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THE PROTECTED DISCLOSURES ACT 2014 AND CERTAIN OTHER
MATTERS FOLLOWING RESOLUTIONS PASSED BY DÁIL ÉIREANN AND
SEANAD ÉIREANN ON 16 FEBRUARY 2017

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1921, ON 17 FEBRUARY 2017

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

HELD IN DUBLIN CASTLE
ON THURSDAY, 21ST SEPTEMBER 2017 - DAY 22

22

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

GWEN MALONE STENOGRAPHY
SERVICES

APPEARANCES

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

REGISTRAR: MR. PETER KAVANAGH

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

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

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

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

INSTRUCTED BY: ARTHUR COX
TEN EARLSFORT TERRACE
DUBLIN 2

FOR GARDA HARRISON: MR. MARK HARTY SC
MR. PETER PAUL DALY BL
MR. ANTHONY QUINN BL

INSTRUCTED BY: KILFEATHER & COMPANY SOLICITORS
THE HALLS QUAY STREET
GALWAY

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

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

FOR INSP. SHERIDAN,
INSP. DURKIN
& SGT. MCGOWAN:

INSTRUCTED BY: MR. DESMOND DOCKERY BL
MR. MICHAEL HEGARTY
REDDY CHARLTON SOLICITORS
12 FITZWILLIAM PLACE
DUBLIN 2

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

FOR C/SUPT. MCGINN:

INSTRUCTED BY:

MR. CONOR POWER SC
MR. CATHAL Ó BRAONÁIN BL
DANIEL SPRING & COMPANY
50 FITZWILLIAM SQUARE
DUBLIN 2

FOR MS. RITA MCDERMOTT: MR. NIALL O'NEILL BL

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1 THE HEARING RESUMED ON WEDNESDAY, 20TH DAY OF
2 SEPTEMBER, 2017 AS FOLLOWS:

3
4 MR. MCGUINNESS: If I could ask Mr. O'Doherty to
5 return. 10:11

6
7 MR. GEORGE O'DOHERTY, PREVIOUSLY SWORN, CONTINUED TO BE
8 EXAMINED BY MR. MCGUINNESS AS FOLLOWS:

9 1 Q. MR. MCGUINNESS: Mr. O'Doherty, yesterday I had been
10 asking you about your phone calls with Ms. Simms in 10:11
11 October, and we had been looking at your note of the
12 phone calls that you made which is contained at page
13 2346 in volume 7. And in the fourth-last paragraph, I
14 don't know if you can see that there?

15 A. Yes. 10:11

16 2 Q. You say: "Ms. Simms subsequently contacted me by
17 telephone today and told me that she does not want GSOC
18 to investigate her complaint. She also told me that
19 her mother is not entirely happy with her decision but
20 has agreed to go along with it." 10:11

21
22 And you have put that in quotes.

23 A. Yes.

24 3 Q. Now, obviously you saw, I take it from Ms. McDermott's
25 statement, that is Rita McDermott's statement, that she 10:11
26 hadn't witnessed a threat but she had been told about
27 it by her daughter and she described how scared she was
28 for her daughter's life. In this situation where there
29 is a serious threat made by the person to whom the

1 threat is uttered and corroborated to some extent by
2 her mother as having been made, and her mother
3 verifying her state, as it were, would it not be more
4 appropriate or is there a practice of interviewing
5 people directly to see whether they want to pursue the 10:11
6 complaint or is it normal to do it over the phone like
7 that?

8 A. Yes, it wouldn't be abnormal to contact people. The
9 purpose of my calls were simply to establish whether or
10 not, in the first instance, Ms. Simms wanted to make a 10:11
11 complaint to GSOC. We do not conduct anything that
12 would be akin to investigative inquiries until such
13 time as a complaint would have been confirmed and the
14 admissibility decision made. The reason why I put
15 those quotes in, I felt it was important because we had 10:11
16 read Ms. McDermott's statement but had noted that it
17 was really just third party evidence, she hadn't
18 witnessed the matters that she was describing.

19 4 Q. Yes.

20 A. So we didn't contact Ms. McDermott because the belief 10:11
21 was at the time that that would not have been an
22 admissible complaint.

23 5 Q. Right. well, I don't want to get sidetracked into
24 whether a grandmother's complaint in relation to her
25 children or her daughter should be taken as such, but 10:11
26 you took that view that it was hearsay, is that right,
27 is that what you are telling me?

28 A. Yes. well, we took the view -- you see, again, under
29 the Act, a person can make a complaint if they are

1 either witnessed or directly affected by the actions
2 they are complaining about or whether they are doing so
3 with the consent of the person. So our view was that
4 if Ms. Simms was telling us that her mother was
5 agreeing with her, then section 83 of the Act in terms 10:11
6 of Ms. McDermott's statement would most likely not
7 stand up.

8 6 Q. Okay. Well, in the next paragraph in the letter, you
9 say: "Ms. Simms told me that she has told the Gardaí
10 in Letterkenny that she doesn't feel under threat from 10:11
11 Keith Harrison and that they are trying to work on
12 their relationship."

13 A. Yes.

14 7 Q. And presumably obviously that is still all in the same
15 phone call she is conveying this to you? 10:11

16 A. This was in the second phone call, yes.

17 8 Q. And as I understand it, you didn't understand or know
18 that she was perhaps in hospital and that Garda
19 Harrison was with her at the time?

20 A. No. My recollection is that on the 9th of October, 10:11
21 when I first contacted Ms. Simms, she said to me she
22 couldn't really talk at that point in time, she was
23 either at a doctor's appointment or had to see the
24 doctor. That was the point at which she seemed
25 surprised that GSOC had got this matter so quickly and 10:11
26 she told me that she required time to think things
27 over. And that was really what went on in the first
28 call. The second call then was on the 11th of October
29 when she rang me and it was in that call that she told

1 me that her partner's relationship with her family
2 wasn't great but that they were trying to work things
3 out and that that was her situation.

4 9 Q. Yes. I may have misheard you there, but did I
5 understand you to say that Ms. Simms was surprised that 10:11
6 GSOC had got the matter so quickly?

7 A. She seemed to me to be surprised that this matter had
8 come to GSOC.

9 10 Q. Okay. She did -- however, in fact I think she had
10 earlier indicated she was aware of GSOC and your role 10:11
11 in investigating complaints?

12 A. Yes. When I explained to her about our role she did
13 say to me she understood who GSOC was and what we do.

14 11 Q. Yes.

15 A. So she was -- and that was important to me; that I 10:11
16 could understand that Ms. Simms would understand what
17 GSOC's role in this matter might be.

18 12 Q. Yes. But, in any event, did you understand that she
19 was conveying to you that she didn't feel then under
20 any threat? 10:11

21 A. Yes. I was happy to accept that.

22 13 Q. You weren't taking it as an assertion that she had
23 never been threatened?

24 A. No, I just took it as what she said to me.

25 MR. HARTNETT: I just wonder is my friend putting words 10:11
26 and asking for opinions in an inappropriate manner.

27 CHAIRMAN: well, we have the terms of the complaint
28 anyway, so --

29 MR. HARTNETT: Yes. But my friend may be, in my

1 submission, adopting an attitude which is
2 inappropriate.

3 CHAIRMAN: I don't think Mr. McGuinness is adopting any
4 attitude at all and I don't think you should say that.
5 I am not adopting an attitude. I have been accused of 10:11
6 it, the Tribunal has been accused of it. We are not
7 adopting any attitude except I want the truth, and the
8 full truth.

9 MR. HARTNETT: Can I make it quite clear that my
10 objection was to a particular manner of questioning, 10:11
11 nothing -- and there is no criticism of the Tribunal.

12 CHAIRMAN: Well, that's fine. Let's go on.

13 14 Q. MR. MCGUINNESS: And I think you, for your part, were
14 anxious to confirm what she had said to you on the
15 phone in writing in some respect? 10:11

16 A. Yes. She did say -- she said to me she didn't want the
17 complaint to go any further.

18 15 Q. Okay.

19 A. That was sufficient for me from GSOC's perspective, but
20 I did ask her for that in writing. 10:12

21 16 Q. Yes. And I think you did receive an email, just to be
22 clear about this, and that's at page 2348, the bottom
23 of that in our documents, you received that on 15th of
24 October, some five days later, is that correct? Do you
25 that at the bottom of the page? 10:12

26 A. I do, yes, correct.

27 17 Q. Just, if we scroll down. And obviously you took that
28 at face value as coming from her, sent from her email
29 address, that it was from her?

1 A. I did, yes.

2 18 Q. And just lest there be any doubt about that --

3 CHAIRMAN: What is the page number there?

4 MR. MCGUINNESS: That is 2348.

5 CHAIRMAN: What is the date? Is there a date? 10:12

6 MR. MCGUINNESS: That is the date of the 15th October.

7 CHAIRMAN: And there is a time?

8 MR. MCGUINNESS: And the time is 10:53.

9 19 Q. And you sent that on to Mr. Wright --

10 A. Yes. 10:13

11 20 Q. -- to whom the purported section 102 referral had been

12 made?

13 A. That's correct.

14 21 Q. Now, just going back to your memo of the phone calls,

15 you concluded by noting that you also told her however, 10:19

16 that:

17

18 "GSOC would have no influence in whether the Gardaí

19 might proceed with their own action in relation to the

20 statements which she and her mother have made. 10:19

21 Ms. Simms told me she fully understands that this might

22 be the case?"

23

24 Now, is that something that you would normally say or

25 is it your normal practice to delineate what you may do 10:19

26 or not do and what the Gardaí --

27 A. No, it was in response -- I got the impression that

28 Ms. Simms, when she was saying that she didn't want the

29 complaint investigated that she meant she didn't want

1 it investigated by anybody. I had to make the
2 difference to her, that I could only speak for GSOC,
3 and that was the reason why I explained to her that we
4 had no role or function or influence in what action the
5 Garda Síochána might take on the statements that they 10:19
6 had given.

7 22 Q. I mean, did you go as far as indicating that the Gardaí
8 had a range of options open to them if they wanted to
9 investigate the matter themselves from other
10 perspective? 10:19

11 A. I don't believe I went into any great detail about what
12 the Gardaí might or might not do.

13 23 Q. Okay. I suppose you had no knowledge as to what they
14 were doing or were not doing?

15 A. I would have had a general knowledge but it is normal 10:19
16 practice in GSOC that we wouldn't give advice or give
17 any sort of information to people about what other
18 organisations can statutorily do or not.

19 24 Q. Okay. You subsequently received a phone call from
20 Ms. Simms, I think, on the 12th December of 2014, is 10:19
21 that correct?

22 A. That's correct.

23 25 Q. And you made a note of that, and that is at page 2350,
24 and are you satisfied that that is a full and accurate
25 note of the conversation -- 10:19

26 A. I am, yes.

27 26 Q. -- made at the time and put on file by you, is that
28 right?

29 A. Yes. Again it's a note of two telephone conversations;

1 one on the Friday the 12th of December and then the
2 second one, a follow-up, on Tuesday the 16th.

3 27 Q. In the interim, were you aware as to what the
4 commissioners or Mr. Wright had done in relation to the
5 complaint? 10:19

6 A. I wasn't, no.

7 28 Q. Were you consulted by him about any decision on whether
8 it was a section 102 referral or not?

9 A. No, I wasn't.

10 29 Q. In any event, could you just explain to the Tribunal 10:19
11 why you thought she was phoning you and what she said
12 in that respect?

13 A. My understanding was, when I had concluded my
14 discussion with Ms. Simms approximately a year before,
15 I had told her that GSOC wouldn't be taking any action 10:19
16 in relation to the statements that she and her mother
17 had given, i.e. that we wouldn't be acting on them as a
18 complaint. And I don't believe GSOC did take any
19 action. She was contacting me in December 2014 to tell
20 me, I think, that the Gardaí had now commenced their 10:19
21 own inquiry which she was upset about, and she wanted
22 to know whether GSOC had any part in that.

23 30 Q. Yes. It's just in the previous email we have looked at
24 where you forwarded on Ms. Simms's statement of her
25 wishes that it not be investigated, you said: 10:19
26

27 "I do not propose to upgrade this case to formal
28 complaint status. You might liaise with me with regard
29 to a response which should now issue to the Garda

1 Síochána in the matter."

2

3 Was it not a part of your function to, in fact, inform
4 her or the Gardaí that you hadn't and weren't regarding
5 this as a complaint that GSOC were investigating? 10:19

6 A. I assumed giving the papers back to Darren Wright that,
7 as you can see from my email, I asked him to liaise
8 with me in terms of a formal response, but he didn't
9 get back to me, so I am not aware that any formal
10 responses issued. In my own view, yes, it would have 10:19
11 been proper at that point to have issued notifications.

12 31 Q. Yes. But you are clear in your evidence to the
13 Tribunal that GSOC weren't in fact progressing the
14 matter from when you told Ms. Simms that you wouldn't
15 be? 10:19

16 A. Yes, I am clear in that.

17 32 Q. In your note of the phone calls on the 12th December,
18 you say:

19

20 "Ms. Simms referred to her contact with GSOC in late 10:19
21 2013. She told me that the Garda Síochána Letterkenny
22 are currently investigating the behaviour of her
23 partner, Garda Keith Harrison, as a result of the
24 statements she and her mother made to the Gardaí in
25 October 2013. Ms. Simms told me she had made it clear 10:19
26 in her correspondence with GSOC at the time that she
27 did not want the matters in those statements
28 investigated. She asked me to confirm to her that GSOC
29 had complied with her wishes and had not taken any

1 action in the matter. She also asked me to confirm
2 that GSOC had not referred the case back to the Garda
3 Síochána."

4
5 Now, that might appear to suggest that she wasn't in 10:19
6 fact clear from what you had told her at the end of
7 your last conversation in 2013 that the Gardaí were
8 free to do whatever they thought was appropriate.

9 A. No, as I said earlier, I formed the impression that
10 Ms. Simms, when she was telling me initially she didn't 10:19
11 want the matters investigated, that she meant she
12 didn't want them investigated by anyone. But again, I
13 can only speak to her about GSOC's role, I couldn't
14 speak for anything that the Garda Síochána would do.

15 33 Q. Okay. Well, I mean, did you draw any conclusion as to 10:19
16 whether she wanted these other investigations stopped?

17 A. I would say it was my impression in this -- at this
18 time, December 2014, that she was unhappy that they
19 were proceeding. That was my impression.

20 34 Q. All right. Okay. You say, you note here: 10:20

21
22 "I told Ms. Simms that following receipt of her email
23 dated 15th October 2013 GSOC had not proceeded with any
24 action in the case and the GSOC file was closed."

25 A. Yes. 10:20

26 35 Q. "I also advised Ms. Simms, however, that GSOC had no
27 control or influence over the Garda Síochána and the
28 Garda Commissioner had the discretion to instigate an
29 investigation if it believed that an offence or breach

1 of discipline has occurred involving a Garda member."

2

3 And that is your understanding and knowledge of the
4 position as a matter of law and practice?

5 A. That is my understanding, yes.

10:20

6 36 Q. That a decision by GSOC can't and doesn't bind the
7 Commissioner, is that right?

8 A. That is my understanding.

9 37 Q. As to anything within the Commissioner's power or
10 jurisdiction as regards a criminal investigation or a
11 breach of discipline?

10:20

12 A. I believe that is my understanding, yes.

13 38 Q. Okay. Ms. Simms thanked you for the clarification you
14 had provided to her. "She told me she would be taking
15 up the matter directly with Chief Superintendent Terry
16 McGinn in Letterkenny."

10:21

17 A. Yes, that's correct.

18 39 Q. And then you noted a conversation some, is it three or
19 four days later, on the Tuesday?

20 A. That's right. Ms. Simms contacted me again and she
21 just asked me could I confirm in writing to her that
22 GSOC had not taken any action or wasn't taking action
23 in the case.

10:21

24 40 Q. Okay. And you record that in the following terms:

25

10:21

26 "I received a further short telephone calls from
27 Ms. Simms this afternoon. Ms. Simms has requested that
28 GSOC now write to her confirming that it has had no
29 role in instigating or conducting the Garda

1 investigation currently underway. Ms. Simms also
2 stated to me that the Garda investigation into her
3 partner, Garda Keith Harrison, is being carried out
4 against her wishes. She further stated that she
5 believes the investigation is motivated by the fact 10:22
6 that Garda Harrison became a "whistleblower" around the
7 middle of this year and that "the Gardaí are now trying
8 to punish him for this".

9 A. That's correct.

10 41 Q. Was she trying to get you to write a letter at that 10:22
11 stage?

12 A. Yes. She was requesting a letter. And going back to
13 your earlier point where you asked me whether back the
14 year before, would it have been proper if she had have
15 got a letter from us in October or, say, November of 10:22
16 '13, then she would have had a letter saying that we
17 were taking no action. So I took it as being a
18 reasonable request that she was now looking for
19 something in writing from us at that point to confirm
20 that fact. 10:22

21 42 Q. I mean, we have seen that you then wrote a note for the
22 commissioners about your interaction with Ms. Simms,
23 but you also refer to High Court proceedings that had
24 been issued, that you presumably read about in the
25 paper on that morning? 10:23

26 A. That's correct, yes.

27 43 Q. And did you understand from the phone call whether
28 Ms. Simms's inquiries with you had any connection with
29 or were intended in relation to the incorporation of

1 any information into a judicial review or not?

2 A. I can't specifically recollect that but it wouldn't
3 have been anything untoward for us. She was entitled
4 to ask us for confirmation about the matter that had
5 come the year before and my note to the commissioners 10:23
6 was to apprise them of her contact with me. I was also
7 bringing to the commissioners my, if you like, concern
8 that it appeared that we had formally -- we had omitted
9 formally to advise the Gardaí in writing of our
10 decision the year before and, therefore, I wanted the 10:24
11 guidance and the approval of the commissioners to
12 proceed in issuing the letter to Ms. Simms.

13 44 Q. All right. Because I was just concerned at this point,
14 you hadn't actually confirmed either in writing to
15 Ms. Simms that GSOC was not investigating, wouldn't 10:24
16 investigate the complaint and had closed the file?

17 A. No, I am not aware that we did. Now, my colleague,
18 Darren Wright, will -- when the file was passed to him,
19 he may have had verbal contact or other contact with
20 the guards, I don't know. 10:24

21 45 Q. Yes. But what I want to exclude is this: You had no
22 contact with An Garda Síochána either telling them that
23 you weren't investigating it or that you had closed the
24 file, in late 2013?

25 A. I had none. 10:25

26 46 Q. Yes. I mean, you weren't keeping it open at their
27 behest or for any purpose?

28 A. No, definitely not.

29 47 Q. And I think at page 2350 -- sorry, 2352. That's the

1 memo that you wrote to the commissioners relating to
2 the phone calls?

3 A. That's correct.

4 48 Q. Etcetera. And then on foot of that or following that,
5 in any event, Chief Superintendent McGinn was written 10:25
6 to on the 17th December?

7 A. No, excuse me --

8 49 Q. That is a draft?

9 A. That was a draft and, as far as I am aware, that draft
10 did not issue. 10:26

11 50 Q. Okay. And the signed copy then to Ms. Simms, 2356,
12 they are dated 30th of January, that did issue?

13 A. That did issue.

14 51 Q. Okay. And are you in a position to say from your own
15 knowledge when or how Chief Superintendent McGinn was 10:26
16 informed that GSOC weren't proceeding --

17 A. I don't know that.

18 52 Q. -- or closed the file?

19 A. I can't say that. All I can say is, I didn't notify
20 her. 10:26

21 MR. MCGUINNESS: would you answer any questions anyone
22 else may have? Thank you.

23

24 MR. O'DOHERTY WAS CROSS-EXAMINED BY MR. HARTY:

25 53 Q. MR. HARTY: My name is Mark Harty and I am acting on 10:26
26 behalf of Garda Harrison. Perhaps before I ask you
27 further questions, can you just explain to me, how long
28 are you in GSOC and what is your background before you
29 commenced in GSOC?

1 A. I joined the Civil Service in 1978 and I worked in a
2 number of Government departments prior to joining GSOC
3 in 2007, just after it opened, and I was appointed the
4 Senior Case Officer at that point.

5 54 Q. So your path into GSOC wasn't from the side of policing 10:27
6 but from the Civil Service side?

7 A. No, I have worked in Revenue Commissioners, Social
8 Protection and Department of Marine.

9 55 Q. Okay. Now, you have been asked a number of questions
10 and the word complaint has been used loosely in 10:27
11 relation to those questions, because it is correct to
12 say, is it not, Mr. O'Doherty, that the word complaint
13 has a very precise and specific meaning under the Garda
14 Act in relation to GSOC?

15 A. I would say so, yes. 10:28

16 56 Q. And it's notable from your report, and perhaps if page
17 2352 is brought up again on screen, in the first
18 paragraph of your report you say:
19
20 "I have discussed with Sharon O'Brien letter yesterday. 10:28
21 Please find attached file in the name of Marisa Simms
22 which was opened by GSOC following the receipt of
23 correspondence from Garda Terry McGinn in Letterkenny."

24 A. Correct, yes.

25 57 Q. Because that's what you received, you didn't receive a 10:28
26 complaint, isn't that correct, under the Garda Act?

27 A. No. We received information which a member of the
28 public had contained or laid out some allegations
29 against a member of the Garda Síochána, but at the

1 point at which we received the correspondence it would
2 not have met the criteria for a complaint.

3 58 Q. It was not a complaint. And I am going to take you
4 through the Act because it wasn't opened and I think
5 it's important that everybody knows what a complaint is 10:29
6 in terms of the Act. So, I am going to read out the
7 various sections to you in relation to that.

8 A. Yes.

9 59 Q. Now, Mr. McGuinness said it relates to section 85, but
10 section 85 is about a -- sorry, Mr. Marrinan, excuse 10:29
11 me. Section 85 is about a means of transferring of a
12 complaint. But the fact of a complaint is under
13 section 83, isn't that correct?

14 A. Correct.

15 60 Q. And section 83 says: 10:29
16
17 "(1) Subject to section 84, a complaint concerning any
18 conduct of a member of An Garda Síochána that is
19 alleged to constitute misbehaviour may be made to the
20 Ombudsman Commission:- 10:29
21 (a) by a member of the public who is directly affected
22 by, or who witnesses, the conduct, or
23 (b) on behalf of that member of the public, by any
24 other person if the member of the public on whose
25 behalf the complaint is being made consents in writing
26 or orally to its being made or is, because of age or a
27 mental or physical condition, incapable of giving
28 consent.
29

1 (2) The complaint may be made directly to the Ombudsman
2 Commission or by stating, giving or sending it:-
3 (a) to the Garda Commissioner,
4 (b) to any member of the Garda Síochána at a Garda
5 Síochána station, or
6 (c) to a member at or above the rank of chief
7 superintendent at a place other than a Garda Síochána
8 station,
9 for forwarding under section 85 to the Ombudsman
10 Commission.

11
12 (3) A complaint may be made directly to the Ombudsman
13 Commission by stating it to an officer of the
14 Commission or by giving or sending it to an officer or
15 member of the Commission."

16
17 So that is section 83. And in terms of what is
18 relevant in relation to that, there was some suggestion
19 that Rita McDermott could make a complaint in this of
20 her own volition in relation to the treatment of Marisa 10:30
21 Simms. And it is clear that under section 83(i)(b) -
22 "on behalf of that member of the public, by any other
23 person if the member of the public on whose behalf the
24 complaint is being made consents in writing or orally
25 to its being made or is, because of age or a mental or 10:30
26 physical condition, incapable of giving consent."
27 Now, you had no reason to believe that Marisa Simms was
28 incapable of giving consent by reason of age or any
29 other physical condition, isn't that correct?

1 A. No, not at that time, no.

2 61 Q. And you had nothing before you to suggest, and I accept
3 you made a phone call to Ms. Simms in relation to
4 matter, but you have nothing to suggest that Ms. Simms
5 ever consented orally or in writing to Ms. McDermott
6 making a complaint on her behalf?

7 A. No, I don't.

8 62 Q. Now, if we come to section 85:

9

10 "(1) When the Garda Commissioner or a member of the
11 Garda Síochána receives a complaint under section
12 83(2), he or she shall immediately:-

13 (A) record the complaint and the date and time of its
14 receipt,

15 (b) provide the complainant with a written
16 acknowledgement of its receipt, and

17 (c) forward to the Ombudsman Commission a copy of the
18 complaint or, if the complaint was not made in writing,
19 a copy of the record of the complaint.

20

21 (2) If the complaint is made to a member of the Garda
22 Síochána at a Garda Síochána station, the member in
23 charge of the station at the time the complaint is
24 received shall ensure that the Garda Commissioner:-

25 (a) is notified of the complaint, and

26 (b) is sent a copy of the complaint or, if the
27 complaint was not made in writing, a copy of the record
28 of the complaint.

29

1 (3) If the complaint is made to a member at or above
2 the rank of chief superintendent at a place other than
3 a Garda Síochána station, that member shall ensure that
4 the Garda Commissioner:-

5 (a) is notified of the complaint, and
6 (b) is sent a copy of the complaint or, if the
7 complaint was not made in writing, a copy of the record
8 of the complaint."
9

10 Now, Mr. O'Doherty, you may or may not be aware of 10:32
11 this, but there is no record of a complaint to GSOC
12 being made in Letterkenny Garda Station at any stage.
13 There is no mention of any person referencing,
14 discussing, naming GSOC to Marisa Simms on the night
15 that a statement was taken from her. There is no 10:33
16 record of this complaint maintained in Letterkenny
17 Garda Station as a complaint to GSOC. And I think it
18 is safe to say that no complaint within the meaning of
19 section 83 or 85 was ever made at the time that the
20 complaint -- that the statement was forwarded to you by 10:33
21 correspondence by Chief Superintendent Terry McGinn.
22 You'd accept that that is the case?

23 A. Yes, I am not aware of what went on in the station.

24 63 Q. No, I appreciate that.

25 A. If I could just explain to you at this point, this was 10:33
26 not -- this case was not recorded as a complaint in
27 GSOC ultimately. Our process is that when we receive
28 correspondence, and we do usually receive
29 correspondence like this, where the Gardaí will take

1 the view that the statement is a statement of complaint
2 but it's to them, when they forward it to us that is
3 the reason why we contact the complainant. We do not
4 automatically accept them as complaints.

5 64 Q. Right. 10:34

6 A. Our process is to contact the complainant and establish
7 if they want to make a complaint. In this instance,
8 because Ms. Simms had made it clear to GSOC she didn't
9 want it as a complaint, it was not recorded as a
10 complaint and it was closed subsequently as a query. 10:34

11 65 Q. But in fact, in this case something unusual was done,
12 isn't that correct? The complaint wasn't forwarded as
13 a complaint at all; it was forwarded under section 102
14 of the Act, isn't that correct?

15 A. Well, if you look at Chief Superintendent McGinn's 10:34
16 email, I am not sure that she actually mentions 102.

17 66 Q. I think it is clear from all the correspondence and
18 from all the statements that section 102 is referred to
19 and in fact contact is made directly with Mr. Wright in
20 relation to it, first of all, isn't that correct? 10:34

21 A. Yes.

22 67 Q. And isn't that the procedure in relation to section
23 102, that individual officers within GSOC are allocated
24 to individual, different -- are given the function of
25 receiving section 102? 10:35

26 A. Yes. There is a protocol in place that says that 102
27 referrals are notified in a certain way.

28 68 Q. And can you explain what that protocol is?

29 A. In general terms, we -- because we are 24/7 office, we

1 have an officer on call, a senior investigating officer
2 on call, who holds a contact number and the instruction
3 is that section 102 referrals are made to that
4 telephone or to that number and the on call officer
5 takes it, but it's -- that is why I explained 10:35
6 yesterday, this correspondence came to Darren Wright as
7 a senior investigating officer who was, I presume, the
8 on call officer, I am not sure of that, we will clarify
9 that, whereas it didn't come to me as head of the
10 complaints. 10:35

11 69 Q. And that is the situation. If a complaint is made it
12 comes to your department and if a section 102 referral
13 is made it goes to the senior investigating officer?
14 A. It comes in by way of the protocol procedures.

15 70 Q. Yes. So a complaint is not directed to the senior 10:36
16 investigating officer, it's directed through your
17 office?
18 A. Yes. Generally all initial correspondence indicating
19 complaints and they come in, in a number of forms.

20 71 Q. It's clear, and Mr. Wright will give his own evidence 10:36
21 in relation to it, it is clear from Mr. Wright's
22 evidence that as far as he was concerned he was
23 receiving a section 102 referral?
24 A. I can't speak for him. If that is what he says.

25 72 Q. But he contacted you in relation to it, didn't he? 10:36
26 A. Yes. And that was one of the reasons why we discussed
27 it the next day, because I wasn't satisfied that it was
28 actually a 102 referral as provided for.

29 73 Q. Yes. He emailed you, and I think it's at page 2323,

1 yes, from Mr. Wright to you:
2
3 "Please register the attached on the CMS as a
4 complaint. It will need to be put on as 102 referral
5 and I will send you the details of this tomorrow when I 10:37
6 am back in the office. Thanks, Darren."
7 A. Correct.
8 74 Q. He was out of the office at the time?
9 A. Pardon?
10 75 Q. He was out of the office at the time? 10:37
11 A. He was. I mean, he could have been on outdoor duties.
12 Our investigating officers are in and out all the time.
13 76 Q. Yes. We then go to what section 102 says.
14
15 "(1) The Garda Commissioner shall refer to the
16 Ombudsman Commission any matter that appears to the
17 Garda Commissioner to indicate that the conduct of a
18 member of the Garda Síochána may have resulted in the
19 death of, or serious harm to, a person."
20
21 A. Correct. 10:37
22 77 Q. Those are the circumstances where the Garda
23 Commissioner, or those people to whom the Garda
24 Commissioner has delegated her function, may -- those
25 are the circumstances in which the Garda Commissioner 10:37
26 is required to initiate a section 102 referral, isn't
27 that correct?
28 A. Yes.
29 78 Q. And if we come to section 82 of the Act, just so we are

1 very clear on this, firstly it says that Garda
2 Commissioner, for the purpose of this section,
3 "includes a Deputy Garda Commissioner or Assistant
4 Garda Commissioner acting in place of the Garda
5 Commissioner under section 32," isn't that correct? 10:38

6 A. Correct.

7 79 Q. And "serious harm means injury that creates a
8 substantial risk of death, causes serious disfigurement
9 or causes substantial loss or impairment of mobility of
10 the body as a whole or of the function of any 10:38
11 particular bodily member or organ."

12 A. Correct.

13 80 Q. Very precise definition of "serious harm" under the
14 Act, isn't that correct?

15 A. Yes. 10:39

16 81 Q. Now, there was nothing in the statement that was
17 forwarded to you that in any way came within that
18 meaning, isn't that correct?

19 A. No, and it was for that reason that I then took the
20 view that we would open it as a query and put it into 10:39
21 the other process, which would be the standard process,
22 a query process, follow up with the complainant. If
23 Ms. Simms had confirmed that she wanted it as a
24 complaint, then we would have upgraded it to a
25 complaint. 10:39

26 82 Q. Or can you explain, from your experience, how a chief
27 superintendent, two superintendents, an inspector and a
28 sergeant sat in a room and decided that what was
29 contained in Marisa Simms's statement came within the

1 meaning of section 102?

