the 10:06  
11 case seemed to become not whether the newspaper could  
12 prove that he was involved in that but who exactly  
13 within An Garda Síochána had leaked the information  
14 that he was in custody to the Sunday world, which of  
15 course published a large exposé on his 10:06  
16 cross-examination and ended up in due course with a  
17 jury awarding €900,000 against them. But that is not  
18 the point. The point is this: That the law in this  
19 country since way back two centuries ago has been that  
20 counsel must put their clients' cases to witnesses. 10:06  
21 The authority that was followed in that case, and it is  
22 analysed in all the relevant textbooks, is that of  
23 Browne v. Dunn [1893] in which Lord Halsbury said:

24  
25 "To my mind nothing would be more absolutely unjust 10:07  
26 than not to cross-examine witnesses upon evidence which  
27 they have given, so as to give them notice and to give  
28 them an opportunity of explanation and an opportunity  
29 often to defend their own character and, not having

1 given them such an opportunity, to ask the jury or the  
2 tribunal of fact afterwards to disbelieve what they  
3 have said, although not one question had been directed  
4 either to their credit or to the accuracy of the facts  
5 to which they have deposed to." 10:07

6  
7 And in that case, the Supreme Court condemned the  
8 notion that counsel could sideline the issue as to why  
9 they said that what the Gardaí were saying in relation  
10 to his interviews in custody in favour of merely 10:07  
11 conducting a scrutiny as to which garda, if any, and it  
12 had to have been a garda, had leaked information to the  
13 newspaper which led to the relevant headlines.

14  
15 So that is the duty of counsel. And when we come to 10:08  
16 the issue of a tribunal, I mean, the reality is, we  
17 have had a lot of tribunals in this case [sic],  
18 Mr. McGuinness in the opening statement mentioned those  
19 to do with the Gardaí, but there is a legal obligation  
20 to cooperate with the Tribunal, which means putting 10:08  
21 forward your case. Now, the Tribunal asked for people  
22 to put forward their case as long ago as February.  
23 Those who are trained in taking statements, such as the  
24 Gardaí, are well capable of doing that. And in terms  
25 of the presentation of witnesses, I want to make it 10:08  
26 perfectly clear that I am not saying anything new and,  
27 as the two authorities I have referred to indicate, it  
28 has always been part of the law that counsel are  
29 actually obliged to put a case as opposed to



1 cross-examining at large.

2

3 Now, that is all I want to say and we will go on with  
4 the day's business.

5 MS. LEADER: Our first witness is Detective Sergeant 10:09  
6 David Durkin. His statement is at volume 2, page 627  
7 of the materials.

8

9 DETECTIVE SERGEANT DAVID DURKIN, HAVING BEEN SWORN, WAS  
10 DIRECTLY EXAMINED BY MS. LEADER: 10:09

11 1 Q. MS. LEADER: Detective Sergeant Durkin, I understand  
12 you are now attached to Ballyshannon Garda station, am  
13 I correct in saying that?

14 A. That's correct.

15 2 Q. And if you could tell the Tribunal, please, about your 10:09  
16 career in An Garda Síochána to date and the various  
17 stations you have been attached to?

18 A. Judge, I was attested in December 1997 and I went to  
19 Dublin for approximately six weeks, and January '98 I  
20 transferred permanently to Letterkenny Garda station. 10:10

21 In July of that year I was transferred to Raphoe in  
22 Donegal and I remained there until June 2004 at which  
23 time I transferred to Bundoran, again in County  
24 Donegal. I remained there until 2010, at which stage I  
25 was promoted to the rank of sergeant and I was 10:10  
26 transferred on promotion to Letterkenny Garda Station.  
27 And in December of that year I returned to Donegal Town  
28 and I remained there until December of 2016 where I was  
29 appointed as detective sergeant for the Ballyshannon

1 district.

2 3 Q. I wonder, detective sergeant, could you just direct  
3 yourself towards the microphone?

4 A. Yes.

5 4 Q. Thanks. Now, I think there are two periods we will be 10:11  
6 referring to, one in passing; you were in Raphoe from  
7 July 1998 to June 2004, is that correct?

8 A. That's correct. It was a ten-month period there, I was  
9 back in Letterkenny in plain clothes. But for the rest  
10 of that time I was in Raphoe, stationed in Raphoe. 10:11

11 5 Q. And then you were in Donegal Town from December 2010  
12 until December 2016?

13 A. That's correct.

14 6 Q. Am I correct in saying that? Now, in June 2011 I  
15 understand you were a unit sergeant in Donegal Town 10:11  
16 Garda Station?

17 A. That's correct, I was attached to unit B, I think, at  
18 that stage.

19 7 Q. Okay. And the particular unit you were in charge of  
20 was unit B, am I right in saying that? 10:11

21 A. That's correct, but you'd have had responsibility for  
22 other units. There wasn't a sergeant on individual  
23 each unit, so you would be crossing over and  
24 responsible for supervision of more than one unit.

25 8 Q. Sorry, we are having difficulty hearing you. The red 10:11  
26 microphone?

27 A. This one? That that better?

28 9 Q. Yes. Now, if you could describe briefly what your job  
29 as unit sergeant involves?

1 A. Well, I am responsible for dealing with correspondence,  
2 correspondence ensuing from the district office,  
3 assigning duties to members, I would be taking on a  
4 certain amount of investigations myself, dealing with  
5 administration stuff in the station. You know, there 10:12  
6 would be people coming in to see you that wanted to  
7 speak to sergeants in particular. Just general running  
8 of the station and ensuring members were doing -- the  
9 supervision of members.

10 10 Q. And in relation to unit B, how many guards were in that 10:12  
11 unit?

12 A. There were two prior to Garda Harrison's arrival and  
13 there was one member of detective branch attached to  
14 that unit. So there was three in total on unit B.

15 11 Q. On unit B? 10:12

16 A. Yes.

17 12 Q. So three guards, two in --  
18 A. Uniform and one in plain clothes.

19 13 Q. -- uniform and one in plain clothes?  
20 A. Yes. 10:13

21 14 Q. Thank you. Now, in June 2011 Garda Harrison, we have  
22 heard, was transferred to Donegal Town?

23 A. That's correct.

24 15 Q. You had a conversation with Superintendent Cohen in  
25 relation to that transfer and I wonder could you tell 10:13  
26 the Tribunal what transpired during that telephone  
27 conversation?

28 A. Well, to be honest I am not sure whether it was a  
29 telephone conversation or whether it was when I was in

1 the office, but Superintendent Coen just informed me  
2 that we were getting an additional member and he said  
3 it was Garda Harrison. He didn't say much more than  
4 that other than the fact that he was being transferred  
5 from Buncrana, and it was as a result of -- he was on a 10:13  
6 unit, the same unit as Gary McLoughlin was, the  
7 deceased member, he was on the same unit as he had been  
8 on and he had been in a relationship with Marisa  
9 McDermott or Marisa Simms, and that was more or less it  
10 and he was being transferred to Donegal Town as a 10:13  
11 result of that.

12 16 Q. So Superintendent Coen was also stationed in Donegal  
13 Town, was he?

14 A. No, he was the district officer in Ballyshannon, which  
15 is the district headquarters for Donegal Town and the 10:14  
16 rest of the district.

17 17 Q. Okay. Did you understand from that conversation why he  
18 was being transferred to Donegal Town?

19 A. Well, I didn't go into it much. I mean, he made it  
20 clear that it was because of the fact that Garda 10:14  
21 Harrison was in a relationship with Ms. Simms, who was  
22 a brother of Martin McDermott. I didn't pass any more  
23 heed other than that and I didn't inquire any more  
24 about it.

25 18 Q. And did Superintendent Coen give you any particular 10:14  
26 instructions with regard to monitoring Garda Harrison  
27 or anything of that nature?

28 A. No, he did not.

29 19 Q. Okay. And did you, because of his association with

1 Ms. Simms and her connection with the McLoughlin -- her  
2 brother's connection with the McLoughlin matter, did  
3 you decide to pay any particular attention to Garda  
4 Harrison?

5 A. No, I did not. I mean, when Garda Harrison came, he 10:15  
6 was an addition to the station party. I mean, he was  
7 treated the same as everyone else. Whatever his  
8 partner's brother did or didn't do it didn't have  
9 anything really to do with me.

10 20 Q. Okay. And do you know in the unit, was it known 10:15  
11 generally of his relationship with Ms. Simms and her  
12 connection --

13 A. I would imagine it was. I mean, it wasn't advertised  
14 or anything but I presume everyone would have known, I  
15 mean -- 10:15

16 21 Q. I think Garda Harrison actually arrived in Donegal Town  
17 in or around the 2nd or 3rd of June 2011, is that  
18 right?

19 A. Yes, that's correct.

20 22 Q. Okay. And did you speak to him? 10:15

21 A. I don't recall the first meeting, to be honest. But  
22 the day he arrived, if I had been working, which, if he  
23 was attached to unit B, he would have -- I spoke to him  
24 when he arrived at the station.

25 23 Q. Okay. Maybe it might be said as sergeant in unit B, 10:16  
26 you may have made it your business to talk to a new  
27 guard who had been assigned to your unit?

28 A. Oh, you would. I welcomed him, the same as I welcomed  
29 anyone else. There was other members who came in or

1 around the same time or just prior to Garda Harrison  
2 and they were welcomed. You know, shake hands and say  
3 'You are welcome', introduce yourself and anyone else  
4 present you would be introducing Garda Harrison to  
5 other members present too. But I don't specifically 10:16  
6 recall the conversation or the date I actually met him.

7 24 Q. Okay. Do you remember talking to him about  
8 Mr. McLoughlin at all or Mr. McDermott?

9 A. I don't specifically remember a conversation. I have  
10 seen it in Garda Harrison's statement, that I spoke to 10:16  
11 him about it, but the contents of what Garda Harrison  
12 said in his statement didn't happen because I never  
13 extradited Martin McDermott. Now, I was involved in an  
14 investigation of an aggravated burglary in Raphoe where  
15 Martin McDermott was one of four people arrested and 10:17  
16 taken through the court procedures in relation to it.  
17 But I never extradited him from Northern Ireland.

18 25 Q. And insofar Garda Harrison says in his statement that  
19 as the months went on in Donegal Town that he was under  
20 the impression that he got a hostile reception from you 10:17  
21 and that he was treated differently from others, do you  
22 have anything to say in relation to that?

23 A. Well, I reject that. I believe Garda Harrison was  
24 treated very fairly when he came there. I believe he  
25 settled in well and he made nothing known to me about 10:17  
26 any problems he was having. He was given the same  
27 opportunities as everyone else there and treated the  
28 same way and socially within the station, having  
29 breakfast, lunches and everything, he was included in

1 everything. I mean, I did see a reference to overtime  
2 and that in his statement, overtime wasn't a huge issue  
3 those times because there wasn't very much of it and,  
4 as I said in my statement to the Tribunal, when it was  
5 available it was offered out evenly. Generally the 10:18  
6 resting unit would be offered first, first crack at any  
7 overtime that was available and after that then whoever  
8 was able to do it was given it.

9 26 Q. Okay. Now, I think there was an episode in February  
10 2012 concerning the insurance in Garda Harrison's car? 10:18

11 MR. HARTY: Sir, I think at this point it's a good time  
12 for me to interject. I understood that this module is  
13 in relationship to N, which is contacts between Tusla  
14 and An Garda Síochána in relation to Garda Harrison.  
15 It would strike me that this reference to what occurred 10:19  
16 in February 2012 bears no relation to that at all, and  
17 mindful of what the Tribunal has said about  
18 cross-examination, it would to my mind be a  
19 cross-examination about matters which are relevant to  
20 that module and it would appear to me that this 10:19  
21 reference to February 2012 is absolutely extraneous and  
22 bears no relation to the references to Tusla. And I  
23 would ask counsel for the Tribunal to keep witnesses  
24 within the terms of the terms of reference. And I note  
25 in that regard that in relation to the broad statement 10:19  
26 which was put in, in respect of Garda Harrison, that  
27 opening statement from counsel for the Tribunal  
28 expressly left out matters in relation to earlier  
29 complaints from Garda Harrison and I would suggest that

1 other extraneous matters from other witnesses, albeit  
2 as contained in their statements, ought not be  
3 introduced before this module. They are matters which  
4 would be relevant perhaps to other modules, but not to  
5 module N.

10:20

6 CHAIRMAN: Mr. Harty, just two things. First of all,  
7 your client does complain that he was frozen out in  
8 Donegal Town Garda Station. Am I wrong?

9 MR. HARTY: Yes. But as counsel for the Tribunal said  
10 in their opening statement, some complaints in Garda  
11 Harrison's statement which involved all matters, are  
12 not relevant. What is relevant is the references to  
13 Tusla, and this witness does have clear evidence to  
14 give in relation to that. This matter in relation to  
15 an insurance on a car is utterly irrelevant and cannot  
16 have any purpose other than to prejudice unnecessarily,  
17 on a matter of absolute irrelevance, Garda Harrison.

10:20

10:20

18 CHAIRMAN: Well, for a start, I am not going to be  
19 prejudiced. The second point is this: As to credit, I  
20 mean, we have this problem unfortunately coming up. We  
21 are obliged to reveal matters under the O'Callaghan  
22 case which go to the credit of any witness who may  
23 affect the reputation of another party. So, is it for  
24 the Tribunal to bring that out or is it for those  
25 perhaps whose reputation may be affected by the witness  
26 to bring out matters which go against credit?

10:21

10:21

27 MR. HARTY: In relation to --

28 CHAIRMAN: I am asking a question.

29 MR. HARTY: Yes. In relation to this matter, this is a



1 matter whereby there was a lapse in insurance on a car  
2 and it is being introduced --

3 CHAIRMAN: I know all about it, yes.

4 MR. HARTY: Yes. It serves nothing to do with credit  
5 in any way, shape or form. It does certainly add 10:22  
6 colour if you were dealing with module P, but it bears  
7 no relation on module N.

8 CHAIRMAN: Ms. Leader?

9 MS. LEADER: Yes, the reason I am bringing it up with  
10 the witness, sir, is in Garda Harrison's statement at 10:22  
11 page 24 of the materials, volume 1, he seems to make  
12 the suggestion that Sergeant Durkin, who is this  
13 witness -- he refers to an outburst in relation to the  
14 insurance issue, sir, if I can put it that way. What  
15 Garda Harrison says in his statement is: 10:22  
16

17 "Sergeant Durkin's outburst --"

18

19 which was an outburst in connection with no the  
20 insurance issue. 10:22

21 CHAIRMAN: Yes. I am sorry, am I getting the right  
22 page? Did you say page 24?

23 MS. LEADER: It is page 24, internal pagination page  
24 13. There are two --

25 CHAIRMAN: Okay. So, internal pagination page? 10:23

26 MS. LEADER: So page 24 of the materials and it's  
27 actually page 13 of Garda Harrison's statement.

28 CHAIRMAN: No, I understand.

29 MS. LEADER: Yes. "-- confirmed to me what I had

1 already suspected, that there was a concerted effort by  
2 garda management in Donegal to scrutinise my every move  
3 and, where possible, target and punish me."  
4

5 And in those circumstances, it was in those 10:23  
6 circumstances only that I was referring to the  
7 insurance issue and I think I put it as neutrally as  
8 that, sir.

9 CHAIRMAN: Yes. No, my view is everything has to come  
10 out. I mean, the plain reality is there was an issue 10:23  
11 yesterday as to whether Garda Harrison was a well  
12 performing member of An Garda Síochána in Buncrana, and  
13 he was. I am prepared to accept that. If there is  
14 something which leads him to the belief that he is  
15 being targeted but in fact it is something that is 10:24  
16 simply the logical application of discipline, which can  
17 include balling people out, then it is relevant to the  
18 fact at issue, which is whether senior management used  
19 this or other incidents with a view to getting the  
20 Child and Family Agency involved in his family life 10:24  
21 and, in particular, getting a social worker to visit on  
22 one occasion. So I want the evidence out there.

23 MS. LEADER: Thank you, sir.

24 27 Q. Now, Detective Sergeant Durkin, in relation to the  
25 insurance issue in February 2012, it would appear from 10:24  
26 Garda Harrison's statement, which has already been  
27 referred to here, that that confirmed to him what he  
28 had suspected in relation to there being a concerted  
29 effort by Garda management in Donegal to scrutinise his

1 every move and target and punish him where possible.  
2 Did you take action in relation to Garda Harrison and  
3 the insurance of his car as a result of instructions  
4 from your superiors or an instruction that you should  
5 scrutinise Garda Harrison in any way? 10:25

6 A. No, Mr. Chairman, I did not. In fact, the fact of the  
7 matter was I discovered that Garda Harrison had no  
8 insurance and there was a disk from his previous car in  
9 the car he was now driving. In my view, it was to give  
10 off the impression that he was insured on that car. I 10:25  
11 made that clear to Garda Harrison. He didn't accept  
12 that. He was of the opinion it was a genuine mistake.  
13 At the time I pointed out to him that he had a good few  
14 years in traffic experience and I didn't think -- if he  
15 had met somebody on the road and they had given him the 10:26  
16 same explanation as he gave me he wouldn't have  
17 accepted it. And just in relation to that, if I could  
18 further point out that in, I think it was in August the  
19 year before, Judge, I gave him a caution for having no  
20 tax on his car and I am of the opinion if I was under 10:26  
21 instruction to report everything and to bring  
22 everything back to chief superintendent, I wouldn't  
23 have given him that caution. I mean, I gave him a  
24 caution, he had no tax on his car, as far as I was  
25 concerned, Judge, I believe there is a huge difference 10:26  
26 between having no tax on your car and having no  
27 insurance on your car. And I gave him a caution the  
28 previous August in relation to it and that was the end  
29 of the matter. I didn't report anything to my

1 supervisor, superintendent or the chief superintendent  
2 in relation to that. When it became clear that he had  
3 no insurance on the car, a prosecution followed and I  
4 was a witness, but I -- the conversation as outlined by  
5 Garda Harrison in his statement, that never occurred in 10:27  
6 the manner he said it occurred.

7 CHAIRMAN: What date are we talking about here?

8 A. It was the 24th of February, Judge, that I spoke to  
9 him, 2012. And as I said, Judge, it was the previous  
10 August that I had given him a caution in relation to 10:27  
11 his tax. And I also pointed out the fact, Judge, Garda  
12 Harrison was active in road traffic matters around  
13 Donegal Town and at that time in August 2011 I said it  
14 doesn't reflect good the fact that he is out on the  
15 street, seizing cars in relation to no tax and yet 10:27  
16 having no tax on his car himself. But as I said, the  
17 matter was left at a caution at that stage.

18 28 Q. MS. LEADER: Now, Garda Harrison suggests also in his  
19 statement that you were watching his every move in the  
20 Garda station. Do you have anything to say in relation 10:28  
21 to that?

22 A. Judge, I wasn't watching anyone's every move. I was  
23 responsible as a supervisor for Garda Harrison and  
24 other members in the station. I carried out those  
25 duties in line with what I am supposed to do and other 10:28  
26 than that I wasn't watching anyone's every move in the  
27 Garda station. And I wasn't in particular watching  
28 Garda Harrison more than anyone else.

29 29 Q. Okay. Now, I think if we could go to August 2013, and

1 in particular the 24th of August 2013, you received a  
2 phone call from a particular person, is that correct?  
3 A. That's correct, yeah. On 24th of August 2013 at, I  
4 have it recorded as being at 21:42pm, I received a call  
5 from Rita McDermott, who is the mother of Marisa and 10:29  
6 Martin McDermott.

7 30 Q. If I could just stop you there and if you could explain  
8 to the Tribunal, please, how you knew Rita McDermott?  
9 A. Judge, I knew Rita McDermott from my time in Raphoe.  
10 As I said, from 1998 until 2004 I was stationed in 10:29  
11 Raphoe. During that time you get to know a good few  
12 people. Rita McDermott was one of the ones I got to  
13 know. Through no fault of hers, but I had dealings  
14 with her son and I had occasion maybe to serve  
15 summonses on her because he was a minor at the time and 10:29  
16 as part of the procedure you have to serve summonses on  
17 the minor and their guardian. I knew Rita McDermott's  
18 brother, William Bogle, also just from general, he did  
19 a few taxi runs from us to the prisons with prisoners  
20 arrested on foot of warrants. So I knew Rita McDermott 10:29  
21 and I knew when she phoned me it was Rita McDermott  
22 when she said who she was.

23 31 Q. Okay. So you got a telephone call from Rita McDermott,  
24 and if you could tell the Tribunal what Ms. McDermott  
25 said to you when she phoned you? 10:30  
26 A. Well, Judge, Ms. McDermott was, she was reporting the  
27 concerns she had in relation to her daughter and in  
28 particular Garda Harrison's behaviour towards her  
29 daughter. She indicated to me that the previous

1 Tuesday night/wednesday morning at approximately, I  
2 think it was 3:00am, she received a call from her  
3 daughter stating that Garda Harrison had thrown her out  
4 of their shared accommodation in Churchill and that she  
5 had to leave Raphoe and go and collect her daughter, 10:30  
6 and when she got to the accommodation or the rented  
7 accommodation in Churchill Marisa was outside the house  
8 in her pajamas. I inquired of her, were any kids  
9 present at that time, and she said no, they were with  
10 their father. Rita went on to mention other matters 10:31  
11 which really weren't to do with that particular night  
12 in relation to matters that happened in Dublin and when  
13 they went to -- she was on Winning Streak or something  
14 like that, and they really weren't a concern of mine,  
15 but I did inform her that if Marisa wished to pursue a 10:31  
16 complaint she would have to contact guards or go into a  
17 Garda station and make a formal complaint in relation  
18 the actions of Garda Harrison on that night or other  
19 nights. She said it was the third similar incident in  
20 the last number of months. She said some of the other 10:31  
21 incidents had been reported to Letterkenny Garda  
22 Station. I hadn't been aware of those incidents when  
23 she made that call to me. I advised her in relation to  
24 what avenues would be open to Marisa in respect of the  
25 Domestic Violence Act, if she deemed that an 10:31  
26 appropriate response to take in relation to Garda  
27 Harrison's actions. I wasn't privy to exactly what  
28 happened the previous Tuesday night/wednesday morning.  
29 Throwing her out of a house may mean an assault, it may

1 mean -- I didn't -- I didn't exactly know what had  
2 occurred. But I did stress to her the fact that if  
3 there were kids present and they were exposed to either  
4 neglect or the prospect of witnessing violence in the  
5 home that Gardaí would be duty-bound in that particular 10:32  
6 case to intervene. And she made it clear the kids  
7 weren't in the house, so that alleviated some of my  
8 concerns.

9 32 Q. I think you made a note of that telephone conversation  
10 at the time, is that correct? 10:32

11 A. I made a rough note as I was speaking to her at the  
12 time of what it was.

13 33 Q. And that can come up on the screen in front of you,  
14 sergeant. It's at page 669 of the materials. If I  
15 just take you through that, Sergeant Durkin. It's 10:33  
16 headed: "Station: Saturday, 24th of August 2013" and  
17 timed at 21:42.

18 A. That's correct. Judge, I believe I wrote this note  
19 while I was on the phone to Rita McDermott, just a  
20 rough note and just to take details of what she was 10:33  
21 reporting to me or telling me.

22 34 Q. In the first bullet-point is "Rita McDermott" and then  
23 the second bullet-point appears to be "Tuesday, 3:00am,  
24 threw Marisa out of house in pajamas".

25 A. That's correct. 10:33

26 35 Q. Then the next line, it seems to be "Ready her phone  
27 woke her up", is that correct?

28 A. It is. The "ready" part I can't explain, but she told  
29 me from this note and from I recall her phone woke her

1 up. The "no children" part of it refers to what I have  
2 spoken about already; that I had asked her were there  
3 children present. And "locked doors", it was a  
4 reference to he had thrown her out and locked the  
5 doors.

10:34

6 36 Q. Okay. And you have also noted "Churchill" at the top  
7 of that, that is a reference --

8 A. That is a reference to the residence in Churchill and  
9 she had to drive to Churchill.

10 37 Q. And then there is a paragraph which we don't need to  
11 open in relation to the trip to Dublin and then at the  
12 very bottom, the last bullet-point, it says: "Given  
13 advice re court orders."

10:34

14 A. That's correct. There might be just a small bit  
15 relevant above that where I said, if you just --

10:34

16 38 Q. Yes.

17 A. No, it is just the next little bit up, it's "three  
18 times in three months", I think that is reference to  
19 that she reported to me that it's the third time in the  
20 last three months. And I have spoken about that.

10:34

21 CHAIRMAN: Yes. Sorry, I beg your pardon, no, it's the  
22 previous -- I just couldn't find the page for a second.  
23 Thanks.

24 MS. LEADER: 669, volume 2.

25 39 Q. So the "three times in three months" refers to --

10:35

26 A. The "three times in three months" refers to what she  
27 reported to me; this is the third time in three months  
28 that there is a similar such incident.

29 40 Q. Okay. And if you could explain to the Tribunal why you



1 would be duty-bound to intervene if children had been  
2 in the house at the time?

3 A. Well, if children are exposed to neglect or emotional  
4 abuse, we are duty-bound to report the matters to child  
5 and family liaison, in Tusla. The fact that they 10:35  
6 weren't present at the time, and she clearly told me,  
7 and I did inquire on a second occasion, you know, that  
8 were they present, and she said no, and because of that  
9 I didn't deem it appropriate for me to forward anything  
10 in relation to this particular incident to the Child 10:35  
11 and Family Agency. I did, however, even though Rita at  
12 the time, she said my daughter does not know I am  
13 making this call to ye and she wanted it kept  
14 confidential, I told her that if there was matters  
15 relating to kids that that particular thing couldn't be 10:36  
16 kept confidential and I deemed it appropriate to  
17 forward on to my superintendent what was reported to me  
18 in respect of a member of the station in Donegal Town,  
19 and it may have had had implications if there was  
20 other -- what the superintendent was to do with that 10:36  
21 was a matter for him. I mean, I believe if there was a  
22 fourth incident or fifth incident and I hadn't reported  
23 it, I believe I wouldn't have been acting in accordance  
24 with my duties.

25 41 Q. Just if I could go back to you being duty-bound to 10:36  
26 report matters to the Child and Family Agency, are you  
27 referring there to the Children's First Guidelines?

28 A. Yes, I am.

29 42 Q. Maybe we will refer to those in more detail with other

1 witnesses.

2 A. Yes.

3 43 Q. Now, you said you reported the matter to your  
4 superintendent in Ballyshannon, what superintendent was  
5 that? 10:37

6 A. I am just trying to think of the dates.

7 44 Q. It was the 28th August.

8 A. 28th August 2013. I believe it was Superintendent  
9 Michael Finan.

10 45 Q. Okay. Certainly you say that in your statement, so, 10:37  
11 yes.

12 A. That is my recollection of it. I know in Ballyshannon,  
13 Judge, at that time, between 2010 and to the current  
14 district officer we have had I think five different  
15 district officers, but I believe it was superintendent 10:37  
16 Michael Finan.

17 46 Q. Now, that report appears at page 667 of the materials  
18 and again it should come up on the screen in front of  
19 you. 667. If we can just go through that. You  
20 address the -- the letter is dated 28th of August 2013, 10:38  
21 and it's addressed to the superintendent Ballyshannon,  
22 and it's "Re: Call received at Donegal Town concerning  
23 the behaviour of Garda Keith Harrison of Donegal Town  
24 Garda Station."

25 A. That's correct. 10:38

26 47 Q. "With reference to the above, Sergeant Durkin wishes to  
27 report that on Saturday night the 24th of August 2013  
28 at 21:42pm, he received a call concerning the behaviour  
29 of Garda Keith Harrison of Donegal Town Garda Station

1 while off duty. The call was made by Rita McDermott of  
2 Raphoe. Mrs. McDermott is known to Sergeant Durkin  
3 from when he was stationed in Raphoe previously. Rita  
4 McDermott expressed concerns for her daughter, Marisa  
5 McDermott-Simms, who is in a long-term relationship 10:39  
6 with Keith Harrison. It is understood that Marisa has  
7 two children who reside with her and Keith Harrison as  
8 she is separated from her husband. Rita McDermott  
9 informed Sergeant Durkin that on the previous Tuesday  
10 night/Wednesday morning, the 21st of August 2013, at 10:39  
11 approximately 3:00am, she received a call from her  
12 daughter who was in a distressed state. She indicated  
13 that Keith Harrison had thrown Marisa out of their  
14 shared accommodation in Churchill and she had to leave  
15 Raphoe and collect her daughter, who on her arrival in 10:39  
16 Churchill was standing outside the house in her  
17 pajamas. It was reported that the children were not in  
18 the house at the time as they were staying with their  
19 father overnight. Rita McDermott further indicated  
20 that this was the third serious incident in the past 10:39  
21 three months of a similar nature, one of which was  
22 reported to Gardaí in Letterkenny by a family member,  
23 not Marisa. Rita McDermott made other allegations."

24  
25 And I will just leave that part. 10:40  
26

27 "Sergeant Durkin informed Rita McDermott that a  
28 complaint would have to be made formally by Marisa  
29 relating to the three incidents she mentioned in order

1 for an investigation to commence. Sergeant Durkin  
2 further explained that if there were any concerns  
3 relating to the children being exposed to these  
4 incidents they must be reported on. Advice was given  
5 to Rita McDermott relating to the option of going to 10:40  
6 the District Court with a view to making an application  
7 under the Domestic Violence Act 1996. Rita McDermott  
8 stressed that her daughter was not aware that she was  
9 phoning the Gardaí and wanted the matter to be strictly  
10 confidential. Sergeant Durkin stated that if matters 10:40  
11 were formally notified to them an investigation would  
12 commence. It was also expressed that if any concerns  
13 were suspected relating to the children's exposure to  
14 violence Gardaí were duty-bound to intervene. Rita  
15 McDermott again requested that her conversation be 10:41  
16 treated with a great degree of confidential. Keith  
17 Harrison is currently residing with Marisa  
18 McDermott-Simms at Woodbury House, Drummacanoo,  
19 Churchill, County Donegal."

20  
21 And you signed that report. 10:41

22 A. That's correct, yes. I forwarded that, yes.

23 48 Q. I wonder could you -- Ms. McDermott asked to you treat  
24 the matter confidentially, and you reported it to your  
25 superintendent. Did you speak to anybody else about 10:41  
26 the report you'd received?

27 A. No, I didn't. No, I didn't. I believed that the  
28 content of it and the nature of it, and not knowing the  
29 full circumstances of the throwing out of the house, I

1 believed it wasn't -- it was -- it wasn't the  
2 actions -- I believed that them actions should have  
3 been reported to my supervisor, which was the district  
4 officer, in relation to Garda Harrison, who was a  
5 member of An Garda Síochána. It may have had 10:41  
6 implications down the line. I was, I suppose,  
7 conscious if it had happened three times before maybe  
8 it would happen another time and if I hadn't acted on  
9 it maybe I would have questions to answer down the line  
10 or some regret in relation to potential incidents that 10:42  
11 could happen at a future date, so I reported the matter  
12 on those bases.

13 49 Q. Okay. And while there isn't a suggestion in your  
14 statement but do you think you reported it because you  
15 had been told in advance to keep an eye on Garda 10:42  
16 Harrison and report anything back to the  
17 superintendent?

18 A. Absolutely not. I mean, as far as I am concerned, that  
19 was a very serious matter for -- that was reported to  
20 me by a family member. I didn't go seeking out Rita 10:42  
21 McDermott, I didn't go seeking out any information of  
22 any kind in relation to Garda Harrison's private life,  
23 but these facts came to me, and the manner in which  
24 they came to me, from a relative of Marisa, and I  
25 believed I should report it to my superintendent. That 10:43  
26 was my opinion at the time. It's still my opinion now.  
27 And I did what I did and that is the report I submitted  
28 on it.

29 50 Q. And did you at that time know anything about an

1 anonymous letter which had been received by the HSE in  
2 relation to Garda Harrison in February 2012?

3 A. No, I did not. It was only when the disclosures  
4 document came out that I was aware of all of that. I  
5 wasn't aware of any anonymous letter at the time. 10:43

6 51 Q. Okay. And did you, since that time, speak to any  
7 member of the HSE or the Child and Family Agency in  
8 relation to this report of August 2013?

9 A. No, I did not.

10 52 Q. Okay. Now, I think the next relevant matter was a note 10:43  
11 that is included with your statement and it appears at  
12 page 670 of the materials, and it's a handwritten note  
13 addressed to David, and I take it that is you, is it,  
14 Sergeant Durkin?

15 A. Yes, Mr. Chairman, I believe that note was thrown into 10:44  
16 my locker when I was on rest days and I received it  
17 when I went back off rest days. It was from another  
18 sergeant, Frank Lavin, who was stationed in Donegal  
19 Town at the time and it's self-explanatory there. He  
20 asked me to ring Rita McDermott and said the time and 10:44  
21 date she called. Now, the unfortunate thing about it  
22 is the phone number seems to have been incorrect there  
23 and I was unable to contact Rita McDermott.

24 53 Q. So that note is dated the 10th of September 2013?

25 A. 2013, yes. 10:44

26 54 Q. And it's timed at 14:00 hours?

27 A. 2:00pm, yes. As I said, the number didn't appear to be  
28 right. There is a little bit missing off that but I  
29 think the original is similar. But I was unable to

1 contact her in any event.

2 55 Q. So it would appear that Ms. McDermott rang looking to  
3 speak to you, Sergeant Durkin, on the previous day, the  
4 9th of September --

5 A. That's correct. 10:45

6 56 Q. -- at twenty to ten. And she gave Sergeant Lavin a  
7 number and Sergeant Lavin tried to ring her back on a  
8 number of occasions but was unsuccessful?

9 A. That's correct.

10 57 Q. It continues: "She rang Ballyshannon this morning, the 10:45  
11 10th of September --"

12 A. 2013, yes.

13 58 Q. "-- and gave the same number, but again I have tried a  
14 number of times but no joy."

15 A. Yes. 10:45

16 59 Q. And then he asks you if you get a chance to ring her in  
17 relation to Keith, who it's Garda Harrison, am I  
18 correct in saying the reference --

19 A. Well yeah, that is my --

20 60 Q. Did you understand -- 10:45

21 A. I understood him to mean it was Rita McDermott ringing,  
22 and it's, if you get a chance will you ring her, it's  
23 about Keith. I presumed, and I think it's an  
24 acceptable presumption to say that it was Garda  
25 Harrison. 10:46

26 61 Q. Okay. And you took some action on foot of that note  
27 but was unsuccessful?

28 A. I was unsuccessful, yeah. I tried the number, but  
29 there was a digit wrong, I don't know, the number

1           wasn't right. I tried to ring it, but I didn't get  
2           speaking to her again until the next document that I  
3           presume the Tribunal is going to get to.

4   62   Q.   Yes. Now, I think if we could then turn to the 24th of  
5           September, it's the next -- 10:46

6           A.   That's correct.

7   63   Q.   I think Ms. McDermott contacted Donegal Town Garda  
8           station, is that correct?

9           A.   That, yes.

10  64   Q.   Did she ask to speak to you or do you remember -- 10:46

11           A.   I don't remember how I got talking to her, whether I  
12           answered the phone or whether somebody else answered  
13           and put it up to my office. I don't honestly exactly  
14           know did I answer the phone or not on that occasion.

15  65   Q.   And if you would tell the Tribunal, please, what she 10:47  
16           was phoning you about or why she phoned you?

17           A.   Yes. I will just get my own statement there for  
18           reference.

19  66   Q.   Page 6 of your statement it starts.

20           A.   Yes, that was at 11:30am, I spoke to her. She 10:47  
21           contacted me. Again, it was, it concerned the  
22           behaviour of Garda Harrison while off duty. Garda  
23           Harrison at that time, I believe, had been on sick  
24           leave from the April or May time. He was involved in a  
25           road traffic accident in Letterkenny unrelated to work 10:47  
26           and unrelated to -- but he was off duty as a result of  
27           injuries out of that. He was still off sick at the  
28           time of this second phone call. Rita informed me that  
29           there was still ongoing issues between Garda Harrison



1 and herself, and they weren't getting on well, and that  
2 Marisa had asked Keith to leave the accommodation they  
3 were sharing and he had refused to do so. Rita told me  
4 that Keith was due to go back to work on the 2nd of  
5 October and it was going to be Marisa's intention and 10:48  
6 she was going to assist in this, to move Garda  
7 Harrison's stuff out of the house when he went to work.  
8 She also said that her -- Marisa's sister, Paula, was  
9 getting married on 4th of October and that the fact  
10 that Garda Harrison wasn't invited to the wedding was 10:48  
11 causing extra tension between them and that he had made  
12 some sort of threat to Paula that he was going to cause  
13 some sort of disturbance at the wedding on the 4th of  
14 October. She told me where the wedding was taking  
15 place and that -- I told her that if, again, if there 10:49  
16 was -- if Marisa had complaints to make to go to the  
17 station and report it. I also pointed out to her that  
18 if some sort of threat had been made to Paula from  
19 Garda Harrison that, you know, she too could make a  
20 complaint against -- in relation to any threat that she 10:49  
21 had received. I think my -- what I believe happened  
22 was that either Rita McDermott ran out of credit, but I  
23 know the conversation, the phone, the phone went dead.  
24 I hadn't actually asked her for her phone number, I  
25 wasn't expecting that to happen but I tried the number 10:49  
26 but again it was the wrong number that I was trying to  
27 ring back, so I didn't -- that was the end of the  
28 conversation on that particular date.  
29 67 Q. Okay. And I think on that date you also made a note of

1 that phone call, and that appears at page 674 of the  
2 materials. It refers to other matters which happened  
3 in the coming days as well.

4 A. That's correct. I think that note, I started on that  
5 particular date, and I kept it somewhere between that, 10:50  
6 but I know, I think on the original note there is  
7 different pen used and there is different dates spoke  
8 about, so it was a continuous kind of a -- just a note  
9 I kept, a rough note I made at the time. Again it  
10 gives the time and the date. And there is a phone 10:50  
11 number there.

12 68 Q. Corrected?

13 A. Yeah.

14 69 Q. So it would appear that digits were reversed in the --

15 A. Yes, the digits were -- I think I may have tried a 10:50  
16 different combination of those just to see was I able  
17 to get in contact with Rita but I didn't speak to her  
18 again on that particular date.

19 70 Q. Now, I think coincidentally, on the 24th of September,  
20 you also spoke to Garda Harrison in relation to him 10:51  
21 being off sick, is that correct?

22 A. That's correct, yes.

23 71 Q. Is that a normal thing you would do as a sergeant in  
24 charge of his unit?

25 A. Well, I don't -- I don't know whether Garda Harrison 10:51  
26 phoned me or whether I phoned him. Generally, when a  
27 member is off duty, certainly you have to keep in  
28 contact with him, there's a contact visit form for the  
29 first initial -- that I am responsible for, after a

1 period of time it goes outside my area of  
2 responsibility, the superintendent has to keep in  
3 contact when it goes beyond a certain amount of days.  
4 But I spoke with Keith on the phone that particular  
5 date, as I said. He indicated that he would be 10:51  
6 returning to work on 2nd of October but was looking for  
7 leave. Now, from that, I would think if Keith was  
8 looking for leave he would have rang, it was him that  
9 initiated the phone call. Other than that, he would  
10 just be returning to work on the 2nd. So maybe he rang 10:51  
11 me on that particular occasion saying, look, I am  
12 coming back on Tuesday but I am looking for leave on  
13 Friday. But that wouldn't be uncommon for somebody to  
14 ring me on my private number or the station looking for  
15 leave. 10:52

16 72 Q. Did you take the opportunity at that time to say  
17 anything to him about the phone calls you had received  
18 from Ms. McDermott?

19 A. No, I did not discuss that with Garda Harrison.

20 73 Q. Could you explain to me why that is? 10:52

21 A. Well, I didn't want to, if there was frictions between  
22 Garda Harrison and Marisa McDermott, I never knew about  
23 them until Rita McDermott phoned me, I didn't believe  
24 it was my duty to intervene or make any comment in  
25 relation to it. 10:52

26 74 Q. Okay. well, I suppose, one could can look at it that  
27 you were telling your superintendent about it, in one  
28 way, and you have explained why you took that course of  
29 action, but you didn't say anything to Garda Harrison

1 about it when he phoned you or you phoned him --

2 A. No.

3 75 Q. -- on 24th of September?

4 A. I didn't discuss that matter at all with him. As I 10:53  
5 said, I don't believe it would have been an appropriate  
6 conversation for the phone. I mean, I am not a  
7 counsellor in any way for sorting out relationships.  
8 My concern was if there was matters, criminal matters  
9 or any other matter were occurring and I did nothing  
10 about them, I think I wouldn't -- I think I was 10:53  
11 duty-bound to report, as I had reported, the matters  
12 that Rita McDermott had disclosed to me. I didn't  
13 discuss any of those matters with Garda Harrison.

14 76 Q. OK.

15 A. I didn't think it was appropriate for me to get in 10:53  
16 conversation over the phone with him on it.

17 77 Q. I suppose if you took it one step further, when he was  
18 looking for leave, as he had a wedding to attend but  
19 you had some information that he wasn't invited to that  
20 wedding, that didn't cause you to explore the matter 10:53  
21 further?

22 A. I didn't explore the matter. I explored it in my  
23 report but not with Garda Harrison. When we get on to  
24 the report and the reasons I have -- I have given  
25 reasons why I sent that report forward. I mean, there 10:54  
26 was two things in respect of that particular  
27 conversation with Rita McDermott that caused me concern  
28 and caused me to report the matter. One was, if, as  
29 Rita McDermott had said, the plan was to put Garda

1 Harrison's -- move his stuff out while he was at work,  
2 when he returned to work on Tuesday, when he went back  
3 to the house, there was potential for some sort of an  
4 incident up there if he had found his stuff outside the  
5 house. The other thing was, I believed it was 10:54  
6 relevant, there could be cause for another potential  
7 incident at the reception of the wedding if, as Rita  
8 McDermott had said that Keith had made some sort of  
9 threat or thing to Paula, threat to Paula that he was  
10 going to cause a disturbance at the wedding. I mean, 10:54  
11 they were the two things that could have potential for  
12 Garda intervention or some sort of Garda action if  
13 things transpired as what was being reported to me.  
14 78 Q. If we could then turn to your report that you made to  
15 the superintendent in Ballyshannon about that second 10:55  
16 telephone conversation, it appears at page 672 of the  
17 materials. And it's dated the 24th of September of  
18 2013, the same day?  
19 A. It is. And just, the explanation why I would say that  
20 was crossed out at the top: I believe I started this 10:55  
21 report from the heading of the initial report, as I  
22 said, and it looks like I forgot to change the date to  
23 24th of September, the date of this particular, but I  
24 have said it -- I have clarified that at 11:30 on the  
25 date, 24th of September 2013 "Rita McDermott again 10:56  
26 contacted Sergeant Durkin, Donegal Town Station,  
27 reporting behaviour of Garda Harrison while off duty."  
28 79 Q. Okay. And if we just go through that report. You say:  
29

1 "With reference to the above attached, is additional  
2 report of further developments regarding Keith  
3 Harrison. At 11:30am on this date, 24th of September  
4 2013, Rita McDermott again contacted Sergeant Durkin at  
5 Donegal Town regarding the behaviour of Garda Keith 10:56  
6 Harrison of Donegal Town Garda Station while on duty.  
7 Rita McDermott once again emphasised the trouble her  
8 family are having with Keith Harrison. It was reported  
9 to Sergeant Durkin that Mr. Harrison has been asked to  
10 leave the house he is cohabiting with Marisa 10:56  
11 McDermott-Simms by her. Mr. Harrison has not left.  
12 Rita McDermott indicated that on Mr. Harrison's return  
13 to work on Tuesday, 2nd of October 2013 it is the  
14 intention of her daughter, assisted by her, to remove  
15 Keith Harrison's belongings when he has left for work 10:57  
16 to get him to leave the accommodation. This process  
17 may cause some sort of incident if it proceeds and may  
18 become an issue for Gardaí at Milford. The address is  
19 Woodbury House, Churchill. Rita McDermott further  
20 indicated that a second daughter, Paula McDermott, is 10:57  
21 getting married on 4th October 2013 and the reception  
22 is taking place in An Chúirt, Bunbeg. Rita McDermott  
23 has stated that her daughter, Paula, has received  
24 correspondence from Keith Harrison indicating that he  
25 is going to cause some sort of disturbance at the 10:57  
26 reception as he is not invited to the wedding. This  
27 also may have implications for Gardaí at Bunbeg.  
28 Sergeant Durkin again advised Rita McDermott that a  
29 complaint would have to be made formally by Marisa

1 relating to incidents mentioned in order for an  
2 investigation to commence. It was further impressed  
3 upon her at this point that if her other daughter,  
4 Paula, had received correspondence which would amount  
5 to some threat of an unwarranted harassing nature she 10:58  
6 could now make a complaint to Gardaí. Unfortunately,  
7 Rita McDermott got cut off before the conversation was  
8 completed and the mobile number she gave does not  
9 appear to be the correct one. Prior to Sergeant  
10 Durkin's conversation with Rita McDermott on 24th of 10:58  
11 September 2013, he was speaking to Garda Harrison on  
12 matters relating to his sick absence. Garda Harrison  
13 indicated he would be returning to work at Donegal Town  
14 on Tuesday, 2nd of October 2013. He indicated that on  
15 his return, he would be applying for annual leave on 10:58  
16 Friday the 4th of October 2013 as he had a wedding to  
17 attend. For your information."

18  
19 So it would appear that it was beforehand you spoke to  
20 Garda Harrison, before Ms. McDermott's conversation. 10:59  
21 Do you have a memory of that have?

22 A. I don't have a memory. I know it was on the same date  
23 and I made a note of it. But I don't seem to have put  
24 a time into, whatever time I spoke to Garda Harrison.

25 80 Q. Okay. Now, I think on the 1st of October, you had 10:59  
26 succeeded in getting Ms. McDermott's correct telephone  
27 number, is that correct?

28 A. That's correct. I believe I got that from Sergeant  
29 Cornyn who seemed to have it. I don't know did she

1 call or how he had the number, but he passed it on to  
2 me.

3 81 Q. So were you actively looking in the Garda station for  
4 her phone number, do you think?

5 A. Not particularly. Like, maybe she rang again, I don't 11:00  
6 know. But I contacted her again. The reason I did, I  
7 honestly don't know. Maybe she had rang in and gave  
8 her correct number, I don't know. But there may have  
9 been another note or Tony, that is Sergeant Cornyn, he  
10 might have said 'will you ring Rita, this is her 11:00  
11 number'. I don't know. But I know I spoke to her on  
12 that date.

13 82 Q. Okay. And I think on that date, if could you tell the  
14 Tribunal in your own words what Ms. McDermott told you  
15 on that date, on the 1st of October? 11:00

16 A. Well again, she said that Garda Harrison was behaving  
17 sort of -- I don't know, things weren't going well  
18 again and that Garda Harrison's behaviour was kind of  
19 causing them concern. She said that Paula had -- Paula  
20 McDermott had held her hen night in Westport in County 11:00  
21 Mayo and that Marisa had gone there. She said that the  
22 hotel in Westport were contacted by Garda Harrison and  
23 that he had looked for footage of the hen party in the  
24 nightclub. Now, on that date Rita McDermott made it  
25 clear to me that he had made this request as a member 11:01  
26 of An Garda Síochána, to the hotel.

27 83 Q. Did Rita McDermott tell you how she knew that?

28 A. No, she didn't. No, she did not tell me that. I don't  
29 know how Rita knew that but this is what she told me.



1 84 Q. Okay. And did you report back to your superintendent  
2 in relation to that matter?  
3 A. I don't believe I did immediately. I know I made  
4 contact with -- I thought myself this behaviour was  
5 strange and if Garda Harrison had made inquiries in 11:01  
6 capacity as a member of An Garda Síochána from the  
7 hotel, I knew it had nothing to do with work-related  
8 investigations. So I made my own inquiry as to what --  
9 why he had been looking for that, I rang the hotel.

10 85 Q. Okay. And I think a statement was taken from the hotel 11:02  
11 in relation to Garda Harrison's efforts to get footage?  
12 A. That's correct. But I believe that was subsequent to a  
13 statement being made to Inspector Sheridan by Marisa  
14 Simms.

15 86 Q. That was later on in October. 11:02  
16 A. It was the following week, I went to Westport. It was  
17 9th October I went to Westport and took a statement.

18 87 Q. In relation to that matter?  
19 A. In relation to that, yeah.

20 88 Q. Okay. Now I think all of those actions are referred to 11:02  
21 briefly in your note which you started on 24th  
22 September, is that correct?  
23 A. That's correct, yeah.

24 89 Q. And that appears at page 674 of the materials?  
25 A. That's correct. That note was started, I know at 11:03  
26 11:30am, 24th. That was the telephone conversation I  
27 had with Rita McDermott. She indicated Garda Harrison  
28 had no tax on the car again. I just can't read the  
29 second point there. I may be able to from the note.

1 Oh, it's a BMW, Judge, is the --

2 90 Q. Yes, it is in relation to road traffic matters.

3 A. Yeah, it's in relation to road traffic. Gweedore,

4 that's An Chúirt Hotel, 4th of October 2014, date of

5 the -- date of the wedding. "Asked to leave house. 11:03

6 Not gone." That's reference to Rita informed me that

7 Marisa had asked him to leave the house and he hadn't.

8 "Phoned back on 1st of October to --" "I only got the

9 right number --" I will just read from my own copy

10 there. 11:03

11 91 Q. Yes. I think what it says is: "Phoned her back on 1st

12 October 2013, 3:00pm, to let her know only got right

13 number from Sergeant Coen."

14 A. Cornyn. Well, that obviously explains, I did phone her

15 back, it was me that phoned her. 11:04

16 CHAIRMAN: What is his name?

17 A. Cornyn. He is fairly particular about it too.

18 CHAIRMAN: I am sure he is. C-O-R?

19 A. C-O-R-N-Y-N.

20 CHAIRMAN: I thought you said Byrne, but anyway. 11:04

21 92 Q. MS. LEADER: And then we have a reference to the 2nd of

22 October: "Inquiry about hotel in westport to hotel,

23 Vincent never got back to me, Nugent."

24 A. Yeah. Well, I would say Vincent Nugent, I just wrote

25 like that, and never got back to me. 11:04

26 93 Q. Yes. And then on the 4th "Vincent Nugent confirmed

27 Paula stayed in Plaza Hotel. Arrived 30/8. Booked

28 out."

29 A. "Booked out 1st September. Stayed with Marisa" and



1 interim of the weekend of the -- or weekend of the 4th  
2 of October, there had been a threat made on Garda  
3 Harrison's life and as a result of that, I received  
4 instructions that when detailing Garda Harrison for  
5 duty I was to detail him on indoor duties because of  
6 this threat. 11:06

7 CHAIRMAN: And the 4th of October 2013, it's the same  
8 date as the wedding.

9 A. Yes. That is the date of the wedding, yes. And I  
10 think there's just in addition to that, Judge: "Gave 11:07  
11 leave on consultation with divisional office and  
12 granted leave." And I just have: "Told him SO duties  
13 on Sunday and until threat was fully assessed." So he  
14 got leave for the Friday and Saturday and I told him  
15 when he comes back off duty he would be on indoor 11:07  
16 duties until the threat is fully assessed.

17 96 Q. MS. LEADER: And just to be clear, sergeant, his indoor  
18 duties commenced on what date?

19 A. Well, from that note, I don't actually know did Garda  
20 Harrison -- I presume he came back to work on the 11:07  
21 Sunday --

22 97 Q. Yes.

23 A. -- I am not 100 percent sure of that, but from that  
24 date he was confined to indoor duties. He had been off  
25 sick for the duration of the period between April/May 11:07  
26 time until October. When he came back the threat had  
27 been made and my directions was, because of this  
28 threat, that when we were detailing him for duties he  
29 was to be detailed on indoor duties because of the

1 threat.

2 98 Q. And you have noted that to be 11th October?

3 A. That's the note, yeah. That was the conversation -- I  
4 had that conversation of the 11th of October. From my  
5 note what I believe happened was, Garda Harrison was 11:08  
6 looking for leave on the Friday and Saturday, that was  
7 granted, and then I told him about the Sunday night  
8 when he comes back he would be on indoor duties because  
9 of the threat. That wasn't a decision I made. That  
10 would be made by the district office. That wouldn't 11:08  
11 have been a decision I made, to keep Garda Harrison on  
12 indoor duties, that would have been directed to me in  
13 some shape or form, I don't have any record of it.

14 99 Q. Now, we know independently of your dealings with  
15 Ms. McDermott, that Ms. Simms, in actual fact, made a 11:08  
16 statement at Letterkenny Garda station in relation to  
17 Garda Harrison?

18 A. That's correct.

19 100 Q. When did you find out about that?

20 A. It was after that weekend, I know. I have a note here 11:09  
21 in my statement that on 9th of October, at the request  
22 of Superintendent Finan, I went to Castle Court in  
23 Westport and obtained a statement from Joanne Moran. I  
24 believe it must have been the day before because I made  
25 arrangements for the statement to be taken on 8th, so 11:09  
26 it was -- I am saying, I don't know -- I am saying the  
27 8th of October but it was around that time. It was  
28 obviously subsequent to her making the statement.

29 101 Q. So if she made the statement on 6th of October and it

1 was late when the statement was completed --

2 A. It was in the days after. I wasn't aware that she had  
3 made the statement on the date she made the statement.  
4 But I was aware, I know, when I went to Westport. So  
5 it was subsequent to her making the statement, it 11:09  
6 definitely wasn't the date of it, but it was before I  
7 made contact with Joanne Moran, I had to make  
8 arrangements to make the statement on 8th and I  
9 travelled there on the 9th.

10 102 Q. And do you remember any talk in the Garda station about 11:10  
11 that statement being made?

12 A. No -- well, there was no talk -- about Marisa's  
13 statement being made?

14 103 Q. Yes.

15 A. No, there was no talk. It wasn't common knowledge that 11:10  
16 she had made a statement. And you are talking about a  
17 number of days later, so it wasn't common knowledge. I  
18 wasn't aware of it until Superintendent Finan told me  
19 and asked me to go to Westport to make further  
20 inquiries, because it had been reported that Garda 11:10  
21 Harrison made the inquiry in Westport as a member of An  
22 Garda Síochána. Now, when I made my inquiries in  
23 Westport, I learned that that wasn't the case, I  
24 learned that Garda Harrison, from speaking with Joanne  
25 Moran, he made it -- he said he was part of the bride 11:10  
26 or the groom -- or involved in the bridal party and  
27 wanted some footage of the hen night in the nightclub  
28 because it was going to be used as part of the wedding  
29 speech or the reception speech by the groomsman to

1 show, I don't know, to show the girls having a good  
2 night on the hen night away or whatever. But it wasn't  
3 in his capacity -- he wasn't looking for the CCTV  
4 footage in his capacity as a member of An Garda  
5 Síochána. But I only learned that when I went to 11:11  
6 Westport and spoke to Joanne Moran.

7 104 Q. And did you at any time after that contact the HSE or  
8 Tusla in connection with Garda Harrison?

9 A. No, I did not. What I did when I came back from  
10 Westport, I forwarded the statement I took, together 11:11  
11 with a statement of evidence -- my own statement of  
12 evidence, just detailing my duties of going to Westport  
13 and I forwarded them on to the district office and I  
14 believe I forwarded a copy by email to Goretta  
15 Sheridan, that is my recollection, who was inspector in 11:12  
16 Letterkenny.

17 105 Q. Okay. Now, the following year, in May 2014, you have  
18 referred already to him being confined to indoor duties  
19 and it's your evidence that you did that under  
20 instruction from the divisional office, is that 11:12  
21 correct?

22 A. That's correct, yes. That's correct. I know in the  
23 interim, I did speak to Garda Harrison. He would have  
24 said, you know, I would like to get out of indoor  
25 duties. I made inquiries to see, you know, was this 11:12  
26 going to be acceded to, his request, but it came back,  
27 until the threat is fully assessed and until the  
28 investigation is complete that was the instructions  
29 from the divisional office.

1 106 Q. So if we could go forward then to the 9th of May, 2014,  
2 Garda Harrison came to you with a report saying that he  
3 was the victim of bullying and harassment by Garda  
4 management while stationed in the westmeath division  
5 and since his transfer to the Donegal division. Did 11:13  
6 you have any discussion with him with regard to his  
7 time in Donegal Town Garda Station and when he was  
8 attached to your unit?

9 A. I did. Garda Harrison came to me and he had a  
10 document, he had a report on it. It indicated he was 11:13  
11 the subject of bullying and harassment prior to his  
12 arrival in Donegal division and since by, I think he  
13 specified senior Garda management in his report. He  
14 indicated that the investigation into the threats made  
15 to Letterkenny in relation to threats made on his life, 11:13  
16 he felt that the investigation was protracted and long  
17 and he had attached his statement of withdrawal,  
18 wishing that the Garda investigation into those threats  
19 cease, that he didn't want any more further  
20 investigation into it. I spoke to him, I said I note 11:14  
21 that you have nothing in this report in relation to  
22 Donegal Town. I asked him had he any issues in  
23 relation to bullying or harassment while in Donegal  
24 Town. I said the report is going up, I said in  
25 clear -- you know, it's no offence to me if you include 11:14  
26 something on it and I said because I am sending this  
27 report off anyway, and he said, no, he hadn't any  
28 issues in respect of Donegal Town. As it happened,  
29 Sergeant Cornyn came in at some stage just as that



1 conversation was going on or at some time after it,  
2 Sergeant Cornyn would have a habit of coming into the  
3 station, he doesn't live too far away, I asked Garda  
4 Harrison had he any objection to Sergeant Cornyn -- I  
5 should just point out that he is the sergeant in charge 11:14  
6 of the station. I said, have you any objection to  
7 Sergeant Cornyn reading it? He said, no. So sergeant  
8 Cornyn read it. And again I asked him, have you any  
9 issues in respect of Donegal Town and he indicated he  
10 hadn't. So I forwarded a report, I forwarded Garda 11:15  
11 Harrison's documentation that he handed to me together  
12 with a brief covering report of the conversation that I  
13 had with him and I made a notebook entry in my Garda  
14 notebook of me asking him had he any issues in respect  
15 of Donegal Town. 11:15

16 107 Q. And just finally, Sergeant Durkin, in relation to the  
17 various reports you made to your superintendent arising  
18 out of the contacts from Ms. McDermott, do you think  
19 you would have acted in the same way if it had been  
20 another member of An Garda Síochána that Ms. McDermott 11:15  
21 had been complaining about?

22 A. I definitely would have. It's not a very common thing  
23 that -- well, I never had to deal with it in my service  
24 and definitely not since I became a sergeant, deal with  
25 issues in respect of no insurance of a member of An 11:15  
26 Garda Síochána or family members ringing up complaining  
27 about him. It's not a thing I had prior experience  
28 with. I dealt with him in the manner I have outlined  
29 here today and the contents of the documentation I

1 submitted to the Tribunal. I did so because I thought  
2 that was the most appropriate action to take and I  
3 never went seeking out any of these things. They came  
4 to me.

5 108 Q. And did you ever at any time think it was appropriate 11:16  
6 to discuss the matters that Ms. McDermott had brought  
7 to your attention with Garda Harrison himself?

8 A. No, I did not. No, I didn't. I didn't think it was  
9 appropriate, no.

10 MS. LEADER: If you would answer any questions anybody 11:16  
11 else might have for you.

12

13 SERGEANT DURKIN WAS CROSS-EXAMINED BY MR. HARTY:

14 109 Q. MR. HARTY: Sergeant Durkin, I am Mark Harty. I am the 11:16  
15 barrister for Garda Harrison. The situation, and  
16 perhaps we will just start at the beginning, had you  
17 been given advance warning that -- had you been looking  
18 for extra guards in the Donegal division, Donegal Town  
19 in 2011?

20 A. Well, the situation is, you are always happy to get 11:17  
21 extra members to the station. Correspondence like that  
22 would be dealt with by the sergeant in charge, Sergeant  
23 Cornyn, he would have a responsibility for looking for  
24 manpower. Now, you're just always glad to get somebody  
25 when they come. But specifically I hadn't made any 11:17  
26 notes or I didn't make any reports looking for extra  
27 members, no.

28 110 Q. So, in terms of the transfer, if Sergeant Cornyn was  
29 the sergeant in charge --

1 A. That's correct, yeah.

2 111 Q. -- am I correct in saying that he would be the person  
3 who would be contacted in relation to staffing issues  
4 then or would make contact in relation to staffing  
5 issues? 11:17

6 A. Generally, yes. Sergeant Cornyn, when he is on leave  
7 or if he is on rest days, whoever is there, whatever  
8 sergeant is there deals with phone calls or whatever,  
9 if Sergeant Cornyn is on leave and there's somebody  
10 coming or if I had been in the district office, might 11:18  
11 say well, you are getting a new man.

12 112 Q. But in terms of requests to the district office, for  
13 example, that would ordinarily come with Sergeant  
14 Cornyn's signature at the bottom, is that correct?

15 A. That's correct, yes. 11:18

16 113 Q. Sergeant Cornyn is still in Donegal Town, is that  
17 correct?

18 A. He is still serving, yes.

19 114 Q. So, do you recall whether you were informed by  
20 Superintendent Coen first or Sergeant Cornyn? 11:18

21 A. I believe I was at a meeting in Ballyshannon. There  
22 was weekly meetings, I don't know what -- I believe I  
23 was in Ballyshannon and I spoke to -- Superintendent  
24 Coen spoke to me. I don't know whether Sergeant Cornyn  
25 was there as well. 11:18

26 115 Q. Okay.

27 A. I don't know. I can't recall, but I know it was  
28 Superintendent Coen that informed me.

29 116 Q. In terms of -- just so you will appreciate, Sergeant

1 Cornyn's name wasn't in the list of witnesses given by  
2 Chief Superintendent Terry McGinn and there is no  
3 statement from him before the Tribunal. I don't know  
4 whether he has anything to add or anything else but --  
5 A. Well, I know the provisional list that came out in 11:19  
6 respect of witnesses for the Tribunal, I believe his  
7 name was on it in some form, I believe there was -- and  
8 there is no criticism of anyone typing, there was a  
9 Sergeant Tony Coen on it. So I presume, this is the  
10 original provisional list that came out. 11:19  
11 117 Q. What list was that? What list was that?  
12 A. Well, a list I received from my legal representatives  
13 of the list of witnesses for this Tribunal. But I  
14 believe that is a mix-up between Sergeant Cornyn and  
15 Superintendent Coen. 11:19  
16 118 Q. And just so I am clear on that, are you, in terms of  
17 your legal representative, you are being represented by  
18 An Garda Síochána's representation, is that correct?  
19 A. No, that is not.  
20 119 Q. Who are you represented by? 11:20  
21 A. The Association of Garda Sergeants and Inspectors are  
22 the legal representation on my behalf.  
23 120 Q. Because Superintendent Coen's name isn't on the witness  
24 list either, so neither --  
25 A. Yeah, unless it's the other version of the surname 11:20  
26 and -- I don't -- I don't know that.  
27 121 Q. In fact, neither of these men feature in any list of  
28 witnesses, as matters stand. The conversation was had  
29 with Superintendent Coen, or at least you recall

1 Superintendent Coen saying to you and whoever else may  
2 have been there --

3 A. Yes, that is my recollection.

4 122 Q. -- that there was to be a transfer and why that  
5 transfer was taking place? 11:20

6 A. It was a casual conversation. He said, you are getting  
7 a new man, he is coming from Buncrana and he said -- he  
8 outlined the circumstances, as it was as a result of  
9 the death of Gary McLoughlin in Buncrana and Garda  
10 Harrison was on that unit and he is being transferred 11:21  
11 because he is in a relationship, and it was kind of in  
12 fairness to everybody up there, and Garda Harrison  
13 himself, that he was being transferred. That was --

14 123 Q. That was the general conversation?

15 A. Yeah. 11:21

16 124 Q. You don't know if any other conversation took place  
17 between Superintendent Coen and the sergeant in charge?

18 A. I don't know anything about any conversation, no.

19 125 Q. The situation with the car insurance, and I want to  
20 deal with this briefly, it was a very short period of 11:21  
21 time for which the car was not insured, isn't that  
22 correct?

23 A. It was maybe a ten-day period, I think.

24 126 Q. No, I think the period was actually a 24-hour period  
25 whereby cover had been sought but then was 11:21  
26 retrospective -- it had been covered up to a certain  
27 date and then was retrospectively not covered because  
28 some documentation hadn't been forwarded, isn't that  
29 correct?

1 A. Well, my understanding of it is that Garda Harrison  
2 tried to obtain insurance and he obtained an over the  
3 phone insurance, and it was conditional on him  
4 providing a certain amount of documentation, like  
5 driver's licence, I suppose, proof of No Claims Bonus 11:22  
6 and all of that, and when that wasn't provided the  
7 insurance company attempted to make contact with him,  
8 for some reason didn't or were unable to or whatever,  
9 and the insurance expired on a particular date --  
10 127 Q. Retrospectively expired? 11:22  
11 A. -- but they retrospectively backdated it for him the  
12 date he made the initial inquiries in relation to  
13 insurance.  
14 128 Q. And yet again it was Sergeant Cornyn who was -- and I  
15 must get that pronunciation -- 11:22  
16 A. Cornyn, yeah.  
17 129 Q. Sergeant Cornyn was the prosecuting officer in relation  
18 to that?  
19 A. I was a witness, yeah. I believe his name would have  
20 been on the summonses that were signed by -- 11:22  
21 130 Q. Yes. And he charged in relation to it. Moving forward  
22 then to the 24th August. Can you recall what the  
23 outcome of the prosecution was?  
24 A. I believe, my recollection of it is that Garda Harrison  
25 was convicted of no insurance and no tax. There was a 11:23  
26 plea tendered, or consultation from his solicitors at  
27 the time, that there was five charges initially or five  
28 summonses before the court, they offered a plea to no  
29 insurance and no tax with the fraudulent use of the

1 insurance disc, the failure to produce insurance and  
2 the non-display of the tax be withdrawn or struck out  
3 on the date of the court. What I believe happened was  
4 there was consultation with the office of the DPP in  
5 relation to that and the DPP consented to those terms 11:23  
6 on the basis of the full facts of the case being opened  
7 to the court.