2 A. No, I wouldn't -- I can't comment on that. I don't
3 know what rationale any Garda member would have had in
4 that respect. That is not for me to say.

5 83 Q. Do you provide training to An Garda Síochána in 10:40
6 relation to referrals from GSOC?

7 A. I don't believe we provide training. I do know that we
8 have communications with the Garda members where we
9 would give maybe talks or we would -- you know, we
10 certainly do go to Templemore in the training 10:40
11 programmes. But no, I don't believe we provide
12 training.

13 84 Q. Right. You go to Templemore --

14 A. The 102 procedures are set down in protocols.

15 85 Q. Right. 10:40

16 A. Written protocols.

17 86 Q. Do you have those protocols?

18 A. I don't have them with me, no.

19 87 Q. Well, perhaps when -- because I don't think they are in
20 the documentation that we have seen, and I certainly 10:40
21 don't have sight of them. Perhaps when Mr. Wright
22 comes to give evidence or Mr. Groenewald, one or either
23 of them could have those protocols for us to explain
24 them those to us?

25 A. I can certainly ask them to do that. 10:40

26 88 Q. The situation is that the referral appears to have been
27 made to Mr. Wright, it was made on the 8th of October
28 and it was forwarded to Mr. Wright by Terry McGinn,
29 Chief Superintendent Terry McGinn, at 1:52 on 8th

1 October, and it was -- the referral itself is dated at
2 12:35 on 8th October, and that is at page 1611. And
3 that is your own intake reference. From Superintendent
4 Eugene McGovern, I should say.

5 A. Yes, I have not seen that document before. 10:42

6 89 Q. Now, at page 1612 of that, Darren Wright relates:

7
8 "It is clear from the available information that this
9 matter should have been notified to GSOC pursuant to
10 section 85 of the Act on their receipt of the complaint 10:42
11 from Simms. This has not been done. It is also clear
12 that this matter should not have been the section of a
13 section 102 referral as there is no death or serious
14 harm. Two different rationales have been provided for
15 the referral from the superintendent --" 10:42

16
17 which I take it refers you to Eugene McGovern.

18
19 "-- and the chief superintendent --"

20
21 which I take it refers to Chief Superintendent Terry 10:42
22 McGinn.

23
24 "The chief superintendent has stated that the referral
25 was made as they believe there is a chance that 10:42
26 Harrison may either cause either the death or serious
27 harm to Simms in the future. The superintendent --"

28
29 Excuse me, I skipped a line.

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"The superintendent has stated it is due to the psychological harm element of the incident."

Now, in relation to the psychological harm element of the incident, Superintendent Eugene McGovern, to your knowledge, to your understanding, and we can all read the section, does psychological harm come within the meaning of serious harm under section 102?

10:43

A. I am not so sure. I don't -- you know, the definition can be interpreted in a number of ways.

10:43

90 Q. Mr. O'Doherty, the definition says:

"Serious harm means injury that creates a substantial risk of death, causes serious disfigurement or causes substantial loss or impairment or mobility of the body as a whole or of the function of any particular bodily member or organ."

10:43

A. Right.

91 Q. Mr. Wright appears to be entirely clear that it doesn't come within that definition, psychological harm. Do you disagree with him?

10:44

A. No, I don't disagree with him. No, I don't. I have not seen that --

92 Q. But you discussed --

10:44

A. We discussed it on the morning of the 9th, and it was in a screening meeting. And if you like, this was our view: That having looked at the papers given to us, we didn't see it as a 102 and therefore I was asked

1 to proceed with it as a normal query/complaint.

2 93 Q. Yes. "The chief superintendent say the referral was
3 made as they believed there is a chance that Harrison
4 may cause either the death or serious harm to Simms at
5 some point in the future." Now, can I be clear in 10:44
6 relation to that: GSOC, what crime prevention function
7 do they have?

8 A. I don't believe we have a crime prevention function. I
9 am sorry, I don't understand.

10 94 Q. Sorry, this is what Chief Superintendent Terry McGinn 10:45
11 made a referral to you to stop a crime? Crime
12 prevention. They said because something may happen in
13 the future. Do GSOC have a function to prevent things
14 happening in the future in relation to matters referred
15 to them? 10:45

16 A. I would think that GSOC would have a general duty of
17 care that if any information came to us at any point,
18 that there was a threat to the welfare of any person,
19 then GSOC would have to take some action. Now, I will
20 give you an example: we, being a complaint body, we 10:45
21 tend to get contact from a number of people in society
22 who are unwell or troubled and who make threats. Our
23 policy is that we refer those threats to An Garda
24 Síochána because they are the appropriate body to deal
25 with threats to the welfare of persons. 10:45

26 95 Q. That's correct.

27 A. Yes. So in answering your -- in what function we have,
28 if somebody came to us and we thought that a crime was
29 going to be committed, we would be honour-bound to

1 report it, but to -- we believe the appropriate
2 authority would be the Garda Síochána.

3 96 Q. Can I suggest to you that it's rather unusual that An
4 Garda Síochána are reporting to you to deal with a
5 threat into the future? 10:46

6 A. Well, again, we dealt with the papers that were given
7 to us as they were given to us. Our assessment of it
8 was that there was statements in our possession, which,
9 apart from that element, there were other elements in
10 the statement which indicated some behaviour that would 10:46
11 come under GSOC's remit. So, our assessment was, to
12 process this we would do it by contacting the
13 complainant and we contacted Ms. Simms to verify
14 whether or not she wanted to make a complaint.

15 97 Q. In other words, to generate, raise this from the status 10:47
16 of a statement which is sent to you, unbeknownst to
17 anybody, by An Garda Síochána, to check whether or not
18 the person who made that statement in fact wanted to
19 make a complaint to GSOC, isn't that correct?

20 A. Yeah. The purpose of my call to Ms. Simms was twofold: 10:47
21 One, to let her know that we had received the
22 statement, and two, to ask her whether she intended it
23 or wished it to be complaint to GSOC under the Act.

24 98 Q. Yes. And she made clear that she did not?

25 A. I was satisfied she made clear that she didn't want it 10:47
26 investigated, certainly by GSOC.

27 99 Q. And in relation to that conversation, she was fully
28 aware of the work of GSOC, are you aware why?

29 A. No.

1 100 Q. You didn't know, and I wouldn't expect you to know
2 because yet again it wouldn't ever come across your
3 desk, because it was a section 102 referral, Garda
4 Harrison was the subject of a section 102 some number
5 of months previously? 10:48

6 A. I wasn't aware of that.

7 101 Q. Garda Harrison, just so you are aware of the
8 background, and you can perhaps confirm to us on the
9 basis that is something that wouldn't come across your
10 desk, was involved while off duty in a road traffic 10:48
11 accident where the occupant of the other -- both Garda
12 Harrison and the occupant of the other car suffered
13 injury and the injuries were more serious in terms of
14 the occupant of the other car and as a result the
15 matter was investigated by GSOC? 10:48

16 A. Yeah, I wasn't aware of that. But if I can make the
17 point: It wouldn't have mattered. Every individual
18 complaint is treated on its own individual merit.

19 102 Q. I appreciate that.

20 A. From my perspective. 10:48

21 103 Q. I appreciate that, Mr. O'Doherty. The point was that
22 you were asked did she seem surprised to be getting a
23 phone call from GSOC and the question was put to you
24 that she seemed to be aware of GSOC, and I am just
25 simply making clear to you, did you know about it? of 10:48
26 course she was aware of GSOC and that her partner was
27 the subject of a GSOC investigation some number of
28 months previously.

29 A. That might have been the case. It may also be that

1 GSOC is ten years old. We have been quite prominent in
2 the media over those years and most people I think in
3 Ireland now know who GSOC is.

4 104 Q. Yes. But in relation then to what can happen.
5 firstly, do you have your contemporaneous notes of the 10:49
6 first phone call?

7 A. No, I didn't -- the notes that I have made are the
8 notes that I made from memory of the calls. The 9th
9 and then the 11th of October.

10 105 Q. And you made the notes on those dates. You didn't note 10:49
11 on any file anywhere that you have spoken to her?

12 A. No, I didn't. And I have checked that.

13 106 Q. In relation to -- you were satisfied that Ms. Simms did
14 not want to make a complaint to GSOC?

15 A. By the 11th October, the second phone call from her, I 10:49
16 was satisfied, yes.

17 107 Q. And did you make any inquiries as to why the complaint
18 had been sent or why the section 102 referral had been
19 made?

20 A. No, I did not. 10:50

21 108 Q. Would it surprise you to learn that Chief
22 Superintendent Terry McGinn was told within seven
23 minutes of the section 102 referral being made that it
24 was not an appropriate matter for a section 102
25 referral by garda internal affairs? 10:50

26 A. I don't know anything about that.

27 109 Q. But the matters were still processed by GSOC, as far as
28 you were concerned, Chief Superintendent Terry McGinn
29 didn't contact GSOC to withdraw the section 102

1 referral?

2 A. Not that I am aware of.

3 110 Q. Because she received an email from -- I am sorry, I am
4 a little unfair, it was 18 minutes after it was
5 received. At page 1622.

10:50

6 CHAIRMAN: Well, he says he is not aware, and certainly
7 this is -- telegraphing all of your questions to Chief
8 Superintendent McGinn. He is not aware.

9 MR. HARTY: The difficulty, and I think it's important
10 to go through all of this because the words have been
11 used "complaint", in relation to what has gone on with
12 GSOC. And there was no complaint. There is no
13 complaint within the meaning of the Act and in indeed
14 to be fair to Mr. O'Doherty, he never believed there
15 was a complaint, because he doesn't call it a
16 complaint.

10:51

10:51

17 CHAIRMAN: No, Mr. Harty, you may have a good point,
18 you may have a good point, I don't know. But you have
19 certainly made the point. I am not sure these are
20 questions properly to be addressed to Mr. O'Doherty,
21 who is only doing his job and essentially is saying
22 look, these are the conversations I had with Marisa
23 Simms. That is all he is really saying.

10:51

24 MR. HARTY: Just so Mr. O'Doherty can assist the
25 Tribunal further --

10:51

26 CHAIRMAN: But I mean, similarly, I don't see any point
27 in other people, such as Garda counsel, asking this
28 witness things that he doesn't know about. You have
29 made your point very clearly, Mr. Harty.

1 MR. HARTY: Sorry, and I appreciate that.

2 CHAIRMAN: What you are saying, what you are saying, I
3 am taking it, if I am wrong please tell me, that a
4 complaint was made for an ulterior purpose by the
5 Gardaí. 10:52

6 MR. HARTY: I am saying that five senior members of An
7 Garda Síochána are sitting in a room and making a
8 finding that no reasonable reading of the Garda Act
9 could have been made.

10 CHAIRMAN: Well, that is fine. That could be right, it 10:52
11 could be wrong, I don't know, but I do understand the
12 point.

13 111 Q. MR. HARTY: Just so we are clear, and it's literally
14 evidence for the Tribunal, because while GSOC is widely
15 known, its internal workings aren't necessarily known, 10:52
16 and correct me if I am wrong in relation to it: Once a
17 complaint properly made is received, then the question
18 of admissibility is discussed, isn't that correct? is
19 decided.

20 A. That's correct. 10:53

21 112 Q. And in relation to that, the variety of steps -- and
22 that is under section 87?

23 A. Yes.

24 113 Q. It's section 87(2).
25 10:53

26 "87(1) On receiving a complaint directly from a
27 complainant or receiving a copy or record of a
28 complaint from the Garda Commissioner or a member of
29 the Garda Síochána, the Ombudsman Commission shall

1 determine whether the complaint is admissible or
2 inadmissible.

3
4 (2) subject to subsection (3), a complaint concerning
5 the conduct of a member of the Garda Síochána is
6 admissible if—

7 (a) the complaint is made by or on behalf of a member
8 of the public authorised under section 83 to make the
9 complaint,

10 (b) the conduct alleged would, if substantiated,
11 constitute misbehaviour by the member of the Garda
12 Síochána,

13 (c) the complaint is made within the time allowed under
14 section 84, and

15 (d) the complaint is not frivolous or vexatious."

16
17 And just for the sake of completeness:

18
19 "The following matters are not admissible complaints:

20 (a) a complaint in so far as it relates to the general
21 direction and control of the Garda Síochána by the
22 Garda Commissioner;

23 (b) a complaint about the conduct of a member of the
24 Garda Síochána while the member was not on duty, unless
25 the conduct alleged would, if proved, be likely to
26 bring discredit on the Garda Síochána."

27
28 Now, in relation to this complaint, and insofar as you
29 were doing your job querying whether or not the

1 complaint would be made, it fell at hurdle one, isn't
2 that correct? The complaint was not made by a person
3 or was not authorised by Marisa Simms.

4 A. I would say, I would say earlier than that. It was not
5 recorded as a complaint because Ms. Simms explained she 10:54
6 didn't want it to be a complaint to GSOC. So we didn't
7 go near any of the admissibility.

8 114 Q. And then after that, under various sections, the
9 admissibility decision is made, then the Commission
10 decides whether or not it's to investigate one path -- 10:54
11 I am just saying general procedures for the purpose of
12 the record.

13 A. Yes, generally speaking, cases involving
14 disciplinary -- allegations of disciplinary
15 misbehaviour are dealt with under section 94, ones 10:55
16 alleging criminal behaviour tend to go section 98.

17 115 Q. And then in relation to that, because the question was
18 asked of you whether you have any powers to direct the
19 Commissioner to do anything, in fact there are quite
20 substantial powers in relation to reports that can be 10:55
21 made to the Commissioner recommending, for example,
22 that disciplinary procedures be taken pursuant to an
23 investigation under section 95, isn't that correct?

24 A. There are, yes.

25 116 Q. And in relation to section 98, the Ombudsman Commission 10:55
26 can direct that the DPP investigate the matter once it
27 is completed -- once it has completed its state of
28 investigations?

29 A. I think it's usual that the Ombudsman would present a

1 file to the DPP, for the DPP to decide, yes.

2 117 Q. In relation to -- it would be, for example, a question
3 that somebody could ask in relation to disciplinary
4 proceedings, that if they are instituted against
5 somebody, they can be instituted as a result of a 10:56
6 report from GSOC, isn't that correct?

7 A. They can be, yes.

8 118 Q. And so, it is not an unreasonable question for somebody
9 to ask whether or not GSOC had in fact continued, and I
10 am not saying that there was any reason to believe it 10:56
11 in fact, but if someone receives a discipline
12 notification, could you appreciate why somebody might
13 have thought that it came through GSOC, because it is
14 possible, isn't it?

15 A. No, I only believe that anyone would know it came 10:56
16 through GSOC following a GSOC investigation.

17 119 Q. That is the point. When Marisa Simms asked you had
18 GSOC continued the investigation, that was a reasonable
19 question, Garda Keith Harrison was served with a
20 discipline notification some, I think, 15 months after 10:57
21 the events of the reference to GSOC.

22 A. I took Ms. Simms's query to be a little bit more
23 general than that. I don't believe that she could
24 believe that GSOC had conducted any disciplinary
25 inquiries, because in a year you would know about it. 10:57
26 The process would have taken place.

27 120 Q. You would have received correspondence from GSOC?

28 A. I think she may have been trying to see whether or not
29 the Garda investigation, whether GSOC had, despite

1 saying we weren't doing anything, had had any role in
2 it. And I was assuring her that we didn't.

3 121 Q. Yes.

4 A. And ultimately my letter of the 30th of January was to
5 confirm that we had acceded to her wishes, which was 10:57
6 that we didn't proceed in any event in the case.

7 122 Q. And are you aware that in relation to the reference to
8 GSOC, that is in fact the subject of a complaint to
9 GSOC by Garda Harrison and Ms. Simms? Are you aware of
10 that fact? 10:58

11 A. I am not.

12 123 Q. It's just, you were asked yesterday was there any
13 complaint raised about it, and in fact I think
14 Mr. Groenewald can deal with that, if needs be. But,
15 in fact, Garda Harrison and Ms. Simms did complain, but 10:58
16 not about your actions but about the actions of An
17 Garda Síochána in making the referral?

18 A. No, no, sorry, I am aware that there was a subsequent
19 complaint at a later time. Yes, sorry, I correct that.
20 But I wasn't involved in that. 10:58

21 124 Q. In fact, it was put to you yesterday that there was no
22 complaint made about this referral, but in fact it came
23 at a later stage?

24 A. I know that they made a complaint. I didn't know the
25 details of it. I wouldn't know every complaint that 10:58
26 comes in.

27 125 Q. Obviously.

28 CHAIRMAN: Was there a ruling on that, do you know?
29 MR. HARTY: No. My understanding is that it was made,

1 then the events coming to the -- coming to the setting
2 up of this Tribunal intervened and insofar as progress
3 has been made in relation to it, it has stopped by
4 virtue of this Tribunal being in existence at the
5 moment. That is my understanding. And I don't know if 10:59
6 Mr. O'Doherty can say I am correct or incorrect.

7 A. I can't. Mr. Groenewald is an investigator. I am
8 assuming that if he is involved then the complaint may
9 have been admitted and has gone into an investigation
10 phase, but I am only assuming that, Chairman, I am not 10:59
11 certain. I can't say that for sure.

12 CHAIRMAN: So Marisa Simms has complained about the
13 Gardaí referring her complaint of domestic violence to
14 GSOC?

15 MR. HARTY: Yes. That is my understanding. The 10:59
16 content of -- the taking of the statement, the content
17 of the statement and also the referral to GSOC is
18 contained within it.

19 CHAIRMAN: Right.

20 MR. HARTY: That complaint predated, by some 10:59
21 significant time, the setting up of this Tribunal. But
22 it hasn't progressed beyond the investigation stage, as
23 far as I am aware.

24 A. I am not aware of it.

25 CHAIRMAN: Okay. Neither am I, and I haven't read the 11:00
26 file.

27 MR. HARTY: Thank you very much, Mr. O'Doherty.

28 A. Thank you.

29

1 MR. O'DOHERTY WAS CROSS-EXAMINED BY MR. HARTNETT:

- 2 126 Q. MR. HARTNETT: I can be very brief with you,
3 Mr. O'Doherty. When you phoned Marisa Simms, that was
4 on the 8th, is that correct?
- 5 A. The 9th. 11:00
- 6 127 Q. The 9th, sorry. And you didn't know she was in
7 hospital at that time?
- 8 A. No. My recollection is that she said she couldn't
9 really talk to me, she either was at the doctor's or
10 had a doctor's appointment. 11:00
- 11 128 Q. I see.
- 12 A. But other than that, I don't know.
- 13 129 Q. I see. I think you then outlined to her that you were
14 from the Ombudsman's office?
- 15 A. I explained who I was, yes. 11:00
- 16 130 Q. And you said that there had been a referral or a
17 complaint or something of that nature?
- 18 A. I think I told her that we had received a copy of
19 statements that she had made, and that I was -- the
20 purpose of my call was to establish whether, (a) to let 11:01
21 her know that and (b) did she want that to be taken as
22 a complaint to GSOC.
- 23 131 Q. And did she express, I think you told us, significant
24 surprise at this?
- 25 A. I would say there was some surprise on her part, that 11:01
26 she was surprised to have a call from me.
- 27 132 Q. Yes.
- 28 A. I would put it that way.
- 29 133 Q. Yes. And did you tell her that you also had been given

1 a statement from her mother?

2 A. I believe I did.

3 134 Q. I see. Did you know that at that stage she was unaware
4 that her mother had made a statement?

5 A. I was not aware of that. 11:01

6 135 Q. That she hadn't been told that?

7 A. I wasn't aware of that.

8 136 Q. You weren't aware of that. And she did at some
9 stage -- can you remember the exact words that were
10 spoken? 11:01

11 A. I can't remember the exact -- my note is as good --
12 which I made two days later, is as good a recollection
13 of what I have.

14 137 Q. But she said she would have to discuss that with her
15 mother? 11:02

16 A. She said she couldn't really talk at that moment. She
17 said she wasn't sure what she wanted to do, she wanted
18 to think things over and talk to her mother and she
19 would come back to me. And I gave her my telephone
20 number. 11:02

21 138 Q. But she was surprised?

22 A. I believe so, yes.

23 139 Q. I see. Thank you.

24

25 MR. O'DOHERTY WAS CROSS-EXAMINED BY MR. POWER: 11:02

26 140 Q. MR. POWER: Thank you very much, Mr. O'Doherty. Conor
27 Power is my name and I appear for Chief Superintendent
28 McGinn in the case.
29 Mr. O'Doherty, Ms. Simms has in her statement to the

1 Tribunal said that her understanding of the statement
2 she made to An Garda Síochána, the one that was brought
3 to your attention, was that this was for the chief
4 superintendent's own eyes only. Did she at any stage
5 express that to you? 11:02

6 A. I don't believe so, no.

7 141 Q. Did you in fact read the statements that Chief
8 Superintendent McGinn sent to Mr. Wright?

9 A. I did read them when we received them on the 8th, yes.

10 142 Q. And they were -- that was the content of the documents 11:03
11 you had received from An Garda Síochána at the time?

12 A. At the time I received the email from Darren Wright
13 with the copies of the two statements.

14 143 Q. Yes. Chief Superintendent McGinn will give her own 11:03
15 evidence to the Tribunal in due course, needless to
16 say, but if she had a concern, for example, in relation
17 to the children of Ms. Simms at that stage, would that
18 be relevant insofar as the issue was raised with you by
19 Mr. Harty, as regards section 83, as regards persons
20 who because of age were incapable of giving consent, 11:03
21 would that be a relevant consideration, do you think?

22 A. Well, I don't think that we -- the receipt of this --
23 these statements from Chief Superintendent McGinn would
24 not be unusual. GSOC receives statements like this
25 quite frequently from Gardaí around the country where, 11:04
26 having taken statements from individuals, if they see
27 information in it that is of concern to them they
28 forward it to us. If you like, it may be a
29 belt-and-braces action to meet section 85. So if Chief

1 Superintendent McGinn felt concerned about the contents
2 and that it should be brought to GSOC's attention, I
3 wouldn't see anything wrong with that.

4 144 Q. And what would the route for that to be done then?
5 A. Pardon? 11:04

6 145 Q. What route do you think would be best for that to be
7 done?
8 A. Normally what happens is, if something is referred
9 under section 85, we receive it by post from the
10 relevant Garda authority and there is a cover note 11:04
11 saying why they have sent it to us.

12 146 Q. I see. And in this case then, the statement that was
13 made by Ms. Simms says, for example, and this is at
14 page 2336 in the Tribunal papers, that she was
15 frightened of him. That is Garda Harrison. "-- at 11:05
16 this point, as he was in a complete out of control
17 rage." And on another occasion she says -- sorry, page
18 2339 -- "He became extremely abusive and aggressive
19 towards me and I had a couple of drinks also. Keith
20 became so aggressive towards me that night, I was so 11:05
21 frightened of him, I actually locked myself in my car
22 outside the house. I left that night because I was so
23 scared of him." And again, on page 2342, there is a
24 threat "I'm going to burn you and at that point I could
25 see child one's eyes filling up and child one was 11:05
26 getting upset. So at that stage I put their coats over
27 their pyjamas and told them we were going into the
28 car." Now, that is relatively serious, isn't it?
29 A. It would seem so, yes.

1 147 Q. And the latter one there at least involves the
2 children, isn't that correct?
3 A. It is, yes.
4 CHAIRMAN: And is this Saturday the 28th of September
5 2013 that is being apparently referred to, Mr. Power? 11:06
6 MR. POWER: I am sorry, Chairperson?
7 CHAIRMAN: Is this Saturday the 28th of September 2013
8 that seems to be being referred to there?
9 MR. POWER: It does indeed, yes. Chairperson, yes.
10 148 Q. So I just put to you, that's the context of the 11:06
11 information that was available, and certainly the
12 latter part of that discloses connection with the
13 child's interest, isn't that correct?
14 A. It does, yes.
15 149 Q. And that child of course couldn't make a section 83 11:06
16 complaint off the child's own bat, isn't that correct?
17 A. That's correct, I would imagine, yes.
18 150 Q. Was that considered at all then by GSOC?
19 A. It was -- what we considered on receipt of those
20 statements was that, firstly, section 102 was not 11:06
21 appropriate and that was why I was tasked, the next
22 morning, to make contact with Ms. Simms as the
23 complainant to see did she want to proceed with the
24 complaint. As I said earlier, if Ms. Simms had said
25 she wanted to complain or wanted to complain on behalf 11:07
26 of her children then we would have taken the complaint.
27 151 Q. What if somebody doesn't want to make a complaint on
28 behalf of the children and yet there is an actual
29 threat made in respect of those children and another

1 person, who also is threatened, is the person who won't
2 progress the issue, is there not an issue about that?
3 Just bear with me a second. How does GSOC address a
4 case where the person who is supposed to make the
5 complaint is themselves ostensibly -- and has just made 11:07
6 a statement to An Garda Síochána under threat and the
7 threat is also disclosed to her children?

8 A. There is a section under the Act, I believe it's 102(4)
9 which allows GSOC of its own volition to launch an
10 investigation if they consider that there is a public 11:07
11 interest matter involved. But that wasn't considered
12 in this case.

13 152 Q. why not?
14 A. I can't say.

15 153 Q. And in any case in respect of the section 102 referral 11:07
16 then, the decision, it seems to me, is in fact that
17 Ms. Simms didn't want to proceed in any way rather than
18 it not being a section 102 -- it seems to me the
19 ultimate decision made by GSOC was Ms. Simms did not
20 want to proceed with that, is that correct? Or is that 11:08
21 because you had made a decision it wasn't section 102?

22 A. We didn't believe that it was a 102 referral and that
23 it met the criteria under the Act. That was why we
24 pursued it as a complaint. Once Ms. Simms had stated
25 she didn't want to make a complaint to us, you cannot 11:08
26 proceed with a complaint if you don't have a
27 complainant.

28 154 Q. You can under section 102(4) though?
29 A. Yes.

1 155 Q. And that wasn't considered by GSOC you are saying?

2 A. Not that I am aware of, no.

3 156 Q. Thanks very much.

4 A. Thank you.

5 CHAIRMAN: Sorry, Mr. Power, remind me, you are 11:08
6 appearing for?

7 MR. POWER: Chief Superintendent McGinn.

8 CHAIRMAN: Thank you.

9

10 MR. O'DOHERTY WAS CROSS-EXAMINED BY MR. DOCKERY: 11:08

11 157 Q. MR. DOCKERY: Mr. O'Doherty, my name is Desmond
12 Dockery. I am representing Inspector Goretta Sheridan
13 and Sergeant Brigid McGowan, among others, and those
14 are the two officers who took the statement of
15 complaint from Ms. Simms on 6th of October, 2013. Do 11:09
16 you follow? And I just want to ask you this question:
17 On 9th of October 2013 when you telephoned Ms. Simms,
18 she told you that she was aware of GSOC and your role
19 investigating complaints against Garda members, isn't
20 that so, you have given that evidence? 11:09

21 A. Yes.

22 158 Q. And it's in your contemporaneous memorandum of the 11th
23 of October. You have told the Tribunal that she
24 indicated surprise that GSOC had received the
25 complaint. Did I understand you to say in your 11:09
26 evidence-in-chief that she indicated surprise that GSOC
27 had received the complaint so quickly?

28 A. No. I'd say she seemed surprised that GSOC, that
29 someone from GSOC was contacting her about this. The

1 quickly bit was perhaps my own -- you know, she had
2 only made the complaint relatively -- a number of days
3 before. But I would describe it as she was somewhat
4 surprised to hear from somebody from GSOC.

5 159 Q. Even though she led you to believe that she fully 11:10
6 understood the role of GSOC in investigating matters
7 under certain circumstances?

8 A. Yes.

9 160 Q. Yes. She made no allegation to you that the contents 11:10
10 of her statement of the 6th of October were untrue,
11 isn't that so?

12 A. That's correct.

13 161 Q. She made no allegation to you that, assuming that they
14 were true, that they had disclosed them under any form
15 of pressure or harassment, isn't that so? 11:10

16 A. That's correct.

17 162 Q. She told you she wanted to, according to your memo
18 "think things over and talk to her mother before
19 confirming anything to GSOC," isn't that right?

20 A. That's correct. 11:11

21 163 Q. And she did that. She also told you, however, on that
22 day, that Mr. Harrison -- you said yesterday "was not
23 accepted by her family and she felt under pressure from
24 both sides."

25 A. I think it was on the 11th of October, the second call, 11:11
26 she made a general comment that, you know, that -- she
27 acknowledged making the statement but she said that she
28 just felt herself in a place where she was under
29 pressure and she didn't know -- the first time she

1 spoke to me she didn't know what to do and then she
2 confirmed to me she didn't want to proceed with a
3 complaint.

4 164 Q. But did she indicate to you that Mr. Harrison was not
5 being accepted or hadn't been accepted by her family 11:11
6 and she felt under pressure from both sides?

7 A. Yes. That was the general tone of what she told me.

8 165 Q. And who did you understand both of those sides to be?
9 One of them clearly was her own family.

10 A. I believed it to be her family members and then her 11:12
11 partner on the other side.

12 166 Q. All right.

13 A. And again, I would have explained to her that that was
14 not necessarily something that GSOC would have been
15 concerned with, I was simply trying to establish 11:12
16 whether or not she wanted to proceed with a complaint.

17 167 Q. Yes. But there was no question of any pressure from
18 the Gardaí in connection with the taking of her
19 statement?

20 A. Not to me, no. 11:12

21 168 Q. On 11th October your memo records that she told you she
22 did not want GSOC to investigate the complaint. Your
23 memo doesn't record that she told you she didn't want
24 anyone to investigate the complaint. Do you follow me?

25 A. Yes, correct. 11:12

26 169 Q. Because you have told the Tribunal today that you had
27 an impression that she didn't want anybody to
28 investigate this complaint, but your memo at the time
29 is specific that it's GSOC she doesn't want

1 investigating the complaint?

2 A. Yeah, if I clarify, when I subsequently received her
3 email, that was where I formed the impression that she
4 didn't want anyone, but all I wanted to establish at
5 the time, and what I wanted from Ms. Simms was 11:13
6 clarification as to whether she wanted GSOC to take any
7 action.

8 170 Q. First of all, when she told you this on 11th of October
9 that had she didn't want GSOC to take any action she
10 also indicated her mother wasn't altogether happy with 11:13
11 that, isn't that what you have recorded?

12 A. That is what I noted, yes.

13 171 Q. So that is clearly revealing pressure from the family
14 side. You ask her to confirm this by email but she
15 doesn't do so for another four days, until 15th of 11:13
16 October?

17 A. That is when the email came in, yes.

18 172 Q. So, six days have passed from the time since you
19 received that email, from the 9th of October, when you
20 first contacted her about this, isn't that so? 11:13

21 A. Correct.

22 173 Q. So she doesn't confirm her position in writing for six
23 days. And you have -- when you got that email, that
24 appears in the materials at page 2348, you have told
25 the Tribunal a few moments ago that she had stated in 11:14
26 that email in general terms that she wished to confirm
27 that she wanted no further action taken in this matter,
28 "thank you for your assistance". Isn't that what she
29 said in the email?