8 131 Q. And the court was satisfied this was not a deliberate  
9 attempt by Garda Harrison to not insure his car, that  
10 he had made efforts to insure his car, isn't that 11:24  
11 correct?

12 A. Well, I believe -- he was convicted of no insurance and  
13 no tax. I mean, there is no --

14 CHAIRMAN: It may help, you know, this thing happened,  
15 I wouldn't -- I don't regard it as going to the facts. 11:24  
16 It's background. But in the event there was a  
17 prosecution and the complaint is that someone was being  
18 victimised, well it is relevant because it just shows  
19 that the Gardaí are obliged to treat colleagues  
20 equally. So that is as much relevance I think as it 11:24  
21 has.

22 MR. HARTY: Very good.

23 132 Q. On the 23rd of -- or 24th of August 2013, you received  
24 the call --

25 A. It's the first call, yes. 11:24

26 133 Q. -- from Rita McDermott?

27 A. I did.

28 134 Q. Now, everything Rita McDermott was telling you was  
29 secondhand, isn't that correct?

1 A. Pardon?

2 135 Q. Everything Rita McDermott was telling you was  
3 secondhand, you were fully aware of that?

4 A. Yeah, yeah. I wasn't privy to what occurred or what  
5 didn't occur. I was privy just to what she was telling 11:25  
6 me.

7 136 Q. Yes. And even in terms of what she was telling you,  
8 the only thing she knew was that she had collected  
9 Marisa Simms from outside her house?

10 A. In her pajamas at 3:00am, having driven from Raphoe, 11:25  
11 yeah.

12 137 Q. Yes. And would it surprise you that the version of  
13 events that Rita McDermott gave you on that day doesn't  
14 even coincide with the contested details of the  
15 statement that Marisa Simms gave to Goretta Sheridan, 11:25  
16 whereby Marisa Simms never said that she was thrown out  
17 of the house by Keith Harrison on the night?

18 A. I don't know.

19 138 Q. You can't offer an opinion on that?

20 A. No, I can't. 11:25

21 139 Q. The details that you put together in your notes -- and  
22 perhaps if we go to those.

23 A. These are the handwritten notes of the first --

24 140 Q. The first notes.

25 A. Yes. 11:26

26 141 Q. Are they page 669?

27 A. Yes.

28 142 Q. Yes. How long afterwards did you prepare the  
29 statement?



1 A. The report?

2 143 Q. The report, sorry, I should say.

3 A. I will just look at the date of the report. I would  
4 imagine it was that evening or that day.

5 144 Q. It's not, it's dated the 28th -- 11:26

6 A. Okay.

7 145 Q. -- at the top?

8 A. Well, whatever day -- if my report says the 28th, that  
9 is the day I prepared it.

10 146 Q. That is the day you prepared it? 11:26

11 A. Yes.

12 147 Q. And you forwarded that to Superintendent Finan?

13 A. Yes, the district officer in Ballyshannon at the time,  
14 yeah.

15 148 Q. Can you tell me, what was Rita McDermott doing calling 11:27  
16 you?

17 A. Pardon?

18 149 Q. What was Rita McDermott doing calling you?

19 A. I have no idea. I mean, she rang Donegal Town, I  
20 presume the fact that Garda Harrison was stationed 11:27  
21 here, or stationed in Donegal Town, that was the  
22 station she chose to ring. I believe that might be a  
23 question for her rather than me.

24 150 Q. Did the question not go through your mind? Garda  
25 Harrison wasn't living in the Donegal Town district? 11:27

26 A. He wasn't, no, no.

27 151 Q. In other words, what was Rita McDermott up to? Surely  
28 when you are receiving this call, she is not phoning  
29 you to put you on alert that you need to keep an eye on

1 Marisa and Keith Harrison's house because --

2 A. No, it's not in our area, no.

3 152 Q. Not in your area. She can't be phoning you to tell you  
4 to tell Keith Harrison about it because she says she  
5 doesn't want anyone to know that she is making this 11:28  
6 call.

7 A. Mm-hmm.

8 153 Q. So surely it went through your mind as to what was she  
9 up to?

10 A. It didn't go through my mind. That thought never went 11:28  
11 through my mind, no.

12 154 Q. Really?

13 A. No. I mean, I took her for face value.

14 155 Q. Did you not say, what do you want me to do, Rita?

15 A. I didn't ask her those questions. She was reporting to 11:28  
16 me. I listened to what she had to say, and as a result  
17 of what she said, I deemed the appropriate action was  
18 to forward a report on to my supervisor and district  
19 officer. It was a phone call out of the blue. Like, I  
20 wasn't expecting a call from Rita McDermott. 11:28

21 156 Q. I am not questioning your actions. What I am  
22 questioning is what you understood was being asked of  
23 you by Rita McDermott?

24 A. Well, I didn't read anything into it. I believed she  
25 was reaching out to some Garda station, she chose 11:29  
26 Donegal Town station, where Garda Harrison was  
27 stationed. I mean, her reasoning for phoning me as  
28 opposed to Raphoe, where she was living, or  
29 Letterkenny, I can't answer that but when she did ring

1 me I took the action I did. I don't know what her  
2 expectations were when she rang me, I don't know that.

3 157 Q. Because other members, and we will come to it, Sergeant  
4 Collins is clear in his report that when he was  
5 contacted by Paula McDermott, that something was up and 11:29  
6 that the Gardaí were potentially being used, but that  
7 didn't cross your mind at all?

8 A. No, it did not. Used by whom?

9 158 Q. Well, we will deal with the matter with Sergeant  
10 Collins. He says that used by Paula McDermott to 11:30  
11 exercise some control over Garda Harrison, Keith  
12 Harrison?

13 A. Well, I have no contact or conversation with --

14 159 Q. This is what sergeant Collins said about Paula  
15 McDermott's contact. 11:30

16 CHAIRMAN: I suppose the idea is that the mother is  
17 trying to drive a wedge between them, is that the idea?

18 160 Q. MR. HARTY: I don't know and we will have to explore  
19 that with somebody else, but my question is: why you  
20 didn't -- surely you must have asked yourself, what am 11:30  
21 I supposed to do with this information?

22 A. Well, I did ask myself that, and I did with the  
23 information what I have outlined what I did with it.

24 161 Q. What did she expect you to do with the information?  
25 Surely you asked her why are you calling me, Rita, what 11:30  
26 do you want me to do?

27 A. I didn't ask her that, I don't believe.

28 162 Q. Isn't that a perfectly reasonable question to ask?

29 A. It may have been, but it's not one I asked at the time

1 or since, it's not --

2 163 Q. It never occurred to you even now?

3 A. No, it isn't.

4 164 Q. Never?

5 A. No. 11:31

6 165 Q. So Rita --

7 A. I took the phone call at face value. I believed, as I

8 said, Rita McDermott was reaching out in some form to

9 some member of An Garda Síochána to report something

10 because Garda Harrison was a member of An Garda 11:31

11 Síochána and if this was going on in the background she

12 was reporting it to someone. Obviously she felt a

13 need, for whatever reason, to make these -- to make the

14 call. I believe it may have been a coincidence that it

15 was me she got. 11:31

16 166 Q. Did she not ask for you on the day, no?

17 A. Not the first time, no. I don't believe that she was

18 aware that I was Garda Harrison's supervisor. I don't

19 believe. Now, I think --

20 167 Q. Sorry, I understood the call was because you had a 11:31

21 previous connection with her, but it wasn't?

22 A. No, I think the subsequent conversations was as a

23 result of speaking to me on the first occasion. That

24 is my understanding of the whole thing. I mean, I

25 think in Rita McDermott's submission to the Tribunal 11:32

26 she has indicated, I believe, now, from reading it last

27 week, that she doesn't know what guard she talked to,

28 to spoke.

29 168 Q. I understood from your statement that the call was made

1 to you?

2 A. No, I don't believe it -- my recollection of it and my  
3 understanding is, it was only when I was speaking to  
4 her, like -- like, I said to Rita, well I know you  
5 Rita, I was in Raphoe for a certain amount of years. 11:32  
6 Now, I don't know whether she recollects that or not, I  
7 don't know.

8 169 Q. Is that call logged in --

9 A. No. I don't believe it is. The ones in Donegal Town  
10 station aren't recorded. 11:32

11 170 Q. Aren't recorded or weren't recorded?

12 A. Weren't and still aren't, as far as I understand.

13 171 Q. Surely it was logged in a book somewhere?

14 A. No, the only log that I kept was -- the only notes I  
15 made of it was the notes I submitted to the Tribunal, 11:32  
16 those original handwritten notes and my additional  
17 report that I submitted on the 28th, I think it is.

18 172 Q. Yes. No, but surely there is a logbook in the station  
19 for calls coming in and out and incidents reported?

20 CHAIRMAN: Is there an issue as to whether Sergeant 11:33  
21 Durkin is making this up?

22 MR. HARTY: No, but I am trying to investigate the  
23 circumstances.

24 CHAIRMAN: That's fine, Mr. Harty. That is fine.

25 MR. HARTY: There is no question, sorry, sir. 11:33

26 CHAIRMAN: I think we would be in a worse situation, I  
27 have no reason to doubt his evidence at the moment, but  
28 I mean, if somebody rings up and complains, I think  
29 part of the job of Gardaí surely is to listen and

1 sometimes it may be nonsense. I don't know. Shutting  
2 people off, I think, would not be a nice or polite  
3 thing to do.

4 173 Q. MR. HARTY: No, I don't believe that is what I am  
5 suggesting. I am asking firstly is there not a logbook 11:33  
6 for calls coming into the station.

7 A. There was at the time, I don't believe there is now.  
8 An occurrence book is what it is called.

9 174 Q. An occurrence book?

10 A. Yeah. I made no note in the occurrence book. I was 11:34  
11 hear on Monday, I heard Garda Kearins I think referring  
12 to making a note in the occurrence book in Milford, but  
13 I made no record in the occurrence book in relation to  
14 that. The occurrence book too is open to every member,  
15 it's kind of -- it's like what you do if you come back 11:34  
16 after coming back off three or four rest days, at the  
17 time you'd read the occurrence book to see what is  
18 going on, you would check the Pulse machine to see what  
19 is going on in the district, you would read the  
20 occurrence book. If I had made a note at the time in 11:34  
21 the occurrence book it would be open to everyone in the  
22 station to read.

23 175 Q. And I am not questioning that you didn't, I am just  
24 trying to work out because you are not clear. So, you  
25 simply answered the phone in the station on the day? 11:34

26 A. I believe I just answered the phone that evening in the  
27 station. That is my recollection. I know subsequent  
28 ones -- I was getting notes as I documented there to --

29 176 Q. Yes, I appreciate --

1 A. Yeah, and I made contact again after that.

2 177 Q. I am just simply trying to work out, so did Rita  
3 McDermott ask to speak to a sergeant?

4 A. I honestly can't recall. If I answered the phone I  
5 would have answered and said who I was. I honestly 11:35  
6 can't say if one of the other members put it through to  
7 my office and said there is a sergeant working, put it  
8 through to my office.

9 178 Q. That is simply the only reason I am asking in relation  
10 to an occurrence -- 11:35

11 A. I can't say that another member didn't answer the phone  
12 that night and put it up to me, but I know I received a  
13 call and I spoke to her and I didn't record it anywhere  
14 else other than the note I made and what I submitted.

15 179 Q. In the course of that phone call, she referred to three 11:35  
16 other incidents?

17 A. Mm-hmm.

18 180 Q. I take it you checked Pulse?

19 A. I didn't. No.

20 CHAIRMAN: I am sorry, I may be getting it wrong but I 11:35  
21 thought it was three altogether.

22 A. Three. There was a third incident.

23 MR. HARTY: Sorry, three altogether.

24 CHAIRMAN: Yeah. As opposed to four.

25 181 Q. MR. HARTY: Excuse me. You didn't check Pulse? 11:35  
26 A. I did not.

27 182 Q. why not?

28 A. well, I just didn't check it anyway. I don't know. I  
29 just didn't check Pulse. What I did was forward a

1 report to my supervisor and let him take whatever -- or  
2 send it on or do whatever he wanted with it.

3 183 Q. wouldn't it be perfectly appropriate when you receive  
4 information to check that information --

5 A. Yeah, it would. 11:36

6 184 Q. -- through whatever resources that the Gardaí have in  
7 relation to checking that information?

8 A. Yeah. That option was opening to me, yeah.

9 185 Q. Prior to sending a report up the line?

10 A. Yeah. 11:36

11 186 Q. To check information. So that questions don't come  
12 back down asking you do we have anything on these other  
13 incidents?

14 A. Yeah, yeah.

15 187 Q. But you did not check it? 11:36

16 A. I did not check Pulse.

17 CHAIRMAN: I am sorry for interrupting you, Mr. Harty,  
18 but I suppose the incident that might have gone on to  
19 Pulse might have been when Mr. Bogle called to  
20 Letterkenny. 11:36

21 A. Yeah.

22 CHAIRMAN: And I don't know whether it was. Sometimes  
23 things are not put on Pulse.

24 A. Sometimes they go on as attention and complaints,  
25 sometimes guards don't actually know what category to 11:36  
26 put it on and they seek direction what to put it on.  
27 They are very specific in Castlebar now of what way you  
28 put it on and how it's put on and what category it  
29 gets.



1 CHAIRMAN: Yes. I am not sure that an actual crime was  
2 reported at that night.

3 A. It wasn't reported to me anyway. There was nothing  
4 reported to me. Or even the other incident.

5 CHAIRMAN: Well, it could be an assault. 11:37

6 A. It could be.

7 CHAIRMAN: The other incident, if someone was pulled  
8 out of the bed, but that wasn't mentioned in that  
9 report.

10 A. All that was mentioned to me was that Garda Harrison 11:37  
11 had thrown Marisa out of the house. Rita had received  
12 a call and she had to travel from Raphoe to collect  
13 Marisa on that night at 3:00am and she was in her  
14 pajamas outside.

15 CHAIRMAN: So, in other words, a bad domestic incident. 11:37

16 A. A bad -- well, yes. And, as I said, the kids weren't  
17 present so I took no further action. I didn't look at  
18 Pulse in relation to previous incidents. I mean, again  
19 they weren't -- I wasn't aware of any incidents in  
20 Donegal Town or my area, so I didn't look at it, I 11:37  
21 reported what was reported to me to my superintendent.

22 MR. HARTY: If it can assist the Tribunal, page 312,  
23 the Pulse entry is there for the incident of the 1st of  
24 April.

25 CHAIRMAN: I will have a look at that, thanks, 11:38  
26 Mr. Harty.

27 188 Q. MR. HARTY: Yes. It's not to put to this witness in  
28 that this witness hadn't sight of it.

29 A. But to answer your question, I didn't look up Pulse in

1 relation to the two previous incidents.

2 189 Q. No. Yes. But you forwarded a report to Superintendent  
3 Finan?

4 A. Yes, I did, on the date I have at the top of that  
5 report, 24th -- 28th. 11:38

6 190 Q. Just so I am clear, at what stage did Rita McDermott  
7 become aware that she knew you from Raphoe?

8 A. I believe I made her aware. That, I said 'I know you  
9 Rita'. words to that effect, I don't exactly remember  
10 the word for word detail, but I said I knew you when I 11:38  
11 was in Raphoe.

12 191 Q. Right. Towards the start of the conversation?

13 A. I would imagine.

14 192 Q. Yes. You forwarded it to Superintendent Finan. What  
15 did Superintendent Finan do with the report? 11:39

16 A. I have no idea. I presume, and this is a presumption,  
17 and I think I have read some of the stuff, he would  
18 have forwarded it on to the divisional office.

19 193 Q. But again I don't think we have a statement from  
20 Superintendent Finan. 11:39

21 A. I am sure there is a record of correspondence though.  
22 If he put and attached the report to my report, he  
23 would have sent it somewhere.

24 194 Q. Yes. Yes. And that report was on the 28th of August,  
25 isn't that correct? 11:40

26 A. The date at the top, I just don't have it here in front  
27 of me. whatever date is on the top of that first  
28 correspondence I sent in relation to the first call,  
29 the date at the top of that report is the date I

1 forwarded it. It would have went in the post to the  
2 divisional or the district office.

3 195 Q. Did you have any conversation with Superintendent  
4 Finan --

5 A. No. 11:40

6 196 Q. -- when you were sending this report?

7 A. No, no. I don't believe I had. If I had, I believe I  
8 would have made a note of it. I just forwarded it on  
9 because I do note other incidents where I have sent on  
10 reports, I have detailed that I informed -- I have one 11:40  
11 particular one there where I spoke to Superintendent  
12 Archibald about an incident, I informed him orally and  
13 I forwarded a report. I don't mention that here, so I  
14 didn't.

15 197 Q. The report of the 28th of August, you don't mark on it 11:40  
16 anything in relation to confidentiality or anything  
17 else. How does that get to Superintendent Finan? Just  
18 put into his --

19 A. How does?

20 198 Q. How is it transferred to him? Is it by email? 11:41

21 A. No, it's not. What I would have done, I would have  
22 typed the report, signed it and put it in an envelope.  
23 Generally at the time I was travelling, my address  
24 where I reside is past Ballyshannon Garda Station, a  
25 lot of times when I am leaving there I take the post 11:41  
26 with me and drop it on my way home. But it's in an  
27 envelope and left in the district office postbox in  
28 Ballyshannon.

29 199 Q. In the postbox?

1 A. Yeah, yeah. It would have been with other  
2 correspondence. There could have been files, there  
3 could have been whatever else.

4 200 Q. So it would be open to general -- or you don't know?  
5 A. It wouldn't be open generally. Generally, envelope is 11:41  
6 sealed with a bit of Sellotape and taken with --  
7 delivered by hand.

8 201 Q. What I am saying to you, you don't know the system for  
9 opening that correspondence --

10 A. In Ballyshannon? 11:42

11 202 Q. -- in Ballyshannon?

12 A. I don't, no. It would be the district office staff  
13 or -- the district office staff, the superintendent's  
14 staff in Ballyshannon.

15 203 Q. Can you recall did you mark this envelope confidential? 11:42  
16 A. I did not, no. I can say I didn't, no.

17 204 Q. You then received a further phone call from Rita  
18 McDermott on 24th of September, isn't that correct?

19 A. Yeah.

20 205 Q. And in fact, there isn't a complaint about any new 11:42  
21 incident in that phone call, isn't that right?

22 A. The second incident, the 24th of September, well, it's  
23 slightly different, it's not that there was a  
24 particular incident; it's kind of, there was two  
25 aspects to the report, I believe: One, that there may 11:42  
26 have been a threat to Paula from Garda Harrison in  
27 relation to the reception of the wedding on the 4th of  
28 October. And if I just go through it.

29 206 Q. The rest of it was about getting Garda Harrison out of

1 his home, isn't that right?

2 A. That's correct, sorry, yes, Judge.

3 207 Q. Did you advise Rita McDermott that you can't throw  
4 somebody out of their home without a court order?

5 A. Pardon? 11:43

6 208 Q. Did you advise Rita McDermott that you can't go  
7 throwing people out of their home?

8 A. No, I didn't advise that.

9 209 Q. I mean, you had advised previously about needing court  
10 orders? 11:43

11 A. I advised about the Domestic Violence Act, yeah.

12 210 Q. And you'd advised in relation to children's welfare?

13 A. I did indeed, yeah.

14 211 Q. But you didn't find it necessary to advise in relation  
15 to simply locking somebody out of their home? 11:43

16 A. No, I didn't. I believe she said that Marisa was  
17 paying for the rented accommodation and all that  
18 matters, and I believe that side of things was the  
19 civil side of matters.

20 212 Q. And you believe that somebody who pays the rent is 11:44  
21 entitled to throw the other person out if they want to?

22 A. Well, Judge, I am not up on civil law but I didn't  
23 advise her, the question you asked me, I didn't advise  
24 her that.

25 213 Q. Did you tell her that throwing somebody's clothes out 11:44  
26 of their home was a bad idea?

27 A. I don't believe I told her that, no.

28 214 Q. Surely that would have been a perfectly reasonable  
29 piece of advice to give her. You have already advised

1 her in relation to the Domestic Violence Act and in  
2 relation to the welfare of children, surely it would  
3 have been sensible advice to give to somebody to say  
4 that it's not a good idea, you have no entitlement, to  
5 simply throw somebody out of their home? 11:44

6 A. That might be reasonable to assume but I know I didn't  
7 say that to her. I didn't.

8 215 Q. why not?

9 A. I don't know why I didn't see it, but I didn't see it  
10 as the most important in the context of that particular 11:45  
11 conversation that I had with her.

12 216 Q. what was the most important context of that particular  
13 situation?

14 A. well, the fact that she had asked him to move out and  
15 he wasn't moving out and that this was their plan. I 11:45  
16 don't know who advised them of it. The fact that there  
17 may have been a potential for Garda interaction again,  
18 maybe at the time if Keith returned to the house and he  
19 wasn't allowed in or for some reason stuff was outside,  
20 and also the potential for some sort of incident down, 11:45  
21 that may require Garda intervention down in the place  
22 of the reception in An Chúirt in Bunbeg.

23 217 Q. If you wanted to avoid the first of those incidents,  
24 that is simply avoided, isn't it, by advice that you  
25 could have given to Rita McDermott? 11:45

26 A. well, I don't know whether it could have been avoided  
27 or not. It may be reasonable to assume that now, but  
28 all I can say to you is I never offered her that  
29 advice.

1 218 Q. I just put it to you, would you accept, that one way to  
2 avoid the first of those potential incidents was to say  
3 to Rita McDermott 'That's not the way to go about  
4 things'?

5 A. I don't believe it was my duty, but the way you are 11:46  
6 putting it, it's a reasonable enough assumption, I'd  
7 accept that. But I didn't do it.

8 219 Q. Would it surprise you to know that no one, has any  
9 statement anywhere suggested that Garda Harrison  
10 conveyed a threat to Paula McDermott? 11:46

11 A. Does it surprise me?

12 220 Q. Yes.

13 A. Well, I didn't see any threat, and she didn't indicate  
14 the type of threat, I don't know. What she said, Garda  
15 Harrison had made a threat to Paula that he was going 11:46  
16 to cause some sort of disturbance. And that is all  
17 that was all that was reported to me.

18 CHAIRMAN: Yes, and I think of course threat is the  
19 correct word to use, Mr. Harty, but I was taking it to  
20 mean that there was going to be some kind of 11:47  
21 disturbance at the wedding because he wasn't invited.

22 MR. HARTY: Sorry, the word used in the statement is  
23 threat, so --

24 CHAIRMAN: Yes, I understand that. It's kind of like  
25 the statue turning up at Don Giovanni's party maybe. I 11:47  
26 think Mr. McGuinness might get that, perhaps nobody  
27 else.

28 221 Q. MR. HARTY: The situation in relation to what you did  
29 with that report then, you forwarded it on again to

1 superintendent --

2 A. It was similar to the first report. The only  
3 difference is, I believe I started that second report  
4 from the template of the first report and I didn't  
5 change the date at the top of that one. 11:47

6 CHAIRMAN: We have heard about that before in this  
7 Tribunal. I don't mean that as a criticism.

8 222 Q. MR. HARTY: And in relation to that, that was forwarded  
9 by Superintendent Finan to the chief superintendent  
10 Letterkenny on the 24th of September 2013, so this 11:48  
11 report clearly you put in immediately?

12 A. On that date. Well, I believe the time there -- Sorry,  
13 I think this microphone is -- sorry. I think that  
14 conversation took place early in the morning with Rita  
15 McDermott and it would just follow a 11:48  
16 natural progression then.

17 223 Q. You put your time on it as being 11:30?

18 A. 11:30, yeah, yeah. I mean, I think the other call was  
19 after, it was before 10:00pm at night. And I believe I  
20 put on the bottom, there may be implications in respect 11:48  
21 of --

22 224 Q. Did you have a conversation with Superintendent Finan?

23 A. I don't recall having a conversation with  
24 Superintendent Finan about that.

25 225 Q. And he forwarded it himself on the same day. So, do 11:48  
26 you recall how you sent that report to Superintendent  
27 Finan?

28 A. I don't. It wasn't by email anyway.

29 226 Q. Is it possible that you were going to Ballyshannon in



1 any event?

2 A. Yes, it may not have been me that delivered it, it  
3 might have been somebody else. There's people who  
4 travel to the district headquarters, there would  
5 generally be a car going there I would say daily, maybe 11:49  
6 twice daily, you know going down for various things to  
7 the district headquarters. The post was forwarded  
8 obviously on that date, if he has dated it that date.  
9 He obviously sent it that date I imagine.

10 227 Q. Perhaps if we go to page 314 on the screen, please. 11:49  
11 Just if I read out this letter to you. It's dated, and  
12 if we just move back -- it's not clear on the screen,  
13 but from what can I see it appears to be dated 24th of  
14 September in the printout hardcopy of it. It's  
15 addressed to the chief superintendent Letterkenny. 11:50  
16

17 "Call received in Donegal Town concerning the behaviour  
18 of Garda Keith Harrison Donegal Town Garda Station. I  
19 refer to the above matter. Attached report from  
20 Sergeant Durkin, Donegal Town as forwarded for your 11:50  
21 information. Previous report submitted also refers."  
22

23 So, were you aware that the previous report had been --  
24 A. I don't know whether -- I am speaking now and I am  
25 not -- I may not be able to enlighten you much. Maybe 11:50  
26 that is reference to my, the report a month earlier  
27 that might be also appended to the back of this. I  
28 don't know, I am kind of talking in the dark there.

29 228 Q. Well, yet again it's a matter for Superintendent Finan

1 to help us in relation to interpreting that.  
2  
3 "According to Garda Harrison's partner's mother there  
4 may be two incidents with Garda Harrison in the coming  
5 weeks. Sergeant Durkin requests that district officers 11:50  
6 in Milford and Glenties are alerted to the  
7 possibilities. No complaint has been received from  
8 Garda Harrison's partner, Ms. Marisa McDermott. For  
9 your attention and necessary attention please."  
10 11:51  
11 Just in relation to that, and just so I can confirm,  
12 had you any phone conversation to specify these two  
13 things or does that arise as far as you recall from  
14 Superintendent Finan's recording of your report?  
15 A. I believe -- I don't recall having a conversation with 11:51  
16 Superintendent Finan. I believe -- well, again it  
17 might be a question for somebody else to answer.  
18 CHAIRMAN: The two things are the possessions out of  
19 the house and turning up at the wedding or whatever at  
20 the wedding. 11:51  
21 A. Yes.  
22 229 Q. MR. HARTY: which would relate to the two separate  
23 districts of Milford and Glenties?  
24 A. Yes. Yeah.  
25 CHAIRMAN: And this is the divisional officer, is it? 11:51  
26 MR. HARTY: This is being sent to Letterkenny to the  
27 divisional office from Ballyshannon.  
28 A. Ballyshannon district headquarters.  
29 CHAIRMAN: Yes. He is in charge of the lot, the

1 county?

2 MR. HARTY: This was Chief Superintendent Terry McGinn  
3 at the time.

4 CHAIRMAN: Yes. She was in charge of the county.

5 A. Yeah. From reading that or from me reading it, my 11:52  
6 report of the 24th was attached to that. Whatever else  
7 was attached to it, I don't know. Maybe it was my  
8 previous report, I don't know.

9 230 Q. MR. HARTY: You don't know. And you don't recall  
10 having a conversation with superintendent -- 11:52

11 A. I don't honestly recall having a conversation with  
12 Superintendent Finan on this. Maybe he has a  
13 recollection of it. I don't. But I know I forwarded  
14 that on the date and he has obviously taken this action  
15 on it. 11:52

16 231 Q. Yes. Now, the next contact then that you had, you made  
17 an effort to contact back Rita McDermott on that date,  
18 isn't that correct?

19 A. Yes, the second conversation, as I said, the phone just  
20 went dead. It may have been something to do with 11:52  
21 credit, I don't know, but I couldn't contact her back,  
22 the phone number I had didn't appear to be right. I  
23 believe I tried a couple of combinations of it but in  
24 any event I didn't get speaking to Rita McDermott again  
25 until the date I have referenced in my statement. Yes, 11:53  
26 on the 3:00PM on 1st of October 2013, I believe.

27 232 Q. Now, can you tell me, how is it that Sergeant Cornyn  
28 had Rita McDermott's phone number?

29 A. I honestly can't answer that. Unless - and again I am

1           speculating here a little bit - that she had rang  
2           looking for me and left the number, I don't know.

3 233 Q.    You don't know?

4           A.    I don't know.  But I know from there, as I have stated  
5           I got the number from Sergeant Cornyn.  So, as I said, 11:53  
6           unless she rang the station and left the number for me  
7           to contact her.

8 234 Q.    And during the course of that conversation, she told  
9           you that she had made contact with the hotel in  
10          Westport seeking CCTV footage? 11:53

11          A.    She didn't tell me she made contact, no.  She indicated  
12          to me that -- and I don't know how she knew this, but  
13          she indicated to me that Garda Harrison had made  
14          contact --

15 235 Q.    Sorry. 11:54

16          A.    -- with Westport Plaza, or the hotel in Westport, and  
17          was looking for CCTV footage and she said it was in his  
18          capacity as a member of An Garda Síochána.  Now, that  
19          subsequently transpired, when I further investigated,  
20          that wasn't, there was a different explanation given by 11:54  
21          the manager of the hotel.

22 236 Q.    And we will come to that.  Just in your notes, and is  
23          it possible that you made a mistake and misinterpreted  
24          her that she didn't say CCTV footage?  And your note is  
25          on page 674. 11:54

26          A.    674.  Mm-hmm.  Is there a particular part of the note  
27          you are referring to?

28 237 Q.    No, I am just simply asking you, in your evidence you  
29          say, you refer to CCTV footage and it's possibly a

1 perfectly logical conclusion to come have to, because  
2 we know subsequently that that wasn't what was being  
3 sought. Is it possible that you had come to an  
4 incorrect conclusion and she said had never said CCTV  
5 footage or is it that CCTV footage was said to you? 11:55

6 A. It's my belief that CCTV footage -- that is my  
7 recollection and that is what I detailed in my  
8 statement; "made contact with the hotel in westport  
9 seeking CCTV footage."

10 238 Q. But you don't -- so -- 11:55

11 A. I haven't it included, I don't believe, in the note,  
12 specifically. I don't believe I have, in my original  
13 note, handwritten note.

14 239 Q. No, you don't mention any detail --

15 A. Yeah. 11:55

16 240 Q. And that is primarily why I am asking you in relation  
17 to that, is just whether it was an error -- an  
18 extrapolation?

19 CHAIRMAN: But, Mr. Harty, let's suppose that Garda  
20 Harrison did ring up and look for some kind of video 11:56  
21 footage, I mean it could have been to record it and  
22 give it as a present to --

23 MR. HARTY: Precisely.

24 CHAIRMAN: Yes, well, I take the innocent explanation  
25 unless it's otherwise. Now the sergeant has been 11:56  
26 perfectly clear that he hadn't rung up as a garda, so  
27 there is really a bit of a storm in a teacup about  
28 this, isn't there?

29 MR. HARTY: It is, but it does all feature later. And

1           there is no question of anything in relation to the  
2           sergeant, I am just simply trying to clarify as to what  
3           piece of information was given to him on the phone  
4           insofar as he recalls.

5           CHAIRMAN: Well, obviously Rita McDermott got it wrong. 11:56  
6           That is what I am taking from this at the moment. That  
7           doesn't mean she was malicious, it just means she got  
8           it wrong so.

9   241   Q.   MR. HARTY: But it is correct, isn't it, that in fact,  
10           Garda Harrison, and jumping to that point in time, you 11:56  
11           did subsequently go and take a statement from the  
12           hotel, isn't that correct?

13           A.   I did, on the 9th.

14   242   Q.   And Garda Harrison had never indicated that he was  
15           acting as a member of An Garda Síochána looking for 11:57  
16           this information?

17           A.   That's correct. My information, as I said, they said  
18           it was to do with the reception and being involved in  
19           the wedding party and that it was required, the footage  
20           or whatever he was looking for was to do with the 11:57  
21           reception, the speech at the reception and that it was  
22           going to be used for that. That is my information when  
23           I took the statement in Westport.

24   243   Q.   And I think in no contemporaneous statement do you  
25           mention CCTV footage? 11:57

26           A.   Pardon?

27   244   Q.   In no contemporaneous statement do you mention CCTV  
28           footage?

29           A.   Well, without -- I accept, if I haven't it in my

1 statement, I accept --

2 CHAIRMAN: Well, he says video, so, I mean, it's the  
3 same thing. I wouldn't draw a distinction, anyway.

4 245 Q. MR. HARTY: The situation is that you -- sorry, you  
5 went to the hotel, and the hotel explained what Garda 11:57  
6 Harrison was looking for it for, and his explanation,  
7 so the Tribunal is clear in relation to that, is that  
8 at the time he made this call matters had improved in  
9 terms of the relationship between Marisa Simms and her  
10 sister, Rita McDermott, she was now going to the 11:58  
11 wedding and that in a gesture on his part he was  
12 putting together a box of photographs for opening at  
13 the wedding during the course of various speeches and  
14 that is his explanation, and that is consistent with  
15 what was said by the hotel, isn't that correct? 11:58

16 A. Well, that is what they reported to me. That it was  
17 for use at the wedding, on the day of the wedding at  
18 the reception. That is what I was told by them in  
19 Westport. Certainly, it was clarified, it was  
20 clarified that it wasn't in a capacity as a member of 11:58  
21 An Garda Síochána, anyway.

22 246 Q. When did you report that to anybody?

23 A. The?

24 247 Q. The question of the CCTV footage to -- the question of  
25 being told about the CCTV footage issue in the hotel? 11:58

26 A. Is this following the --

27 248 Q. The call.

28 A. From the call about the first. I honestly don't know.  
29 I didn't send a report in, because, if I had, if I had

1 sent a report in, it would be here. I believe I made  
2 my own inquiries on that -- on the dates I have said,  
3 on the 2nd of October, to establish the nature of the  
4 inquiry made by Garda Harrison.

5 249 Q. Can you explain then how it is that Inspector Goretta 11:59  
6 Sheridan knew about issues in relation to the hen and  
7 the -- wanted to find out the identity of the hotel on  
8 the 3rd of October?

9 A. I can't explain that. I don't know.

10 250 Q. Because it's not mentioned, the issue doesn't feature 12:00  
11 in the only statement prior to that, which is the  
12 statement of Rita McDermott taken by Inspector Sheridan  
13 on the 2nd of October, so you appear at this stage,  
14 from the information that is before us, and I am open  
15 to correction, to have been the only guard who knew 12:00  
16 about any issues in relation to the hen?

17 A. Yeah, that's correct. Well, I know it was reported to  
18 me on the 1st. I made my inquiries on the 2nd. I  
19 don't know how Goretta Sheridan knew about it. I don't  
20 recall having a conversation with Goretta Sheridan in 12:00  
21 relation to any aspect of this.

22 251 Q. No conversation at all?

23 A. I don't recall a conversation with Goretta Sheridan in  
24 relation to this.

25 252 Q. And so when Superintendent Finan came to you and asked 12:00  
26 you, did he explain why you were to go? On the 9th of  
27 October, Superintendent Finan asked you to go to the  
28 Castlecourt Hotel in Westport.

29 A. I believe, and I don't have it in here, I believe he



1 made me aware that a statement had been made by Marisa  
2 Simms.

3 253 Q. Did he make you aware of that by way of phone call?  
4 A. I don't know. No paperwork came down directing me to  
5 do this so it had to have been either by phone call or 12:01  
6 if I was in Ballyshannon or -- he had to have asked me  
7 in person, either by phone or in person, to go to  
8 Westport.

9 254 Q. But why were you being sent to go to Westport?  
10 A. I don't know. I was asked to go, and I went. 12:01

11 255 Q. But you told nobody about this phone call, is that  
12 correct?  
13 A. Well, I don't --

14 256 Q. About the issue in -- you did your own inquiry?  
15 A. Yeah. I don't recall telling anyone about it and I 12:02  
16 have no note made to say I told anybody about it.

17 257 Q. And Inspector Sheridan was the person investigating  
18 the -- on the basis of the statement from Marisa Simms?  
19 A. Yes, she took the statement, I believe.

20 258 Q. So I am just trying to work out how it even came about 12:02  
21 that Superintendent Finan came to ask you to go and  
22 take a statement in Westport?  
23 A. I have no idea. All I know, he asked me on the 9th.

24 CHAIRMAN: But it turns out there is an innocent  
25 explanation, and I am happy to accept it, but if it 12:02  
26 were to be the case that, I don't know, gardaí involved  
27 in issues in relation to their home were going around  
28 looking for information of some kind and pretending  
29 that it was for official purposes, that wouldn't be

1 right. Now, it didn't happen here, but if that had  
2 happened it wouldn't be right and I would imagine the  
3 gardaí are entitled to investigate that from the point  
4 of view of keeping some sense of discipline, even if  
5 it's not a crime. I know it's a crime to pass yourself 12:03  
6 off as a Garda Síochána, but if you are one you could  
7 hardly be accused of that. But making private  
8 inquiries under the cloak of your official entitlements  
9 is a serious thing; it certainly would be for the  
10 Revenue Commissioners. 12:03

11 MR. HARTY: And it is a breach of discipline under The  
12 Garda Discipline Regulations, but the issue here,  
13 Chairman, and perhaps I am not being clear enough, is,  
14 I am confused and there is no explanation as to how  
15 Superintendent Finan, who had not been told of this 12:03  
16 fact by Sergeant Durkin --

17 A. Well, I have no recollection of telling him what it was  
18 -- what I said. I have no recollection of telling him  
19 and I have no note made of telling him.

20 259 Q. And that Sergeant Durkin knew of this fact, was the 12:03  
21 person -- so Superintendent Finan asked Sergeant Durkin  
22 to carry out this investigation even though the  
23 investigation in relation to Marisa Simms' statement  
24 was being carried out by Inspector Goretti from  
25 Letterkenny, wouldn't that be correct? 12:04

26 A. Inspector Sheridan is in Letterkenny and the statement  
27 was --

28 260 Q. Sorry, Inspector Sheridan, excuse me, Inspector  
29 Sheridan from Letterkenny. So I am simply -- and if

1           you don't know what was going through Superintendent  
2           Finan's mind in relation to that and you can't offer  
3           any explanation as to why you were selected to do it,  
4           well, it's a matter for Superintendent Finan --

5           A.    Maybe the fact that I was -- I had conducted an initial   12:04  
6           inquiry -- I don't recall having a conversation with  
7           Superintendent Finan on the fact that Garda Harrison  
8           made inquiries to Westport. If I did, I don't recall  
9           them. Maybe -- I don't know if there's -- maybe  
10          Superintendent Finan may have a different recollection.   12:05  
11          I know I have no documentary evidence to say I did and  
12          I have no notes made and I don't recall any  
13          conversation with him.

14   261   Q.    And as far as you recall, the request from  
15          Superintendent Finan was made orally?                           12:05

16          A.    In some form by telephone or person -- no direct -- no  
17          paperwork came out to say -- addressed to me saying,  
18          could you travel to Westport and obtain a statement,  
19          but it was communicated to me by him, and I did that.

20   262   Q.    Were you involved in any meetings on the 8th of October   12:05  
21          in Letterkenny in relation to what was to be done in  
22          respect of Garda Harrison?

23          A.    I was not, no. I was never at any meeting in respect  
24          of Garda Harrison, full stop.

25   263   Q.    Yes. And the next dealing you have -- sorry, if we go   12:05  
26          back to the conversation in relation to the -- Garda  
27          Harrison's leave, which he was to be -- his return from  
28          sick leave and then his -- and then his taking of some  
29          annual leave?

1 A. That's right.

2 264 Q. Firstly, just in relation to the sick leave, because it  
3 is left hanging in some statements that have been put  
4 before the Tribunal by people, that Garda Harrison had  
5 to be referred to GSOC in respect of a motor accident 12:06  
6 which took place. You are aware of the fact -- are you  
7 aware of the circumstances in relation to that?

8 A. To the?

9 265 Q. Motor accident where Garda Harrison was badly injured  
10 as well as a third party? 12:06

11 A. I believe Garda Harrison was travelling in Ballyraine  
12 and some -- a senior gentleman pulled across the road  
13 in front of him.

14 CHAIRMAN: The other party was certainly much more  
15 badly injured, but, I mean, I didn't see -- everything 12:06  
16 points to that actually being an accident.

17 MR. HARTY: well, it does, but it's left hanging in  
18 certain statements.

19 CHAIRMAN: The other person had no recollection of what  
20 happened. There it is. So somebody got it wrong as to 12:06  
21 who was turning across the road or who went straight  
22 on, and that was what happened.

23

24 266 Q. MR. HARTY: I think the situation is, is that in terms  
25 of the GSOC investigation and Garda Harrison, this 12:07  
26 other gentleman drove directly across the road?

27 A. That is my understanding. I don't know much about the  
28 accident, but --

29 CHAIRMAN: That is what Garda Harrison says. But is

1 it --

2 MR. HARTY: That was accepted by GSOC in an

3 investigation by them --

4 CHAIRMAN: No, I know, but is it relevant to this?

5 MR. HARTY: It is relevant where it's left hanging in 12:07

6 statements by people before the Tribunal, and insofar

7 as Sergeant Durkin can clarify that there was no

8 suggestion of any wrongdoing, it's useful to have that

9 before the Tribunal.

10 CHAIRMAN: Yes, but it hadn't come up. But from just 12:07

11 reading the papers, my conclusion was it was an

12 accident and nobody could tell who was at fault.

13 MR. HARTY: GSOC was satisfied in relation to it that

14 there was no steps needed to be taken in relation to

15 it. 12:07

16 CHAIRMAN: No, I got that. So I didn't think it was in

17 the mix at all.

18 MR. HARTY: No.

19 267 Q. In any event, when Garda Harrison -- he would contest

20 that he ever mentioned to you that he was going to a 12:07

21 wedding. He had the discussion first with Sergeant

22 Cornyn in relation to his leave, is his recollection in

23 relation to the matter. Do you know whether that is

24 the case or not?

25 A. Well, I believe it's as my notes were. I mean, all the 12:08

26 notes I have documented, as far as I am concerned, are

27 accurate and they were made at the time they were made.

28 If I have said what I have said in my notes, I believe

29 they are correct. I mean, generally, it's none of my

1 business most -- what people are taking leave for, but  
2 I have it written there that -- to attend the wedding,  
3 so --

4 268 Q. He will say that it was not --  
5 A. That is fair enough. 12:08

6 269 Q. And that, simply, that you are in error in relation --  
7 A. My notes were made at the time.

8 CHAIRMAN: So there was no other wedding he was going  
9 to at the time?

10 MR. HARTY: No, he was -- he says that he was planning 12:08  
11 to return to Galway, to his family home.

12 270 Q. But in any event, you made that note?  
13 A. I did.

14 271 Q. After he then returned, the issue of the threats arose.  
15 Can you tell me who communicated with you what was to 12:09  
16 be done about those threats?

17 A. Initially, I don't recall who told me. I believe the  
18 instruction had to come from the district office to say  
19 Garda Harrison is to be kept indoors because of the  
20 threat, until it's fully assessed, was the information 12:09  
21 that I received.

22 272 Q. Right.

23 CHAIRMAN: You mean he is to work in a back office?  
24 A. No, a public office. If you come in to get a passport,  
25 for instance, stamped, Garda Harrison would be able to 12:09  
26 deal with it. The front door would be open. It's  
27 public-office duty.

28 CHAIRMAN: So he is not going out on calls in cars or,  
29 say, patrolling The Diamond, or whatever?

1 A. No, not on patrols, no, Judge. It would be confined to  
2 indoor duties, and that would consist of answering  
3 phones, giving out calls and people calling to the  
4 hatch getting forms signed --  
5 CHAIRMAN: But if someone was injured out on the 12:10  
6 street, I presume he would be able to come out and  
7 assist in that regard?  
8 A. I presume his own conscience would let him to do that,  
9 Judge.  
10 CHAIRMAN: No, but, I mean, if he is in the -- 12:10  
11 A. In the confines, yes.  
12 CHAIRMAN: Yes, in the station, as such?  
13 A. He is in the station, yes.  
14 CHAIRMAN: What is the size of the station party? I  
15 beg your pardon. 12:10  
16 A. At the time, I believe there were maybe about 25 guards  
17 then made up of the Traffic Corps and four units. It  
18 changed to five units.  
19 CHAIRMAN: And how many sergeants?  
20 A. I think there were three there at that time and there 12:10  
21 was two sergeants, as well, responsible for traffic at  
22 the time. Currently, there are just two sergeants  
23 there.  
24 CHAIRMAN: Yes. All right. So there we are. We are  
25 on the issue of the indoor duties then. 12:10  
26 273 Q. MR. HARTY: And I think leaving aside the question of  
27 bullying, or anything, in Donegal -- I think you accept  
28 that Garda Harrison found that being confined to indoor  
29 duties was oppressive, in terms of what he found? I am

1 not asking whether he was treated any way differently  
2 or anything else.

3 A. I don't know about oppressive but I know he'd prefer to  
4 be out, is the way I would put it. I would prefer to  
5 be out on the street too, but you just don't get -- 12:11  
6 that is just a side issue.

7 274 Q. Yes. Can I -- and you were told that that was on the  
8 basis of the fact that -- of the threats?

9 A. Until the threat was assessed, I think was the note I  
10 made. It was because of the threat and, I don't know, 12:11  
11 in the event of somebody coming, or whatever, and if he  
12 was out on the street, or whatever. It was as a result  
13 of the threat. That is the information that I was  
14 told.

15 275 Q. Were you advised at that stage of any referral to GSOC 12:11  
16 or disciplinary procedures?

17 A. In respect of?

18 276 Q. In respect of Garda Harrison?

19 A. No, the only discipline issue I was aware of at that  
20 time was as a result of the road traffic matters that 12:12  
21 we spoke about earlier, but other than that, no.

22 277 Q. So would it surprise you that, in fact, the direction  
23 to keep Garda Harrison in the station had nothing to do  
24 with a threat to Garda Harrison, but, in fact, was in  
25 relation to the GSOC complaint and disciplinary 12:12  
26 procedures?

27 A. In respect of?

28 278 Q. In respect of the statement of Marisa Simms?

29 A. Well, I am not privy, I wasn't privy to that



1 information. What I was told was it was -- and as my  
2 note said, the original handwritten note was, until the  
3 threat was assessed. That was the information that I  
4 was given.

5 279 Q. And I fully accept that that is what you were told, but 12:12  
6 if you can perhaps bring up page 1589, and this is from  
7 Chief Superintendent McLoughlin, who is Chief  
8 Superintendent Internal Affairs, and it's referring to  
9 a report from Letterkenny of the 10th of October in  
10 relation to recommending what steps should be taken in 12:13  
11 investigation, et cetera, of Marisa Simms' statement.  
12 It does mention the death threats, but seeks a  
13 suspension or a -- it seeks either suspension or  
14 removal to a different district, and the response to  
15 that from Chief Superintendent McLoughlin is: 12:14

16  
17 "Your recommendations have been considered, and, having  
18 read the accompanying attached, I am of the view that,  
19 in the circumstances outlined in the attached  
20 statements, the more appropriate action in this matter 12:14  
21 available to local management is for the member  
22 concerned to be confined on indoor duties."

23  
24 Nobody, I take it, from Ballyshannon or Letterkenny  
25 told you that that was the reason why Internal Affairs 12:14  
26 had directed --

27 A. No, I spoke to Garda Harrison, as I've said, and it was  
28 on that last handwritten note I have there, and it was  
29 the 11th of October, and it was -- he was looking for

1 leave, and it said on his return, my information was  
2 that he would be confined to indoor duties, and I have  
3 made a note of it, as a result of -- until the threat  
4 is fully assessed, I think is what I have written.  
5 So -- 12:15

6 280 Q. So you weren't aware of the fact --  
7 A. I wasn't aware of this, no.

8 281 Q. -- that this was the real reason why Garda Harrison was  
9 being kept on indoor duties?  
10 A. I don't know about real reasons, but all I know is 12:15  
11 what -- the information that was communicated to me.

12 282 Q. This was never communicated to you?  
13 A. Well, on the 11th of the 10th, what was communicated to  
14 me was that until the threat was fully assessed.

15 283 Q. And nobody communicated to you that this was in 12:15  
16 relation to a direction from Internal Affairs, Garda  
17 Headquarters?  
18 A. I wasn't aware of this document and nobody made me  
19 aware of it, so --

20 284 Q. In any event, when were you notified that the threat 12:15  
21 against Garda Harrison had abated sufficiently to allow  
22 him back on ordinary duties?  
23 A. I don't know whether I was -- I think Garda Harrison  
24 was on indoor duties up until the time he went sick, as  
25 far as my recollection is. 12:16

26 285 Q. I think that's correct. And just to clarify, nobody  
27 ever updated you in relation to it?  
28 A. I don't believe -- I don't believe so. I think the  
29 investigation was ongoing, as far as I was concerned.

1 The investigation into the threats made was ongoing.

2 286 Q. And at this stage Garda Harrison was indicating that he  
3 wanted to be back out?

4 A. He mentioned to me he would like to get back to regular  
5 policing duties. 12:16

6 CHAIRMAN: When did he go sick, in fact?

7 MR. HARTY: It was May --

8 A. I think it was the 20th of May 2014, as far as I know.

9 CHAIRMAN: 20th of May 2014?

10 287 Q. Yes. I know one of my last contacts was on the 9th of 12:16  
11 May when he submitted his report indicating he didn't  
12 want any further investigation into threats that were  
13 made and he had issues in respect --

14 CHAIRMAN: And that included the bullying and  
15 harassment allegation? 12:16

16 A. By senior management, is what was reported in his  
17 report.

18 CHAIRMAN: Just, Mr. Harty, this witness's means of  
19 knowledge may be expansive or it may be limited,  
20 certainly he says it is limited, but in the event that 12:17  
21 there is an allegation to be put to him that he was  
22 involved in bullying or harassment of Garda Harrison  
23 which may feed into the gardaí somehow involving Tusla  
24 in his family affairs, it should be put.

25 288 Q. MR. HARTY: well, I think the answer is, is that I can 12:17  
26 put it to you squarely, Sergeant Durkin, that from the  
27 evidence that you have given, it is perfectly clear  
28 that you are not aware of the purpose for which Garda  
29 Harrison was put on indoor duties; you were told one

1 purpose, but, in fact, doesn't coincide with the  
2 purpose indicated and the circumstances from  
3 correspondence from Internal Affairs, isn't that  
4 correct?

5 A. Well, the answer is the answer I have given: that I 12:17  
6 was told, when I communicated in relation to his leave,  
7 that he was on indoor duties until the threat is fully  
8 assessed.

9 289 Q. I think his return from leave was actually the 11th and  
10 12th and thereafter -- his leave was the 11th and 12th 12:18  
11 and thereafter on the 13th when he returned?

12 A. If that was a Sunday? I think he was to come back on  
13 the Sunday, as far as I recall.

14 290 Q. So you had no knowledge of any decision in relation to  
15 the section 102 referral? 12:18

16 A. I wasn't aware of a 102 referral, no.

17 291 Q. Just so we are clear, when do you -- in relation to a  
18 Section 102 referral, can you enlighten the Tribunal as  
19 to what that is?

20 A. I can't, without referring to some sort of notes in 12:18  
21 relation to discipline or --

22 292 Q. No, sorry, and if it's not an area in which you -- it's  
23 in relation to the Garda Act and it's in relation to  
24 referrals to GSOC. Have you ever had occasion to  
25 engage in, to carry out a Section 102 referral to GSOC? 12:18

26 A. I don't believe I do, no.

27 293 Q. Okay. And if you don't, then there is no --

28 A. I don't think so.

29 CHAIRMAN: The relevant passage is on page 23 of the

1 materials, but, in fairness, if you accept your  
2 client's case and those are his instructions as of the  
3 current time, it ought to be put to Sergeant Durkin.  
4 What if I came to the conclusion that indeed there was  
5 bullying and that allegation has not been put? I mean, 12:19  
6 it's put in the starkest possible terms.  
7 MR. HARTY: It is put in the starkest possible terms.  
8 It is also put in the starkest possible terms in  
9 circumstances where Sergeant Durkin was given the  
10 opportunity to see and to put a direct reply and it was 12:19  
11 put to him in relation to -- by counsel for the  
12 Tribunal directly in relation to those matters. I am  
13 not -- don't find it necessary. He has had ample  
14 opportunity to deny in relation to it because  
15 Ms. Leader was very clear in dealing with him in 12:19  
16 relation to it and I think his denials are clear.  
17 There is no reason for me to cross-examine him further  
18 in relation to it because he has directly dealt with  
19 it, and just in relation to it --  
20 CHAIRMAN: Do you -- you are happy that I accept that? 12:20  
21 MR. HARTY: I am happy that --  
22 CHAIRMAN: And it directly contradicts what your client  
23 said in his statement. Are you happy that I accept  
24 that on the basis that the matter has certainly been  
25 touched on by Ms. Leader, perfectly responsibly? But 12:20  
26 if I come to the conclusion, which is the only  
27 conclusion available at the moment, on the evidence,  
28 that Sergeant Durkin is not, was not a bully, are you  
29 content that that --

1 MR. HARTY: I have no difficulty with this Tribunal, in  
2 relation to Module N, not requiring to find any -- make  
3 any determination as to Sergeant Durkin's motivation in  
4 relation to his treatment with Garda Harrison and to  
5 accept as common case for the purpose of Module N that 12:20  
6 there was no such bullying, and I don't think there is  
7 any requirement, in terms of Module N, to go into that.  
8 CHAIRMAN: Well, it's a bit sitting on the fence, if  
9 you don't mind me saying so, Mr. Harty. I mean,  
10 imagine how upsetting it would be if you were working 12:21  
11 in an ordinary job - I am not referring to you now  
12 personally, but let's suppose a person is working as a  
13 chef, or whatever, and an allegation is made in a  
14 statement made, in a public forum, which is distributed  
15 to -- the reality is, it's been distributed to dozens 12:21  
16 of people here, and the wider reading in terms of legal  
17 personnel and other assistants has to multiply that, by  
18 what figure I can't imagine, and the allegation is  
19 bullying at work; that let's say a chef was treated  
20 differently by a head chef and that he was very cold to 12:21  
21 this chef and that no opportunities were given for  
22 overtime and that then there was a prosecution where  
23 Sergeant Durkin is portrayed as being annoyed that one  
24 of the people under his command has this issue with  
25 this incorrect disc on their car, surely, as a matter 12:22  
26 of plain fairness, it is right and doesn't need to take  
27 long for you to put those allegations. Again, all I  
28 said this morning doesn't seem to have been understood,  
29 and I often feel like a coloratura foghorn wailing in

1 the wind, but there it is. I think it should be done.  
2 That is my view.

3 294 Q. MR. HARTY: The Tribunal is asking that I ask you,  
4 Garda Harrison felt at the time --

5 CHAIRMAN: No, no, you can't do it like that, 12:22

6 Mr. Harty. Look, you can tell me that you think I am  
7 wrong or you are not going to do it, that's fine, I  
8 note where you stand, but I am in the position where  
9 let's suppose other evidence comes forward and I have  
10 to draw an inference that the sergeant was indeed 12:22

11 bullying your client and that this was part of the  
12 overall attitude which led to the gardaí involving  
13 Tusla and the Child and Family Agency inappropriately,  
14 in other words, it was a build-up, it's part of the  
15 background, it's an important part of the background. 12:23

16 But let's suppose you accept that he is telling the  
17 truth, that he was not bullying anybody and was  
18 behaving perfectly appropriately, I can't ask you to  
19 put an allegation that you feel is not supported by  
20 anything, but it may be your client has changed his 12:23  
21 mind about this. But this is a very serious thing to  
22 say about someone who is in a position of authority,  
23 it's a very serious thing to say.

24 295 Q. MR. HARTY: And perhaps the best way to deal with it is  
25 to deal with -- obviously the question of whether or 12:23  
26 not somebody feels they are bullied is a question of  
27 how they feel in relation to the matter, and you would  
28 accept that, Sergeant Durkin; it's not necessarily that  
29 somebody -- the other person knows they are doing

1 anything wrong but that somebody feels they are doing  
2 it?

3 A. Well, Judge, I may be glad to get an opportunity to  
4 refute the allegations. I mean, I have made my initial  
5 statement to the Tribunal. It was my first Tribunal 12:24  
6 and I gave all the information I dealt -- I deemed was  
7 appropriate and that I had in my possession. As a  
8 result of reading Garda Harrison's statement to the  
9 Tribunal subsequently, I felt I was -- it was incumbent  
10 upon me to refute those allegations and to give some 12:24  
11 sort of explanation and background. I mean, a lot of  
12 the allegations contained in it are general and  
13 non-specific, and some of them I wasn't -- I didn't  
14 even know what he was referring to, particularly a  
15 question about altering his A85 in an attempt to dock 12:24  
16 him wages, which never occurred. And the only  
17 conversation I ever had in relation to an A85, I have  
18 explained. So I don't know whether those things should  
19 be done individually or --

20 296 Q. Sergeant Durkin, in the years following 2013, Garda 12:24  
21 Harrison -- have you had occasion to meet Garda  
22 Harrison?

23 A. I think since Garda Harrison went sick in May 2014, I  
24 think -- I believe I only seen him once and that was in  
25 January of this year. 12:25

26 297 Q. You are aware that he was out ill by virtue of stress?  
27 A. Yes.

28 298 Q. You are aware that that -- are you aware that that  
29 stress was certified by the chief medical officer?



1 A. Well, I presume sick absence is certified.

2 299 Q. Are you aware that that stress is certified by  
3 independent experts?

4 A. No, I accept whatever sickness he is on is certified  
5 sickness. Any more than that, I can't really comment 12:25  
6 on it.

7 300 Q. And that in relation to that, that stress was in  
8 relation to his treatment at the hands of An Garda  
9 Síochána and the manner in which -- manners were --  
10 matters were occurring in his time in An Garda Síochána 12:25  
11 in various Garda stations?

12 A. What I would say is, I don't believe any stress-related  
13 illness from Garda Harrison was as a result of anything  
14 I did.

15 301 Q. And in relation to that, you aren't An Garda Síochána; 12:26  
16 you are one man in An Garda Síochána, doing your best  
17 in your office in your station, is that right?

18 A. That's correct. But there were specific allegations  
19 contained in Garda Harrison's statement to the Tribunal  
20 which were specific against me. 12:26

21 CHAIRMAN: It can't be escaped from. He is his  
22 commanding officer.

23 302 Q. MR. HARTY: And the circumstances where the Tribunal  
24 gave you an opportunity by forwarding Garda Harrison's  
25 statement in relation to these matters to you last 12:26  
26 April, isn't that correct?

27 A. That's correct. It was subsequent to me making my  
28 statement to the Tribunal.

29 303 Q. You were his commanding officer in circumstances

1           whereby he was kept on station duty from the 1st  
2           November 2013 -- or from, sorry, 12th of October 2013  
3           until he went out on sick leave, isn't that correct?  
4           A.     That's correct. I believe during that time Garda  
5           Harrison did write to me and I would have forwarded on 12:27  
6           the reports saying that he wanted to get back to  
7           regular policing duties and I forwarded that on. I  
8           didn't in any shape or form hide those things.  
9     304   Q.     Garda Harrison had no reason to know that you had no  
10           reason to know who was making the decisions and why 12:27  
11           they were making the decisions to keep him on station  
12           duty, isn't that correct?  
13           A.     That's correct, but there are specific allegations by  
14           Garda Harrison relating specifically to me.  
15     305   Q.     In relation to -- 12:27  
16           A.     Not general ones.  
17     306   Q.     And they haven't been made public in relation to  
18           things, Sergeant Durkin. I am not proposing to lead  
19           those allegations, and nobody else -- I don't know that  
20           -- the Tribunal might be proposing to lead those 12:27  
21           allegations, that is a matter for --  
22           CHAIRMAN: No, but has Garda Harrison changed his mind  
23           about them? I mean, is he wrong? In which case  
24           perhaps he owes the sergeant an apology.  
25           MR. HARTY: This is not a forum for an apology, sir. 12:27  
26           It's a forum for evidence in relation to --  
27           CHAIRMAN: Sorry, I think I explained myself,  
28           Mr. Harty. It's there. If you are on the receiving  
29           end of it, it's upsetting. Okay, the Tribunal isn't

1 here to deal with people's upset, I take your point in  
2 that regard. But I did make the point, it has to now  
3 have been read by dozens if not hundreds of people. Is  
4 the allegation maintained or not that the commanding  
5 officer in Donegal Town where he --

12:28

6 MR. HARTY: I don't know why this Tribunal is so  
7 anxious to go into so many extraneous matters, utterly  
8 extraneous to N. And the situation is that Garda  
9 Harrison would say that he was treated differently from  
10 other members in relation to what was an accidental  
11 matter in relation to the no insurance on his car. I  
12 will put it to the witness.

12:28

13 307 Q. I have to put it to you that he says he was treated  
14 differently --

15 CHAIRMAN: You don't have to put it to the witness.

12:28

16 Mr. Harty, if you take the view that as a matter of  
17 etiquette you are not obliged to put your client's  
18 case, I have taken a different view and I would really  
19 like to move on at this point. I think it's the job of  
20 counsel to put what their client is saying, and  
21 Sergeant Durkin has been given an opportunity fairly by  
22 Ms. Leader but she hasn't gone into the detail that is  
23 contained in that statement, for the very correct  
24 reason that she assumed you were going to be putting  
25 this as part of the overall nastiness directed towards  
26 Garda Harrison which he alleges.

12:29

27 MR. HARTY: This Tribunal and in terms --

28 CHAIRMAN: She has acted correctly, but you don't  
29 choose to actually cross-examine on this. We have had

12:29

1 a cross-examine about a lot of other things, and that  
2 is fair enough, I have learned from it and thank you  
3 for that, but the view I have taken, I think you know  
4 what it is, and if you don't want to follow it, that's  
5 fine, I can't do any more about it. But, I mean, I 12:29  
6 don't think there is any point in you arguing with me  
7 about it. I made a big long speech this morning and I  
8 have expressed my view here, and I do think it's right  
9 that lawyers should be fair to people.

10 MR. HARTY: Well, if I can say one thing, clearly: 12:30  
11 that in terms of the evidence that Sergeant Durkin has  
12 given here, I have absolutely no reason in the  
13 slightest to question his credibility in relation to  
14 the evidence that he has given here. It has been clear  
15 and it has been coherent and cogent, and I have no 12:30  
16 reason to challenge his evidence here today in relation  
17 to the matters that are relevant to the Tribunal. And  
18 that is -- so if -- if this Tribunal is asking me am I  
19 questioning his credibility in relation to the  
20 matter -- these matters, the answer is not at all. 12:30

21 CHAIRMAN: Well, they are not credibility; it's facts,  
22 fact.

23 MR. HARTY: Yes, and these facts which are relevant --

24 CHAIRMAN: And not was -- did a witness have a secret  
25 marijuana habit, and I am not saying the sergeant did 12:30  
26 have a secret marijuana habit, by the way; I am just  
27 taking that as an example, but that an allegation is  
28 actually made in a statement to a public tribunal which  
29 is hearing in public that the man is a bully, and no

1 cross-examination takes place to the effect that he was  
2 a bully. Certainly, he has had the opportunity to deny  
3 it, but if -- that case does not seem to be being  
4 pursued now.

5 MR. HARTY: There are many allegations made in this, 12:31  
6 sir, in relation to Mr. Harrison's statement which deal  
7 with other modules, both O and P. I assume from the  
8 opening statement from counsel that Garda Harrison will  
9 not be called -- led evidence by the Tribunal or  
10 permitted to be led evidence by anybody else into what 12:31  
11 took place in Athlone which is contained with Garda  
12 Harrison's statement, because it is not relevant to the  
13 matters of the Tribunal.

14 CHAIRMAN: All right. Look, Mr. Harty, you have taken  
15 your view. I respect you as a person, and there it is. 12:31  
16 I don't want to have an argument about things. Life is  
17 tiring enough. Do you want to leave it there? Will  
18 you be much longer?

19 MR. HARTY: No, I think I have covered everything I  
20 need to cover. 12:31

21 CHAIRMAN: Is there any questions from anybody else?  
22 And the answer is no. We will have our lunch.

23 MR. DOCKERY: Chairman, I have a few questions for  
24 Sergeant Durkin. Obviously I represent this witness,  
25 Sergeant Durkin. 12:32  
26  
27  
28  
29

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

2

3 308 Q. MR. DOCKERY: I want to ask you this question. The  
4 issue about the insurance in February 2012, obviously  
5 you were -- I take it there was a degree of tension 12:32  
6 between you and Garda Harrison at the time given that  
7 you were a witness in that?

8 A. Well, I believe being a witness against somebody who  
9 you work along with did create a slight bit of tension,  
10 but there are arguments in a lot of places of work and 12:32  
11 you have to get on with things.

12 309 Q. Do you recall having a conversation with him after the  
13 case had concluded?

14 A. Yes, I do recall having a conversation, and it was the  
15 fact the matter has happened and we will just have to 12:32  
16 move on from it.

17 310 Q. Now, you have already told the Tribunal that when he  
18 made a formal complaint of bullying and harassment in  
19 or about May of 2014, that he told you and you noted  
20 the fact that -- 12:33

21 A. I am just having difficulty hearing you at the minute.

22 311 Q. You have already told the Tribunal, I think, that when  
23 he made a formal complaint of bullying and harassment  
24 in or about May of 2014, that he spoke to you about  
25 this and he assured you that he had no issues in that 12:33  
26 regard concerning his duties at Donegal Town under your  
27 supervision, and you noted that, isn't that so?

28 A. That's correct. Garda Harrison, sent him in the report  
29 in relation to senior garda management prior to his

1 arrival in Donegal Town -- or arrival in Donegal  
2 division and -- since his arrival in Donegal division.  
3 I noted there was an absence -- there was no mention of  
4 Donegal Town, and I asked him had he any issues in  
5 respect of bullying and harassment whilst stationed in 12:33  
6 Donegal Town. I said it was being sent up to my  
7 supervisors. He said he had no issues. And Sergeant  
8 Cornyn came in and he read the correspondence, and  
9 again I asked him in the presence of Sergeant Cornyn,  
10 and he said he hadn't, and I made a note in my notebook 12:34  
11 of it.