1 A. Yes.

2 174 Q. And she signed that, and you got that at 10:53 or it
3 was sent at 10:53 that morning, but I have to suggest
4 to you, Mr. O'Doherty, that your understanding of what
5 she was saying to you at that point was still that she 11:14
6 didn't want GSOC to investigate the matter further
7 because that's what you conveyed to Mr. Wright later
8 that afternoon in your email to him which appears
9 further up that page?

10 A. I accepted that email as being confirmation from her 11:14
11 that she didn't want GSOC, based on the fact that I had
12 explained to her in my telephone call that we could
13 only decide what GSOC would do or not do and then I
14 relayed it to Darren Wright. I had no function in
15 stating what the Gardaí might or might not do. 11:14

16 175 Q. No. But perhaps if you were unclear of the impression
17 that she was conveying to you, that she didn't want
18 anyone to investigate this matter further, it's
19 something you would have alluded to in your email to
20 Mr. Wright? 11:15

21 A. Not necessarily. I don't think it would be for me to
22 say that she didn't want anything -- anybody to -- I
23 was simply establishing whether or not GSOC would take
24 any -- would launch any investigation into a complaint
25 if she was making one. She had confirmed she wasn't 11:15
26 making a complaint to GSOC and as far as I was
27 concerned that was closing my part of the work in the
28 case.

29 176 Q. And if you believed that she was actually in reality

1 saying to you she didn't want anyone to investigate it,
2 do you think that is something that Mr. Wright would
3 have had a right to know, that is something he would
4 have been interested in hearing?

5 A. It may have been, but I am not sure what he would have 11:15
6 done with it.

7 177 Q. Well, that is a separate question.

8 A. Okay.

9 178 Q. What I am suggesting to you is that your email to
10 Mr. Wright clearly indicates your understanding that 11:15
11 what she wants is that GSOC would take no further steps
12 in this?

13 A. That's correct.

14 179 Q. Now, she doesn't make her position absolutely clear
15 until she comes back to you again on 12th of December, 11:16
16 some months later, two months later, isn't that so?

17 A. That's correct, yes.

18 180 Q. And you have a note of that telephone call you received
19 from her at page 2350 of the materials. That was an
20 unsolicited phone call from her. 11:16

21 CHAIRMAN: Sorry, I may be wrong but I was taking that
22 down as 2014, am I wrong in thinking that?

23 MR. DOCKERY: Sorry, it's 2014.

24 CHAIRMAN: So it's a year and, what, two months?

25 MR. DOCKERY: Yes, a year and two months later. 11:16

26 181 Q. That's correct, isn't it, Mr. O'Doherty? 12th December
27 2014.

28 A. That's correct, yes.

29 182 Q. And it becomes clear in the course of your conversation

1 with her that she doesn't -- she is having second
2 thoughts about -- she has had second thoughts about the
3 Garda investigation going ahead, isn't that so?
4 A. That would appear so, yes.
5 183 Q. Yes. And I take it you wouldn't have known that at 11:17
6 that stage Chief Superintendent McGinn had already
7 appointed Superintendent Murray from the Sligo division
8 to commence an investigation, a disciplinary and a
9 criminal investigation?
10 A. I wasn't aware of that, no. 11:17
11 184 Q. And that Garda Harrison first received notice of that
12 on 1st of December 2014?
13 A. I wasn't aware of any Garda action until Ms. Simms rang
14 me that day and told me.
15 185 Q. Yes. All right. Can I just ask you, Mr. O'Doherty, 11:17
16 are you aware of a subsequent complaint made to GSOC by
17 Marisa Simms on 10th August 2016?
18 A. I am not. I had moved from the casework section in
19 GSOC at that point, so I am not aware of it.
20 CHAIRMAN: And that is a complaint against Chief 11:18
21 Superintendent McGinn, I presume?
22 MR. DOCKERY: It's a complaint in which Chief
23 Superintendent McGinn is named, but so too are
24 Inspector Sheridan and Sergeant McGowan, Chairman, and
25 they have never been formally notified of the existence 11:18
26 of this complaint, I am instructed, but I have a copy
27 which --
28 CHAIRMAN: Do we have that?
29 MR. DOCKERY: My solicitor has given it to

1 Ms. Heffernan this morning, Judge.

2 CHAIRMAN: I don't know, Mr. McGuinness, do we have
3 that?

4 UNKNOWN SPEAKER: I understood, reading that
5 documentation, the Tribunal had that as well. 11:19

6 CHAIRMAN: We have it here. Sorry, Mr. McGuinness, is
7 it in our documentation?

8 MR. DOCKERY: No, it hasn't been circulated generally.

9 MR. MCGUINNESS: It's not in our books and it hasn't
10 been circulated. We are going to consider the issue, 11:19
11 obviously, in the light of --

12 CHAIRMAN: Well, do we have it somewhere? Do you think
13 we do?

14 MR. MCGUINNESS: I think we do have it.

15 CHAIRMAN: Because I read all the files in GSOC 11:19
16 relevant to any of these and I just didn't come across
17 that particular one.

18 MR. MCGUINNESS: I think we do have it and we are
19 considering the issue, obviously.

20 CHAIRMAN: Yes. It's just interesting to know what 11:19
21 exactly is being said in that, but we can discuss it
22 later.

23 MR. MCGUINNESS: Yes.

24 MR. DOCKERY: Well, I can tell the Tribunal what is
25 being said in it. The complaint was admitted, the 11:19
26 background is summarised as indicating that the
27 complaint had been made on foot of a statement taken by
28 a GSOC investigation officer and is directly linked to
29 a case currently being handled by GSOC under the

1 Protected Disclosure Act.

2 "In her complaint, Ms. Simms is alleging ongoing
3 harassment and intimidation by Donegal gardaí because
4 of a case involving her partner, who is a serving Garda
5 member. She alleges that the harassment and 11:20
6 intimidation she is experiencing has caused herself and
7 her partner to move house on several occasions with
8 their family. Ms. Simms further alleges that the
9 complaint of harassment being conducted by the Gardaí
10 includes the fabrication of alleged death threats 11:20
11 against her partner.

12 CHAIRMAN: Sorry, say again, that what?

13 MR. DOCKERY: That it includes the fabrication of
14 alleged death threats against her partner.

15 CHAIRMAN: By whom? 11:20

16 MR. DOCKERY: I will just keeping reading it:
17 "As no investigation she would stress is being
18 considered -- Ms. Simms has stated that part of her
19 complaint is against the following officers: Chief
20 Superintendent McGinn, Inspector Sheridan and Sergeant 11:20
21 McGowan."

22

23 The allegation in summary as admitted is that Ms. Simms
24 is alleging ongoing harassment and intimidation by
25 Donegal gardaí -- 11:21

26 CHAIRMAN: All right. Well, I don't think I am looking
27 into that, but what I was interested in and the reason
28 I asked you the question, Mr. Dockery, and you wouldn't
29 obviously have known that, was, is there a complaint

1 that in some way the statement -- the statement of
2 October 2013 was pressurised out of her, or that
3 these -- that these women somehow -- these officers
4 somehow behaved inappropriately towards her?
5 MR. DOCKERY: The answer to that is I don't know. She 11:21
6 may have given a statement, but, if so, we haven't seen
7 it, sir. GSOC may have it. But my two clients,
8 Inspector Sheridan and Sergeant McGowan, are
9 specifically named as the subject of her complaint,
10 along with Chief Superintendent McGinn, who Mr. Power 11:21
11 represents.
12 CHAIRMAN: Yes. All right. That's fine.
13 MR. DOCKERY: I have no further questions, Judge.
14 CHAIRMAN: But the summary of the complaint is that the
15 gardaí are harassing them, that they have to move house 11:22
16 and that the gardaí are making up death threats against
17 them, is that it?
18 MR. DOCKERY: That the gardaí are harassing and
19 intimidating them, they have had to move house on
20 several occasions, that they have fabricated alleged 11:22
21 death threats against her partner because they haven't
22 conducted any investigation into them, and part of her
23 complaint is against the three named officers, but
24 specifically what part of the complaint is against
25 those three officers isn't identified. 11:22
26 CHAIRMAN: But it has to include fabricating death
27 threats, presumably?
28 MR. DOCKERY: By implication, in that summary it does.
29 CHAIRMAN: Okay. That's great. Thanks.

1 MR. DOCKERY: Thank you.

2 CHAIRMAN: I am wondering as to the sum of knowledge.
3 Certainly, I learned something there, but is there
4 something I am missing so far after -- he has been in
5 the witness-box now nearly two hours and he is only an 11:23
6 official taking a complaint and doing his very best and
7 behaving perfectly properly. And, sorry, I wasn't
8 addressing that to you, Mr. Dockery.

9 MR. DOCKERY: The witness has said he is not involved
10 in this complaint and he can't advance the matter any 11:23
11 further.

12 CHAIRMAN: Fair enough. I understand.

13 A. I have no knowledge of this, Chairman.

14 CHAIRMAN: No, no, and I appreciate that.

15 11:23

16 MR. GEORGE O'DOHERTY WAS CROSS-EXAMINED BY
17 MR. O'HIGGINS:

18 186 Q. MR. O'HIGGINS: Good morning, Mr. O'Doherty. Mícheál
19 O'Higgins, for certain members of An Garda Síochána. I
20 am going to ask you really just about the enclosures to 11:23
21 your statement. Do you have those in front of you?

22 A. I do, yes.

23 187 Q. GSOC, in fairness to it, made its decision on the basis
24 of the materials it had, in accordance with the
25 statute, isn't that right? 11:23

26 A. Yes.

27 188 Q. Right. And the statements -- the information that you
28 and your colleague, Inspector Wright, had, were the two
29 statements: one of Marisa Simms' mother, Rita, and the

1 other of Marisa Simms herself, isn't that so?

2 A. That's correct.

3 189 Q. Right. Could I ask you -- they are within the
4 materials. The statement of Marisa Simms starts at
5 page 2328 within your materials, within the Tribunal's 11:24
6 materials, 2328. And if page 2342 might be brought up
7 on screen, please. And this now is the statement of
8 Marisa Simms which is one of the things you considered,
9 isn't that right?

10 A. That's correct. 11:24

11 190 Q. Right. I think halfway down page 2342, which if you
12 see the other pagination at the bottom of that page,
13 appears to be page 15 of the statement itself, so it's
14 a good way into the statement, about halfway down it
15 says: "I arrived home sometime after 9 p.m." I wonder 11:25
16 if you can locate that for yourself. "I arrived home
17 sometime after 9 p.m. and gave him the chips." And
18 that has a particular connotation, that the Tribunal
19 may be perhaps perusing some text later on, but in any
20 event -- 11:25

21 CHAIRMAN: What? I am sorry, what am I to read into
22 the fact that somebody brought home somebody else --
23 it's curry chips anyway.

24 MR. O'HIGGINS: That's right.

25 CHAIRMAN: Which is chips with a curry sauce on top. 11:25

26 MR. O'HIGGINS: Yes. For this witness it's not
27 relevant, but the reason I mention that is that it
28 becomes relevant in due course when the Tribunal
29 considers text messages travelling between Marisa Simms

1 and her partner, Garda Harrison.

2 CHAIRMAN: They mention the chips?

3 MR. O'HIGGINS: They do. And it helps to locate the

4 matter.

5 CHAIRMAN: All right. No, I understand. Thank you for 11:26

6 the clarification.

7 191 Q. MR. O'HIGGINS: In any event, do you have that,

8 Mr. O'Doherty?

9 A. I do, yes.

10 192 Q. I am just going to read this portion out because it's 11:26

11 relevant to the question I do have for you, and it's

12 this:

13

14 "I arrived home sometime after 9 p.m. and gave him the

15 chips. His mood totally changed, and as I was getting 11:26

16 the children ready for bed, he started at me. He said,

17 don't think a curry chip will make up for being gone

18 all evening. He started on in front of the children

19 and I felt completely drained and just wanted him to

20 stop. I kept trying to put child number two's top on, 11:26

21 and he said no, he wouldn't stop. They know what is

22 going on, meaning the girls. This is the first time

23 that he even started going on in front of them. He

24 kept making comments and ranting on about my sister,

25 saying, who does she think she is, I will take her down 11:26

26 a peg or two, and also said, I am going to bury her and

27 you. He kept repeating this and I told him to stop,

28 but it was if he went into a total rant. He then said,

29 I am going to burn you. And at that point I could see

1 child number one's eyes filling up and child number one
2 was getting upset. So at that stage I put their coats
3 over their pyjamas and told them we are going to the
4 car. I remember child one was asking if I was okay
5 after having him threatening to burn me and it appeared 11:27
6 to me that child one didn't know whether to go to the
7 car or not as child one was worried --"

8 CHAIRMAN: All right, yes. And I am just wondering
9 about this. Let's say -- I have read that, obviously I
10 have. So, your question, let's suppose it goes on in a 11:27
11 similar vein and there is loads of threats and it's in
12 front of children. Your question to Mr. O'Doherty is?
13 And he has read it, too. The point you want to make,
14 is what I am wondering about.

15 193 Q. MR. O'HIGGINS: My question for Mr. O'Doherty is this: 11:28
16 In the light of that and somewhat corroborative
17 statement from the mother, in the light of that, would
18 you agree with the proposition that it was entirely
19 reasonable for An Garda Síochána to pass this matter to
20 GSOC? 11:28

21 A. Yes, I believe it was reasonable to pass the matter to
22 GSOC.

23 194 Q. Thank you. Okay.

24 MR. HARTY: I wonder if I could interject at this
25 point. I wonder if Mr. O'Higgins is going to put to 11:28
26 the witness, because it's now appropriate to his case,
27 and whether or not his case is that it was, in fact, an
28 appropriate matter for a section 102 referral or a
29 section 85.

1 CHAIRMAN: Well, is there something to be said in
2 relation to that, Mr. O'Higgins, that it was a 102 in
3 fact or it was a section 85? Now, as I understand the
4 difference is, a section 102 is where there has been
5 serious harm or death, and an example of that is the 11:29
6 road traffic accident that Garda Harrison was involved
7 in. Another example would be, supposing if a garda
8 shoots somebody, that is -- or -- I don't mean that in
9 any way disrespectfully. So let's suppose in the
10 course of an armed robbery the gardaí take action and 11:29
11 somebody gets shot, or let's suppose that there is an
12 event whereby somebody, for instance, loses a kidney,
13 and then the other section is the referral to GSOC of,
14 if you like, ordinary complaints against the gardaí
15 which aren't so serious; it could be anything from 11:29
16 using the 'F' word while stopping somebody at a road
17 traffic checkpoint for drunk-driving purposes. Is
18 there something you want to put in that regard as to
19 whether it's one or the other?

20 MR. O'HIGGINS: Chairman, I will be guided by you, but 11:29
21 the position I was taking on that, and I hope it's
22 going to save time in that clearly the witness would
23 not be a person to canvass legal interpretations of
24 sections with, but the witness did, in answer to a
25 question from Mr. Power, I think acknowledged the 11:30
26 position that the matter, for better or for worse, and
27 I am not attributing blame to anybody here, but as it
28 happens, as a matter of fact, I think Mr. O'Doherty has
29 confirmed that section 102(4), that the matter was not

1 viewed as a section 102(4) matter. I might just read
2 it out in case it's of assistance. It indicates that:

3
4 "The Ombudsman commission may, if it appears to it
5 desirable in the public interest to do so and without 11:30
6 receiving a complaint, investigate any matter that
7 appears to it to indicate that a member of the Garda
8 Síochána may have committed an offence or behaved in a
9 manner that would justify disciplinary proceedings."

10
11 Sorry, Mr. Power canvassed another subsection. And
12 also the other -- the matter that was raised by
13 Mr. Power concerned another potential construction that
14 can be put on the section. Now, in fairness to the
15 witness, I was proposing not to go into this because 11:31
16 this isn't how the matter was dealt with by GSOC, and I
17 am not saying that in any sense to attract -- to
18 suggest criticism ought to attach to this. There was
19 the decision taken. Whichever section it came in
20 under, in fairness to GSOC, it was decided that section 11:31
21 102 was not the correct vehicle, and that is the way it
22 was left. So I was proposing not to deal with that but
23 deal with the more general issue as to whether it was
24 reasonable for the guards to actually pass it to GSOC
25 in the first place. 11:31

26 CHAIRMAN: well, he says it was.

27 MR. O'HIGGINS: Yes.

28 CHAIRMAN: But was it a mistake to use section 102
29 or --

1 MR. O'HIGGINS: Well, I think, Chairman, that is
2 ultimately a matter for you. I think an argument can
3 be made under section 102, which is clearly the
4 construction that was put on it by Garda members for
5 whom I don't act, concerning the correct meaning of 11:32
6 "may have resulted in the death of or serious harm to a
7 person" within section 102. I think that construction
8 can certainly be put, but I am not sure it's necessary
9 for you, Chairman, to resolve that issue of what is an
10 issue of law, Chairman. 11:32

11 CHAIRMAN: All right. Look, it will become clear in
12 due course, but your case is that there was a -- if you
13 like, a thinking used of section 102 as opposed to this
14 is a complaint from a member of the public and we are
15 passing it on and if the member of the public affirms 11:32
16 that that complaint is to be made and then it will be
17 taken up by GSOC.

18 MR. O'HIGGINS: Yes, indeed. I think the materials
19 made that clear, there was an entirely bona fide belief
20 that the matter could be dealt with under section 102, 11:32
21 for the reasons outlined in the materials.

22 MR. HARTY: Sorry, Chairman, I wonder if I can
23 interject. The materials make it clear that Chief
24 Superintendent McLoughlin in Garda Headquarters was of
25 the view that a referral should not be made under 11:33
26 section 102, and what I am asking, that counsel for An
27 Garda Síochána, insofar GSOC formed the same opinion, I
28 am asking that counsel for An Garda Síochána make it
29 clear what their instructions are in relation to that,

1 whether or not Chief Inspector McLoughlin was correct
2 or whether or not Chief Superintendent McGinn was
3 correct, or sorry, or Superintendent McGovern. And I
4 think it's not unreasonable question to ask what their
5 position is.

11:33

6 CHAIRMAN: Well, I am taking the proposition is being
7 forward, yes, and it may be helpful to clarify it; that
8 yes, it was appropriate to use section 102 because of
9 the threat to life.

10 MR. O'HIGGINS: That was the position that was taken at
11 the time, and it's entirely a matter for you, Chairman,
12 if that was correct or incorrect.

11:33

13 CHAIRMAN: No, but you are standing over that? I am
14 not saying that aggressively or pejoratively, or any
15 way like that, I am just asking you is that the case
16 you are making, that is all?

11:33

17 MR. O'HIGGINS: I want to make it clear, Chairman, I am
18 not contending for one position or another; I am
19 indicating my understanding of the position that was
20 advanced, which was that it was appropriate for a
21 section 102 referral.

11:34

22 CHAIRMAN: That is fine.

23 MR. O'HIGGINS: And I don't think it's necessary to go
24 further than that. I do acknowledge, Chairman, and in
25 fairness to Mr. Harty's position, I do acknowledge the
26 sections are capable of being read different ways and
27 there were different meanings, different constructions
28 put on it by the parties, but it was done in a context
29 that was bona fide.

11:34

1 CHAIRMAN: Well, sure. Any judge is used to hearing
2 that kind of submission.

3 MR. O'HIGGINS: And indeed, in fairness, even within An
4 Garda Síochána there were different views taken as
5 well. 11:34

6 CHAIRMAN: All right. No, you have clarified it and
7 thank you. Was there any other question?
8

9 MR. O'DOHERTY WAS RE-EXAMINED BY MR. MCGUINNESS:

10 195 Q. MR. MCGUINNESS: Mr. O'Doherty, Mr. Harty was asking 11:34
11 you about sections 83 and 85 and I think in answer to
12 me yesterday you said as an aside that Chief
13 Superintendent McGinn hadn't mentioned section 85 in
14 the email that was sent in, isn't that correct?

15 A. I believe so. If I can just check, please. The email 11:35
16 that Chief Superintendent McGinn sent Darren Wright on
17 the 8th of October doesn't mention in that email either
18 section 85 or 102.

19 196 Q. Yes, or section 83?

20 A. Or any section. 11:35

21 197 Q. But you had received that from Mr. Wright, who was the
22 appropriate investigation officer to receive section
23 102 referrals?

24 A. Yes.

25 198 Q. And that's the basis upon which he sent it to you. And 11:35
26 you never sought to clarify with any member of An Garda
27 Síochána whether this was being put forward as a
28 section 83/section 85 complaint, that was the issue
29 that was debated internally within GSOC?

1 A. It was, yes.

2 199 Q. Yes. Thank you.

3 CHAIRMAN: Okay. So what happened was, it was just a
4 referral, it didn't say at the top 'section 102 form',
5 'section 85 form', it just said here is the thing, and 11:36
6 then within GSOC you ask yourselves, look, what is
7 this? Is this a section 102 or is it the Gardaí
8 passing on a complaint by a member of the public about
9 a garda, in which case we will have to contact the
10 member of the public and see do they want to affirm 11:36
11 this complaint to us?

12 A. That's correct, Chairman.

13 CHAIRMAN: Yes. So you had that debate and you rang
14 Marisa Simms and in due course she said no, I don't
15 want to confirm that? 11:36

16 A. Correct.

17 CHAIRMAN: Yes. And vis-à-vis any mention of the
18 children, you did not consider it was necessary to go
19 forward or use any other section with a view to
20 investigating it from there? 11:36

21 A. Correct, yes.

22 CHAIRMAN: Yes. No, that makes perfect sense.

23 MR. HARTY: Sorry, sir, I need to interject, but if the
24 Tribunal is shown page 1703.

25 CHAIRMAN: Yes. 11:36

26 MR. HARTY: That refers to a decision made in
27 consideration -- it's a two-page document and it's
28 signed by Eugene McGovern and it says: "In relation to
29 the provisions of section 102 of the Garda Síochána Act

1 2005." So that is a referral expressly within the
2 meaning of Section 102.
3 CHAIRMAN: So they were referring it under 102.
4 MR. HARTY: And to be fair to Mr. O'Doherty, he
5 wouldn't have received this document, the document 11:37
6 would have gone to Mr. Wright. But absolutely
7 Mr. McGovern was sending this document as a section 102
8 referral. Superintendent McGovern.
9 CHAIRMAN: All right. But it didn't come with that
10 notification to GSOC, they simply considered what it 11:37
11 was, yes.
12 MR. HARTY: No, this is to GSOC.
13 CHAIRMAN: Is it?
14 MR. HARTY: Yes.
15 CHAIRMAN: Are you looking -- Mr. O'Doherty, I don't 11:37
16 know if you are looking at that.
17 A. I beg your pardon, Chairman. I am, yes.
18 CHAIRMAN: So it did come with a mention of Section
19 102: "Deemed allegations subject to section 102 of the
20 Garda Act." 11:38
21 A. Yes.
22 CHAIRMAN: And then "Agree to email copies of
23 statements by Marisa Simms and Rita McDermott." They
24 are mother/daughter. And then the circumstances, if we
25 just go down a wee bit, "Ms. Simms... husband... 11:38
26 involved in a relationship. During the course of this
27 made threats to kill and burn her out. He harassed her
28 via the phone and in person to a point that she is at
29 serious risk of harm and possibly death." So that was

1 the referral?

2 A. That was the referral.

3 CHAIRMAN: That is what you got?

4 A. That is what Darren Wright got, but I hadn't seen that.

5 CHAIRMAN: Yes. And you said, and so the debate 11:38
6 internally was: Is this a section 102? You decided it
7 was a section 85 and then you had to ring the person.

8 A. Correct.

9 CHAIRMAN: All right. Well, that makes sense?

10 A. And, Chairman, that would happen quite often in Section 11:38
11 102s. The Gardaí would send them under section 102
12 believing that to be the case, but it's ultimately GSOC
13 who decides what way to proceed when we get them.

14 CHAIRMAN: Okay. So, this was not unusual?

15 A. It was not unique. 11:39

16 CHAIRMAN: No.

17 A. No. We sometimes get cases referred under section 102
18 and after examination -- and that is why we examine
19 everything when it comes in.

20 CHAIRMAN: Okay. There was something I wanted to ask 11:39
21 you and that is this -- sorry, Mr. McGuinness, are you
22 finished.

23 MR. MCGUINNESS: I was going to ask two further
24 questions.

25 CHAIRMAN: Please do. 11:39

26 200 Q. MR. MCGUINNESS: I think frequently section 102
27 referrals are made orally over the phone?

28 A. They can be.

29 201 Q. Yes. And then they are followed up?

1 A. In writing.

2 202 Q. In writing. And in this case, are you aware whether,
3 in fact, Superintendent McGovern phoned Mr. Wright to
4 notify him of the making of the referral?

5 A. I don't know that. 11:39

6 203 Q. Okay. And that Chief Superintendent McGinn's part that
7 you were involved in, not having been involved in the
8 other parts, was the sending on of the statements to
9 Mr. Wright which he then referred on to you?

10 A. Yes, as I say, I can't -- I don't know what -- Darren 11:40
11 Wright will be able to confirm that for you.

12

13 MR. O'DOHERTY WAS QUESTIONED BY THE CHAIRMAN.

14 204 Q. CHAIRMAN: Yes. Well, what I wanted to ask you was
15 this: Mr. McGuinness has mentioned Gardaí ringing up, 11:40
16 let's suppose somebody goes into GSOC, and I have been
17 in there a number of times myself, and they ask the
18 lady at the desk, look, I want to make a complaint
19 because whatever it may be, the Gardaí have unlawfully
20 arrested my son, let us just say that just to give an 11:40
21 example, are they given a form there and then?

22 A. Yes. We cannot stop anybody making a complaint. So if
23 somebody comes in and says they wish to make a
24 complaint they are given a complaint form.

25 205 Q. CHAIRMAN: Yes. And it says on the top of it GSOC, I 11:40
26 presume?

27 A. It's a properly headed complaint form.

28 206 Q. CHAIRMAN: And are there any boxes to tick or anything
29 like that?

1 A. There are -- apart from the normal details, there is a
2 space where they are allowed, there's a number of pages
3 where they are allowed and they are asked to detail in
4 their own words what the complaint is.

5 207 Q. CHAIRMAN: Okay. 11:41

6 A. It's not a box-ticking, it's, they are asked to provide
7 a narrative.

8 208 Q. CHAIRMAN: I understand. Let's suppose you go into a
9 Garda station and you have a problem, but the problem
10 is with the Gardaí, not the gardaí behind the desk, but 11:41
11 you are saying that the Gardaí have done something
12 wrong, let's say a Garda patrol car rammed my gate and
13 killed my sheep or whatever, let's supposing it's in
14 Donegal, are you given a GSOC form in a Garda station?

15 A. The Gardaí have been provided with complaint forms, 11:41
16 books of complaint forms, that they can actually take
17 the complaint there and then.

18 209 Q. CHAIRMAN: And are they GSOC?

19 A. They are GSOC complaint forms. They are specific to
20 GSOC, yes. 11:42

21 210 Q. CHAIRMAN: Does every Garda station have those?

22 A. They should have, yes.

23 211 Q. CHAIRMAN: And is that for the last five/ten years?

24 A. Since we have opened in 2007. We provide the books on
25 order. 11:42

26 212 Q. CHAIRMAN: Mr. O'Doherty, you wouldn't be aware, but
27 one of the -- the dialogue in a previous Tribunal in
28 relation to the Gardaí where someone was asked in
29 relation to a matter which was supposed to be wrong,

1 the answer was Is it disciplinary? Is it criminal? Is
2 it investigative? To that list could be added Is it
3 GSOC? Is that right? If a superior officer asks a
4 garda a question and the answer that he is given is
5 perhaps evasively, Is it criminal? Is it 11:42
6 investigative? Is it disciplinary? You could also add
7 to that, Is it GSOC as well?

8 A. I think, yes, I think that is a fair point.

9 213 Q. CHAIRMAN: Yes.

10 A. Yes. 11:43

11 214 Q. CHAIRMAN: Is there anything in the Act which says you
12 have to point out to people who are making a complaint
13 about a garda in a Garda station this may be referred
14 to GSOC?

15 A. I don't believe it's in the Act that they have to do 11:43
16 that. But I think, again since our establishment, it
17 is, as I understand it, it is the practice, and should
18 be the practice, that when people go in to make
19 complaints in a Garda station, that they are made fully
20 aware of, that they can make that complaint to GSOC. 11:43

21 215 Q. CHAIRMAN: They have to be given that option?

22 A. Yes, my understanding is that should be the case.

23 216 Q. CHAIRMAN: And that is including in cases where what
24 the garda is supposed to have done is not like the
25 example given, the crash into the gate, dead sheep, 11:43
26 where it is actually something criminal, like a garda
27 burgled me?

28 A. Yes, any complaint.

29 217 Q. CHAIRMAN: So they have to be given the option as such?

1 A. They should be given the option, yes.

2 218 Q. CHAIRMAN: Would that require a separate form also to
3 be filled out in addition to, if you like, the criminal
4 investigation file?

5 A. No. Chairman, the complaint form is the one complaint 11:44
6 form. If a person goes in and says they want to make a
7 complaint, irrespective of what the allegation is, it's
8 the complaint form.

9 CHAIRMAN: Yes. Thank you very much for your help,
10 Mr. O'Doherty. 11:44
11

12 THE WITNESS THEN WITHDREW

13

14 MR. MCGUINNESS: Chairman, the first scheduled witness
15 intended for today isn't available for reasons that I 11:44
16 won't go into, and we hope obviously to endeavour to
17 reschedule the witness as soon as is possible. And we
18 have inserted another witness, a Ms. Tina Fowley who I
19 think Ms. Leader is taking through her evidence.

20 MS. LEADER: Garda Fowley, please. 11:44
21

22 GARDA TINA FOWLEY, HAVING BEEN SWORN, WAS DIRECTLY
23 EXAMINED BY MS. LEADER:

24 219 Q. MS. LEADER: Garda Fowley, I think you were on duty in
25 the public office in Letterkenny Garda station on the 11:45
26 night of the 31st March 2013?

27 A. Yes, Judge, on the 31st March, it was an Easter Sunday,
28 I had been requested, and subsequently, performed
29 overtime duty from 11pm at night. My duty commenced at

1 11pm and terminated the following morning at 9am as I
2 was due to perform duty in the morgue at Letterkenny
3 Hospital earlier that morning. So my duty ran from
4 public officer to the duty at the hospital and my
5 public officer duty terminated at 7am. 11:46

6 220 Q. And I think during the course of that night, you were
7 in the public office when members of the Bogle family
8 called in to Letterkenny Garda station, is that
9 correct?

10 A. Yes, Judge. I had took up duty as public officer in 11:46
11 the station diary and in the early hours of the
12 morning, two males and a female called to the public
13 office counter.