12 312 Q. I know this is a leading question, but I take it that  
13 that is the reason why, in your supplemental statement  
14 to the Tribunal of the 29th of June last, when you had  
15 had a chance to see Garda Harrison's statement, you 12:34  
16 expressed your shock and sadness at the contents of  
17 that statement insofar as it referred to you?

18 A. Yeah, that was correct. I mean, I thought we had --  
19 fair enough, there was an issue with his no insurance  
20 and there was a prosecution, in which I was a witness, 12:34  
21 but we worked relatively well together, as did everyone  
22 else in the station. Donegal Town is a nice town to  
23 work in, and the station party, I would say, get on  
24 very well, and that continued to be the case, as far as  
25 I was concerned, until I read the -- I wasn't aware of 12:34  
26 any of those issues that Garda Harrison documented.  
27 And just for clarity, I don't know -- I know I wasn't  
28 asked by Garda Harrison's senior counsel, but, I mean,  
29 those allegations I totally refute and have given an

1 explanation for them in my supplementary statement to  
2 the Tribunal.

3 313 Q. Did you make any or attempt to make any contact with  
4 Garda Harrison after he went on long-term sick leave in  
5 May 2014? 12:35

6 A. Yeah, initially when he went on long-term sick, as I  
7 said, we have a sick absence management system in place  
8 and part of those responsibilities of first-line  
9 supervisor is contacting him within certain time frames  
10 after that. But I did, in the December of that year, I 12:35  
11 rang him to the number that I -- the last number I had  
12 for Garda Harrison, and I didn't get speaking to him,  
13 but I did leave a message inviting him to a Christmas  
14 night out we were having and I left a message saying  
15 that if he wished to attend he could give me a call and 12:35  
16 I'd let him know the details.

17 314 Q. Are you aware of any personal injury proceedings which  
18 have been brought by Garda Harrison in relation to a  
19 claim for bullying and harassment?

20 A. I believe he has made an application to the High Court 12:36  
21 for damages and sworn an affidavit in respect of that.  
22 I have had sight of that now, and nowhere in it is  
23 there any reference to me at any stage in relation to  
24 any duties I conducted or any difficulties I gave him  
25 because I believe I simply treated Garda Harrison the 12:36  
26 same as I did every other member in the station,  
27 station party, where I serve now and where I have  
28 previously served as a supervisor since my promotion.

29 315 Q. Right. Mr. Harty asked you how it came to be that



1 Inspector Goretta Sheridan was aware of your inquiries  
2 into the request by Garda Harrison for video footage of  
3 Paula McDermott's hen party in Westport. Do you recall  
4 whether you furnished a copy of your report into that  
5 and the statement taken from Joanne Moran, to Inspector 12:36  
6 Goretta Sheridan?

7 A. I believe after taking the statement from Joanne Moran  
8 in Westport, I forwarded a hard copy through the  
9 district officer in Ballyshannon, the superintendent  
10 there, and I believe I forwarded a copy of the 12:37  
11 statement I took, together with my own statement, by  
12 email to Goretta Sheridan subsequent to the taking of  
13 that statement.

14 316 Q. Presumably knowing that a statement of complaint had  
15 been made on the 6th of October prior to you doing so 12:37  
16 and that that complaint was being investigated?

17 A. That's correct.

18 317 Q. You were asked by Mr. Harty how it came to be that  
19 superintendent Finan asked you in the first instance to  
20 go to Westport to take a statement from hotel staff 12:37  
21 there?

22 A. Yeah. Well, he asked me to go and I went on his  
23 request.

24 318 Q. You took a statement on the 8th of October, isn't that  
25 so? 12:37

26 A. I think -- it could have been the 9th. I think I made  
27 the arrangement on the 8th to take the statement.

28 319 Q. Sorry, just on that, you made the arrangement on the  
29 8th. Were you aware that a case conference into Marisa

1 Simms' complaint had taken place at Letterkenny Garda  
2 Stations on the 8th and that Superintendent Finan had  
3 attended that case conference?  
4 A. I wasn't aware of a case conference in respect of it,  
5 no. 12:38  
6 320 Q. And given that he did attend that case conference, he  
7 was therefore aware of her complaint, isn't that right?  
8 A. Well, yes. But I wasn't privy to that information  
9 about the case conference or was aware that it was  
10 taking place, but I did receive a request from him to 12:38  
11 go to Westport, and I made those arrangements on the  
12 8th and I travelled on the 9th, I believe.  
13 321 Q. Yes. You don't recall whether you had any direct  
14 conversation yourself with Superintendent Finan about  
15 the Westport allegation? 12:38  
16 A. I don't. I know whatever instructions he gave me were  
17 orally, whether I spoke to him face-to-face or whether  
18 it was on the phone, but the request -- he made the  
19 request to me.  
20 MR. DOCKERY: Thank you very much. 12:38  
21 CHAIRMAN: Is that it? Ms. Leader, have you anything  
22 else?  
23 MS. LEADER: No.  
24 CHAIRMAN: So it's twenty to two. And copies of the  
25 authorities I referred to this morning will be made 12:39  
26 available. Thanks.  
27  
28 THE HEARING THEN ADJOURNED FOR LUNCH.  
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1 THE HEARING RESUMED, AS FOLLOWS, AFTER LUNCH:

2  
3 MS. LEADER: Sorry, sir, I thought we had finished with  
4 the last witness.

5 CHAIRMAN: I thought so, too. 13:44

6 MS. LEADER: Yes. I don't have any further questions.

7 CHAIRMAN: You said that, I think.

8 MS. LEADER: I thought so, yes.

9 MR. MCGUINNESS: Very good, Chairman. The next witness  
10 is Garda Brendan Mahon. His statement is to be found 13:44  
11 at volume 3, page 1039.

12  
13 GARDA BRENDAN MAHON HAVING BEEN SWORN, WAS DIRECTLY  
14 EXAMINED BY MR. MCGUINNESS:

15 13:44  
16 322 Q. MR. MCGUINNESS: Garda Mahon, I think you're a member  
17 of An Garda Síochána stationed at Mullingar at the  
18 present, is that correct?

19 A. That's correct.

20 323 Q. And I think in September 2013 you were stationed in 13:44  
21 Letterkenny Garda Station?

22 A. That's correct.

23 324 Q. And I think you were on duty in the public office on  
24 the 30th September, is that correct?

25 A. Yes, that's correct. 13:45

26 325 Q. And I think you provided a statement to the Tribunal  
27 that at approximately 1400 hours, 2 o'clock in the  
28 afternoon, Ms. Paula McDermott attended Letterkenny  
29 Garda Station and requested to speak to a garda in

1 private. Were you on the public office hatch at that  
2 time?

3 A. That's correct.

4 326 Q. And was that you to whom she made that request?

5 A. Sorry? 13:45

6 327 Q. Was that request made to you?

7 A. Yes.

8 328 Q. And did you know or have any advance warning what she  
9 wanted to talk about?

10 A. No. 13:45

11 329 Q. Had you met Ms. McDermott before?

12 A. Not to my recollection, no.

13 330 Q. Did you know whether she was related to anyone?

14 A. No.

15 331 Q. I think you brought her to a private room beside the 13:45  
16 public office and she outlined concerns that she had in  
17 relation to Keith Harrison, who she said was in a  
18 relationship with her sister, is that correct?

19 A. That's correct.

20 CHAIRMAN: It's the 30th September, isn't that right? 13:46

21 A. 30th September.

22 CHAIRMAN: Thanks.

23 332 Q. MR. MCGUINNESS: Did she identify him to you as a  
24 member of --

25 A. She did. 13:46

26 333 Q. -- An Garda Síochána?

27 A. She did.

28 334 Q. Okay. And what were her concerns?

29 A. Em, she had received -- she had spoke with her sister,

1 and she informed me that she had a verbal argument with  
2 Garda Keith Harrison at her house, and during this  
3 argument she shouted -- or he shouted at her and  
4 threatened her by saying that she was going to -- or he  
5 was going to burn her and her child and bury her, or 13:46  
6 words to that effect.

7 335 Q. Well, can I ask you this: did she say when this verbal  
8 altercation had taken place?

9 A. Sorry, I'm just going by my report about this incident.  
10 On Saturday evening, the 28th, and it's a typographical 13:47  
11 error, it's the 28th September 2013, Ms. Simms'  
12 boyfriend, Keith Harrison, was at the house in  
13 Churchill and shouted and threatened her by saying that  
14 he was going to burn her and her child and bury her.  
15 Ms. McDermott was not present when the incident 13:47  
16 occurred but her sister had told her about it. Mrs.  
17 McDermott's sister is Marisa Simms. Date of birth:  
18 5/9/1980. And she lives at Drummacanoo, Churchill,  
19 Donegal with her eight-year-old daughter.

20 336 Q. I think you made some notes at the time, is that 13:47  
21 correct?

22 A. Yes.

23 337 Q. And they're contained at page 1043 of our documents.  
24 Perhaps we could look at those on screen. Is that the  
25 time, first of all, at the top? 13:48

26 A. That's correct, yes.

27 338 Q. Is that right? Okay. You've got Paula McDermott,  
28 you've got her name and address and her date of birth,  
29 is that correct?

1 A. That's correct.

2 339 Q. Okay. And you've got an entry on the side there, do  
3 you see that says --

4 A. Drummacanoo, that is the address.

5 340 Q. That is the address? 13:48

6 A. Yes, where the incident occurred.

7 341 Q. Where the incident occurred?

8 A. Yes.

9 342 Q. And you've got her sister's name and address there, is  
10 that correct? 13:48

11 A. That's correct, yeah.

12 343 Q. And you've got the name then "Keith Harrison"?

13 A. Yes.

14 344 Q. He's not described there as a guard. Did you know he  
15 was a guard? 13:48

16 A. I think Ms. McDermott told me, but when she said it, it  
17 kind of rang a bell, yeah.

18 345 Q. The name rang a bell. Had you ever met him?

19 A. Not to my knowledge or recollection.

20 346 Q. And can you say in what context the name rang a bell or 13:49  
21 why do you say that?

22 A. She said that he's a guard in Buncrana. I heard the  
23 name before being mentioned. In what context, I  
24 forget. I don't know.

25 347 Q. Okay. In that box, where his name is, you've got 13:49  
26 Marisa Simms' name on the side, and is that her date of  
27 birth as you understood it?

28 A. Yeah.

29 348 Q. And you've got an entry below the box then. Does that

1 say "may not want to come", is that right?

2 A. "May not want to come," as in she may not want to make  
3 a statement.

4 349 Q. Pardon?

5 A. That she may not want to come to the Garda station. 13:49

6 350 Q. Okay. Well, did you understand that Ms. McDermott had  
7 been urging her sister to come?

8 A. I can't recall, to be honest with you. I'm sure she  
9 did. But I don't have any record of that.

10 351 Q. Okay. You've got a couple of times written then across 13:49  
11 the page there, 2:30 and 4:00pm. Can you tell the  
12 Tribunal what they relate to?

13 A. I think they're relating to her availability and what  
14 appointment she had coming up.

15 352 Q. Her availability? 13:50

16 A. Yeah.

17 353 Q. Is that Marisa's?

18 A. I think now, and these are rough notes I made at the  
19 time, I think this was Paula McDermott's times when she  
20 could take a call, perhaps, or something along those 13:50  
21 lines.

22 354 Q. Okay. Her availability later that afternoon, is that  
23 right?

24 A. Yeah.

25 355 Q. And was that because you wanted to enquire or get her 13:50  
26 to enquire from Marisa Simms whether Ms. Simms would  
27 come in and make a statement?

28 A. I wanted to know did she contact Mrs. Simms and would  
29 Mrs. Simms be willing to make a statement to the



1 guards.

2 356 Q. Okay. You've got the word "Churchill" there?

3 A. Yeah.

4 357 Q. And then what have you written there?

5 A. "Burn her in house with girls and bury her". 13:50

6 358 Q. Is that a name of a child redacted there, is it?

7 A. No. It's not redacted in any official, anything I sent

8 up. I don't know why it's like that.

9 359 Q. Pardon?

10 A. I don't know why it's like that on this. 13:51

11 360 Q. Yes, yes. That's not Ms. McDermott's name, Paula, is

12 it?

13 A. No. What it says there is: "Burn her in house with

14 girls and bury her".

15 361 Q. Okay. And bury her. Could you describe how 13:51

16 Ms. McDermott was when she came in to you?

17 A. Well, again, I'm going by my report. I recorded on it

18 that Paula McDermott appeared visibly upset by the

19 incident and had a genuine concern for her sister.

20 That's about the only information I have in relation to 13:51

21 that.

22 362 Q. Well, you've recorded in the note then, 16:05 hour,

23 what does that say?

24 A. "16:05: would not be today. Does not want her to know

25 Gardaí knew." 13:52

26 363 Q. Okay. Can you just clarify, what would not be today?

27 A. I'm actually not sure. Possibly the fact that she

28 wouldn't be able to attend the station today, that day.

29 364 Q. Is that that Marisa wouldn't be able to attend the

1 station or she wouldn't be able to tell you whether  
2 Marisa could attend the station?

3 A. I can't be sure, I didn't -- I didn't clarify that in  
4 my notes.

5 365 Q. Do you think it is one or other of those? 13:52

6 A. Well, the only contact I ever had was with Paula  
7 McDermott.

8 366 Q. Yes.

9 A. So --

10 367 Q. Okay. And you've recorded then "Does not want to"? 13:52

11 A. "Does not want Gardaí to know. Doesn't want him to  
12 know Gardaí knew."

13 368 Q. And who does that refer to?

14 A. Garda Harrison.

15 369 Q. Pardon? 13:52

16 A. Garda Harrison.

17 370 Q. Doesn't want Garda Harrison to know, is that right?

18 A. Sorry, no. I just want to clarify in my report.

19 371 Q. Yes.

20 A. I might have clarified in my report. It says: 13:53

21

22 "However, Ms. McDermott did not tell her sister that  
23 she had already notified Gardaí about the incident and  
24 requested that her sister not know she had."

25 13:53

26 So perhaps that 1600 hours was the last time I  
27 contacted Ms. McDermott by telephone. That's on the  
28 second page of the report. I will read out the  
29 paragraph:

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"At 1600 hours Garda Mahon contacted Ms. McDermott by telephone. Ms. McDermott stated she had spoke with her sister and advised her to make a statement. Ms. Simms stated she would make a complaint. However, Ms. McDermott did not tell her sister that she had already notified the Gardaí about the incident and requested that her sister not know she had."

13:53

So perhaps that is what that note refers to.

13:54

372 Q. So it would appear that after the 2 o'clock meeting and at the 2 o'clock meeting you had raised the issue as to whether Marisa Simms would make a complaint?

A. Yes.

373 Q. Paula McDermott, as you understood it, went and made that inquiry at some stage in the afternoon, and you phoned her at 4 o'clock?

13:54

A. Yes.

374 Q. To find out the result of that inquiry?

A. Yes.

13:54

375 Q. And in your report, although it's not in your notes, you've stated that "she stated she had spoken with her sister", is that correct?

A. Yeah, it's in my report, yeah.

376 Q. And she reported to you that she had advised her to make a statement and that Ms. Simms stated she would make a complaint?

13:54

A. Yes, that's what Paula McDermott had said to me on the phone.

1 377 Q. But you've reported then that "Ms. McDermott did not  
2 tell her sister that she had already notified Gardaí  
3 about the incident and requested that her sister not  
4 know she had."  
5 A. Yes. 13:55

6 378 Q. Okay. Well, you've got one more bit of handwriting on  
7 the document there, on its side. It appears to be the  
8 1/4/'13, is that correct?  
9 A. Yeah. I don't know what that refers to.

10 379 Q. Okay. Well, the Tribunal has heard evidence from 13:55  
11 Mr. Bogle and a number of Garda witnesses, Sergeant  
12 Doherty, about an incident that occurred in the early  
13 hours of the morning of the 1st April.  
14 A. Right.

15 380 Q. Did you conduct a Pulse search in between your physical 13:55  
16 meeting with Ms. McDermott and your later telephone  
17 call with her at 4 o'clock?  
18 A. I did do a check on Pulse. I have it recorded in my  
19 report. Yeah, there was actually -- Sergeant Aidan  
20 Doherty is recorded on Pulse as investigating a 13:56  
21 domestic involving the same parties on the 1st April  
22 2013. So that is what that refers to.

23 381 Q. Okay. You certainly appear to have put that date on  
24 your notes?  
25 A. Yeah. 13:56

26 382 Q. Perhaps before you phoned her back at 4 o'clock, is  
27 that right?  
28 A. I can't recall when I put that on my notes.

29 383 Q. In any event, you made a report, perhaps we'll look at

1 that, on page 1041. And it was being submitted, is  
2 that right, to the sergeant in charge, Unit C, at  
3 Letterkenny?

4 A. Yes.

5 384 Q. What sergeant was that at that time? 13:56

6 A. Sergeant Jim Collins.

7 385 Q. Jim Collins, Sergeant Collins?

8 A. That's correct.

9 386 Q. Okay. And it's date-stamped the public office, 30th  
10 September. So would you have submitted it on that day 13:57  
11 then?

12 A. Yeah, I submitted it by email and hard copy and I  
13 handed that to Sergeant Collins.

14 387 Q. You handed it to Sergeant Collins. Okay. You say in  
15 the top of the report: 13:57  
16

17 "Report of threats made to --" you call it Marisa Simms  
18 " -- on the 20th September 2013 at Churchill, County  
19 Donegal.

20 Report: On the 30th September at around 1400 hours at 13:57  
21 Letterkenny Garda Station, Paula McDermott" -- date of  
22 birth given and the address given -- "reported to Garda  
23 Brendan Mahon that her sister was verbally threatened  
24 by her boyfriend."  
25 13:57

26 You then describe the incident as it was reported to  
27 you, and you obviously knew nothing about it other than  
28 what Ms. McDermott was telling you?

29 A. No.

1 CHAIRMAN: I am just wondering is the date correct,  
2 Saturday evening, 28th January 2013?  
3 A. No, that is a typographical error, Judge.  
4 CHAIRMAN: What is the right date?  
5 A. September. 13:58  
6 388 Q. MR. MCGUINNESS: Yes. I think you corrected that in  
7 another report?  
8 A. Yeah, I sent a report along with this report.  
9 CHAIRMAN: Was that, in fact, a Saturday evening? We  
10 can look it up. It doesn't matter. 13:58  
11 389 Q. MR. MCGUINNESS: You report there:  
12  
13 "Ms. McDermott stated she was not present when the  
14 incident occurred but her sister told her about it."  
15 13:58  
16 Can I just ask you, did you understand Ms. McDermott to  
17 be reporting it to you on the day that she had been  
18 told of it, that is on the 30th, or did she identify  
19 when Marisa Simms reported it to Paula?  
20 A. Sorry, can you repeat the question? 13:58  
21 390 Q. Well, the incident is said to have occurred on Saturday  
22 evening, the 28th?  
23 A. Yes.  
24 391 Q. Do you know or did you ask Paula McDermott when she was  
25 told about it by her sister? 13:58  
26 A. No. I have no record of that.  
27 392 Q. Okay. You record there:  
28  
29 "On Saturday evening, 28th January --" but correct it

1 to September -- "Ms. Simms' boyfriend, Keith Harrison,  
2 was at the house in Churchill and threatened her by  
3 saying that he was going to burn her and her child and  
4 bury her. Paula McDermott appeared visibly upset by  
5 the incident and had genuine concerns for her sister. 13:59  
6 Ms. Simms is now staying with Ms. McDermott."  
7

8 Did she tell you that she had moved out as a  
9 consequence of the threat or for some other reason?

10 A. I can't recall. 13:59

11 393 Q. Okay. Do you recall her mentioning anything about an  
12 upcoming wedding, her own wedding?

13 A. It's on page 2 of the report, second-last paragraph:

14  
15 "Ms. McDermott informed Garda Mahon that she is getting 13:59  
16 married on Saturday and that Mr. Harrison had not been  
17 invited. Garda Mahon believes that she could lead to  
18 further disputes."

19 394 Q. Okay. Just going back to the first page, you mentioned  
20 there under the heading "Suspect": 14:00

21  
22 "Keith Harrison is a member of An Garda Síochána  
23 stationed in Donegal Town. Sergeant... recorded on  
24 Pulse as investigating domestic involving the same  
25 parties on 1st April 2013." 14:00

26  
27 May the Chairman take it that you had read the details  
28 of that on Pulse?

29 A. Yeah, I would have read it, yeah.

1 395 Q. Okay. "Garda Advice" then is the next heading:  
2  
3 "Ms. Simms was not aware that Ms. McDermott was  
4 reporting the matter to Gardaí. Garda Mahon informed  
5 Ms. McDermott that a statement would have to be taken 14:00  
6 from Ms. Simms in order to commence an investigation.  
7 Ms. McDermott stated that she would speak to her  
8 sister. At 1600 hours Garda Mahon contacted  
9 Ms. McDermott by phone. Ms. McDermott stated that she  
10 had spoke with her sister and advised her to make a 14:00  
11 statement and Ms. Simms stated that she would make a  
12 complaint. However, Ms. McDermott did not tell her  
13 sister that she had already notified Gardaí about the  
14 incident and requested that her sister not know she  
15 had." 14:01  
16  
17 Is that correct?  
18 A. That's correct.  
19 396 Q. And just, I suppose, to be completely clear about this,  
20 you never spoke to Marisa Simms to urge her to make a 14:01  
21 statement or to find out what had occurred in this  
22 altercation?  
23 A. No.  
24 397 Q. You knew no details beyond what Ms. McDermott reported  
25 to you? 14:01  
26 A. Yeah.  
27 398 Q. And as far as you were concerned, it appeared that  
28 Ms. Simms had confirmed to her sister a willingness to  
29 make a statement?



1 A. Again, through Paula McDermott.

2 399 Q. Pardon?

3 A. Again, that was done through Paula McDermott.

4 400 Q. All right. "Garda Mahon informed Ms. McDermott that if  
5 her sister telephoned Letterkenny Garda Station around 14:01  
6 9pm on the 1st October she could speak to a sergeant  
7 regarding this matter. Sergeant Jim Collins and  
8 sergeant Siobhán Molohan have been informed of the  
9 incident by Garda Mahon and will be on duty at this  
10 time." 14:02  
11

12 Did you consult Sergeant Collins then in the interim  
13 between meeting Ms. McDermott and phoning Ms. McDermott  
14 back?

15 A. I believe so, yeah. 14:02

16 401 Q. And presumably you obtained those details of their  
17 availability from Sergeant Collins, is that right?

18 A. Yeah.

19 402 Q. Would you have a particular concern to have a female  
20 member of An Garda Síochána present at such a meeting, 14:02  
21 or is that the standard practice?

22 A. I didn't really consider gender an issue.

23 403 Q. Okay. "Ms. McDermott informed Garda Mahon that she  
24 would advise her sister to do this. Garda Mahon also  
25 advised her that this matter would be dealt with in 14:02  
26 confidence and if her sister did not wish to attend the  
27 Garda station, then another location could be  
28 arranged."  
29

1 was that as per Sergeant Collins' instructions?

2 A. I can't recall, but it would be protocol to give them  
3 that option.

4 404 Q. Okay. Your report then records:

5  
6 "Garda Mahon also informed Paula McDermott of the  
7 Letterkenny's Women's Centre on the Port Road,  
8 Letterkenny, if she required any further assistance or  
9 information." 14:03

10  
11 Is that something that you volunteered to her? 14:03

12 A. That's, again, standard protocol, to advise women of  
13 the organisations.

14 405 Q. Okay. "Ms. McDermott informed Garda Mahon that she is  
15 getting married on Saturday and that Mr. Harrison has 14:03  
16 not been invited. Garda Mahon believes that this could  
17 lead to further disputes. As this incident involves a  
18 member of An Garda Síochána, Garda Mahon requests that  
19 this report be noted as there has been no formal  
20 complaint and no incident has been recorded on Pulse." 14:03

21  
22 Can I just ask you about that. How seriously did you  
23 take what was being relayed to you by Ms. McDermott?

24 A. Serious enough that it had to be followed up on.

25 406 Q. Well, it's not clear that you're recommending any 14:04  
26 particular action here. Is that a matter for you to  
27 decide upon?

28 A. To commence an investigation, a full investigation, a  
29 statement of complaint would have to be made. Paula

1 McDermott was not present when this incident occurred.  
2 She got this information from Marisa Simms.

3 407 Q. Yes.

4 A. So in order to commence an investigation, a full  
5 investigation, a statement would have to be taken from 14:04  
6 Marisa Simms, outlining what had happened in correct  
7 and accurate detail.

8 408 Q. But if this is being reported as a threat to burn her  
9 and bury her, which would seem to be unequivocally a  
10 threat to kill her, did you understand it as such? 14:04

11 A. Things are said in the heat of the moment, I understand  
12 that. If you get a threat like that, even if you think  
13 it is just in the heat of the moment, you still have to  
14 follow it up and treat it as it is.

15 409 Q. Yes. But putting -- not putting it on Pulse, would 14:05  
16 that be standard practice not to put something on Pulse  
17 because a complaint hadn't been made?

18 A. No, it wouldn't be standard, but if the sergeant was  
19 informed straightaway they wanted to grade it on Pulse,  
20 that was their decision. I wasn't even sure of the 14:05  
21 protocol at the time if the injured party did not make  
22 a statement of complaint and if it was reported by  
23 another -- a third party. I'm still not sure if that  
24 is recorded on Pulse or how it is recorded.

25 410 Q. Okay. Did you speak with Sergeant Collins about your 14:05  
26 report or did he ask you anything in connection with  
27 it?

28 A. Well, I emailed him the report and I handed him the  
29 report.

1 411 Q. Did he have any further conversation with you at all?  
2 A. No, I think that was it from my end.

3 412 Q. In relation to this report, what was your motivation  
4 and intention in making the report?  
5 A. So that it could be followed up. 14:06

6 413 Q. And would that involve giving an opportunity to  
7 Ms. Simms to make a statement, or what would that  
8 involve?  
9 A. Yeah, it would be -- it wouldn't be me investigating  
10 it. It would have to be of sergeant rank or above. 14:06  
11 It's not best practice for a guard to investigate  
12 another guard.

13 414 Q. Okay.  
14 A. So my intention would be that she would be approached.  
15 If she wanted to make a statement, a statement would be 14:06  
16 taken from her, and then an investigation would be  
17 commenced, and I'm sure Garda Harrison would be  
18 approached to give his version of events at some point.

19 415 Q. Okay. And who in Letterkenny would be an appropriate  
20 garda, either at sergeant level or inspector level, to 14:07  
21 commence such an investigation or determine whether it  
22 might be commenced?  
23 A. It's a bit above my pay grade to --

24 416 Q. But who were the sergeants?  
25 A. Well, Sergeant Jim Collins was my immediate supervisor. 14:07

26 417 Q. Yes. And who were the inspectors above him?  
27 A. Well, I know Goretta Sheridan was there, Inspector  
28 Sheridan was there at the time. I'm not too sure what  
29 other inspectors were on duty at that time in 2013.

1 418 Q. In any event, they were members within the station  
2 where you were where this report came into?

3 A. Sergeant Collins and Inspector Sheridan?

4 419 Q. Yes.

5 A. Yes.

14:07

6 MR. MCGUINNESS: Would you answer any questions anyone  
7 else may have. Thank you.

8

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

10

14:07

11 420 Q. MR. DOCKERY: Garda Mahon, you may have answered this  
12 question. That report that you forwarded to Sergeant  
13 Collins, your unit sergeant, did you do that off your  
14 own initiative or were you asked for that by him?

15 A. I consulted with Sergeant Collins and he advised me to  
16 make a report on it. 14:08

17 CHAIRMAN: Sorry, Mr. Dockery, I think Mr. Harty had  
18 questions.

19 MR. HARTY: I have no difficulty.

20 CHAIRMAN: No, but it's just I do think, Mr. Harty,  
21 that Mr. Dockery is playing a sweeper role, and I hate  
22 sporting analogies. 14:08

23 MR. DOCKERY: Yes, and I had taken it from silence that  
24 Mr. Harty had no questions, Chairman. That is all I  
25 want to ask. 14:08

26 CHAIRMAN: You are applying R v. Christie then, 1916  
27 Appeal Cases. Mr. Harty.

28

29

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

2

3 421 Q. MR. HARTY: Garda Mahon, just in relation to  
4 Ms. McDermott, it's correct to say what was she asking  
5 you to do? 14:08

6 A. More, I'd say she was asking for advice on how to  
7 possibly proceed or to help Marisa Simms.

8 422 Q. But she didn't want Marisa Simms ever to know that she  
9 had come to you?

10 A. That's correct. 14:09

11 423 Q. So even if Marisa Simms had come to make a statement,  
12 you weren't to tell Marisa Simms that Paula McDermott  
13 had come to you?

14 A. That wouldn't be my call. That was just mentioned by  
15 her to me. 14:09

16 424 Q. No, it's not your call. I'm asking you what you think  
17 is going through the mind of Paula McDermott, but that  
18 is what she did want?

19 A. I'm sure -- I can't speak for Paula McDermott.

20 425 Q. "She said that her sister said she would make a 14:09  
21 complaint. However, Ms. McDermott did not tell her  
22 sister that she had already notified the Gardaí about  
23 the incident and requested that her sister did not know  
24 she had."

25 A. Yes. 14:09

26 426 Q. Did Paula McDermott mention that Rita McDermott had  
27 been going to other garda stations to make complaints?

28 A. I have no record of that.

29 427 Q. Or phoning other garda stations. And in relation to

1 the procedures that would ordinarily occur, if there  
2 was a serious threat to life, would it not be normal to  
3 speak to the person who made the threat?

4 A. Yeah.

5 428 Q. Would it surprise you to know that no guard has ever 14:10  
6 sought a statement from Garda Harrison in relation to  
7 these alleged threats?

8 A. I suppose I never really followed up on it myself. It  
9 went up to the sergeant, and I kind of forgot about the  
10 whole thing until April, or I got notification of this. 14:10

11 MR. HARTY: Thank you, Garda Mahon.

12 CHAIRMAN: Thank you.

13

14 THE WITNESS WAS CROSS-EXAMINED BY MR. DIGNAM:

15

16 429 Q. MR. DIGNAM: Garda Mahon, just a few questions, just to 14:11  
17 clarify matters that you have covered in your evidence  
18 and that are mentioned in your statement. I take it  
19 with your reference to your pay grade, Garda Mahon,  
20 that you're not aware that, in fact, the matter was 14:11  
21 referred by An Garda Síochána to GSOC?

22 A. No.

23 430 Q. No. Now, in relation to the conversation which you had 14:11  
24 with Ms. McDermott, I think you mentioned to  
25 Mr. McGuinness in your evidence that you were referring  
26 to your report. Do I take it from that that you  
27 haven't got a crystal-clear memory of the details of  
28 this conversation?

29 A. No, I have to lean on the report.

1 431 Q. Yes. And in relation to the report, you mention  
2 Ms. McDermott coming into the Garda station in  
3 Letterkenny. Did she ask for you by name?  
4 A. No.  
5 432 Q. No. Do I take it from that that you just happened to 14:11  
6 be the person manning the public office?  
7 A. That's correct.  
8 433 Q. Yes. And you say that you brought her into -- she said  
9 she had something of concern and you brought her into,  
10 you described as a private room? 14:12  
11 A. Yes.  
12 434 Q. Can you tell us why you didn't bring her to the  
13 interview rooms in the station?  
14 A. The interview rooms are in the custody suite of the  
15 station and, of course, the prisoners would be down 14:12  
16 there sometimes. It would be too dangerous to bring  
17 members of the public to that location.  
18 435 Q. And the private room, can you describe the nature of  
19 that room?  
20 A. It's just a room off the public office that's private. 14:12  
21 It's called a consultation report, so you can consult  
22 with somebody in private without the members of the  
23 public hearing you.  
24 436 Q. Is there anything unusual in bringing members of the  
25 public who come to the Garda station into that room? 14:12  
26 A. No, that would be standard.  
27 437 Q. You also refer in your report and you mention it in  
28 evidence, that at 4 o'clock on the day in which  
29 Ms. McDermott came into the public office, you



1 contacted her by telephone and it seems to be to  
2 enquire whether her sister, Marisa Simms, wanted to  
3 make a statement. Why did you go to the trouble of  
4 contacting Ms. McDermott to ask her that question?  
5 A. Just to clarify was there a statement forthcoming, to 14:13  
6 see did she make any further efforts to talk to her.  
7 438 Q. Yes. And why didn't you simply -- you had already told  
8 Ms. McDermott that a statement would be required from  
9 Ms. Simms in order to start any sort of investigation.  
10 why didn't you simply wait to see if Ms. Simms came to 14:13  
11 you or came to the Garda station or came to any garda  
12 with a statement?  
13 A. Well, I suppose just due to the nature of the  
14 allegation, it had to be dealt with expediently, so I  
15 had to find out what -- if Mrs. Simms wished to make a 14:13  
16 complaint or had there been further contact, so I  
17 included it in this report.  
18 439 Q. And what was the nature of the allegation that required  
19 you to chase it, to follow it up like that?  
20 A. It's a domestic incident on the 28th September 14:13  
21 involving Garda Harrison.  
22 440 Q. Now, I think you then mentioned speaking to Sergeant  
23 Molohan and, sorry, Sergeant Collins, and I think they  
24 directed you to file a report, is that right?  
25 A. That's correct. 14:14  
26 441 Q. Yes. And that's the report that we have, that's the  
27 one of the 1st October -- sorry, 30th September 2013,  
28 is that right?  
29 A. That's correct.