14 221 Q. If you could tell what happened and what they told you
15 at that stage? 11:46

16 A. One of the males, Mr. William Bogle, stated that he had
17 rung earlier and he expressed concerns in respect of
18 the safety of his niece, Marisa. He stated that they
19 had been driving around Letterkenny, as she was in a
20 car and was being pursued by her partner. I inquired 11:47
21 of him as to the details of the vehicles involved and
22 the name of her partner and her address. He did not
23 know the address where Marisa was living, and Kerry
24 Bogle, Mr. Bogle's daughter, advised me that it was in
25 Churchill. I again asked Mr. Bogle for the name of his 11:47
26 niece's partner and he suggested to me that I should
27 know him well as he was a colleague of mine here. This
28 didn't elaborate the matter any further for me as I
29 wasn't aware of who he was talking about. I then asked

1 him again for the name and he said the partner was
2 Garda Keith Harrison and I explained to him that Garda
3 Harrison was stationed in Donegal Town and was not
4 based in Letterkenny. I then made contact with the
5 divisional communications room and, as a result of my 11:48
6 conversation with Garda Ian Oates who was on duty
7 there, I became aware that Sergeant Doherty, Garda
8 Hynes, Garda Waters in Raphoe Garda Station, were
9 dealing with this matter and I returned to the public
10 office counter. I informed the Boggles that the matter 11:49
11 was being dealt with, that the patrol crews were
12 responding. I did not give them any further
13 information in relation to the incident. Mr. Bogle had
14 drink consumed. He was intoxicated. And I advised
15 them to discuss the matter with Marisa in the morning 11:49
16 as I could not give them any further information in
17 relation to it. They left the station. Later that
18 morning I spoke with Sergeant Doherty. I cannot recall
19 what time I spoke with Sergeant Doherty but I was aware
20 that the matter was in hand and it was being dealt with 11:49
21 and investigated by him.

22 222 Q. Okay. And I think you made rough notes in relation to
23 that encounter, and those notes appears in typed form
24 at page 2241 of the materials, is that correct, Garda
25 Fowley? 11:50

26 A. Yes, Judge. I drafted -- I took rough notes at the
27 public office counter. I realised that the phone
28 matters had been recorded up in Communications, and it
29 was just fortunate that I had retained the notes on the

1 matter.

2 223 Q. Those notes, they will come up on the screen, I think
3 they are on the screen in front of you, but they record
4 the 1st April 2013, the name "William Bogle, that he
5 rang earlier, concern niece Marisa, outside 11:50
6 Letterkenny, partner guard, LK X, Kerry Bogle, cousin,
7 brother". And I think you didn't make a note of
8 Kerry's brother's name, is that correct?

9 A. No, I didn't make a note of the brother's name. The X
10 outside of -- after Letterkenny, after the LK 11:51
11 abbreviation, was my X that he wasn't a guard in
12 Letterkenny, was my note for myself.

13 224 Q. Then underneath that we have: "Churchill. Partner
14 driving around after her, Keith Harrison."
15 And that ends your notes in relation to the night, is 11:51
16 that correct?

17 A. Yes, Judge.

18 225 Q. And I think that is the sum total of your involvement
19 in relation to the matter on that night, is that
20 correct? 11:51

21 A. Yes, I just spoke to Kerry Bogle before they left, as
22 to who was driving, as I had a concern in relation to
23 Mr. Bogle's disposition at the time.

24 226 Q. And you satisfied yourself that Kerry was in a position
25 to drive home? 11:51

26 A. Yes, Judge, that's correct.

27 MS. LEADER: If you would answer any questions that
28 anybody else might have for you.
29

1 GARDA TINA FOWLEY WAS CROSS-EXAMINED BY MR. HARTY:

2

3 227 Q. MR. HARTY: Garda Fowley, just a couple of very brief
4 questions. Firstly, thank you for coming, for making
5 the trip. William Bogle was in no condition to drive 11:52
6 the car?

7 A. William Bogle had drink taken. He was intoxicated. If
8 I met him at a checkpoint I would be processing him,
9 but he wasn't falling down drunk or anything like that,
10 no. 11:52

11 228 Q. You knew that Garda Harrison was in Donegal Town?

12 A. I was aware that Garda Harrison was stationed in
13 Donegal Town, yes.

14 229 Q. Had you dealings with Garda Harrison before?

15 A. No, I would not have recognised Garda Harrison if he 11:53
16 had come through the door. I didn't know him.

17 230 Q. So how did you know he was in Donegal Town?

18 A. It would have been common knowledge, the issues that
19 were -- had arisen in Buncrana.

20 231 Q. They were common knowledge? 11:53

21 A. Yes.

22 232 Q. And a certain amount of infamy had attached to those
23 issues, had it?

24 A. It tends to follow it, yes, Judge.

25 CHAIRMAN: Do you understand what 'infamy' means? 11:53

26 A. Yes.

27 CHAIRMAN: Do you?

28 233 Q. I do, yes.

29 CHAIRMAN: For example, Hitler is infamous.

1 A. Yes, famous is being famous. Infamous is just not
2 as --
3 CHAIRMAN: Being famous for being evil. You want to
4 use word?
5 A. Well, I wouldn't go as far as saying evil, but there 11:53
6 was -- 'infamy' might be too strong a word for it but
7 there was connotations around it.
8 234 Q. MR. HARTY: Yes. And in relation to that, did you make
9 any entry into Pulse in relation to this?
10 A. No, Judge, the matter had been reported by telephone to 11:54
11 Communications. This was, in essence, a duplicate
12 report and Sergeant Doherty took charge of the
13 investigation.
14 235 Q. Okay. And just after that and prior to this Tribunal
15 coming into being, did anyone come and ask you about 11:54
16 the events of that night?
17 A. Sorry, can you repeat?
18 236 Q. Prior to the establishment of this Tribunal, did anyone
19 come and ask you about the events of that night?
20 A. No, Judge. It never arose until last week. 11:54
21 237 Q. Nobody, in October of 2013, came to speak to you about
22 the events of that night?
23 A. No.
24 MR. HARTY: Thank you.
25
26 GARDA TINA FOWLEY WAS CROSS-EXAMINED BY MR. DIGNAM:
27
28 238 Q. MR. DIGNAM: Garda Fowley, just one or two brief
29 questions. You were asked by Mr. Harty how you knew

1 about Garda Harrison and you said that you did know of
2 him and the events in Buncrana. I am not sure whether
3 you know the details of that, but Garda Harrison had
4 addressed his unit and told them about his relationship
5 with Ms. Simms and her connection with Mr. McDermott, 11:55
6 who, as you know, had been involved in the death of
7 Garda McLoughlin. Is that how you knew of Garda
8 Harrison?

9 A. No, not entirely. I was aware of the death of the late
10 Garda McLoughlin and I knew that Garda Harrison's 11:55
11 partner was a brother of Martin McDermott. Initially
12 when Mr. Bogle came in, the name Marisa Simms didn't --
13 if he had said Marisa McDermott, I certainly would have
14 put two and two together, but I wasn't aware of any
15 discussions on units in Buncrana or any aspect of it. 11:55

16 239 Q. Yes. So how did you know of Garda Harrison?

17 A. Sorry?

18 240 Q. How did you know of Garda Harrison?

19 A. Through his connection with Martin McDermott. That was
20 common knowledge throughout the division really. 11:56

21 241 Q. Yes. And when Mr. Bogle told you that this was about a
22 colleague of yours, Garda Harrison, did that affect how
23 you dealt with the report or the incident in any way?

24 A. Well, I omitted to mention that Mr. Bogle did suggest
25 that the matter wouldn't be dealt with properly, and I 11:56
26 assured him that the matter would be dealt with. It's
27 irrelevant whether it's a garda involvement or not, in
28 my opinion; it will be treated the same way.

29 242 Q. Yes. And when the report was made to you, I think you

1 have already explained to Ms. Leader that you then went
2 into the Garda station itself, made inquiries as to
3 what was happening because you had been told that the
4 Bogles had called into -- or had phoned into the
5 station earlier on. Did you satisfy yourself that the 11:56
6 matter was being attended to?

7 A. Yes, there is a door and a wall separation between the
8 public office counter and the public office room at the
9 back, and that's where I went to make the call.

10 243 Q. If I understand your evidence correctly, you then went 11:57
11 back to the Bogles, who were at the public desk, told
12 them it was being dealt with?

13 A. Yes, Judge, that's correct, I returned to the public
14 office counter.

15 244 Q. And that was the end of your involvement, am I right in 11:57
16 saying that?

17 A. Yes, Judge.

18 MR. DIGNAM: Thank you, Garda Fowley.

19 MS. LEADER: Nothing arising. Thank you, Garda Fowley.

20 11:57

21 THE WITNESS THEN WITHDREW

22

23 MR. MARRINAN: The next witness is Rita McDermott,
24 please. Her evidence is to be found in volume 6, page
25 1969, sir. 11:57

26

27

28

29

1 MRS. RITA McDERMOTT, HAVING BEEN SWORN, WAS DIRECTLY
2 EXAMINED BY MR. MARRINAN:

3

4 245 Q. MR. MARRINAN: Now, I think that you are the mother of
5 Marisa Simms, isn't that right?

11:58

6 A. Yes.

7 246 Q. And you have another daughter, is that right?

8 A. Yes, Paula.

9 247 Q. Paula. And you have a son, is that right?

10 A. Yes, Martin.

11:58

11 248 Q. And on the 2nd of October of 2013, at your home, you
12 made a statement to Inspector Goretta Sheridan and
13 Sergeant Collins, isn't that right?

14 A. Yeah, that's correct.

15 249 Q. And I am going to cut to the chase in relation to this
16 and go straight into that statement; there are other
17 matters that I want you to deal with, but I am going to
18 straight into that statement and we are just going to
19 go through it, all right?

11:58

20 A. Okay.

11:59

21 250 Q. Because this statement sets out the history of your
22 daughter's relationship with Garda Keith Harrison,
23 isn't that right?

24 A. Yeah, that's right.

25 251 Q. And problems that had arisen in 2013, isn't that so?

11:59

26 A. That's correct, yeah.

27 252 Q. Now, I know it might be difficult for you, because
28 those problems seem to have resolved themselves and
29 they are now a couple, isn't that right?

1 A. That's correct.

2 253 Q. And they have a young child?

3 A. Yeah.

4 254 Q. But we are dealing with matters that you told the
5 gardaí in 2013 and the state of affairs that existed 11:59
6 then, do you understand?

7 A. Yeah.

8 255 Q. And I know it might be a little bit difficult for you
9 bringing these matters out, but it's very important for
10 the work of the Tribunal, do you understand that? 11:59

11 A. Yes.

12 256 Q. If we could have page 1982 up on the screen. I think
13 you have expressed a preference to look at the hard
14 copy of this, and beside you there you will see
15 volumes. Do you want to see a hard copy or is the 12:00
16 screen all right for you?

17 A. Yeah.

18 257 Q. The screen is all right, is it?

19 CHAIRMAN: I think maybe the registrar would be so kind
20 as to find the particular volume. 12:00

21 MR. MARRINAN: Yes, we will get you hard copies. It's
22 perhaps easier.

23 CHAIRMAN: I think it is, actually, Mr. Marrinan.
24 Sometimes the contrast isn't great.

25 MR. MARRINAN: I had spoken to the witness and she 12:00
26 indicated a preference for a hard copy, but I don't
27 think she understands the difference between the two.

28 CHAIRMAN: It's 1982.

29 MR. MARRINAN: Page 1982.

1 CHAIRMAN: It just gives you the opportunity as well,
2 Mrs. McDermott, to look ahead or look prior, where the
3 screen is only giving us a third of a page, about.
4 (Same handed)

5 258 Q. MR. MARRINAN: Have you got that now? We will just go 12:01
6 through it. It's headed "Statement of Rita McDermott"
7 and the address is "19 Castlegrove, Raphoe, County
8 Donegal". That is where the statement was taken, isn't
9 that right?

10 A. Yeah, that's right. 12:01

11 259 Q. Sergeant Collins told us yesterday that he knew you
12 going back a number of years, particularly in or around
13 about 2005/2006, and he knew your family?

14 A. Yeah.

15 260 Q. Do you recall that you knew him? 12:01

16 A. I know of him but I didn't know him personally, like.

17 261 Q. He said that this was a fairly friendly encounter that
18 he had with you, that you invited himself and Goretta
19 Sheridan into the house and that you made, he thinks
20 maybe one cup of tea, certainly maybe two cups of tea 12:02
21 during the taking of this statement, is that right?

22 A. Yeah.

23 262 Q. That is right?

24 A. Yeah.

25 263 Q. So the atmosphere in relation to the taking of the 12:02
26 statement was relaxed, is that right?

27 A. It was, yeah.

28 264 Q. Now, it says that it was taken on 2nd of October 2013
29 at your home address and it's taken by Inspector

1 Goretta Sheridan of Letterkenny Garda Station. And
2 it's subsequently signed as well by -- and witnessed by
3 Sergeant James Collins. And you will see there, there
4 is a declaration, do you see that?
5
6 "I hereby declare that this statement is true to the
7 best of my knowledge and belief, that I make it knowing
8 that if it is tendered in evidence I will be liable to
9 prosecution if I say in it anything which I know to be
10 false or do not believe to be true."
11
12 Do you see that?
13 A. Yes.
14 265 Q. The guards read that out, did they, to you?
15 A. Yeah.
16 266 Q. So after they read that out to you, you must have
17 realised that what you were doing was quite important?
18 A. Oh, yeah.
19 267 Q. Yes?
20 A. Yes.
21 268 Q. And that it was important to tell the truth, isn't that
22 right?
23 A. Yeah.
24 269 Q. And that the details of the statement were going to be
25 important, isn't that so?
26 A. That's right, yeah.
27 270 Q. So you start off:
28
29 "My name is Rita McDermott and I live at the above

1 address. I have two daughters, Marisa and Paula, and a
2 son, Martin. Marisa was married to Andrew Simms in
3 Milford and they are now separated. She is going out
4 with Keith Harrison for the past two years. He is from
5 Galway. I know Keith for maybe 15 years. Marisa met 12:03
6 Keith in university in University College Galway when
7 she studied arts there. She finished college there
8 about ten years ago when she was 22 years. I am not
9 sure what Keith was studying, but it was not the same
10 as Marisa. While Keith and Marisa were in college they 12:04
11 got engaged to be married. There was no date set. I
12 think it was just first love. They broke up again
13 after college."

14
15 Now, all that is true, is it? 12:04

16 A. It is, yes.

17 271 Q. And you are setting out the background circumstances as
18 to how your daughter Marisa came to meet Keith
19 Harrison, is that right?

20 A. That's correct, yes. 12:04

21 272 Q. Now, you then go on:

22
23 "I think Keith tracked her down again on Facebook. He
24 was looking for her and I am not sure what happened but
25 they got together again." 12:04

26
27 Now, in relation to that, obviously this was something
28 that perhaps your daughter had told you or perhaps
29 Paula had told you after discussions with Marisa,

1 namely that Keith Harrison had tracked her down maybe
2 on Facebook?

3 A. Yeah.

4 273 Q. You had no direct knowledge of that yourself?

5 A. No, I don't, no.

12:05

6 274 Q. So this was something that you would have heard from
7 your daughters, is that right?

8 A. That's correct.

9 275 Q. One or other of them. "He wasn't in Donegal at that
10 time. I think he was in Athlone. He transferred to
11 Donegal then because of Marisa."

12:05

12

13 Is that something that you had been told by your
14 daughter, that he had sought a transfer to Donegal
15 because he wanted to be near Marisa?

12:05

16 A. Yes. I think -- yeah, that's correct.

17 276 Q. Yes. "Marisa had been in a relationship with Andrew
18 Simms at the time and they had just had a baby".
19 And you set that out.

20

12:05

21 "She started seeing Keith soon after this. I thought
22 she was going through the baby blues. He told her that
23 he was waiting 18 months for her to leave her husband
24 and he gave her an ultimatum to leave or he was gone."

25

12:06

26 Is that right? Is that part of the history that you
27 had heard --

28 A. Yes, I have heard that, yeah.

29 277 Q. -- from Marisa?

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"I think she moved in with Keith before last Christmas, that is December 2012. She lived with Keith in a house at the Mountain Top in Letterkenny and then they moved to Churchill."

12:06

Then you go on to say:

"I always thought he was controlling but she never said anything."

12:06

Was this the impression that you formed, having observed the relationship?

A. Well, at that time I did, yeah.

278 Q. Pardon?

12:06

A. At that time I did.

279 Q. Yes. And what led you to believe that?

A. Just some things that Marisa was saying, like.

280 Q. I suppose you are a mother watching your daughter and she is in a relationship?

12:07

A. You always want the best for your children, like.

281 Q. Pardon?

A. You always want the best for your children.

282 Q. Yes, you do. And you might be in tune to what's actually going on.

12:07

A. A mother's instincts, like.

283 Q. Yes. You go on to say:

"I remember one day he wouldn't let her buy clothes for

1 the children in Benetton. He never let her buy
2 anything for the children. She has two children, and
3 they are not Keith's children. He drinks a fair bit.
4 He could drink a bottle of brandy while you'd blink."

12:07

6 That is what you told the gardaí, is that right?

7 A. Yeah. Well, Keith would come to my house, it was like
8 a social evening. Well, I don't know what consumption
9 he drinks after that. It's just when he comes to my
10 house, like.

12:08

11 284 Q. Yes. All right. This is what you told the gardaí,
12 though?

13 A. Yeah.

14 285 Q. And you used that expression: "He could drink a bottle
15 of brandy while you'd blink." That is your terminology
16 describing his drinking habits, is that right?

12:08

17 A. Yes. Well, as I say, it was in a social evening at my
18 home and I gave it to him. He didn't take it; I gave
19 it to him, like.

20 286 Q. "He would be full of old chat when he had drink in him.
21 I didn't think he was drunk, well able to drink. He
22 never said anything to Marisa in front of me. He would
23 know better. Within a three-month period, I drove from
24 Raphoe to her house in Churchill to pick her up as
25 Keith had thrown her out. This happened around
26 May/June 2013. Any time I picked her up she was
27 distraught."

12:08

12:08

28
29 when you just -- would you just tell us about those

1 incidents. You were actually called to the house by
2 Marisa to pick her up, is that right?

3 A. That's correct, yeah.

4 287 Q. In circumstances where --

5 A. They had only started a relationship and there was a 12:09
6 lot of blisters there, like. She was only broke up
7 from the marriage, she was very vulnerable at the time,
8 like.

9 288 Q. Well, I mean, were these matters of urgency where she
10 would call you up and say that she has been thrown out 12:09
11 of the house --

12 A. Yes.

13 289 Q. -- by Keith Harrison and that she might be out on the
14 road?

15 A. Like, she was never out on the road; she would be 12:09
16 sitting in the car, or something, like.

17 290 Q. Sorry?

18 A. She would be sitting in her car, waiting, or whatever,
19 like.

20 291 Q. She would be sitting in a car, she would be out of the 12:09
21 house?

22 A. Yes.

23 292 Q. And she would be distraught?

24 A. Yeah, she would.

25 293 Q. So, it would be fair to -- would it be fair to describe 12:10
26 that, at that particular time, the relationship was
27 very rocky?

28 A. It was indeed.

29 294 Q. And there wasn't perhaps a huge amount of happiness in

1 it, to put it mildly?

2 A. Well, obviously not, no.

3 295 Q. Pardon?

4 A. No.

5 296 Q. No. I will just come back to one of those incidents 12:10

6 later on, but I am just going to go through the

7 statement:

8

9 "Any time I picked her up she was distraught. I

10 remember the last time she said she had been sleeping 12:10

11 when she woke up and heard Keith shouting in her face.

12 The children were never there when he put her out. I

13 brought her back here to Raphoe. Marisa never told me

14 everything. She didn't want to worry me. She wouldn't

15 want to be telling me in case I got annoyed. Marisa is 12:10

16 very quiet."

17

18 Is that her personality?

19 A. Yeah, it is, yeah.

20 297 Q. Did you form the impression from talking to her, 12:11

21 obviously you told the guards this, that she wasn't, in

22 fact, divulging everything that happened in the

23 relationship to you?

24 A. No, she wouldn't want to annoy me because at that

25 particular time my brother was dying, so she wouldn't 12:11

26 want to add any more pressure, like.

27 298 Q. Right. "The last time she was outside the house but

28 was actually sitting in the car when I arrived."

29

1 You told us about that. How many times in total did
2 you -- were you called out to the house, do you recall?

3 A. I would say two to three times.

4 299 Q. Two to three times.

5 A. Yes. I am not exactly sure how many times. At least 12:11
6 two, like.

7 300 Q. We have been told, and I will come to it in due course,
8 about an incident where you phoned your brother --

9 A. Yes, I phoned William because I was away --

10 301 Q. Mr. William Bogle. Is that a separate occasion? That 12:12
11 was on the 31st of March?

12 A. I am not sure of the date, but when Marisa rang me,
13 like, at maybe 2 o'clock in the morning, she was a bit
14 distracted and she just said that she was out in her
15 pyjamas, so I lost contact with her because the 12:12
16 coverage is very bad in Churchill, so when I couldn't
17 get her back I was a bit annoyed so I contacted William
18 to go and see if she was okay.

19 302 Q. Okay. And he travelled some distance along with
20 your -- with your niece? 12:12

21 A. Niece and nephew, yes.

22 303 Q. Kerry, and nephew as well. Then you go on:
23
24 "I remember another time Marisa was marking exam
25 papers. She travelled to Athlone with Keith and 12:13
26 collected secondary school exam papers to correct as
27 she is a teacher."

28 A. Yes.

29 304 Q. "Then Keith wouldn't give her the papers one day. He

1 put her out and said he had burnt them."

2

3

Now, that is an incident you recall -- that is quite a serious incident; I mean, these were Leaving Cert exam --

12:13

6

A. Yeah, I had just had surgery, like, and I remember that distinctly, I had been out of hospital, I had surgery, like, done on my foot --

8

9

MR. MARRINAN: Sorry, would you just speak up. You said, "I remember that distinctly. I have been out of hospital", and you'd surgery done on your foot. But would you just speak more clearly, if you can, into the microphone. It's just there in front of you.

10

12:13

11

12

13

14

A. Okay. Yeah, Marisa came to my house, she was very distraught about the exams papers, but I remember I was on crutches at this time and I said, I will go over along with you to see if we can get them back. There had been a falling-out between the pair of them, like. So she had a conversation with Keith on the phone and it was getting a bit hot and heavy, so then I intervened and said, like, you have to give her back the papers, I was on my way over, if you didn't give them back I was going to call the gardaí. But when we reached the house, he did give them to her, like.

12:14

16

17

18

19

20

12:14

21

22

23

24

25

305 Q. You told the gardaí that "He put her out and said he had burned the papers." You then went on to say: "Marisa was really worried and so I went to the house to her". Is that right?

12:14

26

27

28

29

A. Sorry, say it again?

1 306 Q. You will see it there, five lines from the bottom.
2 "Marisa was really worried and so I went to the house
3 to her."
4 A. Yes.

5 307 Q. "We threatened to call the guards if she didn't get her 12:15
6 papers and then he threw them out."
7 A. Yeah, he did, yeah.

8 308 Q. Is that right?
9 A. Yes.

10 309 Q. It's somewhat bizarre behaviour, is it? Did you 12:15
11 consider it irrational?
12 A. Well, there was a big fall-out with the pair of them.

13 310 Q. Sorry, you just need to speak up a little bit again.
14 A. Yes, there was a fall-out between the pair of them and
15 she didn't elaborate what they fell out about, but she 12:15
16 came over to me, she was very distraught about the
17 papers, like, because she was afraid maybe she would
18 lose her job, so they had a telephone -- she called him
19 anyway and he didn't know I was in the car, so then I
20 said he had to give her back her papers, like, because 12:15
21 it's very important because, you know, she needs to
22 have -- to mark the papers, like.

23 311 Q. So anyway, but you threatened --
24
25 "We threatened to call the guards if she didn't get her 12:16
26 papers back and then he threw them out. My daughter
27 Paula is getting married on Friday next, which is the
28 4th of October 2013, in Dunlewey. Keith knows he is
29 not invited. Paula is friendly with Andrew Simms,

1 Marisa's ex-partner, and he is invited to the wedding.
2 This is killing Keith. Marisa has said that Keith
3 threatened to burn her and the children but that she
4 wants to hold off until after Paula's wedding to tell
5 the guards." 12:16
6
7 That is what you told the gardaí, is that right?
8 A. Yeah, well, like, I didn't hear him say that. It was
9 just my daughter told me that, like.
10 312 Q. Sorry? 12:17
11 A. I didn't hear him -- he didn't say it to me, like.
12 313 Q. No.
13 A. Marisa said to me.
14 314 Q. We know that what you are doing is, you are recounting
15 a combination of two things in the statement? 12:17
16 A. Yes.
17 315 Q. Or maybe three things. The first one is your
18 impression of the relationship and the history of the
19 relationship, the second is what your daughter has told
20 you, and thirdly, what you have, in fact, observed 12:17
21 yourself?
22 A. Yes.
23 316 Q. This is an instance of something that Marisa has said
24 to you, isn't that right?
25 A. Yeah. 12:17
26 317 Q. And what you record here is: "Marisa has said that
27 Keith threatened to burn her and the children but that
28 she wants to hold off until after Paula's wedding to
29 tell the guards."

1 A. Right.

2 318 Q. Do you see that?

3 A. Yeah, mm-hmm.

4 319 Q. Well, obviously that was something that was quite
5 serious. When she told you that, that Keith had 12:17
6 threatened to burn her and the children, did that alarm
7 you at the time?

8 A. Oh, yes, it did.

9 320 Q. Did it frighten you?

10 A. Yes, because, I mean, they are my grandchildren, like. 12:18

11 321 Q. No, but did you -- did you take it seriously?

12 A. I did, yeah.

13 322 Q. We know, and I will come to it, because you contacted
14 the gardaí in Donegal Town and Sergeant Durkin --

15 A. Yes. 12:18

16 323 Q. -- on a couple of occasions in August and then in
17 September. But in relation to this particular threat,
18 it's something that you took seriously?

19 A. It is, indeed, yeah.

20 324 Q. And it appears that Marisa took it seriously as well 12:18
21 because she has considered calling the guards and
22 making a statement, but she says to you that she is
23 going to put that off until after the wedding, isn't
24 that right?

25 A. Yeah, that's right, yeah. But I really think, you 12:18
26 know, Keith may have said that, but it might have been
27 just at the time when you are cross or angry, like. I
28 know Keith for 15 years, like, and it would never
29 happen, like.

1 325 Q. Yes, well, that is -- and I can readily understand that
2 you are looking back at this in circumstances where
3 your daughter and Keith Harrison are together now.
4 A. Yeah.

5 326 Q. But this is something that you are making in -- an 12:19
6 important statement that you have decided to make to
7 the gardaí?
8 A. Yeah.

9 327 Q. And you are telling them that this is something that
10 you took seriously? 12:19
11 A. Well, why I -- I called to the station in Donegal Town
12 but I wasn't aware that David Durkin was the sergeant
13 there, so I asked to speak to his superior, thinking
14 maybe he may have a word with Keith. Obviously there
15 was something annoying him when he was behaving like 12:19
16 this because it's not his character, like.

17 328 Q. Could we just come back to your statement and we will
18 deal with that in turn.
19 A. Okay.

20 329 Q. This is something that, I think you agree with me and 12:20
21 it's reflected in your statement, this threat is
22 something that you took seriously?
23 A. It is, indeed, yeah.

24 330 Q. And that indeed Marisa had taken seriously, isn't that
25 right? 12:20
26 A. That's correct, yeah.

27 331 Q. And she had moved out of the house?
28 A. She had.

29 332 Q. And she had taken the children?

1 A. Yeah.

2 333 Q. And she was living with Paula?

3 A. She was, yeah.

4 334 Q. She had considered going to the gardaí to make a
5 statement about it? 12:20

6 A. Yeah, she had.

7 335 Q. And she had decided to put it off until such time as
8 the wedding was over, is that right?

9 A. That's correct.

10 336 Q. You then go on to say: 12:20

11

12 "She is scared for her life. He said something about
13 burning her and the children and something about take a
14 good look at them children and you will only see them
15 at weekends. She told me that there one of the day. I 12:21
16 don't remember what day. She said it happened last
17 Friday, child two was sick."

18

19 Do you see that?

20 A. Yes, mm-hmm. 12:21

21 337 Q. "That's when he threatened her. I would be really
22 worried about Marisa and the children. I am not sure
23 of the address in Churchill, but it's down to the right
24 before you go to Byrne's pub. Marisa and Keith's name
25 are on the lease, but Marisa paid for the rent. She 12:21
26 pays for everything. In July 2013 I won money in the
27 Lotto." Is that right?

28 A. That's right, yeah.

29 338 Q. I think you came up to Dublin with the family to go on

1 winning streak, is that right?

2 A. I did, yeah.

3 339 Q. We won't ask you how much you won, but anyway.

4

5 "Marisa found out at the time that Keith was seeing a 12:22
6 girl" -- from a particular county. Did she tell you
7 that?

8 A. Yeah, she did.

9 340 Q. Was it of major concern to her at the time? Was she
10 upset by it? 12:22

11 A. Yeah, indeed she was, yeah.

12 341 Q. "She called this girl on the phone and found out had
13 been seeing her for over a year. I think she must have
14 got her number on his phone. So really since July
15 she's been in the house with Keith but not as a 12:22
16 couple."

17

18 Was that your view of the relationship at that time?

19 A. It was, yeah.

20 342 Q. "They do their own thing. After he threatened her last 12:22
21 Friday she left the house and went to live with Paula,
22 my daughter, in Gweedore. She said she is afraid to go
23 back home to her own house. He is constantly calling
24 her and texting her."

25 12:23

26 Was that something that she was concerned about, the
27 number of calls that she was getting from Keith
28 Harrison and also the number of text messages?

29 A. Well, as I say, she never told me about the calls or

1 texts, like.

2 343 Q. "I want to say the times she was thrown out of the
3 house in May/June this year, she was outside in her
4 pyjamas and she was cold."
5 Is that right? 12:23

6 A. Yes, that's right, yeah.

7 344 Q. "I think when he has drink, she gets more afraid. He
8 has threatened her as she wouldn't give him the PIN
9 number for her phone."
10 Did she ever -- did she ever indicate why he had been 12:24
11 looking for the PIN number of her phone?
12 A. No, no, she didn't, no.

13 345 Q. No. And I think that the statement then was read over
14 to you and you acknowledged that it was correct, is
15 that right? 12:24

16 A. Yeah.

17 346 Q. And you signed that statement. Now, you were
18 interviewed by our investigators, you remember that?

19 A. I do, yeah.

20 347 Q. And could I categorise it this way: that you may have 12:24
21 been a little bit reluctant to confirm that everything
22 in the statement was, in fact, said by you, is that
23 right?
24 A. What do you mean?

25 348 Q. You were a little bit reluctant and hesitant about 12:24
26 agreeing with our investigators that you had said
27 everything that was contained in the statement?
28 A. When I read the statement - like, I haven't seen it for
29 four years - like, I thought, God, I didn't say that,

1 A. That's correct, yeah.

2 356 Q. And was friendly with her?

3 A. He was indeed, yes.

4 357 Q. And that he got to know Keith Harrison through Keith
5 Harrison's relationship with Marisa, is that right? 12:27

6 A. That's correct, yeah.

7 358 Q. But he also knew him through Mr. Harrison's work and
8 Mr. Quinn's work, voluntary work with people who
9 were -- had suicidal ideations. But in any event, he
10 said that he would have been more friendly with you and 12:27
11 Marisa than he would with Mr. Harrison, is that right?