1 442 Q. Yes. So that report, its genesis was in the direction  
2 you received from your supervising sergeant to file a  
3 report?  
4 A. Yes.

5 443 Q. Yes. At the bottom of that report you mention Pulse 14:14  
6 and that no incident has been recorded on Pulse. Could  
7 you just explain to us -- I'm sorry, the full  
8 paragraph, it's on page 1042, is that:  
9  
10 "As this incident involves a member of An Garda 14:14  
11 Síochána, Garda Mahon requests that this report be  
12 noted as there has been no formal complaint and no  
13 incident has been recorded on Pulse."  
14  
15 First of all, you say that -- you asked that the report 14:14  
16 be noted. What does that mean?  
17 A. That somebody will have it on record that this  
18 conversation had taken place and that I was aware of  
19 what had happened.

20 444 Q. So that it didn't fall between the cracks, so to speak? 14:15  
21 A. Exactly.

22 445 Q. It was to be dealt with?  
23 A. Yes.

24 446 Q. And why was the incident not recorded on Pulse?  
25 A. First of all, as I said before, I probably wasn't sure 14:15  
26 how to classify it on the system, number one. And  
27 number two, this report would be sent up to the  
28 sergeants and they will determine if it goes on Pulse,  
29 who goes on Pulse and who is investigating it or

1 looking after it.

2 447 Q. And do I take it, Garda Mahon, that once you had put  
3 that report in, you had no further dealings with this  
4 matter, is that right?

5 A. That's correct. 14:15

6 448 Q. Yes. Thank you, Garda Mahon.

7 A. Thank you.

8 CHAIRMAN: Is there anything else, Mr. McGuinness?

9 MR. MCGUINNESS: I have nothing further for this  
10 witness. 14:15

11 CHAIRMAN: Yes.

12

13 THE WITNESS WAS THEN QUESTIONED BY THE CHAIRMAN:

14

15 449 Q. CHAIRMAN: Could I just ask, Garda Mahon, in terms of 14:16  
16 what used to be called battered wives, or domestic  
17 violence now, do you get any training in the course of  
18 your time or is there courses you do or is it a  
19 question of experience?

20 A. Mainly experience, Judge, and we get HQ directives on 14:16  
21 how to deal with these situations.

22 450 Q. CHAIRMAN: I suppose some may find it surprising that  
23 if there is a threat to life, and if that is as was  
24 reported to you, but that there wouldn't be kind of  
25 immediate intervention. Appreciating the niceties of 14:16  
26 needing a statement, etcetera. But sometimes these  
27 situations can be urgent because --

28 A. I agree with that, Judge.

29 451 Q. CHAIRMAN: Yes. You'll be aware of the statistics in

1 relation to homicide and who is mostly responsible;  
2 it's always, almost always the husband - well, that is  
3 the first suspect, in any event. Is that a HQ  
4 directive, is it? Or do you know? Or are you just  
5 told by a sergeant, look, this is the way you go about 14:17  
6 these things? And I accept you would take that in good  
7 faith and just do what you are told.

8 A. Yeah. If it was in my district and if I had taken the  
9 report, it probably wouldn't have gone to the sergeant;  
10 I would have dealt with it directly myself. 14:17

11 452 Q. CHAIRMAN: If it was just a civilian, if you like?

12 A. If it was a civilian in my district. But in this case  
13 it wasn't in my district, it was a member of An Garda  
14 Síochána, and I felt the need that a report had to be  
15 done on it and sent to my supervisors for further 14:17  
16 action.

17 453 Q. CHAIRMAN: And did you do that straightaway?

18 A. Yeah. The report was submitted on the day that --

19 454 Q. CHAIRMAN: I wasn't aware that Gardaí communicated with  
20 one another in relation to something that is a reported 14:17  
21 threat, by email. Was use of email something by reason  
22 of the urgency of the situation?

23 A. It was done verbally, it was done by email and I handed  
24 in a report.

25 CHAIRMAN: Okay. All right. Thank you very much. 14:18

26 A. Okay.

27

28 THE WITNESS THEN WITHDREW

29

1 MR. MARRINAN: The next witness, sir, is Sergeant James  
2 Collins. His statement is to be found in volume 3 at  
3 page 1044, sir.  
4

5 SERGEANT JAMES COLLINS, HAVING BEEN SWORN, WAS DIRECTLY 14:18  
6 EXAMINED BY MR. MARRINAN:  
7

8 455 Q. MR. MARRINAN: Sergeant, if you wouldn't mind just  
9 giving a brief description of your career to date.

10 A. Yes, Chairman. I joined An Garda Síochána in August 14:18  
11 1993. My first station was in Rathfarnham, November  
12 '94. I spent a brief period in Terenure traffic  
13 division from June '99. September '99, I spent from  
14 then to September '05 as a member of the Special  
15 Detective Unit attached to Harcourt Square. In 14:19  
16 September 2005 I transferred to Donegal division, where  
17 I was first stationed in Raphoe and in April 2008 I got  
18 promoted to the rank of sergeant where I was sent to  
19 Bunbeg. I transferred from Bunbeg to Letterkenny on  
20 unit C, May 2009. And I returned to Raphoe July 2014 14:19  
21 as sergeant in charge of Raphoe.

22 456 Q. And on the 30th September 2013 you were on duty in  
23 Letterkenny Garda Station in charge of Unit C, is that  
24 right?

25 A. That's correct, yes. 14:19

26 457 Q. And during the course of your tour of duty, a member of  
27 your unit, Garda Brendan Mahon, who is the last  
28 witness, informed you that a lady by the name of Paula  
29 McDermott had expressed concerns for her sister, Marisa

1 Simms, is that so?

2 A. That's correct, yes.

3 458 Q. Did Garda Mahon make you aware of the allegations that  
4 would be made at that point in time by Paula McDermott?

5 A. Yes, he did indeed, yes. 14:20

6 459 Q. And what was said to you?

7 A. Basically, that Paula McDermott's sister, a woman  
8 called Marisa Simms, had told her sister, allegedly  
9 told her sister that she had been threatened by her  
10 partner, who was a serving guard, Keith Harrison, that 14:20  
11 he would burn her and her children and bury them.

12 460 Q. And did you know Garda Harrison at that time?

13 A. No.

14 461 Q. How did you feel about an allegation being made against  
15 a member of An Garda Síochána, that he had threatened 14:21  
16 to kill somebody?

17 A. It's extremely serious - any person, but particularly a  
18 member of the Gardaí, obviously, but yeah, serious for  
19 anyone to make that sort of a threat.

20 462 Q. And did you give any directions then to Garda Mahon? 14:21

21 A. Well, I was cognisant of the fact that this matter had  
22 happened on the 28th and that it was being reported  
23 then on the 30th. I instructed Garda Mahon to prepare  
24 a report immediately and get as much detail as  
25 possible, and when that report was given to me I then 14:21  
26 forwarded it to the district office upstairs. I  
27 literally took it upstairs for the inspectors or  
28 whoever was on duty at the time.

29 463 Q. And did you give him any directions in particular in

1 relation to whether or not Marisa Simms wished to make  
2 a statement?

3 A. I don't recall. But I assume I said to him to  
4 basically check up with -- seeing the person he spoke  
5 to was Paula McDermott, I assume that I told him to get 14:22  
6 back in touch with her to see was there any more  
7 details in light of the fact of his evidence there that  
8 he would call her back again at 4 o'clock.

9 464 Q. You've recorded in your statement that you provided to  
10 the Tribunal, you say: 14:22  
11  
12 "I told him that if Marisa Simms wished to make a  
13 statement, that she could do so with Sergeant Siobhán  
14 Molohan and I the following night."

15 A. Yes. 14:22

16 465 Q. The 1st October 2013.

17 A. Yeah.

18 466 Q. At a particular time, at 9:00pm?

19 A. Yeah, that's just to -- the option was there to make a  
20 statement to anybody, but particularly if they wanted 14:22  
21 to make it to a member of sergeant rank, in light of  
22 the fact that the alleged perpetrator was a member of  
23 the gardaí at garda rank and also the fact that  
24 Sergeant Molohan obviously was a female, that if she  
25 had the option to make it either to a male or female 14:23  
26 sergeant.

27 467 Q. So, in any event, Garda Mahon's report was forwarded by  
28 you to the superintendent. Who was that at the time,  
29 do you recall?

1 A. I don't actually recall. I think it may have been  
2 inspectors acting for superintendent, because I think  
3 the superintendent may have retired at that point.

4 468 Q. And you say inspectors; who was that that was --  
5 A. There was Inspector Kelly and Inspector Sheridan were 14:23  
6 the two members, two inspectors that were working in  
7 Letterkenny at the time.

8 469 Q. Now, I think on the following day, 1st October of 2013,  
9 you spoke with Sergeant Bridgid McGowan about the  
10 matter, isn't that right? 14:23

11 A. That's correct. Sergeant McGowan would have been one  
12 of the only sergeants based in Milford, which was the  
13 district where the alleged incident would have  
14 occurred. So, as such, it was a Milford district  
15 matter, as such, but obviously we would have been 14:24  
16 liaising -- the report to Garda Mahon would have sent  
17 through me, which would have been sent through the  
18 district office, would have obviously been sent to the  
19 Milford district for members there to look at and to  
20 deal with. 14:24

21 470 Q. You don't record it, but what did you actually discuss  
22 with Sergeant McGowan?

23 A. To be honest, I don't actually recall, but obviously we  
24 must have discussed the matter. But at some point, as  
25 a result of our conversations, I spoke with Paula 14:24  
26 McDermott later that night.

27 471 Q. I think that this was at 9:50pm on the 1st October?

28 A. That's correct.

29 472 Q. And you phoned her. There's no need to give her phone



1 number. And what did she inform you?

2 A. Yeah, basically I had a conversation with her, and  
3 during the course of the conversation she told me that  
4 Marisa was currently living with her at [address given]  
5 and had been since the alleged incident on the 28th, 14:25  
6 that Marisa was currently off sick from teaching in  
7 Raphoe because of a sore side, and was due to attend  
8 the hospital the following day, which was the 2nd. And  
9 Marisa drives a black Audi A4 with that registration  
10 number. 14:25

11 473 Q. Did she advise you that Marisa had called to her home  
12 earlier on that day?

13 A. Yeah, yeah. And again, just having spoken to Paula, I  
14 think somewhere along the line I got myself confused  
15 and I put the name Paula McDaid as opposed to Paula 14:25  
16 McDermott. So I think that was just a typographical  
17 error by myself. So if that helps anything, I think  
18 that is where that came from. But basically, yeah,  
19 Paula told me that she had taken Marisa to the house in  
20 Drummacanoo in the Churchill area that day, and that 14:26  
21 when they were at the house, that Keith was there,  
22 Garda Harrison, that Marisa collected -- she was there  
23 to collect clothes, and Paula informed me that Keith --  
24 or Garda Harrison had asked Marisa if she had reported  
25 the matter as outlined or the allegations as outlined, 14:26  
26 if she had reported them, and she said no. And he  
27 asked her that because -- he asked her that because he  
28 saw patrol cars up around the house driving slowly and  
29 she told me that he had been crying and begging her not

1 to report it.

2 474 Q. Well, obviously you would have been concerned at that  
3 time as to whether or not Paula was prepared to make a  
4 statement in relation to this matter. Did you ask her?

5 A. Paula? 14:27

6 475 Q. Yes?

7 A. Or Marisa?

8 476 Q. Yeah, Paula McDermott.

9 A. In relation to what matter?

10 477 Q. In relation to what she was recounting to you? 14:27

11 A. Well, Paula didn't actually -- Paula had said that  
12 she'd -- it was Marisa had told her this. I don't  
13 think she had actually witnessed it. I'm not sure if  
14 she had witnessed it. But again, I did speak to her  
15 about making statements, but I can't recall. 14:27

16 478 Q. And did you ask her whether Marisa was prepared to make  
17 a statement?

18 A. Yes, yes. I had asked her, obviously. The main crux  
19 or the main threat or allegation that had to be  
20 investigated was threats against Marisa and, in order 14:27  
21 to investigate that, we needed a complaint from Marisa.  
22 So I asked her -- she had -- she had intimated to Garda  
23 Mahon the previous day that Marisa would make a  
24 statement, so I had asked her if Marisa was -- if she  
25 had any further information in relation to Marisa 14:27  
26 making a statement, and she said that -- she basically  
27 indicated Marisa said that she would make a statement  
28 but Paula was insisting that Marisa was going to make a  
29 statement but that she wouldn't make any statement

1 before her wedding on the Friday. Paula said she was  
2 getting married on the Friday.

3 479 Q. That is Friday, the 5th of October, is that right?  
4 A. Yeah, I believe so, yeah.  
5 CHAIRMAN: Is it? 14:28  
6 A. I think so.  
7 CHAIRMAN: I thought it was the 4th? Was it the 4th?  
8 MR. MARRINAN: Sorry, the 4th, but recorded the 5th of  
9 October.  
10 CHAIRMAN: Was that a Friday, was it, or a Saturday? I 14:28  
11 am going to just get out whatever for the days of the  
12 week, but you think it was the 5th was the wedding?  
13 MR. HARTY: It was a Saturday, are my instructions,  
14 sir.  
15 CHAIRMAN: Anyway, I will find it. 14:28  
16 MR. HARTY: And I think that is what Garda Mahon had  
17 recorded, the Saturday.  
18 MR. MARRINAN: We will check it up.  
19 A. From my notes, I had noted in my notes I made  
20 contemporaneously, wedding on the Friday. So that's 14:28  
21 the note I have.

22 480 Q. MR. MARRINAN: So you just have a note that a wedding  
23 on the Friday with no date?  
24 A. No.  
25 481 Q. Right. 14:29  
26 A. Obviously it was the following Friday, so, yeah, I knew  
27 it was the coming Friday, as it were.  
28 MR. HARTY: Sorry, the 6th September was the Friday.  
29 MR. MARRINAN: 6th. Thank you.

1 A. October, sorry, it was October.  
2 CHAIRMAN: It was October, yes. I think I am entitled  
3 to look at my mobile phone in relation to this.  
4 MR. MARRINAN: We will check it out.  
5 CHAIRMAN: Carry on, please. 14:29  
6 482 Q. MR. MARRINAN: I think that Paula was also at pains to  
7 point out that she had concerns that Garda Harrison  
8 might turn up at the wedding.  
9 A. Yeah.  
10 483 Q. He wasn't invited to the wedding and that he was, in 14:29  
11 fact, unwelcome?  
12 A. That's correct, yeah. She was at pains to point out  
13 that he wasn't invited and that she had concerns that  
14 he wouldn't turn up and basically upset her, cause a  
15 problem at the wedding. 14:30  
16 CHAIRMAN: So Friday was the 4th of October.  
17 MR. MARRINAN: The 4th.  
18 CHAIRMAN: So the wedding might have been on the 5th.  
19 Nothing is going to turn on it.  
20 A. I'm not sure, Judge, but I just had my note that it was 14:30  
21 a Friday.  
22 CHAIRMAN: You thought it was the Friday or Saturday?  
23 A. The notes I took when I was speaking to her, I noted  
24 "wedding on the Friday", but I just -- I could have --  
25 CHAIRMAN: Okay. 14:30  
26 A. That's just my notes, Judge, at the time, Judge.  
27 CHAIRMAN: Well, anybody can get married at any time  
28 and anywhere nowadays.  
29 484 Q. MR. MARRINAN: During the course of the conversation,

1 did Paula also mention CCTV in the westport Plaza Hotel  
2 in westport?

3 A. Yeah, I have -- I also have a note there, yeah, the  
4 30th, 31st August '13, Hotel westport Plaza.

5 485 Q. Do you recall what she said in relation to that? 14:31

6 A. I actually don't, and, to be honest, it's in a  
7 different colour pen, so I don't know whether I made  
8 that the following day, but it's on the same sheet as I  
9 took the notes. So I don't recall whether it was  
10 during that conversation or whether it was subsequent. 14:31

11 486 Q. All right. But something was said by her in relation  
12 to CCTV footage of the westport Plaza Hotel, is that  
13 right?

14 A. I believe so, yes, yes.

15 487 Q. You didn't hear that from somebody else, perhaps? 14:31

16 A. Well, I did hear it also from Marisa's mother, Rita,  
17 Rita McDermott, the following day.

18 488 Q. That is the following day, the 2nd of October.

19 A. Yeah.

20 489 Q. We will come to that in due course. 14:31

21 A. Yeah.

22 490 Q. And on the same day, at 10:55pm, you submitted a report  
23 by email outlining your conversation with Paula  
24 McDermott, is that right?

25 A. That's correct, Judge, yes, yes, I did indeed. 14:32

26 491 Q. And that was sent to Sergeant Bridgid McGowan, to  
27 Inspector Goretta Sheridan and Inspector David Kelly as  
28 well, is that right?

29 A. Correct.

1 492 Q. And to Superintendent Eugene McGovern?  
2 A. Correct, yes.

3 493 Q. Who was then the superintendent in charge of Milford,  
4 is that right?  
5 A. That's correct, yes. 14:32

6 494 Q. And it was sent there because Garda Harrison was  
7 residing there, is that right?  
8 A. That's correct, Judge, yes.

9 495 Q. And if we just have page 1053 on the screen and just go  
10 through your report fairly briefly. It's entitled: 14:32  
11  
12 "Report of alleged threats made to Marisa Simms on the  
13 28th September 2015 at Churchill, County Donegal."  
14  
15 And it's update report, is that right? 14:32  
16 A. Yes, that's correct, as in, I was updating the report  
17 that had been submitted by Garda Mahon the previous  
18 day.

19 496 Q. Yeah. 14:33  
20  
21 "With reference to above, I wish to report that as a  
22 result of liaising with Sergeant Brigid McGowan of  
23 Kerrykeel Garda Station, I made contact with the sister  
24 of Marisa Simms, Paula McDaid, at 9:50pm on Tuesday,  
25 1st October 2013. From my conversation with Paula 14:33  
26 McDaid, I established the following matters:  
27 1. Marisa Simms is currently residing with Paula  
28 McDaid in [address given] and has been since the  
29 alleged threats on the 28th September 2015. Marisa

1 Simms is currently off sick from teaching in Raphoe.  
2 She has a sore side. Will be attending Letterkenny  
3 General Hospital tomorrow, Wednesday, 2nd October 2013,  
4 for this complaint. Marisa Simms drives a black Audi  
5 motor car." 14:34

6  
7 And you give the registration of that.

8  
9 "During the conversation it was also established that  
10 Marisa Simms called to the house at Churchill earlier 14:34  
11 today where she met with Keith Harrison. She went  
12 there to collect clothes. He asked her if she reported  
13 the alleged threats and she said no. He said he asked  
14 her that because he saw patrol cars up around the house  
15 driving slowly. He was crying and begging her not to 14:34  
16 report it."

17  
18 Is that something that was said to you, because you  
19 didn't tell us about that?

20 A. I think I did tell you that, yeah. 14:34

21 497 Q. You did, yes.

22 A. I did, I did say that, yes. That is what I was  
23 informed. Obviously that is why it's in the report,  
24 yeah.

25 498 Q. "Paula McDaid was asked by me if her sister Marisa was 14:34  
26 going to make a statement as was intimated by Paula  
27 yesterday. During her conversation with Garda Mahon  
28 she said that she had spoken with Marisa earlier today  
29 and Marisa indicated she still wished to make the

1 statement but outlined how she, Paula, is getting  
2 married on Friday and that Marisa would probably make  
3 it after that. It was suggested by me that when she  
4 was in Letterkenny attending the hospital tomorrow, she  
5 could call down, and I offered a number of time options 14:35  
6 and made myself available to take any statements. But  
7 Paula was adamant that this would not be made until  
8 after Friday. She again emphasised that it would be  
9 after the wedding."

10  
11 All right. That is a summary of the conversation that  
12 you had with Paula. You then go on to say:

13  
14 "If I were a sceptical person, I may be tempted to  
15 suggest that the Gardaí are being used as a pawn in 14:36  
16 this case, as I believe that there is a fear that Keith  
17 Harrison may turn up at the wedding on Friday and cause  
18 a scene."

19  
20 where did that come from, or that view? 14:36

21 A. Well, my opinion was based on, I mean obviously the  
22 threats, we were concerned with, if, as reported, the  
23 threats were made, that we'd get a statement from the  
24 person who the threats were made against so that we  
25 could commence a proper investigation. And I done what 14:36  
26 I thought was the right thing in offering different  
27 options of times, available places, whatever else I  
28 could, to try and facilitate the taking of a statement,  
29 but, in my opinion, Paula McDermott was more concerned



1 with pointing out the fact that the wedding was on the  
2 on the weekend and that she was more concerned with  
3 Garda Harrison may turn up and cause an issue. So  
4 that's -- that was basically how I formed my opinion.

5 499 Q. You go on to say:

14:37

6  
7 "I have no doubt the threats were made but I believe  
8 that Marisa Simms is not intending to make a complaint  
9 about same and her sister is using the situation to her  
10 advantage with regard to preventing any scene/situation  
11 at her wedding."

14:37

12  
13 I mean, that's a fairly strong view to express in a  
14 report, whatever about perhaps just mentioning to a  
15 colleague and maybe raising a question-mark over the  
16 motivation for making the complaint. But you saw fit  
17 to put it in your report and express it in very strong  
18 terms.

14:37

19 A. I did at the time, and at the time it was based on the  
20 conversation I had with Paula McDermott. As I say, I  
21 felt that the emphasis was more on Garda Harrison  
22 turning up and causing a problem for the wedding and,  
23 as I say, different options were given to facilitate  
24 the taking of a statement and I just felt that -- and  
25 that was just my opinion at the time, based on the  
26 conversation I had with Paula McDermott.

14:38

27 500 Q. Well, was that an impression that you got from talking  
28 to Paula McDermott, that she wasn't being genuine?

29 A. It's not that she wasn't being genuine. As I said

1           there, I had no doubt that the threats were made, but I  
2           just didn't believe -- I just believed that Paula was  
3           more interested in making sure that the wedding was  
4           covered than her sister making a statement.

5   501   Q.    You go on in the next paragraph to say:

14:38

6  
7           "I have advised Paula McDaid that the Gardaí are  
8           willing to take a statement from her sister, Marisa, at  
9           any stage, and have asked that, if possible, that she  
10          ring in advance so that arrangements can be made for an 14:38  
11          appropriate person to be available to take any  
12          statements of complaint. In light of Harrison's  
13          reference to patrol cars around his house and in light  
14          of the fact that he is now domiciled in another  
15          location for at least two weeks, I believe that no 14:39  
16          further planned patrol should take place around  
17          Harrison's current home at Churchill. All developments  
18          will be reported as soon as they occur."

19  
20          Now, I think on the following day, on the 2nd October 14:39  
21          2013, you were in the public office at Letterkenny  
22          Garda Station, is that right?

23          A.    That's correct.

24   502   Q.    And Chief Superintendent McGinn and Inspector Sheridan  
25           were also present?

14:39

26          A.    Yes, that's correct.

27   503   Q.    Did Chief Superintendent McGinn give certain directions  
28           to you at that time?

29          A.    Well, it was mostly directed towards Inspector

1 Sheridan, to go and speak with Rita McDermott, who is  
2 the mother of Marisa Simms, and see if she was  
3 interested in making a statement in relation to these  
4 alleged matters. Having served previously in Raphoe,  
5 and having known the people in Raphoe, Chief 14:40  
6 Superintendent McGinn asked that I would accompany  
7 Inspector Sheridan because she was only new to the  
8 division at the time and just felt it might be a help  
9 if I was there to assist in finding where she lived and  
10 also just assist in taking a statement. 14:40

11 504 Q. Were you aware of the fact that Rita McDermott had  
12 already spoken to the sergeant in Donegal Garda  
13 Station?

14 A. No.

15 505 Q. Of any of those previous phone calls? 14:40

16 A. No.

17 506 Q. Now, I think that, along with Inspector Sheridan, that  
18 you called to Rita McDermott's home at Castlegrove in  
19 Raphoe, is that right?

20 A. That's correct, yeah. 14:40

21 507 Q. She wasn't there. And then you went to St. Eunan's  
22 Terrace, where her mother lives, is that right?

23 A. That's correct, yes.

24 508 Q. I think that you came across Rita McDermott there, is  
25 that right? 14:41

26 A. That's right, she was dropping off her mother there at  
27 the house, yeah, that's correct.

28 509 Q. And did you have a discussion with her?

29 A. Yeah, I basically introduced myself, I think she

1 already knew me anyway, and told her we were looking to  
2 have a chat with her about Marisa and Garda Harrison,  
3 and I introduced her to Inspector Sheridan, who was in  
4 the car with me, and she said, okay, come up to the  
5 house and we'll have a chat. So we went to up 19 14:41  
6 Castlegrove to the home of Rita McDermott.

7 510 Q. Just before you leap on to going up to the house --  
8 A. Yeah.

9 511 Q. -- because I asked you a few minutes ago whether or not  
10 you were aware of whether or not Rita McDermott had 14:42  
11 been engaged in telephone calls to Donegal Garda  
12 Station, speaking to the sergeant in charge, and you  
13 said that you hadn't?

14 A. Yeah.

15 512 Q. It appears from your statement what you said to her 14:42  
16 was:  
17  
18 "We informed her as to the purpose of our visit, which  
19 was to speak to her about her daughter, Marisa, and  
20 concerns which she had highlighted previously to 14:42  
21 Sergeant Durkin."

22 A. I must have been aware of it, but I don't -- I don't  
23 remember being aware of it, that's -- you know. But I  
24 obviously was if I put it in my statement.

25 CHAIRMAN: What page are we on there, Mr. Murrinan? 14:42  
26 MR. MARRINAN: This is on page 1046.  
27 CHAIRMAN: That is 1046, yes.

28 513 Q. MR. MARRINAN: So it would appear that you were aware  
29 of the conversations that she had had with Sergeant

1 Durkin at the time?

2 A. Obviously according to my statement I was. I don't  
3 actually recall that, to be quite honest. But as I  
4 say, that could be where the note of the 30th/31st of  
5 the 8th/13. 14:43

6 514 Q. Well, presumably you wouldn't have put it in your  
7 statement unless it was something that you were aware  
8 of?

9 A. No, exactly, and that's what I'm saying --

10 515 Q. You wouldn't put in something and just make it up and 14:43  
11 put it in for the sake of it?

12 A. No, I wouldn't like to think so.

13 516 Q. No.

14 A. As I say, I think that is where the notes on the  
15 30th/31st relate to as well. 14:43

16 517 Q. So can we take it that, since it's there, in the  
17 context it's there in --

18 A. Yes.

19 518 Q. -- that, in fact, you had been discussing  
20 with somebody -- 14:43

21 A. Yes.

22 519 Q. -- the conversations that Rita McDermott had with  
23 Sergeant Durkin, is that right?

24 A. I must have been aware of it, yeah.

25 520 Q. Because that is the purpose that you give, it is the 14:43  
26 reason that you give to Rita McDermott for being there,  
27 to discuss those very concerns, isn't that right?

28 A. Yeah. Well, amongst other things, yeah.

29 521 Q. But in any event, she invited you to her house in

1           Castlegrove and that you took notes while Inspector  
2           Sheridan recorded a formal statement from Rita  
3           McDermott, is that right?

4           A.    That's correct, yeah.

5   522   Q.    I think that that commenced at 6:00pm and you jotted           14:44  
6           down a number of notes whilst it was taken. You  
7           provided those to the Tribunal.

8           A.    That's correct, yes.

9   523   Q.    I think at 5:40pm you noted that you had phoned Paula  
10          McDermott, is that right, but got no answer?           14:44

11          A.    Again, I'm assuming that when we went to Rita's house  
12          and she wasn't there, now I tried to ring Paula to see  
13          if either she had a number for Rita or to see where she  
14          was, but regardless, she didn't answer. But I just had  
15          that noted in my notes anyway.           14:44

16   524   Q.    How long did it take to take the statement from Rita  
17          McDermott?

18          A.    I'd say about maybe an hour and a half, maybe, roughly,  
19          maybe two hours, because we sat and chatted, had a cup  
20          of tea and --           14:44

21   525   Q.    You've also noted that at 9:25pm on that date, that you  
22          left a message on Marisa Simms' phone?

23          A.    Yeah, that's correct.

24   526   Q.    Which was a number that had been given to you by Rita  
25          McDermott, is that right?           14:45

26          A.    That's correct.

27   527   Q.    That was a voicemail?

28          A.    That's correct, yeah.

29   528   Q.    That's right. What was the message that you left, do

1           you recall?

2           A.    I know there's a transcript of it there somewhere.

3           Basically, introduced who I was, saying I was just

4           ringing, that I had been speaking to her mother and her

5           mother was concerned about her making -- if she wanted 14:45

6           to make any statements, and that she could contact me,

7           and I think I gave times when I'd be available.

8 529 Q.    The statement that was made by Rita McDermott, did she

9           appear happy to make the statement and to cooperate

10          with yourself -- 14:45

11          A.    Yes.

12 530 Q.    -- and Inspector Sheridan?

13          A.    Absolutely, yeah. No issues. As I say, we sat, we

14          chatted about a number of things, had a cup of tea.

15          Her brother came into the house, had a chat with me, 14:46

16          hadn't seen me since I left, and just general things.

17          No issues. She was very concerned for her daughter,

18          and I think it was -- she had asked me if I would ring

19          her and ask her about making a statement.

20 531 Q.    Okay. Rita McDermott was interviewed by the Tribunal 14:46

21          investigators and took issue with one aspect of her

22          statement, which, in the handwritten statement,

23          records:

24

25          "Marisa has said that Keith threatened to burn her and 14:46

26          the children, but that she wants to hold off until

27          after Paula's wedding to tell the guards."

28

29          And she initially denied that she had said that, which

1 was in her statement. She subsequently, very recently,  
2 has written to the Tribunal indicating that if it's in  
3 her statement, it's something that she must have said.  
4 You may not be aware that she has written to us in  
5 those terms?

14:47

6 A. No, I wasn't aware of that, but -- well, firstly, it  
7 was Inspector Sheridan that recorded the statement. I  
8 recorded my own notes. I don't have anything with  
9 that. But, I mean, I know that the statement was read  
10 over to Rita and she would have been aware of what was  
11 said.

14:47

12 532 Q. Well, she's going to be called as a witness in any  
13 event, but -- and I don't know whether this is now an  
14 issue, but she has told our investigators, and if we  
15 could have page 1971 on the screen, please, just for  
16 your comment in relation to this. Line 3:

14:47

17  
18 "I wish to state I felt under pressure providing that  
19 statement. The sergeant and inspector came looking for  
20 me. I did not even know Sergeant Collins. They  
21 stopped their car in front of my mum's house."

14:48

22  
23 She gives the address.

24  
25 "And Sergeant Collins stuck his head in my car window.  
26 I had to ask him to introduce himself. I did not know  
27 who he was. He called me by my first name, but I did  
28 not know him."

14:48

29



1 Do you recall that?

2 A. I certainly went up to the driver's window and spoke  
3 with her. She knew me. Do you wish me to comment on  
4 how long I know Ms. McDermott?

5 533 Q. Yes, if you would, please, because this is what she is 14:48  
6 saying.

7 CHAIRMAN: I think you have to, Sergeant. I know you  
8 don't mean any ill-will --

9 A. No, no.

10 CHAIRMAN: -- towards anybody, but -- 14:49

11 534 Q. MR. MARRINAN: Please do.

12 A. It may be slightly embarrassing, Judge.

13 535 Q. Well, if you could just give the duration. How long do  
14 you know her for?

15 A. Well, I've known her since I came there in 2005/2006. 14:49

16 536 Q. I think that will probably deal with the matter.

17 A. If you wish I can certainly elaborate on how I came to  
18 know her, but that's up to yourself.

19 537 Q. I don't think there would probably be any need for  
20 that. 14:49

21 A. No.

22 538 Q. So we will just leave it at that for the moment.

23 CHAIRMAN: I mean, we know there was the problem with  
24 the son.

25 A. This matter would have been before that, Judge, and it 14:49  
26 would have been a different matter.

27 CHAIRMAN: Okay.

28 A. I would have known her through her son as well, to be  
29 honest, yes.

1 CHAIRMAN: That is fine. I mean, you're being as  
2 discreet as you can be, but you're swearing that you  
3 knew her and she would have known you.

4 A. And I am surprised --

5 CHAIRMAN: It's not as if Raphoe is, you know, the  
6 metropolis of London.

14:49

7 A. I was involved in a lot of the community activities,  
8 including the 50th anniversary of St. Eunan's Terrace,  
9 which is why I knew her mother lived there. Her mother  
10 is one of the longest living people there, so that is  
11 one of the places she would have known me from. Her  
12 son, I would have had reason to call a number of times,  
13 but I would have known her prior to that for another  
14 reason, Judge, that I don't think is appropriate to  
15 address here.

14:49

16 CHAIRMAN: It's fine. You have your work.

17 A. Yes.

18 CHAIRMAN: And there are other social activities as  
19 well, and I'm not taking anything negative out of the  
20 fact that you knew her, that is your job.

14:50

21 A. Yes, Judge.

22 539 Q. MR. MARRINAN: So anyway, she goes on to say:

23

24 "So then they asked me if I would make a statement. I  
25 asked what it was regarding. They told me they wanted  
26 to talk to me about Mr. Harrison."

14:50

27

28 Did you say that to her?

29 A. Well, I'm sure we said we wanted to speak to her about

1 the alleged incident of the previous weekend, which  
2 Paula had said she had spoken to her about, or  
3 indicated she had spoken to her about, that she was  
4 aware of.

5 540 Q. And she case:

14:50

6  
7 "I said I did not want to go near a barracks. I  
8 offered them to come up to my own home."

9  
10 Did she say that?

14:50

11 A. Well, I mean, there was never any issue. At the time I  
12 wasn't stationed in Raphoe, I wouldn't have had keys to  
13 Raphoe station. We came out in Inspector Sheridan's  
14 car, which was obviously an unmarked car, and the whole  
15 point of calling to the house at 19 Castlegrove was to  
16 take it from her at her house and be as discreet as  
17 possible. We had no intention of taking her to the  
18 station. So the conversation I had was, you know, do  
19 you want to have a chat? And she said, yeah, come on  
20 up, follow me up to the house. That is as I recall it.

14:51

14:51

21 541 Q. Okay. And then she goes on to say:

22  
23 "I just felt under pressure from the pair of them  
24 because I never had Garda involvement in my life."

25 CHAIRMAN: Well, you are raising an eyebrow to that?

14:51

26 A. It depends what you mean by "Garda involvement", Judge.

27 CHAIRMAN: All right. Okay.

28 A. I don't want to comment further, Judge, obviously.

29 CHAIRMAN: All right, all right. What is the point?

1 We have enough to be dealing with, you know.

2 A. Yeah.

3 542 Q. MR. MARRINAN: "I have been asked whether it is  
4 possible that I did state what is recorded in my  
5 statement."

14:51

6

7 And she goes on to say:

8

9 "I did not say that. I have a good memory. I know for  
10 definite that Marisa never told me anything about  
11 threatening the children."

14:52

12

13 Now, she appears to have resiled from that, as I  
14 indicated to you, in a letter to the Tribunal, all  
15 right?

14:52

16 A. Well, you will see the notes I submitted, which were  
17 taken independently of Inspector Sheridan, and I also  
18 note that she actually made -- she made further  
19 allegations insofar as she said that she had -- let me  
20 see now.

14:52

21 543 Q. Were you and Inspector Sheridan sympathetic towards her  
22 and the position that she found herself in?

23 A. Absolutely, of course we were, absolutely. And as I  
24 say, would I have known Rita quite well, as I would  
25 have thought. Obviously, she didn't remember me, but I  
26 always thought I got on well with her and her family  
27 and her extended family, as I still do.

14:52

28 544 Q. Well, I gather from what you are saying that this was a  
29 friendly encounter and not something --

1 A. We sat for about an hour and a half. The first  
2 probably twenty minutes was taken up just talking about  
3 general chitchat, including things about her son,  
4 issues he was having. We were very sympathetic about  
5 that. We had a cup of tea - in fact, maybe two cups of 14:53  
6 tea. We certainly had one cup of tea during the course  
7 of it, so I don't think it was in any way pressurised.

8 545 Q. Yes. But anyway, we will move on from that, so. The  
9 statement, you've seen the statement that is set out in  
10 the Tribunal papers, isn't that right? 14:53

11 A. Which papers is this now?

12 546 Q. The statement of Rita McDermott?

13 A. Yes.

14 547 Q. And you're a witness to that?

15 A. Yes. 14:53

16 548 Q. And you signed yourself as witness to it?

17 A. Yes.

18 549 Q. I'm not going to go through it. It was read over to  
19 her at the end, isn't that right?

20 A. Yes, it was indeed, that's correct. 14:53

21 550 Q. And it has the statutory declaration on it?

22 A. That's correct, yes.

23 MR. MARRINAN: Thank you very much.

24 A. Thank you.

25 14:53

26 THE WITNESS WAS CROSS-EXAMINED BY MR. HARTY:

27

28 551 Q. MR. HARTY: Sergeant Collins, good afternoon. Just so  
29 I can get this the sequence fully right in my head.

1 Paula McDermott, on the 1st of October -- sorry, on the  
2 30th of September, spoke to Garda Mahon, isn't that  
3 correct.

4 A. That's correct.

5 552 Q. Garda Mahon spoke to you before he returned to the call 14:54  
6 to Paula McDermott that afternoon?

7 A. Yes, I believe so, yeah, yeah.

8 553 Q. He then provided you with a report?

9 A. Yes.

10 554 Q. Did you forward that report on at that stage? 14:54

11 A. Yes, I did indeed.

12 555 Q. And who did you forward that report on to?

13 A. I would have forwarded that up to my immediate  
14 supervisors at the time. As far as I recall, having  
15 looked at the email I sent, seeing it wasn't sent to 14:54  
16 any superintendent, I think there was no superintendent  
17 there for a short period, so it was sent to the two, I  
18 presume I would have sent it to the two inspectors,  
19 Inspector Sheridan and Inspector Kelly, who would have  
20 been acting superintendent at the time. 14:55

21 556 Q. So I take it when a superintendent isn't there, it's  
22 the person acting up rather than the chief  
23 superintendent?

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

25 557 Q. You then spoke to Paula McDermott on the 1st October, 14:55  
26 isn't that correct?

27 A. Yes, that's correct, yeah, yeah.

28 558 Q. And your impression, and it's very clearly said, you're  
29 a man of how many years experience in An Garda

1            Síochána?

2            A.    24. 23/24.

3 559 Q.    And your impression was that Paula McDermott was using  
4            the situation to her advantage with regard to  
5            preventing any scene or situation at her wedding? 14:55

6            A.    That was the impression -- I mean, I was concerned for  
7            the safety of Ms. Simms and concerned if she wanted to  
8            make a statement. I got the impression that Paula was  
9            more concerned with the safety of her wedding. That  
10           was just the impression I got from the conversation. 14:56

11 560 Q.    You mentioned, and as I say I don't want to go into the  
12            circumstances, that you know Rita McDermott and her  
13            family?

14           A.    Yes.

15 561 Q.    At least five or six years prior to this? 14:56

16           A.    At least, yeah.

17 562 Q.    And did that include knowing Paula McDermott and Marisa  
18            Simms?

19           A.    No. I didn't know Paula or Marisa. I knew that she  
20           had a daughter who was teaching in Deelee College, 14:56  
21           because I used to do, and I still do, a lot of talks in  
22           Deelee College. But I didn't actually know who she was  
23           at the time.

24 563 Q.    Did you know who Paula McDermott was --

25           A.    No. 14:56

26 564 Q.    -- when she came in to you?

27           A.    No. Oh, sorry, I think Garda Mahon alluded to the fact  
28           that she was Martin McDermott's sister.

29 565 Q.    And from that you would have known through Rita

1 McDermott's --

2 A. Yeah, absolutely, yeah.

3 566 Q. And your evidence is very clear that you had a long and  
4 what you understood to be a cordial relationship with  
5 Rita McDermott? 14:57

6 A. Absolutely, yes.

7 567 Q. And you would have no reason to be assuming that Paula  
8 McDermott, Rita's daughter, was effectively using the  
9 guards in relation to a complaint?

10 A. No. 14:57

11 568 Q. But that was the distinct impression that you formed?

12 A. That was the opinion I formed from my conversation, as  
13 I say. I got the opinion that there was more emphasis  
14 being placed on the wedding than -- and that's why I  
15 made the comments that I did in my report. 14:57

16 569 Q. And your report is very clear?

17 A. Yeah.

18 570 Q. Paula McDermott was adamant that no statement would be  
19 made by Marisa Simms until after the wedding?

20 A. Yeah. 14:57

21 571 Q. So I would suggest to you that that alone would give  
22 you the clear impression that this wasn't about  
23 threats, but rather about Paula McDermott's wedding?

24 A. It still can be about threats. I mean, she was now  
25 living with her sister, so the threat, as such, was 14:57  
26 reduced, if not alleviated. But yeah, I mean, I put in  
27 my report what I thought at the time based on the  
28 conversation I had.

29 572 Q. In terms of the threats, Marisa Simms returned to the



1 house herself that day, isn't that correct?

2 A. With her sister, yeah.

3 573 Q. Are you sure about it? It's not contained in your  
4 statement?

5 A. No. Well, that was the impression I got. Again, I 14:58  
6 could be wrong. I thought that she had went with her  
7 sister. I don't think her sister went in with her  
8 but -- again, I can't -- I can't contradict that.

9 574 Q. The statement says:  
10  
11 "During the conversation it was also established that  
12 Marisa Simms called to the house at Churchill earlier  
13 today where she met Keith Harrison."  
14 A. Yeah. Well, it doesn't say -- I think I assumed, quite  
15 probably wrongly so, but I assumed that she had been in 14:58  
16 the company of Paula, which is why I thought Paula was  
17 able to give such accurate information. Obviously  
18 wrongly so.

19 575 Q. Or recount matters?

20 A. Yeah. 14:59

21 576 Q. The situation is that that would suggest that Marisa  
22 Simms wasn't taking the threats that seriously either,  
23 if she returned to the house?

24 A. Again, look at, you can't say that, because people do  
25 things to try and get their clothes, to try and keep 14:59  
26 things sweet, to do -- you know, so you can't -- I  
27 can't say that. Obviously that's a matter for her to  
28 answer, but I certainly wouldn't assume that.

29 577 Q. Yeah. But you were satisfied that Paula McDaid was

1 certain that she was going to have her wedding whether  
2 or not the threats were carried out and that the  
3 threats could be investigated later?  
4 A. Well, yeah, I mean, that's -- yeah.  
5 578 Q. You offered for Marisa Simms to make a statement? 14:59  
6 A. Yes.  
7 579 Q. And you offered to make yourself available or anybody  
8 else?  
9 A. Yes, that's correct.  
10 580 Q. Can you explain to me then who you contacted with this 15:00  
11 report?  
12 A. With my report?  
13 581 Q. With the report, yes.  
14 A. Yeah. I would have emailed, as you know, to  
15 Sergeant McGowan, Superintendent McGovern, both of 15:00  
16 which were in Milford district, and to my own  
17 inspectors who were in the absence of a serving  
18 superintendent at the time, which were Inspector  
19 Sheridan and Inspector Kelly. And I suppose for  
20 confidentiality purposes if nothing else, I 15:00  
21 hand-delivered the hard copy, as it were, the following  
22 morning to the two inspectors.  
23 582 Q. You spoke to Sergeant McGowan on that date, you spoke  
24 to Sergeant McGowan on that date?  
25 A. Yes. 15:01  
26 583 Q. On the 1st October?  
27 A. Yeah.  
28 584 Q. Did you speak to Superintendent McGovern?  
29 A. No, I don't think I did.

1 585 Q. Did you speak to Inspectors Kelly or Sheridan?  
2 A. On which day is this now?  
3 586 Q. On the 1st October.  
4 A. I don't recall. It was late. I think I was on night  
5 duty that night because it was late or else I was on 15:01  
6 late, because I sent the email at five to eleven, so  
7 they wouldn't have been there. So I can't recall  
8 whether I spoke to them on that day. Certainly the  
9 following day, I think I was in at a HSE meeting. I  
10 put it in one of the emails there, and I delivered the 15:01  
11 reports by hand to the two inspectors.  
12 587 Q. What did Sergeant McGowan say to you?  
13 A. I honestly can't recall. I don't have any notes of my  
14 interactions with Sergeant McGowan.  
15 588 Q. Do you recall what you said to Sergeant McGowan? 15:01  
16 A. I don't. As I say, I don't have any notes, and that is  
17 being quite honest, I don't. I know obviously, I am  
18 assuming that I alerted her to the fact that the  
19 incident happened in her district, as she was the only  
20 other sergeant in the district at the time. 15:02  
21 589 Q. Did she tell you that the district had received  
22 information from Donegal Town at that stage?  
23 A. No, I wasn't aware of that.  
24 590 Q. When -- did you become aware of that at any stage?  
25 A. I honestly can't remember. I think I may have been, I 15:02  
26 may have been briefed going out to take the statement  
27 from Rita, but that seems to be -- you know, and I  
28 honestly can't even remember being briefed, that's  
29 being honest. Garda Mahon did also put in his report,

1 he made reference to a previous incident being on  
2 Pulse, so obviously I would have checked that out, too.

3 591 Q. I mean, you had Garda Mahon's report. I don't think  
4 there was any need for you to separately check Pulse in  
5 relation to it? 15:03

6 A. No, I don't know whether I checked Pulse, but I was  
7 aware, obviously, that there was an incident reported  
8 on Pulse, as such.

9 592 Q. From a --

10 A. Yeah, yeah, yeah. 15:03

11 593 Q. But I think it is safe to assume that you knew that  
12 Rita McDermott had made a statement or had spoken to  
13 Sergeant Durkin by the time you were travelling out  
14 with Inspector Sheridan to take a statement from Rita?

15 A. I assume so. I honestly can't remember. I didn't 15:03  
16 think I did, but I obviously did, and that's from what  
17 I can recall. I obviously did, but I don't remember,  
18 and that is being honest.

19 594 Q. Can you tell me who caused checks to be carried out to  
20 enquire into the welfare of Garda Harrison? 15:03

21 A. Sorry?

22 595 Q. Well, a member of the force has apparently become  
23 homicidal or making homicidal threats. I'm not  
24 suggesting this is your job --

25 A. Yeah. 15:04

26 596 Q. -- but who went and enquired whether or not Garda  
27 Harrison had completely lost it?

28 A. I don't know. I referred the matter up, as I was  
29 obliged to do.

1 597 Q. Yes. But you don't know, did Inspector Sheridan say  
2 that checks had been done out on Garda Harrison?  
3 A. I mean, again, matters like that there were -- if an  
4 inspector is carrying out something like that, it's not  
5 something that would be informed to me. You know, I 15:04  
6 mean, obviously there's a confidentiality issue if  
7 there is. And I wouldn't like to think if it was  
8 somebody that I had an issue, that they would tell  
9 somebody, by the way, I'm going to check on yer man.  
10 If they are doing it, they are doing it, you know. 15:04  
11 598 Q. Well, if somebody in your station, if an allegation was  
12 being made that somebody in your station was behaving  
13 highly erratically?  
14 A. Yeah.  
15 599 Q. A member in your station? 15:05  
16 A. Yeah.  
17 600 Q. You have two things to look at there. One is the  
18 people with whom he is acting erratically?  
19 A. Yeah.  
20 601 Q. And the other one is the member? 15:05  
21 A. Yes.  
22 602 Q. Would it be fair to say that, as the sergeant in a  
23 station, you would be concerned for the state of your  
24 member?  
25 A. If you're aware of the -- if you were made aware of it, 15:05  
26 yeah, you would.  
27 603 Q. And you'd make inquiries, wouldn't you?  
28 A. Yeah, if you were made aware of it, you would. I mean,  
29 again, the other thing, too, is, it depends where the

1 information came from. I mean, if the statement was  
2 made by Mrs. Simms, well obviously it's direct  
3 evidence.

4 604 Q. Yeah.

5 A. And you've a stronger hand to go and do what you have 15:05  
6 to do.

7 605 Q. But there are two things you have to do. One of them  
8 is investigate a potential criminal offence?

9 A. Yeah.

10 606 Q. Or a previous criminal offence or to stop a future 15:06  
11 criminal offence, because the Gardaí I still think are  
12 involved in the idea of preventing crime as their  
13 primary aim?

14 A. Mm-hmm.

15 607 Q. So they're two things. But you also want to check on 15:06  
16 the welfare of the member concerned?

17 A. Yeah.

18 608 Q. And would it be fair to say that a gentleman of your  
19 experience would do all three, take steps in relation  
20 to all three? 15:06

21 A. Well, my job is to refer it up. If he was in my  
22 district, if he was in my station, that would be my  
23 remit.

24 609 Q. Yeah.

25 A. If I knew him personally, certainly I would. But a 15:06  
26 person who is not in my district --

27 610 Q. And I'm asking you about a person in your district.  
28 I'm not asking you about what should have been done  
29 with Garda Harrison, because I will deal with that with

1 other --

2 A. Yeah.

3 611 Q. But I'm saying that if a guard in your district had  
4 these allegations being made about him --

5 A. Mm-hmm. 15:07

6 612 Q. -- you would investigate the complaint, but you'd also  
7 investigate what is going on with the member?

8 A. Well, if you had a complaint.

9 613 Q. Yes, I appreciate that. But you'd investigate  
10 everything, you'd check everything? 15:07

11 A. Yeah, well I presume you would, yeah.

12 614 Q. Garda Mahon has laid it squarely at your feet that  
13 there was no entry into Pulse. So he says that he  
14 didn't know what to put it into --

15 A. Yeah. 15:07

16 615 Q. -- and it was a matter for you as to whether or not it  
17 goes into Pulse. But could you tell us, it clearly  
18 wasn't entered into Pulse?

19 A. No.

20 616 Q. And can you tell us why? 15:07

21 A. Well, until there is a complaint made, it's a bit like  
22 you coming in off the street and saying, listen, my  
23 next-door neighbour is doing this. Until I have a  
24 complaint, do I know something happened? And that's my  
25 interpretation of things. We have an allegation, you 15:07  
26 know, we didn't have a complaint, if you understand  
27 what I am saying.

28 617 Q. Yeah.

29 A. You know, I mean, do you put this on, which is a very

1 serious complaint, to be told that this is all  
2 vexatious or fictitious. You don't know. And that's  
3 why I would personally operate on a thing of, when you  
4 get your statement, or you have taken it -- had  
5 Ms. Simms made that report to me directly or to the 15:08  
6 guards directly, well, then, it's -- you know, then  
7 it's made by the person who's the alleged injured party  
8 or the alleged --

9 618 Q. Wouldn't it be correct to say that Pulse isn't just for  
10 recording offences but intelligence in general? 15:08

11 A. Well, there's an intelligence side as well, yeah.

12 619 Q. And that information that comes within the Garda's  
13 remit is entered on Pulse. For example, if there is a  
14 future threat or a future risk in relation to  
15 something? 15:09

16 A. That is what the report -- the report contained, I  
17 think you know. I mean, again, you know, boil it down  
18 to the kernel of the thing; I didn't know whether this  
19 happened or not for certain. That is the whole idea of  
20 taking a statement. 15:09

21 620 Q. Right. In your report you say that:  
22  
23 "In light of Harrison's reference to patrol cars around  
24 his house, in light of the fact that --"  
25 15:09

26 And there's a word missing there. I presume that is  
27 "Marisa Simms" was meant to be there?

28 A. Yes.

29 621 Q. -- "is now domiciled in another location for at least



1 two weeks, I believe that no further planned patrol  
2 should take place around Harrison's current home at  
3 Churchill."

4  
5 what did you know about planned patrols around 15:09  
6 Harrison's current home in Churchill?

7 A. well, I knew that basically Paula had said to me that  
8 he was saying that the guards were out, outside his  
9 house, and that's why he was asking her did she report  
10 it to the guards. 15:10

11 622 Q. Did you know anything else about why the guards were  
12 outside his house?

13 A. No.

14 623 Q. Did anybody deal with that with you by way of -- I  
15 presume it would have been Superintendent McGovern or 15:10  
16 Sergeant McGowan who would know as to why there might  
17 be Gardaí patrolling in Churchill. Did either of them  
18 say to you what was --

19 A. well, I would assume that having sent the report  
20 forward on the day previous, that there was guards sent 15:10  
21 out to patrol the area, which he then told her that  
22 following morning, which I then put the report in on.

23 624 Q. Right. Just in relation to that, did you speak to  
24 Sergeant Durkin in relation to Garda Harrison?

25 A. No. 15:11

26 MR. HARTY: No. I have no further questions. Thank  
27 you, Sergeant.

28 A. Thank you.

29

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

2

3 625 Q. MR. HARTNETT: Sergeant Collins, I can be very brief.  
4 Just one brief point. It appears that Paula McDermott  
5 had reported to Garda Mahon that her sister had said to 15:11  
6 her that she would make a statement.

7 A. That's correct.

8 626 Q. You did not believe that?

9 A. It's just an opinion I formed.

10 627 Q. You didn't believe it? 15:12

11 A. Yeah.

12 628 Q. I see. Thank you.

13 CHAIRMAN: Sorry, what you were not believing was that  
14 she would ever turn up to the Garda station and make a  
15 statement, was it? 15:12

16 A. Yeah, basically, yeah.

17 CHAIRMAN: Okay.

18

19 THE WITNESS WAS CROSS-EXAMINED BY DOCKERY:

20

21 629 Q. MR. DOCKERY: Just one question, Sergeant. Was there  
22 anything in your mind contained within either the  
23 statement you took from Rita McDermott or the telephone  
24 call from Paula McDermott to Garda Mahon which  
25 suggested that Garda Harrison was in some potential 15:12  
26 personal danger to himself?

27 A. There was nothing to suggest that, not that I thought  
28 of anyway.

29 MR. DOCKERY: All right. Thank you.

1 CHAIRMAN: Is there anything else?  
2 MR. DIGNAM: No questions, Chairman.  
3 CHAIRMAN: I'm sorry, did you finish, Mr. Dockery?  
4 MR. DOCKERY: Yes, sir. One second. I don't know, is  
5 the answer. I will know in a moment, sir. 15:13  
6 630 Q. I think one question, Sergeant. You have told the  
7 Tribunal that I think in the course of speaking with  
8 Paula McDermott, she mentioned the alleged incident at  
9 the hotel in westport regarding a request by Garda  
10 Harrison for video footage of a hen party, is that so? 15:13  
11 A. I can't be certain. I have it in my original notes,  
12 it's on the same page, but it's in a different pen, so  
13 I can't be whether it was made during the time of the  
14 conversation which was on the 1st or whether it was  
15 subsequent. I can't be sure. It's on the same page of 15:14  
16 the notes, but it's in a different pen, so I'm assuming  
17 it wasn't that particular time, but I can't be certain.  
18 I can't be certain whether it was her that alluded to  
19 it or -- I can't be certain. It may have been.  
20 631 Q. You have alluded to it in your notes, isn't that so? 15:14  
21 You have mentioned it in your notes?  
22 A. Yes, yes. It is my notes, yes. I have -- on the same  
23 page as the original notes that I took during the  
24 conversation with Paula.  
25 632 Q. Yes. 15:14  
26 A. 30th to 31/8/13 Hotel Westport Plaza.  
27 633 Q. Yes.  
28 A. But unfortunately that's the only notes I have, note I  
29 have made on that.

1 634 Q. Well, I think on page 1056 of the materials there is  
2 what I take to be your note of a conversation -- of the  
3 statement, in fact, that was taken from Rita McDermott  
4 by Inspector Sheridan. Your evidence is you took notes  
5 during the course of that transaction, isn't that so? 15:15

6 A. Well, that's with Rita. Oh, sorry, sorry, I was mixing  
7 up Rita and Paula.

8 635 Q. Well, I had asked you a moment ago about whether --  
9 A. Yes, with Rita McDermott, yes.

10 636 Q. I asked you about Paula. Turning to Rita, you have a 15:15  
11 note of the taking of the statement?  
12 A. Yes.

13 637 Q. And that appears at page 1056 of the materials. I  
14 think you do allude to the CCTV about three quarters of  
15 the way down the page? 15:15  
16 A. Yes.

17 638 Q. Do you see that is CCTV, can you dissemble that note at  
18 this remove in time?  
19 A. Yeah. Basically, yeah, CCTV, basically answered the  
20 phone, what part of the footage are you looking for? 15:15  
21 At hotel Westport Plaza, September -- after 7th  
22 September, the weekend -- basically, she was saying  
23 that she was aware that Garda Harrison had made a phone  
24 call to the Westport Plaza looking for footage of this  
25 weekend. 15:16

26 639 Q. All right. And she was saying this in the course of  
27 transmitting information during the course of giving a  
28 statement?  
29 A. Yeah. I mean, as I say, we talked for -- we probably

1 spent an hour and a half, two hours, just talking in  
2 general chitchat, and she had made reference to a  
3 number of other things that weren't really relevant to  
4 the statement, but I was just taking general notes, and  
5 that's one of the things I had noted. 15:16

6 640 Q. And that's the 2nd October?  
7 A. Sorry?

8 641 Q. That's on 2nd October before Marisa Simms makes any  
9 statement of complaint to Inspector Sheridan on the 6th  
10 October. So this is four days earlier? 15:16

11 A. Yes, yes. This is on the 2nd, yes, sorry, yeah.

12 642 Q. You're aware of that issue in the background as of that  
13 date?  
14 A. Yes, yes.

15 643 Q. All right. Thank you. 15:16

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

17 MR. MARRINAN: Just there are a number of matters, sir.  
18 First of all, it should be noted that Rita McDermott is  
19 represented here today. I put, in a very limited way,  
20 matters that were contained in her statement regarding 15:17  
21 the taking of the statement on the 2nd October.

22 CHAIRMAN: So who is representing Rita McDermott?

23 MR. O'NEILL: Sorry, Chairman, if I just introduce  
24 myself. My name is Niall O'Neill. I am counsel  
25 instructed by Cleary & Company for Ms. Rita McDermott, 15:17  
26 who is scheduled, I think, for tomorrow to be called as  
27 a witness.

28 CHAIRMAN: Mr. O'Neill, I suppose, nowadays, CDs don't  
29 get broken in the sense of repeating the same musical

1 phrase again and again and again, but when I was  
2 growing up, non-playing records did, and it's a most  
3 frustrating experience to listen to, and I'm sure  
4 people in the room don't want to hear me giving the  
5 long lecture about the libel action, the tiger 15:18  
6 kidnapping, the rule in the Browne case, but I am  
7 taking it that there is a change in instructions and  
8 counsel are accepting everything the witness said  
9 unless there is a challenge to particular points. I am  
10 entitled to do that. If it emerges differently later 15:18  
11 on, that an opportunity has been missed to  
12 cross-examine a witness, it's not necessary to be  
13 lengthy, but in the event that it is your instructions  
14 now from Rita McDermott that she was threatened, she  
15 was pressurised, that in some way she was terrified, 15:18  
16 that there was inappropriate behaviour by the Garda,  
17 including that Sergeant Collins popped his head into  
18 her car door, that he inappropriately arrived in a  
19 marked patrol car, it has to be put now.  
20 Mr. O'Neill: Yes. No, I accept that, Mr. Chairman. 15:19  
21 At the moment, what I can say to the Tribunal simply is  
22 that my instructions are as the letter that was sent in  
23 to the Tribunal a couple of days ago in relation to  
24 the, I suppose, mature recollection of the taking of  
25 that statement and the acceptance by Ms. McDermott that 15:19  
26 what is in the statement must have been said, despite  
27 previously indicating that she had not said those  
28 things.  
29 CHAIRMAN: Yes.

1 MR. O'NEILL: That is the position. I can't really put  
2 it any further than that, Mr. Chairman, at the moment.  
3 I am very aware about what the Tribunal's attitude is  
4 in relation to taking instructions, and that is the  
5 position as it stands.

15:20

6 CHAIRMAN: It's not my attitude, Mr. O'Neill; it's the  
7 first thing that a solicitor does. You go through the  
8 stuff and somebody tells you, I am having a miserable  
9 time with my husband and then, lo and behold, a letter  
10 arrives to say that the person you're representing is  
11 actually tying up her children with a flex in front of  
12 the fire, whatever, and then you ask her about that. I  
13 mean, that's what people do. So, you know, Donegal (a)  
14 isn't very far away, though I accept that part of the  
15 county could be a five-hour drive, but mobile phones  
16 are around. So, I mean, do you want me to call back  
17 Sergeant Collins tomorrow, or what is the situation? I  
18 mean, you're happy to go on the letter so that  
19 allegations are dropped, or where do we stand?

15:20

15:20

20 MR. O'NEILL: I'm afraid I can't put it any further  
21 than I have said it, Mr. Chairman

15:21

22 CHAIRMAN: Well, I mean, there's phones. I mean, she  
23 can be phoned. I think maybe you should take the  
24 opportunity to do that.

15:21

25  
26 MR. O'NEILL: I think that there was an expectation  
27 that Ms. McDermott was going to be here earlier on  
28 today, and unfortunately that fell through, and I do  
29 appreciate it in relation to putting matters to the

1 present witness, that instructions would have to be  
2 taken further than that which has already been  
3 indicated to the Tribunal, but I cannot put it any  
4 further than that at the moment. It may well be the  
5 case that Sergeant Collins is not needed tomorrow, but 15:21  
6 I just can't say that.

7 CHAIRMAN: I don't want to send somebody back to  
8 Donegal and call him back in the morning. Put him in a  
9 hotel overnight. You never sleep well in a hotel  
10 anyway, but there it is. 15:22

11 MR. O'NEILL: Yes.

12 CHAIRMAN: What am I to do? Mr. Murrinan?

13 MR. MARRINAN: I think, sir, that we should proceed on  
14 the basis that there are no allegations that are being  
15 pursued at this juncture by counsel on behalf of Rita 15:22  
16 McDermott in relation to the taking of the statement on  
17 the 2nd October. There certainly isn't in relation to  
18 the content now, because we've received a letter  
19 indicating that Ms. McDermott accepted that if it was  
20 in her statement, she must have said it. Insofar as 15:22  
21 she had previously been asserting in her statement that  
22 she was positive that she didn't say these things and  
23 in seeking in aid some sort of justification for that,  
24 alleging that she was under pressure, it appears that  
25 that has now been abandoned. 15:22

26 CHAIRMAN: All right.

27 MR. O'NEILL: I suppose if I just interject. If I put  
28 it maybe in those points about the extent of the  
29 relevance of whether there was pressurisation, or



1           whatever, I think that Ms. McDermott has made clear  
2           that she said if there is content in the statement  
3           specifically alluding to the allegation in respect to  
4           burning, that if it's there, she must have said it, and  
5           she is not saying at the moment that that was under 15:23  
6           duress. There is -- there is some degree of  
7           disagreement with respect to the formula of words  
8           surrounding the drinking, but I can't see how that is  
9           really of relevance. She's accepting the tenor of what  
10          is in the statement. But I suppose the most relevant 15:23  
11          aspects are, number one, that in her statement that she  
12          said the children were never involved in relation to  
13          any, or witnessed any violence or were witnesses to any  
14          kind of threats, and second of all, she is saying --  
15          CHAIRMAN: Does she know that? Was she there? 15:24  
16          MR. O'NEILL: No, this is obviously secondhand,  
17          obviously.  
18          CHAIRMAN: Second or thirdhand.  
19          MR. O'NEILL: And she never witnessed any of that,  
20          though, herself, I think. And then, finally, she is 15:24  
21          accepting that if the elements that she disagreed with  
22          initially when she was interviewed by Tribunal lawyers,  
23          is in the statement, then she accepts that she must  
24          have said it. And those are my instructions as of this  
25          time, and I can't put it any further. 15:24  
26          CHAIRMAN: Yes. Well, one can have sympathy for the  
27          Gardaí because it seems to me that if they do something  
28          they are blamed and if they don't do something they are  
29          blamed. So that's the situation that I'm in. I'm not

1 going to call back Sergeant Collins unless there is a  
2 pressing urgency in relation to the matter.

3  
4 THE WITNESS WAS RE-EXAMINED BY MR. MARRINAN:

5  
6 MR. MARRINAN: The other matter, sir, that if I could  
7 just deal with Sergeant Collins, if we could have page  
8 1984 up on the screen, please.

9 644 Q. This is the statement of Rita McDermott. I asked you  
10 questions and you have been cross-examined in relation  
11 to how you felt and the contents of your report in  
12 relation to your conversation with Paula McDermott on  
13 the 1st October, isn't that right? 15:24

14 A. That's correct, yes.

15 645 Q. We now have, on the 2nd October, this complaint  
16 becoming crystallised in a written statement that was  
17 signed by Rita McDermott, isn't that so? 15:25

18 A. Yes.

19 646 Q. Did your view change in relation to the nature of the  
20 allegations and the motive for making the allegation in  
21 any way? 15:25

22 A. Well, I wouldn't say that -- I never had any doubts  
23 that the threats were made, and I stated that in my  
24 report. I never had any doubts about that. I had  
25 doubts as to whether or not she would make a statement  
26 or whether she would come to the station and make a  
27 statement. But, no, I mean, no -- yeah, I mean, I  
28 thought she would at some stage, maybe, come and make a  
29 statement, but my initial -- my initial reaction with 15:25

1 Paula was that I thought that Paula was more interested  
2 in the wedding, and that was how I came with that, as  
3 such.

4 647 Q. well, if we just read just one portion of what she said  
5 in her statement at the top of the page there. It 15:26  
6 follows on from a reference to the fact that Keith  
7 hadn't been invited to the wedding.

8 A. Yes.

9 648 Q. "This is killing Keith. Marisa has said that Keith  
10 threatened to burn her and the children, but that she 15:26  
11 wants to hold off until after Paula's wedding to tell  
12 the guards."  
13

14 Do you see that?

15 A. Yes. No, no, I'm aware of that, yes. 15:26

16 649 Q. So it's not just Paula who is holding off until after  
17 the wedding to tell the guards?