12 A. That's correct, yeah.

13 359 Q. That is right. He has categorised you as having a
14 dislike for Keith Harrison at that time?

15 A. I would say that -- I wouldn't really say dislike. I 12:27
16 would say I was cross with him because of the way he
17 was treating my daughter.

18 360 Q. Sorry?

19 A. I would say I was cross with him for the way he was
20 treating my daughter. I wouldn't say I disliked him. 12:28
21 I just was -- you expect your daughter to get better
22 treated, like.

23 361 Q. We might just touch on a few of these text messages. I
24 don't want to go through them in any sort of detail
25 with you -- 12:28

26 A. Okay.

27 362 Q. -- because we just want to really get a flavour of what
28 was going on at the time, and sometimes one can glean
29 that from looking at communications between people, do

1 you understand? And we have text messages from you and
2 your daughter.

3 CHAIRMAN: Where do we turn for this, Mr. Marrinan?

4 MR. MARRINAN: I am just going to get it now, sir.

5 MR. MARRINAN: If we could go to -- yes, if you could 12:28
6 go to page 1867, please.

7 CHAIRMAN: You have to go backwards, I think, there.

8 MR. MARRINAN: If we could put them -- if Mr. Kavanagh
9 can invert them.

10 363 Q. I am going to go through these very quickly with you. 12:29
11 I am not going to go over them all, but I am just going
12 to take a sample of a few of them here. This is the
13 21st of August, you will see the date is in the middle
14 there, and then it indicates text message and then
15 "Mum," -- that is you -- "Marisa", and then it has the 12:30
16 time. And this message on the 21st of August, it's the
17 second down, 1:31, that is a.m., "Are you coming over?
18 Please get away from that mad man." Do you see that?

19 A. Yes.

20 364 Q. Is that a reference to Keith Harrison? 12:30
21 A. Pardon?

22 365 Q. Is that a reference to Keith Harrison?
23 A. Yeah.

24 366 Q. The mad man?
25 A. Mm-hmm. 12:30

26 367 Q. If you just go down then a little bit further, the 23rd
27 of August at 22:57:
28
29 "Hi, are you okay?" This is from you to Marisa. "If

1 back to house and did nothing to get him out."
2 Do you see that?
3 A. Yeah.
4 375 Q. So it appears that you were anxious that she should do
5 something to get Keith Harrison out of the house on the 12:32
6 24th of August, is that right?
7 A. Yeah.
8 376 Q. And then Marisa contacts you at 20:20 on the same day:
9 "What do you want me to do? I am back to work Monday.
10 I have asked him to leave." 12:32
11 Do you see that?
12 A. Yeah.
13 377 Q. And then the next one is from you to Marisa at 20:28:
14 "You get over here and stay. I want that bastard out.
15 Don't want him with my grandchildren. Get him out. 12:33
16 Even if you don't, I am going to call gardaí."
17 CHAIRMAN: Mr. Marrinan, it's going to take a few more
18 minutes, I know. There doesn't seem to be any
19 reference to chips. I mean, somebody said there was a
20 reference -- 12:33
21 MR. MARRINAN: No, that is actually in a different
22 communication.
23 MR. HARTY: The connotation of chips --
24 MR. MARRINAN: No, there are no curry chips in this
25 communication. 12:33
26 CHAIRMAN: It's twenty-five to two.
27
28 THE HEARING ADJOURNED FOR LUNCH
29

1 THE HEARING CONTINUED AFTER LUNCH:

2
3 MR. MARRINAN: If Rita McDermott could return to the
4 witness box, please. Page 1868 up on the screen again,
5 please. I am just going to go through a couple more of 13:37
6 these, okay.

7 A. Okay.

8 378 Q. Just to give a flavour of the communication between
9 your daughter, Marisa, and yourself around about this
10 time. Again in August, 24th August 2013, which is a 13:37
11 date on which you were contacted, Donegal Garda
12 Station, at 2037, this is from you to Marisa:

13
14 "Don't know how you are low, even your granny very
15 angry with you going back to that mad man. I don't 13:38
16 care, I'm not getting my daughter hurt with that
17 bastard."

18 Okay?

19 A. Yeah.

20 379 Q. You're using fairly strong language in relation, and 13:38
21 expressing your opinion of how you felt about Keith
22 Harrison, at that time?

23 A. That's right, yeah.

24 380 Q. Isn't that right? Okay. If we just go on down
25 further, the following day at ten to eight at night, 13:38
26 19:50, you say:

27
28 "Hi, what's new? Is scumbag gone?"
29

1 I presume that is a reference to Keith Harrison, is
2 that right? Is that a reference to Keith Harrison?

3 A. Yeah.

4 381 Q. Yes. Then if we just go over to the next page, 1869,
5 please. And there we see a text message, second from 13:39
6 the top, at 14:53, on the 30th August from you to
7 Marisa:

8

9 "You never came down. I was waiting on you. I hope
10 you are not still with that man. would be very 13:39
11 disappointed with you."

12

13 Then you go on to something about some glasses that you
14 had ordered. So that's how matters stood at the end of
15 August. And if we could then just go through to 13:39
16 September, mid-September, at page 1871, please.
17 There's a message there at 17:56 from you to Marisa on
18 the 15th September, and it says:

19

20 "Hi three, what lopey did he say anything? Stick to 13:40
21 what you said, don't let talk you, all lie. To get out
22 you have peace of mind."

23

24 Is that a text message about Keith Harrison?

25 A. It is, yeah. 13:40

26 382 Q. And could you translate that for me, please, because I
27 don't understand that lingo?

28 A. Is it the 15th of the 9th?

29 383 Q. What does "lopey" mean? Is that "lopey" or "loopy"?

1 A. where is it?

2 384 Q. Do you see "Hi three, what lopey did he say"?

3 CHAIRMAN: Really, phones correct, Mr. Marrinan, for

4 the --

5 A. It's loopy. 13:41

6 CHAIRMAN: Phones correct all the time for the most

7 obvious word.

8 MR. MARRINAN: Yes. I don't know whether it is

9 predictive text. What does that mean?

10 A. It's loopy. 13:41

11 385 Q. Yeah, don't worry about the exact words.

12 A. Yes.

13 386 Q. But what is the general thrust of the text that you are

14 sending to your daughter at that time?

15 A. Loopy means like someone, you know -- I don't know how 13:41

16 you would explain it.

17 CHAIRMAN: Is it perhaps baloney?

18 A. Pardon?

19 CHAIRMAN: Do you use the word "baloney"?

20 A. Baloney? 13:41

21 CHAIRMAN: No, you don't, obviously.

22 387 Q. MR. MARRINAN: All right, well anyway, it's a reference

23 to Keith Harrison, and it's hoping that she doesn't --

24 she isn't talked back into the relationship, is that

25 what you are saying there? 13:41

26 A. She what?

27 388 Q. That she wouldn't be talked back into the relationship?

28 A. Yeah.

29 389 Q. That's the meaning I'm taking of it, and that you have

1 to get peace of mind, is that right? The next one is
2 on the 17th September, you're telling her that you
3 burnt your arm. This is at 19:38. And then: "what
4 about bad man?"
5 And there's a response two minutes later from your 13:42
6 daughter saying: "I'm in bed here, reading them
7 stories, think his meeting is tomorrow, maybe".
8
9 So, in September, you're still, as it were, continuing
10 on encouraging your daughter to leave Keith Harrison, 13:42
11 isn't that right?
12 A. That's right, yeah.
13 390 Q. And that's the general thrust, and you seem to be
14 concerned throughout -- towards the end of August and
15 through September, you're concerned about your 13:43
16 daughter's welfare. Just one, for completeness' sake,
17 there's just one matter at page 1873, please. This is
18 a text message sent from you to your daughter at 13:25:
19 "Keep all text messages he sends."
20 Is that right? Do you see there? 13:43
21 A. Yeah, that's what I told her, yeah.
22 391 Q. I presume that was for some purpose, ultimately?
23 A. Well, if something -- you know, for evidence, like, if
24 she had to go -- whatever.
25 392 Q. That's the way you were thinking at that time? 13:43
26 A. Yeah.
27 393 Q. And then if we can just to the next page, 1874, please,
28 the final one, this is from you to Marisa at 11:37 on
29 the 3rd October, and it says: "Hi. That inspector's

1 number is" -- and then it sets out the number -- "if
2 want to contact her". Do you see that?

3 A. Yeah, I see that, yeah.

4 394 Q. So that is how matters stood at that time. If we could
5 go back to the 24th August and if we could have page 13:44
6 667 up on the screen, please. You phoned Donegal Garda
7 Station, isn't that right?

8 A. That's right, yeah.

9 395 Q. I'm just going to read you a report that was sent by
10 Sergeant David Durkin, who is the sergeant that you 13:45
11 were speaking to. I don't think you knew him
12 personally, is that right?

13 A. No, I didn't, no.

14 396 Q. No. You see there, and I will read from it:
15 13:45

16 "With reference to the above Sergeant Durkin wishes to
17 report that on Saturday night, 24th August 2013, at
18 21:42, he received a call concerning the behaviour of
19 Garda Keith Harrison of Donegal Town Garda Station
20 while off duty. The call was made by a Rita McDermott 13:45
21 of Raphoe. Mrs. McDermott is known to Sergeant Durkin
22 from when he was stationed in Raphoe previously. Rita
23 McDermott expressed concern for her daughter, Marisa
24 McDermott Simms, who is in a long-term relationship
25 with Keith Harrison. It is understood that Marisa has 13:46
26 two children who reside with her and Keith Harrison as
27 she is separated from her husband. Rita McDermott
28 informed Sergeant Durkin that on the previous Tuesday
29 night/Wednesday morning 21st August 2013 at

1 approximately 3:00am she received a call from her
2 daughter, who was in a distressed state. She indicated
3 that Keith Harrison had thrown Marisa out of their
4 shared accommodation in Churchill and she had to leave
5 Raphoe and collect her daughter, who, on her arrival in 13:46
6 Churchill, was standing outside the house in her
7 pyjamas. It was reported the children were not in the
8 house at the time as they were staying with their
9 father overnight. Rita McDermott further indicated
10 that this was the third serious incident in the past 13:46
11 three months of a similar nature, one of which was
12 reported to Gardaí in Letterkenny by a family member,
13 not Marisa. Rita McDermott made other allegations
14 relating to infidelity."

15
16 Is that correct?

17 A. Yeah, that would be correct, yeah.

18 397 Q. That's a correct summary --

19 A. Yeah.

20 398 Q. -- of what you told the Gardaí. 13:47

21
22 "Sergeant Durkin informed Rita McDermott that a
23 complaint would have to be made formally by Marisa
24 relating to the three incidents she mentioned in order
25 for an investigation to commence. Sergeant Durkin 13:47
26 further explained if there was any concerns relating to
27 the children being exposed to these incidents, they
28 must be reported on."
29

1 Did he say that to you?

2 A. Yeah, he did, yeah.

3 399 Q. "Advice was given to Rita McDermott relating to the
4 option of going to the District Court with a view to
5 making an application under the domestic violence act 13:47
6 1996."
7

8 Do you recall that?

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

10 400 Q. Yes. The sergeant said that to you. 13:48
11

12 "Rita McDermott stressed that her daughter was not
13 aware that she was phoning the Gardaí and wanted the
14 matter to be strictly confidential."
15 13:48

16 Is that your state of mind at the time?

17 A. It was, yeah.

18 401 Q. "Sergeant Durkin stated that if matters were formally
19 notified to them, an investigation would commence."
20 13:48

21 Did he make that clear to you?

22 A. He did, yeah.

23 402 Q. "It was also expressed that if any concerns were
24 suspected relating to the children's exposure to
25 violence, Gardaí were duty-bound to intervene." 13:48
26

27 Did the sergeant indicate that to you?

28 A. He did, yeah.

29 403 Q. You subsequently, in your statement that you made to --

1 that we went through this morning, to Inspector
2 Sheridan --

3 A. Yeah.

4 404 Q. -- referred to being told by Marisa of a threat to burn
5 her and the children? 13:49

6 A. Yeah.

7 405 Q. And you were the one who introduced that at that time,
8 is that right?

9 A. That's right, yeah.

10 406 Q. "Rita McDermott again requested that her conversation 13:49
11 be treated with a great degree of confidentiality."
12

13 And then:

14

15 "Keith Harrison is currently residing with Marisa Simms 13:49
16 at Woodbury House in Churchill, County Donegal."
17

18 And was that a big step for you, to ring the Gardaí and
19 to involve the Gardaí?

20 A. Yeah, I didn't really want the guards involved, like. 13:49

21 407 Q. Pardon?

22 A. I wanted the matter resolved without involving the
23 guards, like.

24 408 Q. You were saying earlier on, I think I may have
25 interrupted you and cut you short, that you had phoned 13:50
26 Donegal Garda Station because that is where Keith
27 Harrison was stationed?

28 A. That's correct, yeah.

29 409 Q. And that your intention was that you had hoped that

1 some senior officer might intervene in the matter, is
2 that what you were saying?

3 A. Yeah, well, I thought there is a protocol for work that
4 if someone is in bother, like, you know, that you would
5 be talked to by your superior. 13:50

6 410 Q. But you were anxious at that time that Marisa shouldn't
7 find out, isn't that right?

8 A. That Marisa what?

9 411 Q. That Marisa shouldn't find out that you had phoned the
10 Gardaí? 13:50

11 A. No, I didn't, no.

12 412 Q. Pardon?

13 A. Marisa knew everything I was doing anyway, I think. I
14 don't know.

15 413 Q. So, in any event, that's in August. And then on the 13:50
16 24th September 2013 you make a further call. Could I
17 have page 672 on the screen. And I will read from
18 this, this is the report from Sergeant David Durkin:
19

20 "At 11:30am on this date, 24th December 2013, Rita 13:51
21 McDermott again contacted Sergeant Durkin at Donegal
22 Town regarding the behaviour of Garda Keith Harrison of
23 Donegal Garda Station while off duty. Rita McDermott
24 once again emphasised the trouble her family are having
25 with Keith Harrison. It was reported to Sergeant 13:51
26 Durkin that Mr. Harrison has been asked to leave the
27 house that he is cohabiting with Marisa McDermott
28 Simms, by her."
29

1 Is that right? Did you indicate that to the sergeant?
2 A. I don't recall, but I must have said it, like.
3 414 Q. Sorry?
4 A. I don't really recall that part, but obviously I must
5 have said it. 13:52
6 415 Q. "Mr. Harrison has not left. Rita McDermott indicated
7 that on Mr. Harrison's return to work on Tuesday, 2nd
8 October 2013, it is the intention of her daughter,
9 assisted by her, to remove Keith Harrison's belongings
10 when he has left for work, to get him to leave the 13:52
11 accommodation."
12
13 Is that right?
14 A. Yeah, that's right, yeah.
15 416 Q. Was that a plan that you had? 13:52
16 A. Well, it's a long time ago and I can't -- quite
17 honestly, I can't really remember.
18 417 Q. But you were concerned that this process may cause some
19 sort of incident if it proceeds and may become an issue
20 for Gardaí at Milford, and then the address is Woodbury 13:53
21 House in Churchill. Do you remember that conversation
22 that you had with Sergeant Durkin?
23 A. Yeah.
24 418 Q. Being concerned that if --
25 A. If what? 13:53
26 419 Q. If his clothing and belongings were removed --
27 A. Yeah.
28 420 Q. -- from the premises, that it may cause an incident?
29 A. I honestly can't remember that one.

1 421 Q. Well, if it's in --
2 A. If it's in the statement.
3 422 Q. It's in the report that is being made from Sergeant
4 Durkin.
5 A. Yeah. 13:53
6 423 Q. Presumably he didn't make this up?
7 A. No, no, no. It's there.
8 424 Q. And does this reflect what you were telling him at the
9 time?
10 A. Yeah. 13:53
11 425 Q. And the concerns that you had?
12 A. Yeah.
13 426 Q. "Rita McDermott further indicated that a second
14 daughter, Paula McDermott, is getting married on the
15 4th October 2013 and the reception is taking place in 13:54
16 An Chuirt in Bunbeg. Rita McDermott has stated that
17 her daughter, Paula, has received correspondence from
18 Keith Harrison indicating that he is going to cause
19 some sort of disturbance at the reception as he is not
20 invited to the wedding." 13:54
21
22 Is that right as well?
23 A. Yeah.
24 427 Q. And had Paula received some correspondence from Keith
25 Harrison? 13:54
26 A. I don't know anything about Paula because --
27 428 Q. Pardon?
28 A. I don't really know what Paula said to him because she
29 doesn't really talk to me.

1 429 Q. Well, again, this is something that you have -- you
2 have indicated --

3 A. It must be.

4 430 Q. -- to Sergeant Durkin --

5 A. Yeah. 13:54

6 431 Q. -- as being a concern. Can we take it that this was,
7 in fact, the state of play at the time?

8 A. Yeah.

9 432 Q. So "Sergeant Durkin again advised Rita McDermott that a
10 complaint would have to be made formally by Marisa 13:55
11 relating to incidents mentioned in order for an
12 investigation to commence."
13

14 Again, he's again telling you that a statement has to
15 be made by Marisa, isn't that right? 13:55

16 A. Yeah, that's right, yeah.

17 433 Q. "It was further impressed upon her that, at this point,
18 if her other sister, Paula, had received correspondence
19 which would amount to some threat or to an unwanted
20 harassing -- of an unwanted harassing nature, she could 13:55
21 now make a complaint to the Gardaí. Unfortunately,
22 Rita McDermott got cut off before the conversation was
23 completed and the mobile number she gave does not
24 appear to be the correct one."
25 Okay -- 13:56

26 A. Yeah.

27 434 Q. Is that proper summary --

28 A. Yeah, it is, yeah.

29 435 Q. -- of what took place?

1 A. Yeah.

2 436 Q. In the report -- Mr. McGuinness has pointed out to me
3 that, in the report, Sergeant Durkin refers to a
4 conversation that he had with Keith Harrison where he
5 said that he had a wedding to attend. 13:57

6 A. Right.

7 437 Q. Later on in the report. Was it clear at that juncture
8 that you are dealing with Sergeant Durkin, that Keith
9 Harrison was not invited to the wedding?

10 A. No, Keith wasn't invited to the wedding. 13:57

11 438 Q. Just in relation to that and another aspect of it, did
12 he have any role in the wedding as a groomsman or
13 anything like that?

14 A. No, he didn't.

15 439 Q. I presume that would be so, if he hadn't been invited 13:57
16 to it. But in any event, again you had a further
17 conversation, and if we could have page 634 up on the
18 screen, and this is on the 1st October. This is on the
19 1st October, and again it's Sergeant Durkin.

20 13:58

21 "At 3:00pm on 1st October 2013 I telephoned Rita
22 McDermott back having obtained the correct phone number
23 from Sergeant Cornyn. During the course of one of my
24 conversations with Rita McDermott she told me that
25 Garda Harrison had made contact with a hotel in 13:58
26 Westport seeking CCTV footage. This was the hotel
27 where Paula McDermott had held her hen weekend which
28 Marisa McDermott Simms attended. Rita McDermott led me
29 to believe that the request was made by Garda Harrison

1 as a member of An Garda Síochána."
2
3 Is that right?
4 A. Well, it was only thirdhand that I heard it, like. I
5 didn't -- I don't know. 13:59
6 440 Q. But this is something that you had heard?
7 A. Pardon?
8 441 Q. This is something that you had heard?
9 A. Yeah.
10 442 Q. And that you told Sergeant Durkin about, is that right? 13:59
11 A. Yeah, that's right, yeah. I wasn't at the hen party.
12 443 Q. I didn't --
13 A. I wasn't at the hen party.
14 444 Q. No, we know you weren't at the hen party. Who was it
15 who told you about this? 13:59
16 A. I don't honestly know at the time, because it was like
17 a load of girls was all sort of together, like, and
18 they were talking about the party, like.
19 445 Q. I assume it would have been either Paula, your
20 daughter, or Marisa, who would have told you about 13:59
21 that?
22 A. It may have been Paula, I'm not a hundred percent sure.
23 446 Q. Right. But in any event, as of the 1st October that
24 was a concern for you, isn't that right?
25 A. That's right, yeah. 14:00
26 447 Q. Now, we have heard from your brother, William Bogle,
27 and also from your niece, Kerry Bogle, in relation to
28 what occurred on the 31st March going into the 1st
29 April 2013 and how you had contacted William Bogle.

1 It's not clear whether you rang his phone or whether
2 you rang Kerry's phone. Can you just tell us the
3 circumstances in which that arose?

4 A. Yeah, I was away for the weekend, and I'm not sure what
5 time it was, it was maybe one o'clock/two o'clock in 14:01
6 the morning when Marisa rang, she was a bit distressed.
7 She just said that she was out and she wanted someone
8 to pick her up. So, as I was away, I didn't want to
9 call the Gardaí, I just called William to go and pick
10 her up. 14:01

11 448 Q. When you say she was out, where was she out? Because
12 we have evidence from Mr. Bogle indicating that she was
13 out in her night attire apparently, is what you said.
14 Well, was she out in her pyjamas on the street? Had
15 she been put out when you got the phone call from her? 14:01

16 A. I don't know what she was wearing, because we were cut
17 off, like, within a few seconds, because the coverage
18 is very bad in Churchill, like.

19 449 Q. Well, you said she was a bit distressed?

20 A. Distraught, yeah. 14:02

21 450 Q. Was it not more than that?

22 A. No.

23 451 Q. And you just said, she just said that she was out and
24 she wanted someone to pick her up?

25 A. Pick her up, yeah. 14:02

26 452 Q. What in heaven's name does that mean?

27 A. Well, when she was distraught, obviously there was
28 something going on.

29 453 Q. Well, when you say she was out, had she been put out

1 onto the street?

2 A. She didn't elaborate she'd been put out.

3 454 Q. Pardon?

4 A. She didn't elaborate what, because she was cut off
5 within a few seconds. 14:02

6 455 Q. Well, what did you take it to mean that she was out?
7 She could have been out with friends, she could have
8 been out on the town?

9 A. No, well, she was -- I knew she was at home, like.

10 456 Q. Pardon? 14:02

11 A. I knew she was at home.

12 457 Q. Well, she wasn't. She rang you, she said she had been
13 put out, so she had been put out of her home, had she?

14 A. Pardon?

15 458 Q. She had been put out of her home when she rang you? 14:02

16 A. Yeah.

17 459 Q. And had Keith Harrison put her out of her home?

18 A. As I say, she didn't elaborate who put her out or
19 what --

20 460 Q. Well, who did you think it was that had put her out of 14:03
21 the home?

22 A. Well, I assumed it was Keith.

23 461 Q. Yeah. I mean, don't be reluctant to say these things.
24 These things happened in 2013.

25 A. Yeah. 14:03

26 462 Q. And it's not interfering with their relationship now.

27 A. Yeah.

28 463 Q. We're looking into the facts as they occurred?

29 A. Mm-hmm.

1 464 Q. So you received a call from her and she said that at
2 the time she made the call to you --
3 A. Yeah. 14:03
4 465 Q. -- that she had been put out?
5 A. Yeah. 14:03
6 466 Q. And she had been put out by Keith Harrison is that
7 right?
8 A. She didn't say Keith's name, she just --
9 467 Q. But you made that assumption?
10 A. I made that assumption. 14:03
11 468 Q. Which was a reasonable assumption to make?
12 A. Yeah.
13 469 Q. Did she say that she was wandering the streets?
14 A. No. As I say, she was only on for a few minutes, like,
15 because she was cut off like, and I tried to ring her 14:03
16 back and I couldn't get her.
17 470 Q. So in any event, you said that you didn't want to call
18 the Gardaí. Did you regard this as quite serious, that
19 she had been put out?
20 A. No. Because they're only together and a new 14:03
21 relationship has blisters, like.
22 471 Q. Right. In any event, you phoned your brother --
23 A. Yeah.
24 472 Q. -- to go and to try and find her?
25 A. That's right. 14:04
26 473 Q. Is that right?
27 A. Yeah.
28 474 Q. And there's been a suggestion here that's been put in,
29 that, in fact, that you, in some way, had intervened in

1 don't mind, I just want to intervene there.

2 MR. MARRINAN: Yes.

3 CHAIRMAN: Mrs. McDermott, I think everybody
4 understands that you are a loving mother and that a
5 mother's duties never cease. 14:05

6 A. Yeah.

7 CHAIRMAN: And that you're thinking all the time of
8 your daughter's best interests.

9 A. Mm-hmm.

10 CHAIRMAN: But, you know, whether you're in Donegal or 14:06
11 in Dublin, it's not a usual thing to be out in your
12 pyjamas out of your own house in the middle of the
13 night and ringing your mother in Mayo.

14 A. Mm-hmm.

15 CHAIRMAN: You've got to bear in mind that this is 14:06
16 being looked at from the point of view of common sense.
17 I appreciate you may not wish to say things against
18 anybody, but that is neither here nor there. You are
19 duty-bound to tell the truth, whatever the truth is.

20 A. Well, I am telling the truth. 14:06

21 CHAIRMAN: I am not suggesting you're not.

22 A. Yeah.

23 CHAIRMAN: But it has to be the full truth.

24 A. Yeah, yeah. As I say, when she rang me I don't know
25 what clothing she had on her. 14:06

26 484 Q. MR. MARRINAN: In any event, later on in the morning,
27 do you recall I think that you spoke to Sergeant Aidan
28 Doherty on the phone, he phoned you in the early hours
29 of the morning, do you remember that?

1 A. Yeah.

2 485 Q. And his report of that is that he then rang Rita
3 McDermott -- this at page 1030 -- "who informed me that
4 she had spoken with Marisa moments previously and that
5 Marisa was in the company of a Jim Quinn from Buncrana. 14:07
6 She told me that Marisa was in a distressed state and
7 that Garda Harrison had issues with alcohol which she
8 claimed was contributing to his behaviour."
9 Is that right?

10 A. I would say that's correct, yeah. 14:07

11 486 Q. "She described Jim Quinn as being a friend of Garda
12 Harrison. She also provided me with directions to
13 Garda Harrison and Marisa's home in Churchill."
14

15 Did you describe Jim Quinn as being a friend of Garda 14:07
16 Harrison?

17 A. I believe he was, yeah.

18 487 Q. Now, just coming back to -- we know that you made a
19 statement on the 2nd October. After you had made that
20 statement, obviously there was a wedding on the 4th 14:08
21 October?

22 A. Yeah.

23 488 Q. But looming large, I suppose, at the time, was the
24 difficulty that your daughter was having with her
25 partner, isn't that right? 14:08

26 A. Yeah, that's right, yeah.

27 489 Q. Did it remain a concern for you?

28 A. At that time, yeah.

29 490 Q. So we know that Marisa had moved in and was living with

1 Paula, isn't that right?

2 A. That's correct, yeah.

3 491 Q. You had been told twice by Sergeant Durkin that,
4 really, the Gardaí couldn't investigate the matter as
5 an investigation unless Marisa came forward and made a
6 written complaint herself and made a statement, isn't
7 that right? 14:09

8 A. Yeah, that's true, yeah.

9 492 Q. So did you encourage Marisa to make a statement to the
10 Gardaí? 14:09

11 A. No, I just said, you're a mature woman, you make your
12 own decisions.

13 493 Q. Sorry?

14 A. I said to her, you're a mature woman, you make your own
15 decisions. 14:09

16 494 Q. Yeah, of course she is a mature woman. But was she --
17 you had -- you had been on the phone three times --

18 A. Yeah.

19 495 Q. -- to Sergeant Durkin, you had initiated this contact
20 with the Gardaí? 14:10

21 A. Yeah.

22 496 Q. You had formalised this by putting it in writing?

23 A. Yeah.

24 497 Q. And signing a statement to the Gardaí. So matters had
25 become more serious, isn't that right? 14:10

26 A. Yeah.

27 498 Q. And you were anxious to -- it might be -- you were
28 anxious that it should become more serious and be
29 treated seriously at that time?

1 A. Yeah. well, at that time Keith wasn't showing much
2 respect to my daughter.

3 499 Q. well, that was your view of it?

4 A. Yeah.

5 500 Q. So, you know, with the build-up of things, you must 14:10
6 have discussed it with Marisa?

7 A. Yeah, I probably did, yeah.

8 501 Q. And you sent her a text message --

9 A. Yeah.

10 502 Q. -- giving her the inspector's number, isn't that right? 14:10
11 A. Yes, I did, yeah.

12 503 Q. And that would suggest that you had discussed whether
13 or not she should go in and make --

14 A. well, I gave her the ultimatum, like, if she wanted to
15 go and do it, like. 14:11

16 504 Q. Pardon?

17 A. I gave her an ultimatum to, you know, let her think
18 herself what she wanted to do, like.

19 505 Q. When you say it was an ultimatum, what do you mean by
20 that? 14:11

21 A. well, I was cross with her for not, you know, going
22 ahead and doing something, like, because I didn't want
23 her to be -- how would I say it?

24 506 Q. Yes. We sort of get a flavour of that from the text
25 message -- 14:11

26 A. Yeah.

27 507 Q. -- that you sent her, sort of half-suggesting that you
28 might cut off contact with her if she doesn't move out,
29 and things like that?

1 A. Yeah. 14:11

2 508 Q. That was the way that you had it, maybe sort of
3 blackmailing her a wee bit, is that --

4 A. Well, if that's -- yeah.

5 509 Q. Yeah. So can we take it that you did discuss with her
6 whether or not she would go in and make a statement to
7 the Gardaí?

8 A. Well, I just said to her, like, you know, think things
9 over and weigh up things and see what you want to do
10 yourself. 14:12

11 510 Q. And that was with a view to whether or not she should
12 make a statement to the Gardaí?

13 A. Yeah, mm-hmm.

14 511 Q. So, during the course of the discussion, when you were
15 saying weigh up things, I suppose it was necessary to
16 put things into the equation and that you might have
17 thrashed those out with her, do you know what I mean? 14:12

18 Like, well if you make a statement, well, then, this is
19 going to be investigated, it's going to stop?

20 A. Yeah. 14:12

21 512 Q. It will have a big impact on him?

22 A. Mm-hmm.

23 513 Q. Is that right?

24 A. Yeah, that's right, yeah.

25 514 Q. And she might have had a counterargument against that,
26 saying, I don't want to involve his colleagues, or
27 something like that, or did she say -- 14:12

28 A. Probably, yeah.

29 515 Q. So anyway, you thrashed matters out with her and then

1 you sent her the text message with the number?

2 A. Yeah.

3 516 Q. If she decided, at the end of the day, to make a
4 statement to the guards?

5 A. Yeah. 14:13

6 517 Q. But it was something that she was actively thinking
7 about, is that right?

8 A. That's right, yeah.

9 518 Q. Now, I think the Tribunal investigators, and I'm just
10 doing this for completeness' sake, do you understand -- 14:13

11 A. Yeah.

12 519 Q. -- but they showed you an anonymous letter that had
13 been sent to the HSE in January 2012?

14 A. Right.

15 520 Q. Do you remember that? 14:13

16 A. I do, yeah.

17 521 Q. Were you the author of that letter?

18 A. No.

19 522 Q. No. All right.