18 A. No.

19 650 Q. But it's also Marisa?

20 A. No, it wasn't Paula, I wasn't referring to Paula 15:26  
21 holding off to make a statement.

22 651 Q. Yes.

23 A. At no point was that -- that was, she was at all stages  
24 saying to me that Marisa wasn't willing to make --  
25 wouldn't make a statement until after the wedding. 15:27

26 652 Q. Right. Okay. I just wanted to --  
27 CHAIRMAN: Could I clarify something, Mr. Marrinan,  
28 before you go on ? Am I now being told that what is in  
29 that statement, that Marisa had said that Keith

1 threatened to burn her and the children, am I now being  
2 told, Mr. O'Neill, that that was never said? Because I  
3 took you up as saying that, as being your number one  
4 point, and, if so, I actually need an explanation as to  
5 what is going on. 15:27

6 MR. O'NEILL: The clarification has been made in the  
7 letter that was sent to the Tribunal a couple of days  
8 ago, indicated that Ms. McDermott's situation at the  
9 moment is that if that is in the statement, then she  
10 accepts it was said. 15:27

11 CHAIRMAN: Well, does she accept it was said to her by  
12 her daughter?

13 MR. O'NEILL: Yes.

14 CHAIRMAN: So there isn't any clarification to be made  
15 of that or that she is scared of her life and that 15:28  
16 Keith Harrison is supposed to have said something about  
17 burning her and the children and something about take a  
18 good look at them children as you will only see them at  
19 the weekends. I don't know what that could possibly  
20 mean. But she says that she said all of that and that 15:28  
21 she is reporting that as being what her daughter said  
22 to her.

23 MR. O'NEILL: It is reporting what Marisa said to her,  
24 yes.

25 CHAIRMAN: Okay. Well, then, clarification number one 15:28  
26 isn't necessary, that's as it is. We will no doubt  
27 find out in due course, but at the moment, that's not  
28 being challenged and it's not being said that Sergeant  
29 Collins somehow exercised pressure or put something in

1 which he shouldn't have done. It's not being said.  
2 MR. O'NEILL: No, I am not saying that.  
3 CHAIRMAN: No, I know you are not saying that. But I  
4 appreciate counsel are only a mouthpiece for their  
5 client and sometimes you have to say unpleasant things 15:29  
6 that maybe you think is the greatest load of nonsense  
7 on earth. But your instructions are not to say that?  
8 MR. O'NEILL: I am very mindful about what my duties  
9 are to my client and at the moment the clarification is  
10 in the letter that was sent and it is not being said 15:29  
11 that this statement includes materials that she didn't  
12 say to the guards at the time the statement was taken.  
13 She disputes, she disputes in relation to some of the  
14 wording that was used in relation to the drink being  
15 taken by Garda Harrison, but that is more form than 15:29  
16 substance. It is, the essential aspect of her  
17 difficulty at the time the Tribunal lawyers interviewed  
18 her was that --  
19 CHAIRMAN: She wasn't interviewed by the Tribunal  
20 lawyers. I'm sure they're not pleased to hear you 15:29  
21 saying that.  
22 MR. O'NEILL: Sorry, I apologise.  
23 CHAIRMAN: Yeah.  
24 MR. O'NEILL: That aspect then in relation to about  
25 Keith threatening to burn her and the children, she was 15:30  
26 definite in the statement that she gave to the Tribunal  
27 that she didn't say that, and that is now being  
28 clarified; is that she is saying that if it's in her  
29 statement then she must have said it.

1 CHAIRMAN: I know, but there is another aspect to it  
2 and that is this: That, many people allege that they  
3 say things in statements that perhaps are not fully  
4 accurate. You can take it as a grade of ten steps on  
5 the ladder. If number ten is that they were held by 15:30  
6 their ankles out the top floor of a Garda station and  
7 therefore said it, or step one might be 'I was very  
8 tired and the whole notion of being with the Gardaí so  
9 frightened me I didn't know what I was saying'. But is  
10 there anything in relation to that step one to step ten 15:30  
11 of the ladder which might explain why there may be  
12 inaccuracies in that? And I think it is very important  
13 that in the event that there is such, anything from an  
14 allegation to a comment, anything from there was direct  
15 pressure or that sergeant Collins should have noticed 15:31  
16 pressure and didn't perhaps respond to it directly,  
17 that it actually should be put to Sergeant Collins  
18 simply as a matter of plain commonsense, fairness,  
19 which the ordinary person walking in here for culture  
20 night or whatever it is on Friday would expect to 15:31  
21 happen, even if you discount the rule in Browne v.  
22 Dunn. So, is there anything like that?  
23 MR. O'NEILL: The instructions I have is that she has  
24 no recollection -- I can put this to Sergeant Collins,  
25 but she has no recollection that she made any reference 15:31  
26 in her original statement to the Gardaí about a threat  
27 purportedly made by Garda Harrison to Marisa and feels,  
28 on balance, if this is contained within her statement  
29 then it most probably was said by her to the Gardaí at

1 the time.

2 CHAIRMAN: But you have no instructions that anything  
3 in terms of pressure, threats or --

4 MR. O'NEILL: I have to be clear to the Tribunal, I  
5 don't at this time have any specific instructions in 15:32  
6 relation to that.

7 CHAIRMAN: Well, would you like to make a phone call?  
8 Would your solicitor like to make a phone call?

9 MR. O'NEILL: Okay.

10 CHAIRMAN: I think a phone call should be made 15:32  
11 actually. I have got a meeting at four o'clock with  
12 some forensic people, but if you are not here for the  
13 next 20 minutes, Mr. O'Neill, and your solicitor, I  
14 know why you are doing that, and I regard it as a  
15 perfectly responsible discharge of your duties. So, we 15:32  
16 will hold on to Sergeant Collins for the next wee  
17 while.

18 MR. HARTY: Sir, before Sergeant Collins is released  
19 there is one question I should have put to Sergeant  
20 Collins. It is a very brief matter. 15:32

21 CHAIRMAN: Well, Mr. O'Neill, you don't need me to  
22 excuse you. I am delighted to see you any time,  
23 obviously, but if you need to go out please feel free  
24 at any time. That applies to everybody.

25 MR. O'NEILL: Thank, you Chairman. 15:33  
26  
27  
28  
29

1 SERGEANT COLLINS WAS FURTHER CROSS-EXAMINED BY

2 MR. HARTY AS FOLLOWS:

3 653 Q. MR. HARTY: Just one matter, with the leave of the  
4 Tribunal. Sergeant Collins, you said you have no doubt  
5 that the threats were made, would it be fair to say 15:33  
6 that you have no doubt that the threats were reported  
7 to Paula McDermott rather than that the threats were  
8 made? You never heard about the actually making  
9 threats.

10 A. No. Yeah, that's fair enough. 15:33

11 654 Q. So you have no doubt that Paula McDermott believed that  
12 the threats had been made because that is what had been  
13 reported to her?

14 A. Correct, yes.

15 655 Q. I wanted to clarify that. 15:33

16  
17 CHAIRMAN: And your client's position vis-à-vis the  
18 threats is that there were no threats, I take it?

19 MR. HARTY: Yes.

20 CHAIRMAN: He never threatened her? 15:33

21 MR. HARTY: No.

22 CHAIRMAN: Or the children?

23 MR. HARTY: No.

24 CHAIRMAN: And nothing to do with burning?

25 MR. HARTY: The word burn features in the course of 15:33  
26 conversation, but it is not a matter for Sergeant  
27 Collins. So the Tribunal is aware, my client's  
28 recollection of the night was that he advised -- during  
29 the course of the row he told Ms. Simms that because of



1 the actions of her family she was the one who was going  
2 to end up getting burnt by all of this.

3 CHAIRMAN: Getting burnt in the sense that?

4 MR. HARTY: She is the one who would be injured by the  
5 actions of her family, etcetera. 15:34

6 CHAIRMAN: Yes.

7 MR. HARTY: That is what he said.

8 CHAIRMAN: Burnt, I know the younger people in my  
9 family use that in a different sense, does burn mean  
10 arson or injury by fire? 15:34

11 MR. HARTY: No, no. It means hurt. It means they are  
12 the ones who will suffer the damages as a result of the  
13 consequences of other people. Not actual burning or  
14 fire.

15 CHAIRMAN: It's nothing relevant to the matter 15:34  
16 mentioned, the terrible homicide and burning in Donegal  
17 town?

18 MR. HARTY: That appears nowhere in anyone's  
19 recollection of anything in relation to it.

20 CHAIRMAN: So it's not actual burning, it's just a 15:34  
21 euphemism for hurt or a euphemism or boycotting  
22 somebody on the street, which is a way it can be used?

23 MR. HARTY: No, I don't think it quite went to that. I  
24 think the situation was that in the course of the row  
25 he said that because of the actions of her family and 15:35  
26 the way they were behaving and the action Marisa Simms  
27 was taking, this is what took place during the course  
28 of a row, and that the one who was going to end up  
29 suffering as a result of all of this was mostly going

1 to be Marisa Simms, as she is being pulled in both  
2 directions, I think is probably the --  
3 CHAIRMAN: And the word burning was used in relation to  
4 that?  
5 MR. HARTY: Burnt. Not burning. 15:35  
6 CHAIRMAN: So, he didn't use the word burning?  
7 MR. HARTY: No.  
8 CHAIRMAN: At all?  
9 MR. HARTY: No.  
10 CHAIRMAN: Okay. Thank you for that clarification. 15:35  
11 Sergeant, you're going to have to hold on for a while  
12 if you don't mind. Mr. McGuinness, have we another  
13 witness?  
14 MR. MCGUINNESS: Yes. We have put in Mr. George  
15 O'Doherty -- 15:35  
16 CHAIRMAN: Yes.  
17 MR. MCGUINNESS: -- late yesterday as a witness for  
18 today and he's available, and I am proposing to call  
19 him now.  
20 CHAIRMAN: He's not long, is he? 15:35  
21 MR. DIGNAM: Chairman, I wonder before that witness is  
22 called, I mentioned to Mr. McGuinness there is one  
23 issue I just wanted to address the Tribunal on, and it  
24 arises from Mr. Harty's cross-examination of Garda  
25 Mahon. At page 119, line 28, it's at 2:10 today, he 15:36  
26 put a question to Garda Mahon saying "would it surprise  
27 you to know that no guard has ever sought a statement  
28 from Garda Harrison in relation to the alleged  
29 threats?" That was put as a statement of fact. I

1 think I should just clarify for the record, I touched  
2 this on Garda Mahon, he had no personal knowledge so I  
3 couldn't go any further than that, but as the Tribunal  
4 will know, and indeed from the next witness, the matter  
5 was referred -- the matter of the threats, the alleged 15:36  
6 threats by Garda Harrison was referred to GSOC almost  
7 immediately when those allegations were made. And, as  
8 the Tribunal will know, that is a correct course of  
9 action for An Garda Síochána to make where there's  
10 allegations of misconduct against a member of An Garda 15:36  
11 Síochána. Now, you will hear evidence as to what  
12 happened in relation to that referral, Chairman, and we  
13 can address that during the course of the afternoon.  
14 And secondly, in fact, an investigation under the Garda  
15 Regulations was established by An Garda Síochána and in 15:37  
16 fact that investigation was the subject of a successful  
17 injunction application by Garda Harrison which  
18 prevented statements being taken from Garda Harrison or  
19 indeed any investigation under the Disciplinary  
20 Regulations being sought or taken from Garda Harrison. 15:37  
21 On the 1st December 2013 Superintendent Mary Murray  
22 sent Garda Harrison a registered letter informing him  
23 of her appointment and requesting that he would contact  
24 her with a view to arranging a suitable date for a  
25 meeting. She didn't receive a reply to that letter 15:37  
26 and that then led to an injunction application being  
27 made approximately two weeks later in the context of  
28 judicial review proceedings. And ultimately that was  
29 unopposed a number of months later and an order of

1 prohibition in relation to the investigation was  
2 granted by the High Court, in relation -- on one ground  
3 only, which is the ground of delay and nothing to do  
4 with the substance of the allegations. I thought it  
5 was just important to make the point for the purpose of 15:38  
6 the record, Chairman, that it's not that no statements  
7 were sought to be taken, as it was put to Garda Mahon.  
8 Thank you.

9 CHAIRMAN: Okay. Right. Well, that is a matter of  
10 record, thank you. 15:38

11 MR. DIGNAM: Thank you, Chairman.

12 CHAIRMAN: Do we want to call back Sergeant Collins?

13 MR. O'NEILL: Yes, if I could ask a couple of  
14 questions. I have taken instructions now, Chairman.

15 CHAIRMAN: Thank you very much, Mr. O'Neill. 15:38

16 MR. O'NEILL: Just in relation to the circumstances --

17 CHAIRMAN: Sorry, sergeant, you are back please.

18 MR. O'NEILL: Oh, I'm sorry. I don't have a line of  
19 sight here

20 15:38

21 SERGEANT COLLINS WAS CROSS-EXAMINED BY MR. O'NEILL AS  
22 FOLLOWS:

23 656 Q. MR. O'NEILL: Sergeant, just in relation to the  
24 circumstances in which you came across Ms. McDermott.  
25 This was obviously on the street, isn't that right? 15:39

26 A. Yeah. We'd call to her house initially at Castlegrove,  
27 she wasn't there. I know that her mother lives in  
28 Eunan's Terrace --

29 CHAIRMAN: Again, sergeant, I don't mean to interrupt

1           you, but you're going to have particular points put to  
2           you now, and I actually know the whole narrative.

3           A.     Yes.

4           CHAIRMAN: And I know Raphoe pretty well as well.

5           A.     Yeah. Well, as such I met her outside her mother's     15:39  
6           house, she was dropping her mother off.

7   657   Q.     MR. O'NEILL: Yes. It was on the street, wasn't it?

8           A.     Pardon?

9   658   Q.     It was on the street, wasn't it?

10          A.     Yeah. She was pulled up outside her mother's house.     15:39

11   659   Q.     She wasn't expecting you, isn't that right?

12          A.     I don't think -- how could you be expecting me?

13   660   Q.     Exactly.

14          A.     Yeah.

15   661   Q.     That is what my question is, she wasn't expecting you,     15:39  
16          isn't that right?

17          A.     That's correct.

18   662   Q.     And there were two guards, effectively, yourself and --  
19          a sergeant and inspector then that greeted her outside  
20          her mother's, isn't that right?     15:40

21          A.     No. Inspector Sheridan was in the car, pulled up  
22          behind her, I got out and I spoke with her at her  
23          window, at her driver's window. As far as I remember  
24          it was raining. So, you know, she didn't need the two  
25          of us. I just needed to say to her, look it, you know,     15:40  
26          I told -- you know, I spoke to her, I said what I  
27          wanted to do, and she said come on up to the house.

28          CHAIRMAN: If you listen there may be an allegation  
29          coming and if you address that as opposed to the whole

1 narrative. You may need to give me a narrative to  
2 address the allegation, but if you just listen first.

3 663 Q. MR. O'NEILL: As far as Ms. McDermott is concerned she  
4 didn't recognise you, that is what her instructions are  
5 to me? 15:40

6 A. I can't say whether she did or didn't. I thought she  
7 did. I thought she knew who I was. I think she  
8 actually acknowledged me. But I could be wrong.

9 664 Q. The last time you were in Raphoe I think was 2006,  
10 isn't that right? 15:40

11 A. 2008.

12 665 Q. 2008?

13 A. Yeah.

14 666 Q. Okay. And this is 2013, isn't that right?

15 A. Well, I would have had cause to -- 15:41

16 667 Q. Well, this is 2nd October 2013, isn't that right?

17 A. Yeah. Well, I would have cause to meet her at her  
18 son's trial. I was part of the investigation and she  
19 would have actually spoken to me on the way in to her  
20 son's trial which wasn't that long beforehand as far as 15:41  
21 I recall.

22 668 Q. What Ms. McDermott's instructions are is that she felt  
23 flustered by reason of the fact that, I think, her  
24 brother had died recently to her, she was living her  
25 mother home, she found a sergeant and inspector stop 15:41  
26 her on the street effectively and that she felt  
27 flustered; that is what she is saying?

28 A. Well firstly, we didn't stop her. She stopped. Her  
29 mother was getting out of the car. While her mother

1 was getting out of the car I went up and I spoke with  
2 her through the window of her car. She may have been  
3 flustered. She didn't appear flustered.

4 669 Q. Okay.

5 A. But, you know, then again if somebody comes up to your 15:41  
6 window and you're not expecting it, maybe you are  
7 flustered. But she didn't appear flustered.

8 670 Q. Just to cut to the chase in relation then to the  
9 statement that she gave. She is not making any  
10 allegation that there was any kind of coercion or 15:42  
11 duress or arm twisting. She does accept that it was a  
12 genial meeting between herself and yourself and  
13 Inspector Sheridan, but that she did feel flustered at  
14 the beginning because of the circumstances in which she  
15 was stopped and because she didn't recognise yourself 15:42  
16 or didn't -- as far as she was concerned she didn't  
17 know you at the time, is what she is saying. But that  
18 she accepts that everything that she said in that  
19 statement or that is in that statement she said to you  
20 in the course of taking that statement, she accepts 15:42  
21 that. That's just for the record.

22 A. Yes, no, no, she would have. As I say, you know, I'm  
23 sure maybe she wasn't expecting to see anybody coming  
24 up the side of her window. She may have been  
25 flustered. I don't know. I can't comment. If she 15:42  
26 says she was I accept that.

27 671 Q. Thank you, sergeant.

28

29 CHAIRMAN: That is great. Mr. Marrinan, did you have a

1 question?

2 MR. MARRINAN: No, nothing further. I am glad we  
3 cleared that up.

4 CHAIRMAN: Yes, thank you.

5

15:43

6 SERGEANT COLLINS WAS THEN QUESTIONED BY THE CHAIRMAN,  
7 AS FOLLOWS:

8 672 Q. CHAIRMAN: Sergeant, I am perhaps reading wrongly  
9 between the lines, but you seem to be fond enough of  
10 Rita McDermott?

15:43

11 A. I would know all of her extended family, Judge. And I  
12 would know her son, Martin, I would have known her, I  
13 would have known her extended family. They're the  
14 Bogles, very well, Judge yes.

15 673 Q. CHAIRMAN: Yes. And some of them have done well for  
16 themselves?

15:43

17 A. Absolutely, Judge. And there's never been an issue,  
18 you know.

19 CHAIRMAN: All right. That is fine, thanks.

20

15:43

21 THE WITNESS THEN WITHDREW

22

23 MR. MCGUINNESS: Sir, the next witness scheduled is  
24 Mr. O'Doherty and I think Mr. Harty thinks that we may  
25 not finish him before four o'clock.

15:43

26 CHAIRMAN: That's fine, let's see what we can do.

27 MR. MCGUINNESS: Mr. O'Doherty please.

28 CHAIRMAN: We have to rise for four o'clock anyway.

29 MR. MCGUINNESS: I am told he is available tomorrow.



1 CHAIRMAN: That's great. Thanks.

2

3 MR. GEORGE O'DOHERTY, HAVING BEEN SWORN, WAS DIRECTLY

4 EXAMINED BY MR. MCGUINNESS AS FOLLOWS:

5 674 Q. MR. MCGUINNESS: Mr. O'Doherty, I think you're the Head 15:44  
6 of Corporate Services and Human Resources employed by  
7 the Garda Síochána Ombudsman Commission?

8 A. That's correct, yes.

9 675 Q. I think you took up that position in August 2016?

10 A. I did, yes. 15:44

11 676 Q. And I think prior to that you were a senior case  
12 officer employed by the Commission and in particular  
13 were such in October 2013 onwards?

14 A. That's correct, yes.

15 677 Q. And I think one of the functions delegated to you by 15:45  
16 the Commission was in relation to the admissibility of  
17 complaints and whether complaints met the criteria for  
18 being admissible under the Act?

19 A. That's correct, yes. I was head of the area that  
20 received all queries and complaints and was responsible 15:45  
21 for bringing those and processing them up to the point  
22 of the admissibility decision.

23 678 Q. Up to admissibility point?

24 A. Yes.

25 679 Q. Now I think you became aware in October that your 15:45  
26 colleague, Mr. Darren Wright, had been contacted in  
27 relation to a referral that was being made I think by  
28 Chief Superintendent McGinn of the Donegal division, is  
29 that correct?

1 A. That's correct, yes. On the 8th October.

2 680 Q. And I think Mr. Wright, he was the senior investigating  
3 officer, is that correct?

4 A. He was, at the time, yes.

5 681 Q. And could you just explain briefly the relationship 15:46  
6 between his position and your position vis-à-vis any  
7 complaint or any referral that comes in?

8 A. Mr. Wright was a senior investigating officer. Our  
9 organisation is split, if you like, in two. The  
10 casework side was the side that receives complaints, 15:46  
11 and that's where I was head of. He was then on the  
12 investigating officers side. However, under the Act  
13 there are certain cases that should be referred to GSOC  
14 and I understand those cases would be generally  
15 referred to the senior investigating officer who might 15:46  
16 be on call at the time, and I think that's how he got  
17 the referral from Chief Superintendent McGinn. But I'm  
18 not certain if that's how he got it, but --

19 682 Q. All right. But do I take it that you are referring to 15:47  
20 referrals such as common within section 102 of the Act?

21 A. Yes.

22 683 Q. Where any action involving a guard is said to have  
23 caused a fatality or serious harm?

24 A. That's correct, yes.

25 684 Q. I think, did he forward correspondence to you that he 15:47  
26 had received from Chief Superintendent McGinn which  
27 included a statement of complaint made by Ms. Marisa  
28 Simms and also a statement made by her mother, Rita  
29 McDermott?

1 A. He did. He forwarded me an email which included the  
2 two statements. He wasn't in the office on that  
3 evening, but he sent them to me, asked me to open a  
4 complaint based on the information that he was  
5 providing and then he said he would talk to me on the 15:47  
6 following day about them.

7 685 Q. Yes. And I think could we look at your statement,  
8 which includes a number of appendices? It's at volume  
9 7, page 2319 of our documents. In appendix 1 I think  
10 you have included Mr. Wright's email to you? 15:48

11 A. That's correct, yes.

12 686 Q. I think we can see that on the first page of appendix  
13 1, he is saying:  
14  
15 "Can you please register the attach on CMS --" 15:48  
16  
17 Is that the management system?

18 A. That is our complaint management system, yes.

19 687 Q. "-- as a complaint? It would also need to be put on as  
20 section 102 referral." 15:48  
21  
22 And he will send the details of this on to you tomorrow  
23 when he is back in the office. And that seems to  
24 forward Chief Superintendent McGinn's referral of the  
25 matter which had come in to GSOC, is that correct? 15:48

26 A. That's right.

27 688 Q. And if we go down to the bottom of that -- no, sorry,  
28 the bottom of the first page, we will see Chief  
29 Superintendent McGinn's email addressed to Mr. Wright

1 as "Dear Darren", and it says:

2

3 "Please find attached statement of complaint of Marisa  
4 Simms and her mother, Rita McDermott. Statements have  
5 not been proofread and there are a few words that have 15:49  
6 yet to be deciphered from the original handwritten  
7 statement. Once this has been attended to I will  
8 forward the statements in completed format."  
9

10 So you are getting the typed copy, as it were, fresh 15:49  
11 off the press without them having been typed, proofread  
12 by whoever was responsible for that?

13 A. That was what it appeared, yes.

14 689 Q. Okay. Now, they were included with that and we don't  
15 need to go through them, but did you read them at the 15:49  
16 time yourself?

17 A. I did. I did read them. And my first impression was  
18 that in accordance with our process we would record  
19 correspondence on the complaint system under a  
20 reference number, but as Darren had asked me to open a 15:50  
21 complaint I didn't open an actual complaint, I held it  
22 in query phase, because I had some issues which I had  
23 around it and I wanted to speak to him the following  
24 day.

25 690 Q. Okay. And would it be fair to say that your issues 15:50  
26 were a query as to whether it was a complaint to GSOC  
27 from the person who had made the statement?

28 A. That would have been one of them. I would have had  
29 also a query as to whether or not 102 was correct.

1           There is another section of the Act, section 85, which  
2           allows for the Gardaí to refer complaints to us and I  
3           would have had a query around that aspect.

4 691 Q.    Yes. You were looking at the issue, secondly, as to  
5           whether it came within a section 102 referral; was           15:50  
6           there a fatality or serious harm involved?

7           A.    Yes.

8 692 Q.    And whilst one might regard it as a technical issue,  
9           it's an important issue from the point of view of  
10          statutory compliance --   15:51

11          A.    That's correct.

12 693 Q.    -- as to whether you were dealing with a complaint  
13          within the section or not?

14          CHAIRMAN: Yes. If you don't mind, maybe someone would  
15          tell me what section 85 says in contrast, and there           15:51  
16          seems to be a contrast.

17          MR. MCGUINNESS: Yes. Mr. O'Doherty, that's the  
18          alternative method which isn't a specific statutory  
19          referral under section 102.

20          A.    No.   15:51

21 694 Q.    It's more a general power to receive and consider any  
22          complaint --

23          A.    It's a general power, Chairman.

24 695 Q.    -- which may be made in relation to a serving member?

25          A.    which I can read, if you wish. I have it.           15:51

26          CHAIRMAN: These things are very long, if you just read  
27          me the important bit. Okay. And that can be a  
28          referral by anybody, a member of the public?

29          A.    Yes. Section 85: "Whether the Garda Commissioner or a

1 member of the Garda Síochána receives a complaint under  
2 section 83(2) he or she shall immediately record it,  
3 provide the complaint with a written acknowledgment and  
4 forward it to the Ombudsman Commission."  
5

15:52

6 It appeared to me at the time that perhaps Chief  
7 Superintendent McGinn was assuming that these  
8 statements, because they contained allegations against  
9 a garda member, that it could be a section 85, although  
10 she doesn't state it. That would have been one of the  
11 queries that I would have wanted to clarify the  
12 following morning when I spoke with my colleagues.

15:52

13 CHAIRMAN: Mr. McGuinness, maybe I'm being unruly in  
14 jumping ahead, but that could include kind of anything,  
15 like a garda using an F word when breathalysing  
16 somebody?

15:52

17 A. Yes.

18 CHAIRMAN: So there's no limit, if you like, it's just  
19 bad conduct.

20 A. No, there's no limit. And in fact there's been some  
21 debate over whether or not -- we would have incidents  
22 where we would have seen matters arise where we would  
23 have thought they would have come to us under 85 and  
24 didn't, and then there are times 85 is used to send us  
25 material which doesn't turn out to be a complaint.

15:52

15:53

26 696 Q. MR. MCGUINNESS: Yes.

27 A. So it's an interpretational matter, but it's a general  
28 provision.

29 697 Q. But one important difference of substance and of legal

1 requirement is that when we're talking about a section  
2 102 referral, that is something that must be done by  
3 the guards?

4 A. Yes, correct.

5 698 Q. If they believe it comes within the section? 15:53

6 A. Correct.

7 699 Q. Now I don't know, did you have any discussion with  
8 either Chief Superintendent McGinn at any stage or any  
9 other senior officer as to the basis upon which they  
10 thought it had been properly referred under section 15:53  
11 102?

12 A. No, I didn't.

13 700 Q. Okay. Right. On the other hand you spoke with  
14 Mr. Wright on the morning of the 9th, and was it agreed  
15 between the two of you that you should contact 15:53  
16 Ms. Simms?

17 A. I actually spoke with the deputy director of  
18 operations, Mr. Ray Leonard, and Mr. Wright. Every  
19 morning we screen all of the cases that come in either  
20 the day before or overnight and this was one of them. 15:54  
21 But we had a brief discussion and it was agreed that we  
22 didn't believe section 102 was appropriate and it was  
23 at that point we agreed that I would contact Ms. Marisa  
24 Simms to (a) let her know that her statement had been  
25 received and to enquire as to whether she wanted it to 15:54  
26 be taken by GSOC as a formal complaint.

27 701 Q. Okay. Now perhaps I can just short-circuit matters.  
28 Did you ever at any stage consult the Gardaí subsequent  
29 to your conversation with Ms. Simms to inform them that





1 she called me back on the 11th.

2 705 Q. Okay.

3 CHAIRMAN: Wednesday the 9th and Friday the 11th?

4 A. Yes.

5 706 Q. MR. MCGUINNESS: And on the first occasion she said she 15:56  
6 wanted to think things over as to whether she responded  
7 or confirmed anything to GSOC, is that correct?

8 A. That's correct. She was a little bit surprised that  
9 her statement had been received by GSOC. She told me  
10 that she acknowledged giving the statement, but she 15:57  
11 told me that she was in two minds about whether she  
12 wanted to proceed with it. She said that she had some,  
13 some difficulties in her family, that her partner was  
14 not accepted by her family and she felt under pressure  
15 from both sides. 15:57

16 707 Q. Yes?

17 A. But she wanted some time to think about it.

18 708 Q. Yes?

19 A. And I said I would -- I understood and I would give her  
20 that time. 15:57

21 709 Q. Yes. Now did she make any statement to you or comment  
22 in any way to the effect that she rejected the  
23 statement in whole or in part or had any complaint  
24 about how it had been taken?

25 A. No, she did not. 15:58

26 710 Q. Can I ask you to look at a comment which is included at  
27 page 27 of our book of documents? It's in  
28 Mr. Harrison's statement at page 27. If we put that up  
29 on screen. Now, there's a reference there to a

1 conversation with you while she was in hospital. It  
2 says there in the middle of that page:

3  
4 "It was while in hospital that a GSOC investigator  
5 contacted her while I was present. George O'Doherty 15:58  
6 spoke with her on the phone and stated that he had  
7 received a referral from Chief Superintendent McGinn  
8 but was confused as to what to do with it as it did not  
9 fit into the criteria required for them to conduct an  
10 investigation and was it Marisa's wish for them to get 15:59  
11 involved. Marisa told him that she never wanted it  
12 given to anyone, that she was told it was for the chief  
13 and she didn't want anyone investigating anything to  
14 begin with, but that it was just a normal row.  
15 Mr. O'Doherty asked Marisa to email what she had said, 15:59  
16 which she did, and he replied stating that they  
17 wouldn't be addressing the matter. Marisa explained  
18 what had happened to me."  
19

20 Now, do you recall that conversation or do you recall 15:59  
21 admitting to any confusion on your part?

22 A. No, I would have to say that that is incorrect. I was  
23 certainly not confused.

24 711 Q. Okay. Were you explaining to her that there were  
25 criteria for admission into GSOC depending on how it 15:59  
26 had got there?

27 A. I was. I was explaining the process to her and I  
28 wasn't aware that she was in hospital. On the first  
29 occasion, on the 9th October, I rang Marisa. I wasn't

1 aware that she was in hospital at that very minute and  
2 I didn't know that Keith Harrison was with her at the  
3 time. The conversation was fairly short. The second  
4 conversation on the 11th October, when she confirmed to  
5 me that she didn't want GSOC to deal with the case, 16:00  
6 that was a case of she rang me back.

7 712 Q. Okay. Now I think your note in relation to your  
8 conversation of the 9th in the second paragraph, if we  
9 go back to that page at 2320, you clearly made her  
10 aware that you were in possession of her statement, and 16:00  
11 that of her mother, isn't that correct, in that  
12 section?

13 A. I did, yes.

14 713 Q. Yes. And on the second occasion when you spoke to her  
15 you seem to record that it was in fact today, which was 16:00  
16 the 11th October, is that correct, she told you she  
17 didn't want GSOC to investigate her complaint. And you  
18 record her as saying that: "She also told me that her  
19 mother is not entirely happy with her decision but has  
20 agreed to go along with it." 16:01

21 A. That's correct.

22 714 Q. Okay. And on that occasion did she make any complaint  
23 or statement to you rejecting her statement that had  
24 been provided to you or make any complaint about any  
25 part of it? 16:01

26 A. No. She didn't. And I would say that if she had done,  
27 that would have been something I would have noted  
28 particularly. Because it would have put another aspect  
29 on to the case as GSOC had to consider at that point.

1 715 Q. Okay. Now, in fairness, it hadn't got to the stage and  
2 if it had got to the stage you wouldn't have been in  
3 fact investigating the contents of the statement?  
4 A. No. No, my job was just simply to establish firstly if  
5 Ms. Simms wanted to be taken as a complaint to GSOC, 16:02  
6 then I would have had to have it considered for  
7 admissibility under section 87 of the Act.  
8 716 Q. Yes.  
9 A. If it was determined admissible I would then forward it  
10 on and the investigation would be begin and be 16:02  
11 conducted by the investigation side of our  
12 organisation.  
13 717 Q. Okay.  
14 CHAIRMAN: Okay. Mr. McGuinness, it is probably right  
15 to leave it there because we can't keep our visitors 16:02  
16 waiting. So it's same time.  
17

18 THE HEARING THEN ADJOURNED UNTIL THURSDAY, 21ST  
19 SEPTEMBER 2017 AT 10:00AM  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

'**05** [1] - 133:14  
'**13** [1] - 141:4  
'**94** [1] - 133:12  
'**98** [1] - 9:19  
'**99** [2] - 133:13  
'**will** [1] - 40:10  
'**you** [1] - 14:3

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## 1

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