20 CHAIRMAN: I thought it was February. 14:13

21 MR. MARRINAN: Pardon?

22 CHAIRMAN: I thought it was February, but I may be
23 wrong about that, Mr. Marrinan.

24 MR. HARTY: It was February.

25 CHAIRMAN: Was it? 14:14

26 MR. MARRINAN: Sorry, my handwriting is very poor.

27 CHAIRMAN: Yes. Maybe do you want to show the witness
28 the letter?

29 MR. MARRINAN: Pardon?

1 CHAIRMAN: Have you a page number? We can see it on
2 the screen.

3 MR. MARRINAN: Sorry, I will just get the reference
4 number.

5 CHAIRMAN: I should have it myself, sorry. 14:14

6 MR. MARRINAN: I will just get it now, sir, sorry. We
7 will dig it out and perhaps it can be dealt with in
8 re-examination.

9 CHAIRMAN: Yes.

10 MR. MARRINAN: Sorry, we have it here now. 14:15

11 CHAIRMAN: Is it page 63, maybe?

12 MR. MARRINAN: Yes, it's page 63.

13 CHAIRMAN: Do you want to just have a look at that?

14 MR. MARRINAN: It is, in fact, January, sir.

15 CHAIRMAN: And this is not to the Gardaí; it is, in 14:15
16 fact, to the -- I call them the social services, and
17 HSE, Tusla, Child and Family Agency, whatever. It's to
18 social work office in, I presume it's Letterkenny, is
19 it.

20 523 Q. MR. MARRINAN: Yes, it's January 2012, and it's 14:15
21 addressed to Ms. McGettigan, who works for Tusla. Do
22 you see that.

23 A. Yeah, I do, yeah.

24 524 Q. It's signed anonymously, as anonymous. Did you have
25 any hand, act or part in that? 14:15

26 A. No.

27 MR. MARRINAN: Okay. Would you answer any questions
28 from anybody else, please.

29

1 RITA McDERMOTT WAS CROSS-EXAMINED BY MR. HARTY:

2

3 525 Q. MR. HARTY: Afternoon. My name is Mark Harty and I am
4 Keith Harrison's barrister. I think if we start with
5 your relationship with Marisa and Andrew Simms. You
6 got on well with Andrew Simms, isn't that correct? 14:16

7 A. I did, yeah.

8 526 Q. And as things were at the time, things were looking
9 good for Andrew and Marisa?

10 A. Yeah. 14:16

11 527 Q. And everything seemed to be fine. I think somewhere in
12 your statement you mention that after the birth of the
13 second child, and we won't name names about the
14 children or dates in relation to the children --

15 A. Mm-hmm. 14:16

16 528 Q. -- but after the birth of the second child Marisa
17 seemed to go downhill in terms of depression, baby
18 blues, is that correct?

19 A. I would say so, yes.

20 529 Q. You I think subsequently became aware that not long
21 after the birth of the second child, Marisa and Keith
22 re-engaged contact with each other? 14:16

23 A. Yes.

24 530 Q. And a relationship developed?

25 A. That's correct, yeah. 14:17

26 531 Q. I think it is safe to say, Ms. McDermott, wouldn't it
27 be, that you were upset in relation to the breakdown of
28 the marriage between Marisa and Andrew Simms?

29 A. Yeah, I would say I was, yeah.

1 532 Q. And I'm not going to go into details, but you yourself
2 had dealt with a marriage breakup some months
3 previously?
4 A. Yeah.

5 533 Q. And you were aware of the impact that could have on 14:17
6 everyone around you?
7 A. Oh, yeah.

8 534 Q. Isn't that correct?
9 A. That's correct.

10 535 Q. And you were very upset about that? 14:17
11 A. Mm-hmm.

12 536 Q. And putting it simply, would it fair to say that you
13 found it difficult to welcome Keith Harrison into your
14 family?
15 A. No, Keith has been coming to my house -- 14:17

16 537 Q. No, I mean once the relationship started -- you found
17 it difficult to have a relationship with Keith at the
18 early stages of the breakdown of the marriage between
19 Marisa and Andrew?
20 A. I would say I did, yeah. 14:18

21 538 Q. No, I appreciate that at the earlier time --
22 A. Yeah.

23 539 Q. -- when you knew Keith some 15 years previously --
24 A. Yeah.

25 540 Q. -- there was no relationship difficulties? 14:18
26 A. There was no love.

27 541 Q. No, no. But certainly at the time that you would have
28 seen -- can I say that you would have seen Keith as
29 being responsible for the breakdown of the marriage

1 between Marisa and Andrew?

2 A. I don't really know.

3 542 Q. You don't know. Certainly, you never had any cause for
4 complaint against Andrew Simms, is that right?

5 A. Pardon? 14:18

6 543 Q. You never had any cause for complaint against Andrew
7 Simms?

8 A. No.

9 544 Q. Now, it was a stormy relationship between Keith and
10 Marisa? 14:18

11 A. Sorry?

12 545 Q. It was a stormy relationship between Keith and Marisa
13 in its early stages, isn't that correct?

14 A. In early stages, yeah.

15 546 Q. And for the first, well in excess of a year of that 14:19
16 relationship, it wasn't one whereby they were
17 cohabiting fully, isn't that right?

18 A. That's right, yeah.

19 547 Q. Marisa was still staying at home with Andrew?

20 A. Andrew, yeah. 14:19

21 548 Q. Albeit that both Andrew and herself might have thought
22 that the marriage was over, she was still living there,
23 and it was weekends, or whatever, were spent with Keith
24 Harrison?

25 A. Yeah, that's right, yeah. 14:19

26 549 Q. Now, in your statement you reference the exam paper --

27 A. Yeah.

28 550 Q. -- incident. And nobody asked you for dates in
29 relation to that, when it happened, nobody asked you

1 for what the background to it was, so I'm going to ask
2 you a few questions in relation to that --

3 A. Okay.

4 551 Q. -- because I think you probably will remember.
5 Firstly, that incident happened more than 12 months 14:20
6 prior to the statement; it was June of 2012, isn't that
7 correct?

8 A. Yeah.

9 552 Q. And at that point, Keith Harrison's instructions to me
10 are very clear, that was the time that Marisa Simms had 14:20
11 finally agreed that she was going to give it a go
12 properly with Keith?

13 A. Yeah.

14 553 Q. Do you remember that?

15 A. I do, yeah. 14:20

16 554 Q. And that, in fact, she returned to the former marital
17 home?

18 A. Yeah.

19 555 Q. And, while there, for whatever reason, and I don't know
20 the reason, she changed her mind? 14:20

21 A. Right.

22 556 Q. But had left exam papers with Keith Harrison?

23 A. Right, okay.

24 557 Q. Isn't that correct?

25 A. Yeah. 14:20

26 558 Q. She wasn't living with Keith Harrison at the time?

27 A. No.

28 559 Q. Now, that isn't clear from your statement.

29 A. Pardon?

1 560 Q. That isn't clear from your statement, but that is quite
2 an important difference, isn't it?
3 A. Right, okay.

4 561 Q. Now, Inspector Sheridan didn't ask you that, when it
5 took place. Do you recall Inspector Sheridan asking 14:21
6 for a date for that?
7 A. No, I don't.

8 562 Q. And it appears that Inspector Sheridan didn't ask you
9 whether or not Marisa Simms was even living with Keith
10 Harrison at the time? 14:21
11 A. No, I don't think so.

12 563 Q. Now, there was a row?
13 A. Yeah.

14 564 Q. And I think you'd accept that you can understand why
15 Keith Harrison was upset, couldn't you? 14:21
16 A. Yeah.

17 565 Q. He had thought that after quite a long period, some 18
18 months effectively, the relationship was about to move
19 forward?
20 A. Yeah. 14:21

21 566 Q. Now, a lot of water has passed under the bridge, and I
22 will come to where you stand with Keith Harrison now,
23 but at the time that Marisa made that decision, what
24 was your view in relation to it?
25 A. On what? 14:22

26 567 Q. On whether or not she should leave her husband finally
27 and move in with Keith Harrison?
28 A. Well, at the time Keith didn't show her a lot of
29 respect.

1 568 Q. Okay.

2 A. And I like -- I'm not comparison the two, like.

3 569 Q. No.

4 A. You want the best for your daughter, like.

5 570 Q. Yes. So you weren't supportive of that decision? 14:22

6 A. Yeah, mm-hmm.

7 571 Q. would that be a fair summary?

8 A. Yeah, yeah.

9 572 Q. And to be fair, any mother who is dealing with a
10 situation where a woman is married to a good man -- 14:22

11 A. Mm-hmm.

12 573 Q. -- and has two children, there wouldn't be many mothers
13 who would want to suggest that the woman should somehow
14 leave that situation?

15 A. That's right, yeah. 14:22

16 574 Q. Regardless of who she is moving in with, isn't that
17 correct?

18 A. That's correct, yeah.

19 575 Q. But that's what happened in relation to that, there was
20 a row about the fact that Marisa was only coming back 14:23
21 to collect the papers?

22 A. That's right.

23 576 Q. But, in fact, Keith Harrison came out and put the
24 papers into the boot of the car?

25 A. He did, yeah. 14:23

26 577 Q. And that was that?

27 A. That was it.

28 578 Q. Did anyone ask you that detail before?

29 CHAIRMAN: Could I just stop. You know, you told me

1 before lunch, and I've taken it down as follows:
2 "I called out with her to the house and he came out and
3 he threw out the papers." And now you're telling me he
4 came out and politely put them in the boot --
5 A. I was on a crutch -- 14:23
6 CHAIRMAN: No, just please listen.
7 A. Yeah.
8 CHAIRMAN: Now you're telling me he came out and
9 apparently politely put them into the boot of the car.
10 There's a huge difference between those two accounts. 14:23
11 A. He threw them out the door first and I said I couldn't
12 pick them up because I was on a crutch, so Keith --
13 CHAIRMAN: Right. Well, I mean, you need to clarify
14 that.
15 A. Yeah. 14:23
16 CHAIRMAN: I mean, you can't just contradict yourself
17 willy-nilly, you know.
18 A. But he put them into the boot then.
19 CHAIRMAN: Well, that's fine, but, you know, these
20 don't belong to him; they belong to the Department of 14:23
21 Education.
22 A. Yeah.
23 CHAIRMAN: And the unfortunate students who've had the
24 horrible experience of doing the Leaving Certificate.
25 So you're telling me he actually threw them onto the 14:24
26 ground and then, for whatever reason, picked them up,
27 presumably after more words were exchanged?
28 A. Like, outside the door. He opened the door, just threw
29 them out of the door. And I said I couldn't pick them

1 up, and he put them into the boot for us.

2 CHAIRMAN: Not very polite.

3 A. Pardon?

4 CHAIRMAN: It is not exactly polite.

5 579 Q. MR. HARTY: It is a situation where a man has just been 14:24
6 told that his private life is about to move forward for
7 the first time in 18 months and that has changed during
8 the course of Marisa's trip to get clothes and move
9 back, isn't that correct?

10 A. Yeah. 14:24

11 580 Q. And that, in fact, all she wanted was the papers. I
12 think there was 600 papers in total?

13 A. I don't know what papers was in it.

14 581 Q. So I would have to put to you that he didn't throw them
15 out? 14:24

16 A. He just put them outside the door, like.

17 582 Q. But then he, in fact, lifted them into the car?

18 A. I said to him, would you put them into the boot? He
19 did.

20 CHAIRMAN: well, where does the word 'throw' come into 14:25
21 it then?

22 A. Sorry?

23 CHAIRMAN: You used the word 'throw' this morning.

24 A. Well, you know, just got the bag and put it like this,
25 like. 14:25

26 CHAIRMAN: were they all in bundles tied together?

27 A. It was all tied in a bag, yeah. They were all tied in
28 a bag.

29 CHAIRMAN: They were in a big plastic bag?

1 A. Mm-hmm.

2 MR. HARTY: They were in bags, I understand.

3 A. They were in bags, yeah.

4 CHAIRMAN: What is your client's instructions on this?
5 I mean, did he throw them out the door? 14:25

6 MR. HARTY: He put them out the door.

7 CHAIRMAN: He put them out the door onto the ground.

8 MR. HARTY: Yes. And she couldn't lift them and then
9 he put them into the boot of the car.

10 CHAIRMAN: I see. Okay. 14:25

11 583 Q. MR. HARTY: But in any event, it's safe to say that
12 none of that detail was asked of you by Inspector
13 Sheridan when she came to take a statement from you,
14 isn't that correct?

15 A. No. 14:26

16 584 Q. The relationship -- Marisa did eventually move in with
17 Keith --

18 A. Yeah.

19 585 Q. -- not long after. Is it safe to say that you still
20 weren't supportive of the relationship? 14:26

21 A. No.

22 586 Q. Sorry, I should ask, when you say "no", do you mean
23 that you did not support the relationship even after
24 Marisa had moved in?

25 A. I didn't really want her going back to Keith, like. 14:26

26 587 Q. Yes.

27 A. Because, as I say, I thought she was happily married
28 and the baby was only young and you always want the
29 best for your daughter, like.

1 588 Q. Of course. And they had some major disappointment in
2 the following year, didn't they?
3 A. That's right, yeah.

4 589 Q. They lost a -- sorry, Marisa became pregnant and it was
5 an ectopic pregnancy? 14:27
6 A. Yeah, lost the baby, yeah.

7 590 Q. I think Garda Harrison would refer to it as losing a
8 child.
9 A. As what?

10 591 Q. As losing a child. He didn't just -- 14:27
11 A. Yeah, that's right.

12 592 Q. Would that have been Marisa's view as well?
13 A. Oh, yes.

14 593 Q. And even after that ectopic pregnancy, things didn't go
15 well, isn't that right? Marisa had to go back into 14:27
16 hospital in relation to complications?
17 A. Yeah, that's right, yeah.

18 594 Q. And she was on medication in relation to that, isn't
19 that correct, until she went back into hospital?
20 A. I would say so, yeah. 14:27

21 595 Q. Well, you knew that because she text messages to you
22 about her having to take steroids?
23 A. Yeah, okay.

24 596 Q. There was also a very fraught time in the McDermott
25 family? 14:27
26 A. Yeah.

27 597 Q. In relation to the wedding of your daughter Paula?
28 A. That's right.

29 598 Q. Having studied the text messages, everything about that

1 wedding appears to have been fraught, isn't that
2 correct?

3 A. Everything what?

4 599 Q. Everything about that wedding appears to have been
5 difficult? 14:28

6 A. Yeah.

7 600 Q. And cause for acrimony. Paula McDermott decided she
8 was going to invite Andrew Simms?

9 A. That's right, yeah.

10 601 Q. But not Keith Harrison? 14:28

11 A. No.

12 602 Q. If I am correct in the text messages, it would appear
13 that you weren't even certain that you were invited?

14 A. I wasn't what?

15 603 Q. You weren't even certain that you were going to get an
16 invite? 14:28

17 A. No, she doesn't talk to me.

18 604 Q. But you did eventually receive an invite?

19 A. She invited me, yeah.

20 605 Q. And when did that happen? How long before the wedding? 14:28

21 A. It was maybe a month before the wedding. It wasn't
22 that long.

23 606 Q. It was even shorter than that?

24 A. Yeah.

25 607 Q. I could be wrong. Certainly in August -- 14:28

26 A. It wasn't very -- it was, you know --

27 608 Q. Page 1866. On the 20th August you were texting, "Def
28 not got invite to wedding", and on the same date Marisa
29 is responding to you "You might yet". How long had

1 that wedding been planned?

2 A. Sorry?

3 609 Q. How long had that wedding been planned, do you know?

4 A. Oh, I don't really know because I don't talk to her.

5 610 Q. Well, I assume that she notified -- the wedding must 14:29
6 have been at least three months in the planning?

7 A. I would imagine so, yeah.

8 611 Q. And it's the case that Keith and Marisa were dealing
9 with a personal -- as far as they were concerned, a
10 tragedy in relation to the loss of the child? 14:30

11 A. Yeah.

12 612 Q. Isn't that correct?

13 A. Yeah.

14 613 Q. Paula was refusing to acknowledge that Keith even
15 existed, isn't that correct? 14:30

16 A. That's true, yeah.

17 614 Q. Do you know - I appreciate Paula doesn't speak to you -
18 do you know how many times Paula has had a conversation
19 with Keith Harrison?

20 A. Oh, God, I would say the last time she was talking to 14:30
21 Keith maybe was when he was down at my house, when he
22 was at university.

23 615 Q. I think you're wrong, there was one brief
24 conversation --

25 A. Oh, gosh, he's lucky. 14:30

26 616 Q. -- in 2011.

27 A. Right.

28 617 Q. But not since then.

29 A. Right.

1 618 Q. And that created tension, did it not, between Marisa
2 and Keith?
3 A. I would imagine so, yeah.

4 619 Q. Would you expect that there would be tension between a
5 couple, if one person was going to a wedding and the 14:30
6 other person wasn't invited?
7 A. Of course there would be.

8 620 Q. And you could understand how the one that wasn't
9 invited might feel betrayed?
10 A. Yeah, definitely. 14:31

11 621 Q. Now, in terms of your dealings with Paula, I think in
12 the week coming up to the wedding you were speaking to
13 her, isn't that correct?
14 A. Yeah.

15 622 Q. Did she speak to you a lot about Keith and Marisa? 14:31
16 A. I can't really recall what she said because she goes
17 over that much.

18 623 Q. Sorry?
19 A. I don't really recall what she said, honestly.

20 624 Q. Right. Did relations between yourself and Paula 14:31
21 improve around the time of the wedding?
22 A. She just vaguely spoke to me, like. I was just a
23 figure there at the wedding and that was it. After the
24 wedding was over, she didn't speak to me again.

25 625 Q. How long had Paula not been speaking to you for? 14:31
26 A. About 2011, really.

27 626 Q. Why is that?
28 A. I don't know, she just fell out with me. Because when
29 I got my divorce, she just totally cut her --

1 CHAIRMAN: Look, why intrude on people's privacy? So
2 they're not talking, it can happen in the best of
3 families. Your case is that the tension in the family
4 split over into tension into the relationship?
5 MR. HARTY: Yes. 14:32

6 CHAIRMAN: No, I understand you're making that case.

7 627 Q. MR. HARTY: And things get heightened when people
8 discuss things, isn't that correct?
9 A. Yeah.

10 628 Q. Would it be the situation whereby your family is one of 14:32
11 those families where nobody loses their temper?
12 A. Sorry?

13 629 Q. Would it be a situation your family is one of those
14 families where nobody loses their temper?
15 A. Yeah. 14:32

16 630 Q. Do people in your family lose their temper in rows?
17 A. Yeah.

18 631 Q. Do they say things they might regret later? Do you say
19 things you might regret later?
20 A. Of course you do, yeah. 14:33

21 632 Q. And is everybody else in the family inclined to the
22 same?
23 A. I'd be like that too.

24 633 Q. If we look at the messages from you to Marisa. If we
25 look at page 1864, at the bottom: "Haven't texted 14:33
26 Paula back yet. I'm really annoyed with her. What do
27 you think?" This is at two minutes past two on the
28 16th August. "How could I be bridesmaid after all she
29 said to me?" Do you know what that discussion was

1 about, can you remember?

2 A. Well, her and Marisa had conflict over Keith, so I'd
3 imagine that was what it was all about.

4 634 Q. And had she mentioned anything in relation to a
5 pregnancy, do you remember that? 14:34

6 A. I don't know.

7 635 Q. Okay. But if you look through these text messages,
8 you're texting quite a lot in August 2013 in relation
9 to Keith. You've been brought through them already.
10 Marisa is not texting back agreeing with you in 14:34
11 relation to it, is she?

12 A. No.

13 636 Q. But you were very hostile to Keith at that stage, isn't
14 that so?

15 A. Sorry? 14:35

16 637 Q. You were very hostile to Keith Harrison at that stage?

17 A. Yeah, I was, yeah.

18 638 Q. And on the 24th August: "You get over here and stay.
19 I want that bastard out, don't want him with my
20 grandchildren. Get him out. Even if you don't, I'm 14:35
21 going to call Gardaí. Your choice."
22

23 You are putting a lot of pressure on Marisa at that
24 stage, isn't that correct?

25 A. Probably did. But as I say, you want the best for your 14:35
26 children.

27 639 Q. The situation is that you then, around that time,
28 contacted Donegal Garda Station?

29 A. Yeah.

1 640 Q. And you gave your evidence-in-chief that the reason you
2 did it was because you thought there was welfare and
3 somebody would come and talk to him and see what is
4 going on?
5 A. That's right, yeah. 14:36

6 641 Q. That was your intention?
7 A. That was my intention, yeah. I thought he maybe needed
8 counselling or something like that --

9 642 Q. Right.
10 A. -- you know. 14:36

11 643 Q. You see, that isn't featured on any paperwork that was
12 taken from you by the guards?
13 A. No.

14 644 Q. So I didn't have an opportunity to put that to Sergeant
15 Durkin. But that's what you thought you were doing? 14:36
16 A. Yeah.

17 645 Q. And that's why you rang his station?
18 A. Yeah, because I wanted to talk to someone, a superior,
19 like, because obviously there was something stressing
20 him out, because that's not Keith's behaviour, like. 14:36

21 646 Q. Nowhere in Sergeant Durkin's statement does he say that
22 you wanted him to do anything?
23 A. What?

24 647 Q. Nowhere in Sergeant Durkin's statement does he say that
25 you wanted him to do anything? 14:37
26 A. No.

27 648 Q. Did you say that to him?
28 A. Did I say?

29 649 Q. Did you say to him that you wanted him to have a talk

1 with Keith?

2 A. I did, yeah. That was the main purpose of the phone
3 call, like, to talk to Keith to see what was the
4 problem, like, was it emerging at work or what. That
5 was bringing it home stressed out, like. 14:37

6 650 Q. Do you know did anyone talk to Keith?

7 A. I had no idea.

8 651 Q. I can tell you that nobody did.

9 A. Pardon?

10 652 Q. Nobody did talk to Keith. 14:37

11 A. Right, okay.

12 653 Q. The situation is that the tension appears to have
13 increased then over the following month, isn't that
14 correct?

15 A. Yeah. 14:38

16 654 Q. You were keeping up pressure on Marisa?

17 A. Mm-hmm.

18 655 Q. You still wanted her to move out?

19 A. Yeah.

20 656 Q. Paula was going ahead with her wedding? 14:38

21 A. Yeah.

22 657 Q. You rang Sergeant Durkin again?

23 A. Yeah.

24 658 Q. And you brought up the topic of the wedding. Why did
25 you bring that up? 14:38

26 A. Well, I didn't want anything happening at the wedding,
27 so that was my main purpose.

28 659 Q. That was your main purpose?

29 A. Mm-hmm.

1 660 Q. And what did you expect Sergeant Durkin to do then?

2 A. To again talk to Keith.

3 661 Q. And did you say that to him?

4 A. I don't know if I actually said that word -- those
5 words to him, but that was the main purpose of the
6 phone call. 14:38

7 662 Q. The notes of these phone calls are at page 667 for the
8 first one.

9

10 "A call was made by Rita McDermott, Raphoe. 14:39
11 Ms. McDermott is known to Sergeant Durkin from when he
12 was stationed in Raphoe previously."

13

14 Do you know Sergeant Durkin or did you know that you
15 knew Sergeant Durkin? 14:39

16 A. I just knew him from being in Raphoe, but I don't know
17 him personally, like.

18 663 Q. All right. "Rita McDermott expressed concerns for her
19 daughter, Marisa McDermott Simms, who was in a
20 long-term relationship with Keith Harrison. It is 14:39
21 understood that Marisa has two children who reside with
22 her and Keith Harrison as she is separated from her
23 husband. Rita McDermott informed Sergeant Durkin on
24 the previous Tuesday night/Wednesday morning, 21st
25 August, at approximately 3:00am, she received a call 14:40
26 from her daughter, who was in a distressed state. She
27 indicated that Keith Harrison had thrown Marissa out of
28 her shared accommodation in Churchill and she had to
29 leave and collect her daughter, who, on her arrival in

1 Churchill, was standing outside the house in her
2 pyjamas."

3
4 Is that correct? Was she standing outside her house in
5 her pyjamas? 14:40

6 A. I know a few times I picked her up -- now, one of the
7 times she was sitting in the car, like.

8 664 Q. Yeah.

9 A. I don't know which one that was, like.

10 665 Q. Right. 14:40

11 A. I think it was about twice I picked her up.

12 666 Q. The children weren't there, isn't that right?

13 A. The children were never there.

14 667 Q. The children were never there?

15 A. No. 14:40

16 668 Q. "Rita McDermott further indicated that this was the
17 third serious incident in the past three months of a
18 similar nature, one of which was reported to the Gardaí
19 in Letterkenny by a family member, not Marisa."

20 14:40

21 That one, I take it, is the call from William Bogle to
22 Letterkenny, which is more than three months prior to
23 this?

24 A. Yeah.

25 669 Q. "Rita McDermott made --" other allegations. Sergeant 14:41
26 Durkin then went on to tell you about making a
27 complaint. How did you deal with that? He told you
28 how to make a complaint to the Gardaí?

29 A. Yeah, he wanted me to tell Marisa that, you know, she

1 A. That's right, yeah. She was doing bridesmaid, yeah.
2 678 Q. She was the bridesmaid. Marisa never moved to live
3 with Paula?
4 A. No, she was with me for a bit, like, but not actually
5 living with me. She was back and forward, like. 14:43
6 679 Q. Yeah. And was that during the earlier stages of her
7 relationship with Keith or during this time?
8 A. No, early stages.
9 680 Q. Early stages. I take it you gave a lot of assistance
10 with minding the kids? 14:43
11 A. Oh, yeah.
12 681 Q. And Andrew Simms was a very good father in respect of
13 the kids and he would mind them many weekends, isn't
14 that correct?
15 A. Yeah. 14:43
16 682 Q. And when you were -- so, as I say, just to confirm
17 that, there was never a time when Marisa Simms had
18 moved to live with Paula McDermott, isn't that correct?
19 A. No.
20 683 Q. She stayed with her for a few days at the time of the 14:43
21 wedding?
22 A. Yeah.
23 684 Q. And my instructions are that that was always the plan
24 in the immediate work-up to the wedding, that Marisa
25 would go and live with Paula to help out? 14:44
26 A. To help out with the wedding, yeah.
27 685 Q. Were Marisa's kids staying with Paula at the same time?
28 A. I honestly am not sure.
29 686 Q. Are you aware whether any call was made by Sergeant

1 Durkin to Keith Harrison in relation to the second call
2 that you made?

3 A. To the what?

4 687 Q. To the second call that you made to the garda station,
5 Donegal Town Garda Station about Keith? 14:44

6 A. No.

7 688 Q. Now, perhaps you can assist us, Garda Harrison told us
8 that Sergeant Cornyn gave him your phone number?

9 A. My phone number?

10 689 Q. Yes. 14:44

11 A. Right.

12 690 Q. Can you explain that to me?

13 A. Who gave it?

14 691 Q. Sergeant Cornyn. Sergeant Tony Cornyn gave Sergeant
15 Durkin your phone number to call you? 14:45

16 A. I don't know, I can't recall that.

17 692 Q. So you don't know how that came about?

18 A. No.

19 693 Q. The 2nd October then was the date of the wedding, isn't
20 that correct? 14:45

21 A. Yeah.

22 CHAIRMAN: It's not, it's the 4th.

23 MR. HARTY: Or, sorry, excuse me, the 4th October.

24 CHAIRMAN: It's Friday, 4th October 2013.

25 694 Q. MR. HARTY: On the 2nd October, Inspector Sheridan and
26 Sergeant Collins came to the door of your house? 14:45

27 A. Came to my house?

28 695 Q. I'm sorry, to your mother's house, in fact?

29 A. That's right, yeah.

1 696 Q. what had you been doing?
2 A. I was up with my mother. We had only lost a brother,
3 so I was up kind of -- she was in bad form that day, so
4 I was just up with her, like, when she said to me
5 there's a car going up and down the street, I think 14:46
6 they're looking for you. So Sergeant Collins then, I
7 wasn't sure of him outside his uniform, he put his head
8 in my window and said, are you Rita McDermott? I said,
9 yes. He said, I want to talk to you in relation to --
10 I can't remember if he said Keith or Mr. Harrison. 14:46
11 697 Q. Right. And do you have any idea how they knew to come
12 look for you there?
13 A. Sorry?
14 698 Q. Do you have idea as to why they came to look for you
15 there? 14:46
16 A. I have no idea.
17 699 Q. Where is home for you?
18 A. Raphoe.
19 700 Q. Raphoe.
20 CHAIRMAN: It's a tiny town, by the way. 14:46
21 MR. HARTY: I appreciate that, but I am just --
22 CHAIRMAN: It wouldn't take you more than a
23 minute-and-a-half to drive every street in the place.
24 701 Q. MR. HARTY: But you certainly didn't expect anybody to
25 be looking for a statement from you? 14:47
26 A. No.
27 702 Q. And I think you said -- did they go into your mother's
28 house or did they go back --
29 A. No, no. I was in the car and me mother went up into

1 the house. So I asked them to come to my home. But I
2 didn't want her knowing anything, because she's only
3 after losing her son, I didn't want to kind of add
4 pressure to her again, like.

5 703 Q. And just so we are clear on that, by the way, and yet 14:47
6 again it's obviously personal and tragic, but that
7 wasn't -- it wasn't another brother, that was your
8 brother who had died in April, isn't that correct?

9 A. That's right, yeah.

10 CHAIRMAN: He died on the 1st April, isn't that right? 14:47

11 A. I'm not sure if it's the 1st or 4th, I can't remember.

12 CHAIRMAN: I think it was the 1st because it was the
13 same day as they went to the Garda station.

14 A. Maybe it was, yeah.

15 MR. HARTY: I think it was the day after. It was 14:48
16 imminent at the time.

17 A. I can't remember.

18 MR. HARTY: Perhaps, sorry --

19 A. Early.

20 MR. HARTY: Early in the morning then. But you said in 14:48
21 your evidence-in-chief that you were obliged to give a
22 statement because there were senior Gardaí in the
23 house.

24 A. Sorry?

25 704 Q. You said in your evidence -- 14:48
26 A. Yeah.

27 705 Q. -- when asked by Mr. Marrinan, that you were obliged to
28 give a statement because there were senior members of
29 the Gardaí in your house?

1 A. Yeah. That's the way I felt.

2 706 Q. That's your attitude to the guards, I take it?

3 A. Yeah, mm-hmm.

4 707 Q. It is -- if they come and want a statement, you should
5 give them a statement? 14:48

6 A. Yeah, mm-hmm.

7 708 Q. Mention is made in that statement of various different
8 things, and I would have to put it to you that the
9 statement isn't entirely accurate?

10 A. Right. 14:49

11 709 Q. A lot of the things in the statement are things that
12 were reported to you; most of the things in the
13 statement you never witnessed, isn't that correct?

14 A. That's correct, yeah.

15 710 Q. For example, you refer to drinking? 14:49

16 A. Mm-hmm.

17 711 Q. How many times would you have seen Keith Harrison
18 drinking?

19 A. Just when he came to my home. But I don't know what
20 consumption he has otherwise. 14:49

21 712 Q. And would it be fair to say that coming to your home,
22 certainly in the earlier stage of the relationship,
23 would have been a tense matter for Keith Harrison?

24 A. Yeah.

25 713 Q. And Marisa never told you most of these things, isn't
26 that correct? 14:49

27 A. No, she didn't.

28 CHAIRMAN: Sorry, just so as I know what the question
29 is and I know what the answer that is being given is,

1 you are saying Marisa never told her the things that
2 are in the statement?

3 MR. HARTY: No. Some of these things, she said --
4 "Marisa never told me everything", is what she says.
5 She didn't want to upset you?

14:50

6 A. No, that's right.

7 714 Q. So some of the things that are in the statement don't
8 come from Marisa, isn't that correct?

9 A. It's all, like, thirdhand, you know, someone overhear,
10 or whatever.

14:50

11 715 Q. Paula told you some things, isn't that correct?

12 A. Yeah.

13 716 Q. But at this time in the wedding I think you were
14 satisfied that Marisa was going to leave Keith
15 Harrison, isn't that correct --

14:50

16 A. Yeah.

17 717 Q. -- on the 2nd October?

18 A. I would say so, yeah.

19 718 Q. But she hadn't done it, as such?

20 A. No.

14:50

21 719 Q. And in relation to that, and so we are clear, part of
22 the reason why you were so angry with Keith Harrison
23 was because of the allegations of infidelities, isn't
24 that right?

25 A. Yeah.

14:51

26 720 Q. And in terms of Paula McDermott, you can't speak for
27 her, but as far as you're aware, she'd had no
28 engagement ever with Keith Harrison, isn't that
29 correct?

1 A. No, never.

2 721 Q. As far as you were concerned, it was 15 years prior was
3 the last time she spoke to him?

4 A. Yeah, mm-hmm.

5 722 Q. Can you say what her attitude to Keith was by the time 14:51
6 of the wedding?

7 A. Not good.

8 723 Q. Sorry?

9 A. Not good.

10 724 Q. Not good. Could I call it hostile? 14:51

11 A. Yeah.

12 725 Q. Could I say very hostile?

13 A. I would imagine -- yeah, I would say so.

14 726 Q. Now, no matter what is said in your statement, things
15 couldn't have been that bad, I have to put it to you, 14:51
16 for the very simple reason that everyone wanted the
17 wedding to go ahead?

18 A. Yeah.

19 727 Q. And that was everyone's primary concern, isn't that
20 correct? 14:52

21 A. That's correct.

22 728 Q. And everyone wanted the wedding to go ahead without a
23 hitch?

24 A. That's right.

25 729 Q. If that is an appropriate phrase. When you made that 14:52
26 statement or gave that statement to Inspector Sheridan,
27 what discussion was made as to what was going to be
28 done with that statement?

29 A. They didn't elaborate what they were going to do with

1 it.

2 730 Q. At all?

3 A. No. They just took the statement and left.

4 731 Q. Did anyone ask you did you wish that statement to be
5 submitted to GSOC to form a complaint? And you might 14:52
6 not know what GSOC is?

7 A. I didn't even know what GSOC was.

8 732 Q. GSOC is the Garda Síochána Ombudsman Commission. Did
9 anybody say to you that your statement would be used
10 for the purposes of a GSOC reference? 14:53

11 A. Never.

12 733 Q. Did anyone say to you that the purpose of your
13 statement was for a prosecution?

14 A. No.

15 734 Q. Did anyone say to you that the purpose of your 14:53
16 statement was to send it to Tusla?

17 A. Said nothing.

18 735 Q. Did anyone say to you that it was for the purpose of
19 commencing a Garda disciplinary investigation?

20 A. Never. 14:53

21 736 Q. None of that was mentioned to you?

22 A. No, never mentioned any of that, no.

23 737 Q. Your involvement in terms of the case against Keith
24 Harrison stops at that point?

25 A. Pardon? 14:53

26 738 Q. It stops at that point, isn't that right? Your
27 involvement in the case against Keith Harrison stops?

28 A. Yeah, yeah, that's right.

29 739 Q. The guards had what they wanted from you. Were you

1 contacted again by the guards?
2 A. No, that was it.
3 CHAIRMAN: Well, I mean, why do you say the guards had
4 what they wanted from you? I mean, why did they want
5 it? I mean, they had been phoned three/four times. 14:54
6 MR. HARTY: That is a matter that I --
7 CHAIRMAN: There was a number of incidents reported to
8 them. I mean, where is the evidence or where was the
9 question put, for instance, to Sergeant Collins that he
10 had some kind of an agenda in going out and taking this 14:54
11 statement.
12 MR. HARTY: Sergeant Collins said he was sent with
13 Inspector Sheridan on the basis of the fact that he had
14 previous knowledge of and that was the reason why he
15 was sent out and the question wasn't put to him because 14:54
16 he didn't form the conclusion that somebody should go
17 out and take a statement. That was a decision made by
18 other parties and it wasn't an appropriate question for
19 Sergeant Collins.
20 CHAIRMAN: So Sergeant Collins is not involved in -- 14:54
21 MR. HARTY: He was present.
22 CHAIRMAN: -- in having some kind of a reason for
23 getting a statement --
24 MR. HARTY: Yes.
25 CHAIRMAN: -- outside of, let us say, the ordinary 14:54
26 reasons if the Gardaí are telling the truth about what
27 was reported to them about family violence, etcetera.
28 MR. HARTY: The answer is that Sergeant Collins'
29 evidence in relation to his involvement in that

1 statement is very clear, which is that the only reason
2 he was asked to go out was because he had previously
3 known Rita McDermott and would be, he understood, a
4 friendly face. I appreciate that Ms. McDermott didn't
5 recall him, but that certainly he would recognise Rita 14:55
6 McDermott.

7 A. Yeah.

8 740 Q. But in relation to the other matters, and this is what
9 does become relevant, sir, is that nobody came to you
10 to query details in relation to your statement at any 14:55
11 time after this?

12 A. No.

13 741 Q. So even though some details in your statement were
14 shown to be manifestly incorrect, nobody came to you to
15 put those to you? 14:55

16 A. I never saw anyone after that.

17 CHAIRMAN: Hold on a minute. What details in the
18 statement are shown to be manifestly incorrect?

19 MR. HARTY: I am coming to that. For example, there
20 was never a call made by Garda Harrison looking for 14:56
21 CCTV footage from the hen night.

22 A. Right.

23 CHAIRMAN: Well, I don't know that.

24 MR. HARTY: Well, sorry, sir, there is a statement of
25 evidence from a third party contained in the booklet 14:56
26 and it is accepted by the Gardaí in all of their
27 statements that Garda Harrison rang looking, and it has
28 already been accepted by, I think it was Sergeant
29 Collins dealt with the matter, I could be wrong now,

1 that -- sorry, Sergeant Durkin, that the hotel in
2 westport had been asked for photographs that might have
3 been taken, that the question was not a guard ringing
4 for CCTV, but a family member, the person at the other
5 end thought it was a groom, or a groomsman, or dealing 14:56
6 with the bridal party, who wanted photographs for the
7 purpose of the wedding.
8 CHAIRMAN: Sorry, so it wasn't --
9 MR. HARTY: The answer is --
10 CHAIRMAN: No, just hang on. I am only trying to sort 14:57
11 out a fact, that is all I am trying to do.
12 MR. HARTY: Yes.
13 CHAIRMAN: So it wasn't Garda Harrison who rang the
14 hotel --
15 MR. HARTY: No. 14:57
16 CHAIRMAN: -- I think in westport.
17 MR. HARTY: It was. But he never said, I am doing it
18 as a guard and he never looked for CCTV footage.
19 CHAIRMAN: Okay. well, that is not manifestly
20 incorrect then. I mean, the difference that I was 14:57
21 being asked to accept, and I readily accepted, was,
22 there was a phone call, it was said to be someone
23 connected with the family, I thought that he had said
24 that he was part of the wedding party.
25 MR. HARTY: Mm-hmm. 14:57
26 CHAIRMAN: And he wasn't invited to the wedding, fine,
27 let's gloss over that detail, and that he was looking
28 for something that would record what had happened at
29 the hen night perhaps for a presentation --

1 MR. HARTY: Yes.

2 CHAIRMAN: -- by way of the usual jokey presentation
3 you might get in a speech at a wedding.

4 MR. HARTY: what was presented --

5 CHAIRMAN: what is manifestly incorrect? 14:57

6 MR. HARTY: what is manifestly incorrect was that it
7 was being presented that he was a garda --

8 CHAIRMAN: Yeah.

9 MR. HARTY: -- saying that he wanted CCTV footage of
10 the wedding, which is a very different thing. 14:58

11 CHAIRMAN: No, it's not all that different, seriously.
12 Please, Mr. Harty, please hang on. Hotels don't go
13 around taking photographs of people, not in my
14 experience.

15 MR. HARTY: They do. Nightclubs do. This is precisely 14:58
16 the circumstances --

17 CHAIRMAN: So what is happening, you're in a nightclub
18 and there's a round flashing ball and then there's also
19 photographs being taken as you --

20 MR. HARTY: There is a photographer -- 14:58

21 CHAIRMAN: -- hop around the floor, is that the idea?
22 There's what?

23 MR. HARTY: I perhaps have as little experience of
24 this, but my instructions are very clear in relation to
25 it -- 14:58

26 CHAIRMAN: I am glad to hear it.

27 MR. HARTY: -- is that many nightclubs have
28 photographers who take photographs which they place on
29 their Facebook page or give to the patrons of the night

1 in relation to it.

2 CHAIRMAN: This is news to me. CCTV footage, I
3 thought, look, hotels have cameras and there's cameras
4 on for all kinds of reasons, including securities, so
5 what you do is you get some stills. But the difference 14:59
6 was, he was ringing up, allegedly, and saying, I'm a
7 guard and I need it for official purposes. He's not,
8 he's ringing up - look, it may have been for a very
9 good reason, but he's passing himself off as someone
10 who is at least going to the wedding or part of the 14:59
11 wedding party. So, look, it's not manifestly
12 incorrect, it's a detail, but it was reported to
13 Mrs. McDermott that it was for official purposes and
14 that turns out to be incorrect and the Gardaí verified
15 that. That is the change. 14:59

16 MR. HARTY: Well, except there is a number of things in
17 relation to that. If one abuses their position as a
18 guard, and this was opened before the Tribunal already,
19 in order to gather matters and to use your position as
20 a guard to gather matters for personal, that is a 14:59
21 breach of discipline.

22 CHAIRMAN: No, but I appreciate it is water under the
23 bridge. There's no breach of disciplinary -- there's
24 nothing wrong. If he wasn't going to the wedding but
25 said he was going to the wedding and he was looking for 14:59
26 photographs, it might have been for a very nice reason,
27 to get them framed and give to somebody. That is the
28 inference I'm taking from any of this.

29 MR. HARTY: If I was to ask the Tribunal to look at

1 page 1654. This is the end of the document, the last
2 page, and the first page of that document is 1649. I
3 don't need to open the rest of the document. This is
4 the document designed for the purposes of --
5 CHAIRMAN: Is this the one you want to open, is it? 15:00
6 MR. HARTY: Yes. This is the last page.
7 CHAIRMAN: Yeah.
8 MR. HARTY: This is the document designed for the
9 purposes of having Garda Harrison suspended or moved
10 division. It is for the purpose of commencing 15:00
11 disciplinary --
12 CHAIRMAN: I know. But look --
13 MR. HARTY: No, no.
14 CHAIRMAN: Sorry, it is a question for Chief
15 Superintendent McGinn. 15:00
16 MR. HARTY: The point about it is that Chief
17 Superintendent McGinn, on the 10th October, Garda
18 Harrison is also alleged to have misrepresented his
19 position with An Garda Síochána to obtain details of
20 Marisa Simms while she was away with friends for a 15:00
21 weekend.
22 CHAIRMAN: Okay, that is fine.
23 MR. HARTY: So --
24 CHAIRMAN: It was investigated, it was Sergeant Durkin
25 who went down - the person who, by the way, was 15:01
26 supposed to be bullying Keith Harrison, and found out
27 that, no, the actual phone call was a phone call from a
28 member of the wedding party looking for photographs for
29 whatever presentation was going to be made at the

1 dinner.

2 MR. HARTY: And that investigation by Sergeant Durkin
3 predates that letter from Chief Superintendent Terry
4 McGinn. That is relevant in relation to what was
5 the -- what were the actions of An Garda Síochána in 15:01
6 relation to all of this, which is what this module is
7 all about.

8 CHAIRMAN: That is fine, it's fine. But now we have
9 Mrs. McDermott, and I am sure doesn't want to spend any
10 more time in the witness box than is necessary, and I 15:01
11 asked you the question what details were manifestly
12 incorrect. Okay, we have identified the CCTV. I got
13 one detail wrong. And then misrepresenting himself as
14 a garda, yes, that has been cleared up. So if there is
15 another detail that is incorrect, we need to- 15:01

16 MR. HARTY: No, that is the only one I wish to draw
17 attention to.

18 742 Q. And I want simply for Mrs. McDermott to confirm that,
19 having made this statement and despite commencing a
20 criminal investigation, a disciplinary investigation, a 15:02
21 reference to GSOC, did anybody from An Garda Síochána
22 come and ask you anything about Keith Harrison after
23 that?

24 A. About the what?

25 743 Q. Did anyone come and ask you any questions about Keith 15:02
26 Harrison?

27 A. No.

28 744 Q. Did anyone come to check on the welfare of your
29 grandchildren?

1 A. No.

2 CHAIRMAN: Well, they did.

3 MR. HARTY: Not to --

4 CHAIRMAN: Well, they did. That is what this case is
5 supposed to be all about. 15:02

6 MR. HARTY: Not with Mrs. McDermott.

7 A. No, no one to me.

8 CHAIRMAN: They came to the house.

9 MR. HARTY: Not to Mrs. McDermott.

10 CHAIRMAN: You wanted them to go to Mrs. McDermott as
11 well? 15:02

12 MR. HARTY: I want to find out why it is that this all
13 started, was launched. A conference was held on the
14 8th October between five people, who decided what was
15 going to be done and most of it involved firing the 15:02
16 matter to GSOC and Tusla. What was said yesterday by
17 counsel for the Garda Síochána was that they did the
18 right things, but within two weeks they knew that the
19 GSOC investigation was going nowhere, the disciplinary
20 investigation -- 15:03

21 CHAIRMAN: No, but there's no point in making a speech
22 to Mrs. McDermott, she doesn't know any of this.

23 MR. HARTY: But there was also --

24 CHAIRMAN: I didn't know any of this stuff but, I
25 mean -- 15:03

26 MR. HARTY: There was a criminal investigation
27 commenced immediately.

28 CHAIRMAN: No, what we know is, what Mrs. McDermott
29 knows, okay, is, I made a statement, there it ended,

1 nobody came back to me. And then you're not making the
2 case to Mrs. McDermott that Tusla should have called to
3 her to check up on the welfare, are you making that
4 case? Because, as a grandmother, someone obviously
5 very fond of her grandchildren, she would have a very 15:03
6 good idea as to how they were doing. Like, are you
7 saying that social workers should have called to
8 Mrs. McDermott as well?
9 MR. HARTY: I am saying if everyone was really so
10 concerned about all of this, you would have thought it 15:03
11 was a natural thing to do.
12 CHAIRMAN: That Tusla should have called --
13 MR. HARTY: No, or the guards.
14 CHAIRMAN: The guards should have called?
15 MR. HARTY: Yes. 15:04
16 CHAIRMAN: And asked about what?
17 MR. HARTY: They were very concerned about threats to
18 Marisa Simms and her children.
19 CHAIRMAN: Okay, all right.
20 MR. HARTY: And they didn't investigate them any 15:04
21 further.
22 745 Q. Now, perhaps if we can just, and for the sake of
23 completeness to bring matters up-to-date,
24 Mrs. McDermott, I take it that your relationship with
25 Keith Simms has improved? 15:04
26 A. Oh, yeah.
27 CHAIRMAN: well, it hasn't improved with Keith Simms.
28 MR. HARTY: Or, sorry, excuse me, Keith Harrison.
29 A. Keith Harrison.

1 746 Q. I think Keith Harrison, for the last number of years
2 while he was out sick from Garda Síochána, was doing a
3 large amount of the day-to-day caring of your
4 grandchildren?

5 A. Oh, yeah.

15:04

6 747 Q. And that's both his children and Andrew Simms'
7 children, isn't that correct?

8 A. That's right, yeah.

9 748 Q. And that you, and we will forget about what happened
10 then, you have no reason for any concern about Keith
11 Harrison in relation to the safety or welfare of your
12 daughter or your grandchildren?

15:05

13 A. Oh, no, he's a very good stepfather, and the children
14 love him.

15 MR. HARTY: Thank you, Mrs. McDermott.

15:05

16 CHAIRMAN: Mr. Hartnett, you should probably go last, I
17 think, and see if there is anything else that comes up.
18 Does anybody else have any questions?

19 MR. O'NEILL: Chairman, I just want to ask just a
20 number of very short questions of the witness. I would
21 be happy to go last, because it is --

15:05

22 CHAIRMAN: I shouldn't have said anything. Let's just
23 roll, please.

24 MR. DOCKERY: I have a few questions as well, Chairman.

25 CHAIRMAN: Well, let's roll.

15:05

26 MR. DOCKERY: Since Mr. O'Neill represents this
27 witness, I will let him sweep up, as it were.

28

29 RITA McDERMOTT WAS CROSS-EXAMINED BY MR. DOCKERY:

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749 Q. MR. DOCKERY: Mrs. McDermott, my name is Desmond Dockery and I represent Inspector Sheridan and Sergeant Collins, both of whom came to see you on the 2nd October to take that statement, do you understand? And I just want to ask you a few questions. You've told the Tribunal now that you're very content with your daughter's -- you're very content with your daughter's partner, Keith Harrison, and that he is a good stepfather. So things have changed, is that right? Things have improved? You have changed your attitude to Mr. Harrison?

15:06
15:06

A. Oh, yeah, I did, yeah.

750 Q. And you want to keep those good terms going, I presume, isn't that so? You want the atmosphere to remain good?

15:06

A. Oh, yeah.

751 Q. Of course you do. And might that explain why you said certain things to investigators from this Tribunal when they came to see you just a month ago, on the 23rd August, at the Clanree Hotel in Letterkenny, you said certain things to them that I want to put to you specifically. The first one of them -- the Tribunal might just put page 1970 on the screen for the witness. Now, this is part of your interview or statement to the investigators, Mrs. McDermott, do you follow? If I bring you towards line 25 there on the screen, you'll see that you're asked about your statement of the 2nd October 2013, all right? And you say that in that statement you made, you're recorded as having said

15:07
15:07

1 "Marisa has said that Keith threatened to burn her and
2 the children but that she wants to hold off until after
3 Paula's wedding to tell the guards." And then you say
4 "I did not say this." All right?

5 A. I only -- it was four years since I seen the statement. 15:08

6 752 Q. Yeah.

7 A. And I read it --

8 753 Q. Did you realise that if you are telling two
9 investigators from the Tribunal that you didn't say it,
10 that means that the guards who took the statement put 15:08
11 it in --

12 A. Sorry?

13 754 Q. -- themselves? Is that what it means?

14 A. I don't know what you're -- I can't hear you.

15 755 Q. I beg your pardon? 15:08

16 A. I can't hear you.

17 CHAIRMAN: What he is saying is that if somebody says
18 about a statement to the Gardaí that, okay, what's
19 written there is a sergeant chopped off my hand but
20 that later you say, oh, no, I never said that at all, 15:08
21 that implies that the Gardaí made up this statement
22 that the sergeant chopped off your hand. I am putting
23 it in graphic terms so you will understand.

24 A. Yeah. Well, I read the statement after four years, I
25 just said, God, I don't think -- I don't recall saying 15:08
26 that.

27 CHAIRMAN: So there were some things you just didn't
28 remember, is that right?

29 A. Yeah.

1 CHAIRMAN: Okay.

2 756 Q. MR. DOCKERY: Yes. Well, you see, that's one of the
3 most important things that was in your statement of the
4 2nd October, that Marisa told you that this threat had
5 happened. But it's the one thing that you'd say in 15:09
6 2017 you can't remember, that's the position, that what
7 you are telling the Tribunal now, that you didn't
8 remember saying that?

9 A. When I read the statement, as I said.

10 757 Q. Yeah. 15:09

11 A. It's four years since I seen the statement.

12 758 Q. Do you appreciate that it's a very serious thing to
13 tell investigators from a tribunal of inquiry that you
14 didn't say something that is in a Garda statement taken
15 from you? 15:09

16 A. Yeah, because I didn't remember. I only seen the
17 statement after four years.

18 CHAIRMAN: Yes, but it's a very different thing to say,
19 look, I don't remember saying that, and I think all of
20 us would be in that position, where we don't remember 15:09
21 what we said to so-and-so last week.

22 A. When I seen the statement, you know --

23 CHAIRMAN: Yes.

24 A. -- I said, God, I don't remember saying that.

25 CHAIRMAN: What Mr. Dockery is asking you, it's not you 15:09
26 just didn't say, oh, I didn't remember. What you are
27 saying is, well, I never said that at all.

28 A. Yeah.

29 CHAIRMAN: And he's saying it's a serious thing to

1 allege against a garda, that they are making stuff up
2 and putting your name to it.

3 A. Yeah.

4 CHAIRMAN: Because if they did that, after all, they
5 could convict anyone they wanted of any crime on earth. 15:10

6 A. Mm-hmm.

7 CHAIRMAN: So that is what he is asking you.

8 759 Q. MR. DOCKERY: You appreciate it's a serious thing to
9 say about a Garda statement from you, that you did not
10 say something in it? It's different to saying you 15:10
11 don't remember saying it; you said, I didn't say it?

12 A. Yeah.

13 760 Q. That is a serious thing to allege, isn't it?

14 A. Probably is, yeah.

15 761 Q. And at the top of the next page, the very top, you say 15:10
16 that you've read that in 2013 you said the following:
17 "He drinks a fair bit, he could drink a bottle of
18 brandy while you'd blink. I wish to state that I did
19 not say that." That's not you saying you don't
20 remember; that's you saying you didn't say it? 15:11

21 A. As I said, as I told you before, when I read the
22 statement after four years I didn't remember what was
23 said in the statement.

24 762 Q. And again, that's a very specific observation about
25 Keith Harrison that you are now saying in 2017 you 15:11
26 didn't say. So both of the things you're seeking to
27 retract, both of the things you're saying you never
28 said, both concern Keith Harrison, isn't that right?
29 One, that you never said that he threatened Marisa, and

1 two, you never said he likes a bottle of brandy and can
2 drink it as quick as you blink?

3 A. When I thought about it, after leaving the
4 investigators, I said, well, if it's down in my
5 statement, I must have said it. 15:11

6 763 Q. And the way you even point out to the investigators
7 that you didn't say it is very specific, you say "I
8 wish to state that I did not say that". So you're very
9 clear about what you are saying, you didn't say it.
10 That's not a failure of memory. 15:12

11 A. Well, as I say, when I went home and thought about what
12 I said, that's why I contacted my solicitor to -- I
13 contacted the investigators again.

14 764 Q. So your evidence today to the Tribunal, under oath, is
15 that what you were intending to say, what you meant, is 15:12
16 simply that you don't remember saying those things, is
17 that right?

18 A. I don't remember saying -- yeah.

19 765 Q. Okay. Well, you see, the difficulty I have with that
20 is, that if we go down some more lines, to line 36, do 15:12
21 you see there, if you look at the number 36 on the
22 left-hand side of the page, you say, "I offered
23 them" -- that's Sergeant Collins and Inspector
24 Sheridan -- "to come up to my own house. I just felt
25 under pressure from the pair of them because I never 15:12
26 had Garda involvement in my life." Do you see that?

27 A. Yeah.

28 766 Q. Do you see that?

29 A. I felt under pressure because they called up to my

1 mother's house.

2 767 Q. Yeah.

3 A. And we were just after losing a brother, and my mother
4 was very distraught that day.

5 768 Q. Yeah. 15:13

6 A. And I didn't want to put her any more pressure, that's
7 why I felt stressed.

8 769 Q. Well, your lawyers --

9 A. They didn't put me under any stress up at home, like.

10 770 Q. Let's just be clear. It was said on your behalf by 15:13
11 your legal team yesterday that you felt a little bit
12 flustered when you met Sergeant Collins at the car
13 window?

14 A. Yeah.

15 771 Q. But, after that, everything was very relaxed? 15:13

16 A. That's right, yeah.

17 772 Q. And that's what you have told the Tribunal today, all
18 right? So let's just get things -- first things first.
19 Let's be clear about this. Today your evidence is that
20 your statement of the 2nd October 2013 was voluntary 15:13
21 and free and given in a relaxed atmosphere over tea and
22 biscuits in your house, isn't that right?

23 A. That's right, yeah.

24 773 Q. Okay. But in this statement here to the Tribunal 15:14
25 investigators, just a month ago, you said that you felt
26 under pressure because you had never had Garda
27 involvement in your life. Now, what I want to put to
28 you is this: On the 24th August 2013, days before you
29 made your statement in October 2013, you told your

1 daughter on the telephone, and this has already been
2 read out to you today, you told your daughter on the
3 telephone: "You get over here and stay. I want that
4 bastard out, don't want him with my grandchildren. Get
5 him out. Even if you don't, I'm going to call the 15:14
6 Gardaí, your choice."
7

8 So that was when you decided obviously to telephone
9 Donegal Town Garda Station and you spoke to Garda
10 Durkin on the 24th August, isn't that so? 15:14

11 A. Yeah.

12 774 Q. You agree?

13 A. Yeah.

14 775 Q. And you spoke to him that date. And then we've heard
15 evidence that on the 9th September 2013 you phoned the 15:15
16 Garda station looking for Sergeant Durkin, but he
17 wasn't there. Do you have any memory of that?

18 A. I would say that's true, yeah.

19 776 Q. And the Tribunal has heard that the next day, on 10th
20 September, you phoned the Garda station again but you 15:15
21 weren't speaking to him that time either. Do you agree
22 with that?

23 A. Yeah, that's right.

24 CHAIRMAN: So, in summary, what is being put to you by
25 Mr. Dockery is that you were inviting the garda to come 15:15
26 and talk to you and that you'd plenty of garda
27 interaction, albeit over the telephone, that it
28 wouldn't have come as a terrible shock to you that they
29 would call?

1 A. I wasn't inviting anyone to my home. I wasn't
2 inviting, looking for anything. As I said before, when
3 I phoned Mr. Durkin, or -- I think it's Durkin you call
4 him -- I wanted him to talk to Keith. I had thought,
5 you know, in a job respect that you would have -- 15:16
6 they'd have counsellors and that. Obviously he needed
7 help. That was my main issues.
8 CHAIRMAN: Unfortunately, that is not mentioned
9 anywhere.

10 A. Well, that's what I -- 15:16
11 CHAIRMAN: You didn't mention the word 'counsellor' on
12 the phone to any other Gardaí.

13 A. No, but I thought that --
14 CHAIRMAN: I mean, the complaint is a criminal
15 complaint. Your daughter is being -- 15:16

16 A. I thought that Sergeant Durkin, the point of your
17 protocol, that you would have to follow --
18 CHAIRMAN: Well, I don't know how you expect him to
19 suddenly think, oh, this is a counselling matter, when
20 you're complaining about various criminal offences. 15:16

21 A. Well, I thought that he was his superior, that he would
22 be able to talk to him. And maybe --
23 CHAIRMAN: But Gardaí aren't entitled to commit crime,
24 you know, than anybody else.

25 A. Sorry? 15:16
26 CHAIRMAN: Gardaí are not entitled to commit a crime no
27 more than anybody else.

28 A. Well, I think --
29 CHAIRMAN: I mean, the Gardaí are not entitled to

1 behave domestically in such a way as to terrorise a
2 woman, if that is what happened. I don't know if it
3 happened or not.

4 A. Yeah.

5 CHAIRMAN: Sorry, you carry on, Mr. Dockery. 15:17

6 777 Q. MR. DOCKERY: Well, I mean, I want to put to you in
7 short form, very quickly, Mrs. McDermott, that when the
8 two officers came to you on the 2nd October and told
9 you that they would like to take a statement from you,
10 you must have been delighted to have an opportunity to 15:17
11 give that statement?

12 A. Sorry?

13 778 Q. What?

14 CHAIRMAN: What Mr. Dockery is saying is that you
15 welcomed the Gardaí because you wanted to make a 15:17
16 statement, you wanted them to know and your motivation
17 was not a bad one, it was to protect your daughter,
18 that basically is what he is saying to you, that this
19 was your chance to protect your daughter by making a
20 statement to the Gardaí and that's what you did. 15:17

21 A. That's what I did, yeah.

22 MR. DOCKERY: Yeah.

23 CHAIRMAN: Well, it may be that you are just picking up
24 the last bit of the question, and I am sorry, there's
25 too much in it. In making a statement to the Gardaí -- 15:17

26 A. Mm-hmm.

27 CHAIRMAN: -- Mr. Dockery is putting to you that you
28 welcomed the opportunity to talk to them.

29 A. I didn't welcome anything. I just wanted to -- I

1 didn't ask them to come to me.

2 CHAIRMAN: Yes.

3 A. I didn't ask them; they came to me.

4 779 Q. MR. DOCKERY: No. But you were happy to speak with
5 them. No, but you were happy to talk to them and tell 15:18
6 them all about your daughter's relationship with Keith
7 Harrison?

8 A. Yeah, well I felt obliged -- with two senior Gardaí
9 coming to your house, I felt obliged I had to make a
10 statement on it. 15:18

11 780 Q. Yeah, this was a perfect opportunity to lay it all out?

12 A. Yeah.

13 781 Q. Exactly. Just the way you had been telling Sergeant
14 Durkin weeks earlier. Now, I have to come back to the
15 statement you gave to the Tribunal investigators, 15:18
16 because not only did you tell them that you didn't say
17 anything to them about threats on the 28th September
18 2013, but you even went so far as to tell them that you
19 knew nothing about them and you knew nothing about the
20 relationship between your daughter and Keith? 15:19

21 CHAIRMAN: Just for Mrs. McDermott, what line are you
22 on there, please?

23 MR. DOCKERY: 1972, which is the next page on the
24 screen.

25 CHAIRMAN: And line? 15:19

26 MR. DOCKERY: Line 58. You will see that there,
27 Mrs. McDermott, in a moment. Sorry, line 54,
28 Mrs. McDermott. If you look at the top of the screen
29 there:

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"I have been asked to provide as much detail as I can. I have been asked to provide documents to the Tribunal."

15:19

And you go on to say at line 58:

"I was never there at any time anything was going on. The children were never there either as they were always, they were always away. They were never there when there was any domestic between Marisa and Garda Keith Harrison. She just had broken up from her marriage and was feeling vulnerable and was in a new relationship. As regards what happened between the two of them, I don't know anything about them or anything. She never discussed that part with me."

15:20

15:20

Do you see that?

A. Yeah.

782 Q. And two pages on, on page 1974 at line 90, do you see line 90 there, number 90? Do you see that?

15:20

A. I do, yeah.

783 Q. "I have been asked to detail what I know of the events that occurred on the 28th September 2013 between Garda Keith Harrison and my daughter Marisa.

15:20

Answer: I cannot remember what was that about."

So I'm suggesting to you, Mrs. McDermott, that you didn't fail to remember; you deliberately misled the

1 investigators from the Tribunal, you deliberately told
2 them you didn't know what that was about, when you did.

3 CHAIRMAN: By the way, you're not obliged to answer
4 that question --

5 A. Okay. 15:21

6 CHAIRMAN: -- if the result is you will incriminate
7 yourself of a criminal offence, which is misleading the
8 Tribunal. So you don't have to answer that question if
9 you don't want to.

10 A. Okay. 15:21

11 CHAIRMAN: Do you want to answer the question?

12 A. No.

13 CHAIRMAN: You don't want to answer the question.

14 784 Q. MR. DOCKERY: All right. Now, two final questions.
15 Sergeant Durkin has no note whatsoever of you asking 15:21
16 him to speak with Keith Harrison, do you understand?

17 A. Well, I did ask him.

18 785 Q. And he took detailed notes of his conversations with
19 you, and the Tribunal has been through the notes and
20 there's no note of any such conversation, all right? 15:22

21 The second thing I want to put to you is that on page
22 19 -- the last thing rather is on page 1979.

23 CHAIRMAN: Sorry, Mr. Dockery, just to be clear, what
24 Mr. Dockery is saying to you is this: look, in any of
25 your conversations with Sergeant Durkin, or indeed any 15:22
26 other garda --

27 A. Yeah.

28 CHAIRMAN: -- you never said, 'look, I think Keith is
29 in trouble; he may be, I don't know what, under stress,

1 drinking too much, you can name all the usual reasons.

2 A. Mm-hmm.

3 CHAIRMAN: Does the garda have a counselling service?
4 I think he needs something like that'. So what
5 Mr. Dockery is saying is, you never said that to the 15:22
6 garda. Do you agree with that?

7 A. I never mentioned counselling, I just asked him to have
8 a word with him.

9 CHAIRMAN: Have a word with him about what?

10 A. What was troubling him. It wasn't his behaviour, 15:23
11 carrying on like that.

12 CHAIRMAN: I see.

13 786 Q. MR. DOCKERY: Mrs. McDermott, given that you told the
14 Tribunal investigators incorrectly or wrongly that you
15 had made a statement to Inspector Sheridan and Sergeant 15:23
16 Collins under pressure, and that that's wrong, and you
17 now say that's wrong, do you want to say sorry to them
18 for telling that to a Tribunal in a statement?

19 A. Say sorry about what?

20 787 Q. About telling the Tribunal in your statement last month 15:23
21 that they had pressurised you into making your October
22 2013 statement?

23 A. I didn't say they pressurised me.

24 MR. O'NEILL: Chairman, before Mrs. McDermott answers
25 that question, perhaps what she said in the statement 15:23
26 exactly, rather than the formula of words that
27 Mr. Dockery is using, should be put to the witness,
28 because I don't think that she actually said that in
29 her statement.

1 CHAIRMAN: Mrs. McDermott, are you all right?

2 A. Pardon?

3 CHAIRMAN: Are you okay?

4 A. Yeah.

5 CHAIRMAN: If you wouldn't mind just putting the 15:24
6 relevant line, Mr. Dockery, please.

7 788 Q. MR. DOCKERY: I will go back to it, sir. On page 1971,
8 at line 30, you were being shown your statement of the
9 2nd October 2013, which was taken by my clients,
10 Inspector Sheridan and Sergeant Collins, do you 15:24
11 understand? This is what is happening, you are being
12 shown that statement by the Tribunal investigators. Do
13 you understand?

14 A. Yeah.

15 789 Q. And you're telling them at that line there, at line 30: 15:24
16 "I wish to state that I felt under pressure providing
17 that statement."
18

19 And you repeat this at line 36:
20 15:25
21 "I offered them to come up to my own home, but I just
22 felt under pressure from the pair of them because I
23 never had any garda involvement in my life."
24

25 Now, your position today is that that's not true, that 15:25
26 everything was relaxed, there was tea and biscuits?

27 A. As I told you, and you're not listening to what I am
28 saying, I have told you the way I felt pressured was
29 because they came up to my mother's and I told you

1 about my brother only dying. So that's what I am
2 trying to tell you, but you're not listening to me.

3 790 Q. If you look at line 30, Mrs. McDermott, you say: "I
4 felt under pressure providing that statement". At line
5 36 you say: "I just felt under pressure from the pair 15:25
6 of them". All right? Now, your lawyer told the
7 Tribunal yesterday that you felt flustered at the
8 beginning when you were approached in the car, but
9 after that everything was very relaxed?

10 A. Yeah. 15:26

11 791 Q. All right?

12 A. That's true.

13 792 Q. Right. So you did not feel under pressure while making
14 the statement?

15 A. No. 15:26

16 793 Q. All right. Well, do you want to say sorry about saying
17 that --

18 CHAIRMAN: Mr. Dockery, I can see the point from a
19 rhetorical point of view, but --

20 MR. DOCKERY: I am just offering the witness -- 15:26

21 CHAIRMAN: -- really and truly, I mean, it's like
22 historical revisionism when we apologise for I don't
23 know what.

24 MR. DOCKERY: Unless the witness wanted to take the
25 opportunity, I just wanted to offer it. 15:26

26 CHAIRMAN: Well, she doesn't seem to be jumping at it.

27 794 Q. MR. DOCKERY: I have one last thing to put to you,
28 Mrs. McDermott, and that is this: First of all, I want
29 to show you page 1979 of your statement to the Tribunal

1 last month, and you will see there at the very top of
2 the page, line 169, it says:

3
4 "I have been asked if I know who sent this typed
5 one-page anonymous letter to the HSE and, if so, if 15:27
6 yes, to provide details of my knowledge in this
7 regard."

8
9 Do you know what that's about? That's about the letter
10 of January 2012. 15:27

11 A. I didn't know anything about the letter until the day
12 that --

13 795 Q. Until you were asked about it here?

14 A. Sorry?

15 796 Q. You didn't know anything about the letter until when? 15:27

16 A. Until the Tribunal showed it to me.

17 797 Q. Until when?

18 A. The Tribunal.

19 798 Q. All right. And that's what you told them. But when
20 you were speaking to Sergeant Collins and Inspector 15:27
21 Sheridan on the 2nd October, Sergeant Collins was
22 taking notes. Do you remember that?

23 A. Yeah.

24 799 Q. And Inspector Sheridan was asking the questions, isn't
25 that so? 15:27

26 A. Yeah.

27 800 Q. And one of the notes that Sergeant Collins took, and it
28 appears at page 1057 of the materials there, is that
29 you said the following:

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"HSE visited two or three years ago. Had anonymous letter to HSE to say bad mother. HSE checked out. All okay. Says that it was Keith sent it to put pressure on her to leave husband."

15:28

So it seems that you did know quite a lot about it on the 2nd October 2013. Do you remember saying that to Sergeant Collins and Inspector Sheridan?

A. I said -- I can't hear. What did you say? I can't hear.

15:28

CHAIRMAN: Well, it's just in one of your conversations with Sergeant Collins.

A. Yeah.

CHAIRMAN: It's Sergeant Collins, isn't it, Mr. Dockery? Or is it Sergeant Durkin?

15:28

MR. DOCKERY: Sergeant Collins, Chairman.

CHAIRMAN: Sergeant Collins.

MR. DOCKERY: And Inspector Sheridan.

CHAIRMAN: Yeah. And Inspector Sheridan, that you said, oh, what about this anonymous letter? And you said, oh, well, that was Keith, he made it up and sent it to the HSE in order to put pressure on Marisa to leave her husband, Mr. Simms.

15:28

A. No, I don't recall saying that.

15:29

CHAIRMAN: You don't recall saying that. But, you know, I suppose when something happens, we all may have a kind of a theory about it --

A. Yeah.

1 CHAIRMAN: -- as to what is going on. It could be that
2 you had that theory. Did you have that theory at some
3 stage, perhaps?
4 A. I would never say Keith done that.
5 CHAIRMAN: Yes. 15:29
6 A. It's not his tactic, like.
7 CHAIRMAN: It's not his style, you think?
8 A. Yeah.
9 CHAIRMAN: Did you say that to Sergeant Collins, do you
10 think? I mean, sometimes people speculate. Like, in 15:29
11 conversation, we, I don't know, whatever the topic is,
12 why did Mayo lose the match? People come up with the
13 daftest theories, you know?
14 A. Yeah.
15 CHAIRMAN: Was it a case of you just speaking your mind 15:29
16 without thinking, or did you say it at all?
17 A. I don't even recall that there, honestly.
18 CHAIRMAN: You don't remember it at all?
19 A. No.
20 CHAIRMAN: That's fine. 15:29
21 MR. DOCKERY: Thank you very much.
22 MR. HARTNETT: My turn, I think, sir.
23
24 RITA McDERMOTT WAS CROSS-EXAMINED BY MR. HARTNETT:
25 15:30
26 801 Q. MR. HARTNETT: I think I can be very brief. I can't
27 see. If Mr. Marrinan would move slightly to one side,
28 just so I can see you.
29 CHAIRMAN: I think Mr. Marrinan should leave the room.

1 MR. HARTNETT: Mr. Marrinan has a large frame, a fit
2 one, should I say.

3 802 Q. You've already been asked a lot of questions, and I
4 know it is very difficult for you to have to deal with
5 personal matters and matters within your family, and 15:30
6 most of them have been dealt with, but I just want to
7 recap on certain things. Undoubtedly, there was
8 tension with your daughter Marisa?

9 A. Yes.

10 803 Q. She had -- her marriage had broken up? 15:30

11 A. Yeah, that's right, yeah.

12 804 Q. She was in a relationship and there were difficulties
13 and strains within that relationship?

14 A. Yeah.

15 805 Q. Your family, I think, had taken a certain view? 15:30

16 A. My what?

17 806 Q. Your family had taken a certain view. Both yourself
18 and Paula --

19 A. Yeah, that's right.

20 807 Q. -- as is very clear, were agin him, isn't that right? 15:31
21 would you agree?

22 A. I do, yeah.

23 808 Q. You didn't want to hear good of him?

24 A. I didn't what?

25 809 Q. You did not wish to hear good of him? 15:31

26 A. No.

27 810 Q. You had had your own difficulties with Paula, but
28 coming up to the wedding you were talking to her again?

29 A. That's right, yeah.

1 811 Q. There is no doubt about it but that Paula had a very
2 definite view against Keith Harrison?
3 A. She did, yeah.

4 812 Q. And she, again, would have been very fond, and
5 correctly so, very fond of the husband, Mr. Simms? 15:31
6 A. Yeah.

7 813 Q. And was upset that this division had occurred?
8 A. Yeah.

9 814 Q. And both of you at that time were firmly of the view
10 that it would be better if she went back, 15:31
11 understandably, if she went back to live with the man
12 she had married --
13 A. Yeah.

14 815 Q. -- and the two children. You say in your statement,
15 for instance: "I always thought he was controlling but 15:32
16 she never said anything."
17 A. That's right, yeah.

18 816 Q. But you had formed that view. Would it be fair to say
19 that you had formed that view possibly based on the
20 fact that you disapproved of this liaison? 15:32
21 A. At the start, yeah.

22 817 Q. But your view was affected by the fact that you didn't
23 want her going out with him?
24 A. I didn't what?

25 818 Q. Didn't want her going out with him? 15:32
26 A. No, that's right.

27 819 Q. And Paula's view affected by the same?
28 A. I would say something similar, yeah.

29 820 Q. And you just made one casual comment there about he

1 wouldn't let Marisa buy clothes for the children in
2 Benetton. That wasn't really the case, was it?

3 A. We were both in the shop that day and she picked up a
4 few things for her own daughters and I was getting my
5 stuff, so I went up and paid for my stuff. When I 15:33
6 looked round she had the stuff down, but I don't know
7 for what reason that she did put the clothes down
8 again.

9 821 Q. Sorry?

10 A. I don't know for what reason that she left the clothes 15:33
11 back.

12 822 Q. But you were prepared to say it was because he was
13 against the purchase?

14 A. That's what I thought at the time.

15 823 Q. I see. But that was just a thought? 15:33

16 A. Sorry?

17 824 Q. It was just a thought?

18 A. Yeah.

19 825 Q. But you said it to the guards when they interviewed
20 you? 15:33

21 A. Yeah, mm-hmm.

22 826 Q. Now, I think you said in reply to Mr. Harty, that
23 really you knew very little about what went on between
24 them, mostly what you were told?

25 A. Yeah, a mother's instinct you kind of -- 15:33

26 827 Q. And a mother's instinct?

27 A. Yeah.

28 828 Q. A mother's instincts tend to veer towards the child
29 rather than the other party?

1 A. Yeah, that's right.

2 829 Q. And it may be that -- yes. Now, you did have
3 discussions with Paula?

4 A. Yeah.

5 830 Q. And was she reporting things to you as to what was 15:34
6 going on?

7 A. Not everything. She would have said some things.

8 831 Q. Yeah. And you see, I just noticed from your statement,
9 where you had said "Marisa has said -- Marisa has said
10 that Keith threatened to burn her and the children", is 15:34
11 it possible that you heard that from Paula rather than
12 it being said to you? And I suggest to you that it
13 was --

14 A. Yeah, I think it may have been Paula, you know
15 because -- 15:34

16 832 Q. That she said that to you?

17 A. Yeah.

18 833 Q. And was this a time -- I mean, it must have been a time
19 of huge stress. At one stage it wasn't certain whether
20 you were going to the wedding, isn't that right? 15:34

21 A. Sorry, I can't hear you.

22 834 Q. At one stage it wasn't certain whether you were going
23 to the wedding?

24 A. That's right, yeah.

25 835 Q. There was a huge issue as to whether Keith was going to 15:34
26 the wedding?

27 A. Mm-hmm.

28 836 Q. Paula didn't want him at the wedding, and was trying to
29 ensure that he wouldn't be at the wedding?

1 A. Yeah.

2 837 Q. And was she saying to you what she said, what she said
3 Marisa had said to her?

4 A. Yeah.

5 838 Q. You see, I'm suggesting to you that Marisa never said 15:35
6 to you that she had been threatened by Keith with
7 burning?

8 CHAIRMAN: It is just, I have got a wee of a problem,
9 Mr. Hartnett, which is that apparently Paula and this
10 witness don't talk to one another. 15:35

11 MR. HARTNETT: She has just conceded that they did talk
12 in or about the time of the wedding.

13 CHAIRMAN: Apparently, they -- I mean, the last thing I
14 heard of it was they had last spoken in 2011.

15 MR. HARTNETT: well, my understanding that some 15:35
16 minutes --

17 CHAIRMAN: Indeed, she was at the wedding and she said
18 'oh, you look very nice' or some pleasant remark like
19 that, but apart from that they didn't talk at all at
20 all. That is what I have been told all day. 15:35

21 839 Q. MR. HARTNETT: Did you speak coming up to the wedding?
22 A. We did, yeah. Not a lot. We did.

23 MR. HARTNETT: I think the witness had said that some
24 minutes ago.

25 CHAIRMAN: Yes, I know. And that might flatly 15:35
26 contradict something that was said earlier on, so I am
27 just pointing out that I had taken it down that they
28 don't talk and had last spoken in 2011.

29 MR. HARTNETT: I was hoping to clarify that, and I hope

1 I have done so.

2 CHAIRMAN: Yes, yes. But I mean, there it is. I
3 thought I should point out to you that that seems to be
4 the case.

5 MR. HARTNETT: Well sorry, I am aware of all of these 15:36
6 things and of course I am aware of your comments, sir.

7 840 Q. Paula had a very definite attitude; she didn't want
8 Keith Harrison around her sister and she certainly
9 didn't want her at the wedding?

10 A. Definitely not. 15:36

11 841 Q. And you knew that at that time?

12 A. Yeah.

13 842 Q. Now, a question was raised about you coming to collect
14 your daughter and there is no doubt about it, but that
15 she did phone you on occasions -- 15:36

16 A. Yeah.

17 843 Q. -- to be collected. Can you remember how many
18 occasions?

19 A. Maybe two to three times.

20 844 Q. I see. Now once you said she was in the car when you 15:37
21 arrived?

22 A. Yeah.

23 845 Q. Well, is it possible that when she phoned you she said
24 to you 'I'll be waiting in the car'?

25 A. I think maybe, I'm not a hundred percent sure. She may 15:37
26 have said that.

27 846 Q. And that they'd had a row?

28 A. Sorry?

29 847 Q. There had been a row, an argument?

1 A. Yeah.

2 848 Q. And she didn't want to stay in the house with him?

3 A. That's right, yeah.

4 CHAIRMAN: So, she wasn't thrown out of the house, as
5 such? She voluntarily left and sat in the car? 15:37

6 A. She voluntarily left, yeah.

7 CHAIRMAN: Yes.

8 849 Q. MR. HARTNETT: Well, of course there are always
9 different versions in rows and arguments as to who
10 caused what. But, do you remember -- that's certainly 15:37
11 one occasion you can remember.

12 A. Yeah, that's right, yeah.

13 850 Q. Can you remember another occasion?

14 A. It's a long time ago, it's hard to remember all that.

15 851 Q. Sorry, I'm finding it difficult to hear you. 15:38

16 CHAIRMAN: It's a long time ago.

17 852 Q. MR. HARTNETT: It's a long time ago. I see. But what
18 you can say is that certainly on one occasion when you
19 went there she was waiting in the car for you?

20 A. Yeah. 15:38

21 853 Q. And you brought her home. It is not unusual, I
22 understand, for spouses, certainly on the female side,
23 when they have had a significant row to return to the
24 parental home or return to the mother --

25 A. That's right, yeah. 15:38

26 854 Q. -- in the meantime. I want to talk to you about the
27 question of the exam papers.

28 CHAIRMAN: So, is that the reason for this? That women
29 when they have a row with their husband or partner they

1 run back to their mother? Do you actually believe
2 that?

3 A. Yeah.

4 CHAIRMAN: You do?

5 A. Mm-hmm. 15:39

6 CHAIRMAN: Great.

7 855 Q. MR. HARTNETT: It may be more of a rural habit, sir.
8 But I am certainly aware from my experience over the
9 years that this can happen.

10 A. If you have a good relationship with you daughter. 15:39

11 CHAIRMAN: Pardon?

12 A. If you have a good relationship with your children.

13 CHAIRMAN: And a bad relationship with your husband.

14 A. what?

15 CHAIRMAN: And a bad relationship with your husband. 15:39

16 A. Yeah, yeah.

17 856 Q. MR. HARTNETT: Occasionally bad I suppose is a common
18 problem. And I think it is accepted to be a common
19 problem. Just, you were cross-examined by Mr. Marrinan
20 about the question of your giving a telephone number to 15:40
21 your daughter, Marisa, do you remember that?

22 A. I do, yeah.

23 857 Q. And that telephone number was whose number?

24 A. Goretti Sheridan, yeah.

25 858 Q. And she had asked you to give it to Marisa? 15:40

26 A. Sorry?

27 859 Q. Inspector Sheridan had asked you to give it to Marisa?

28 A. I don't know if I did it on my own accord, I can't
29 recall if I gave it to her or she asked me. I can't

1 remember.

2 860 Q. And you gave it to her?

3 A. I gave it to her, yeah.

4 861 Q. And it was suggested that you would have said at that
5 time to her, if I can just find the quote, "If you make 15:40
6 a statement it will be investigated". Now, can I
7 suggest to you that that was never said to Marisa, by
8 you. "If you make a statement it will be
9 investigated." I am suggesting that you did not say
10 that to your daughter. 15:41

11 A. I didn't say what?

12 862 Q. "If you make a statement it will be investigated."

13 A. No, I didn't say that to her, no.

14 863 Q. Yes.

15 CHAIRMAN: You didn't say that to her. Where are you 15:41
16 getting that line from, Mr. Hartnett?

17 MR. HARTNETT: My note of what Mr. Marrinan put to
18 her --

19 CHAIRMAN: All right.

20 MR. HARTNETT: -- during cross-examination of the 15:41
21 witness. And it was in a rolling, what I might call a
22 rolling cross-examination. I tend to rely on the
23 written note, which is not as reliable as the digital
24 note, but that is my note.

25 864 Q. Now, I think there was the question which you mentioned 15:41
26 in your statement of the exam papers. Undoubtedly
27 there was tension at the time?

28 A. A lot, yeah.

29 865 Q. You had told us that the bags of papers were put

1 outside and you complained, he put them outside in
2 plastic bags, you complained --

3 A. Yeah.

4 866 Q. -- and you say he helped to lift the bags into a car?

5 A. I asked him to put them in the boot and he did. 15:42

6 867 Q. Yeah. well, asked or demanded? Or, a little bit of
7 both?

8 A. A little bit of both.

9 868 Q. I see. Thank you.

10

15:42

11 MRS. McDERMOTT WAS CROSS-EXAMINED BY MR. O'NEILL AS
12 FOLLOWS:

13 869 Q. MR. O'NEILL: Very well. Then, Mrs. McDermott, just a
14 few matters for clarification purposes. You indicated
15 there in your evidence in relation to the phone calls 15:43
16 to Sergeant Durkin that there may have been a primary
17 reason for the phone calls in order to prevent Garda
18 Harrison from going to the wedding.

19 A. Yeah, to talk to him, yeah.

20 870 Q. well, I don't think that -- given the circumstances, I 15:43
21 don't think it's surprising that you wouldn't want him
22 to go to the wedding?

23 A. Yeah.

24 871 Q. Given the circumstances at the time and what you had
25 learned was going on between Garda Harrison and your 15:43
26 daughter, isn't that right?

27 A. That's right, yeah.

28 872 Q. There is no surprise about that?

29 A. Yeah.

1 873 Q. But as far as the primary motivation for making those
2 phone calls, I mean overall in the context of your
3 involvement at that time, what was the primary
4 motivation for you?
5 A. What was the what? 15:44

6 874 Q. The primary motivation for you in contacting the
7 Gardaí?
8 CHAIRMAN: In other words, what was the thing that was
9 uppermost in your mind?
10 A. For everything to stop. 15:44

11 875 Q. MR. O'NEILL: Well, you say everything, what do you
12 mean everything?
13 A. Well, my daughter was under, you know -- I just felt
14 she deserved better and --

15 876 Q. Is it you felt -- you said in your evidence that you 15:44
16 didn't feel that she was being respected.
17 A. That's right.

18 877 Q. There's the instance that you've referred to in
19 relation to her being outside of her house?
20 A. Yeah. 15:44

21 878 Q. There's the incident that you heard and you witnessed,
22 the incidents that you heard and witnessed in your
23 statement?
24 A. Yeah.

25 879 Q. Are those the things that you wanted to stop? 15:44
26 A. Yes, that's right.

27 880 Q. So the motive there was concern for your daughter?
28 A. Exactly, yeah.

29 881 Q. That's the main motive. And you understand what I mean

1 by the main motive?

2 A. Yeah.

3 882 Q. That's the overarching -- because I think there was a
4 tenor from the questioning of you that this might have
5 been a motivation to get Garda Harrison, that you had 15:45
6 some personal vendetta against him --

7 A. No.

8 883 Q. -- that might have been more important than you
9 protecting your daughter?

10 A. No. I never had anything against Keith at all. 15:45

11 884 Q. Now, at the time there was also reference to your
12 relationship with Paula?

13 A. Yeah.

14 885 Q. Paula McDermott, we might call her. And I think that
15 the Chairman asked you in relation to it, that he 15:45
16 understood that you hadn't talked to Paula since 2011?

17 A. Yeah.

18 CHAIRMAN: I was actually told that. I was told they
19 exchanged brief words at the wedding and that was it.
20 And they didn't talk and still don't talk. 15:45

21 886 Q. MR. O'NEILL: Now, if I might just ask you about that,
22 there's various degrees of talking.

23 A. Yeah.

24 CHAIRMAN: well, there's various degrees of not
25 talking. 15:46

26 MR. O'NEILL: Yes.

27 CHAIRMAN: And not talking means you're not talking.

28 MR. O'NEILL: Yes, I appreciate that. I just want the
29 witness just to explain just before the wedding there

1 was reference to you not talking, there was reference
2 to you having a difficult relationship and then there
3 was also reference that there were some words that were
4 exchanged between you before the wedding.

5 A. Oh yeah, there was, yeah. Maybe a week before the 15:46
6 wedding. About a week before the wedding I'd say.

7 887 Q. And so, was there any discussion in relation to what
8 was going on with Garda Harrison?

9 A. She simply didn't want him at the wedding.

10 888 Q. Okay. Was there further discussion than that? Or is 15:46
11 that what you recall being the general thrust of your
12 conversations with her about Garda Harrison?

13 A. I would say that was the general gist of it, like.

14 889 Q. Now, you gave a statement in October 2013 to the
15 Gardaí? 15:46

16 A. Mm-hmm.

17 890 Q. And it was explained to the Tribunal yesterday that
18 your instructions were that you felt flustered in the
19 manner in which you met the Gardaí at the time in
20 Raphoe? 15:47

21 A. Yeah.

22 891 Q. And then I think that you were at your mother's house,
23 isn't that right?

24 A. That's right.

25 892 Q. And I think that there was a recent death in the 15:47
26 family, isn't that right?

27 A. That's right, yeah.

28 893 Q. And I think that you didn't expect the Gardaí to be
29 there, isn't that correct?

1 A. I didn't expect them at all, no.

2 894 Q. And sometimes I think it is fair enough that when we
3 are in a particular circumstance and we don't expect
4 something that that can cause us to be flustered, isn't
5 that right? 15:47

6 A. Exactly, yeah.

7 895 Q. And it was suggested to you by Mr. Dockery that you
8 would be happy to see the Gardaí. Now at that point in
9 time when you're there with your mother and you're in
10 the middle of Raphoe, which is a very small town -- 15:47

11 A. Yeah.

12 896 Q. -- were you happy just to bump into the Gardaí who
13 seemed to want to talk to you in those circumstances,
14 or would it have been better that you got a phone call?

15 A. I wouldn't say I was happy to see them, because they 15:47
16 kind of surprised me that day, coming, like. I wasn't
17 expecting them.

18 897 Q. There was no appointment made, isn't that right?

19 A. There was no appointment made, no.

20 898 Q. If I might use the word, that you were doorstepped, 15:48
21 would that be an accurate reflection?

22 A. As I said, my mother seen the car going up and down her
23 street and she said, I think that's someone looking for
24 you like. And I said, who would that be, like, so? So
25 when I stopped the car to let my mother out -- 15:48

26 899 Q. Yes?

27 A. -- that's when the sergeant came over to my window.

28 900 Q. Okay. And are you saying to the Chairman that when the
29 word pressure -- you said that in the statement, I felt

1 pressured.

2 A. Yeah.

3 901 Q. You didn't say I was pressurised to make a statement,
4 that is something you didn't say.

5 A. No, I wasn't pressured into making any statement, no. 15:48

6 902 Q. Yes, you said you felt pressurised.

7 A. I felt pressurised because of the way that they
8 approached it, you know, came to my mother's and all,
9 like.

10 903 Q. Yes. So, would flustered have been a better choice of 15:48
11 word in the circumstances?

12 A. Yeah. Flustered, yeah.

13 904 Q. We have heard that you were fine about the statement
14 being made?

15 A. Yeah. 15:48

16 905 Q. It wasn't pre-prepared in any way, it was in
17 discussions, it was in discussion with the inspector
18 and the sergeant, isn't that right?

19 A. Yeah, that's right, yeah.

20 906 Q. And I think that the makeup of the statement is such 15:49
21 that some of it, as you said, is secondhand, some of it
22 thirdhand, some of it observations, and, as
23 Mr. Marrinan said to you, that the third limb of it was
24 that there was some historical context in relation to
25 that statement as well, isn't that correct? 15:49

26 A. That's right, yeah.

27 907 Q. And I think that it would be fair to say that that's
28 simply what you were doing, was recounting what you had
29 been told and what you had observed?

1 A. Yeah, but all thirdhand like.

2 908 Q. It was all thirdhand. Was there any embellishment?
3 what I mean by that, was there anything that you added
4 that wasn't something that you heard?

5 A. Nothing. 15:49

6 909 Q. Was there any exaggeration in relation to that
7 statement?

8 A. No.

9 910 Q. No. We've heard about the exam papers, that was honed
10 in on by Mr. Harty, and you expanded on your 15:49
11 explanation from the explanation that you gave to
12 Mr. Marrinan. Can you just tell me, what was the
13 demeanour of Garda Harrison at that time when that
14 incident with the exam papers took place?

15 A. Well, obviously there was a row between him and Marisa. 15:50

16 911 Q. Yes.

17 A. I don't know if she came to my house. Aye, she did,
18 because I was on -- I was just after having surgery, so
19 I was on a crutch, like. So I wasn't driving. So she
20 came and picked me up to go for and try and reason with 15:50
21 him to get the papers out, like. So she called him and
22 there was a bit of a to-ing and fro-ing row, like, a
23 row between the pair of them. But he didn't know I was
24 in the car. So I said, Keith, you have to give her the
25 papers, like. When we went to the house I just said to 15:50
26 him, you have to give them or we're going to call the
27 guards, like. And then he kind of put them out of the
28 door and I asked him, would you put them in the boot
29 for me, because I couldn't pick them up, like. And he

1 did.

2 912 Q. Okay. Now, there was another reference there by
3 Mr. Dockery to the statement that you gave to the
4 Tribunal a couple of months ago. And I think that he
5 honed in on one particular question and I think that it 15:51
6 was slightly unfair and I just want to give you a
7 chance to comment on it.

8 A. Okay.

9 913 Q. The question that you were asked in the context of the
10 Tribunal investigators visiting you in Letterkenny was 15:51
11 that, and I am just quoting from line 90:
12
13 "I have been asked to detail what I know of the events
14 that occurred on the 28th September 2013 between Garda
15 Keith Harrison and my daughter, Marisa." 15:51
16

17 A. Yes.

18 914 Q. Isn't that right? Now you hadn't seen your statement
19 in four years, isn't that right?

20 A. I haven't seen it, no. 15:51

21 915 Q. Right. And you were just -- in that particular
22 question, you were only asked about a date, isn't that
23 right?

24 A. That's right, yeah.

25 916 Q. You weren't asked -- no context was given about that 15:51
26 date. In other words, you weren't asked do you
27 remember the day that was shortly before your statement
28 when something significant happened or that there was a
29 row between Garda Harrison and Marisa, where a threat

1 was made or that, can you comment about the threat that
2 was made on that particular night, there was a very
3 serious threat, you were just given a date, isn't that
4 right?

5 A. Just a date, yeah. 15:52

6 917 Q. Now further to that --

7 CHAIRMAN: So, it's the investigators' fault?

8 MR. O'NEILL: No. Not at all. And in fact it might
9 have nothing to do with the investigators, Chairman.
10 It's just the way that she was asked the question and 15:52
11 the answer I think was "I cannot remember" and I think
12 your question was "what was that about?" Isn't that
13 right

14 A. Yeah.

15 918 Q. Now having said that - "what was that about?" - there 15:52
16 was no -- you weren't informed what was that about?

17 A. No.

18 919 Q. Now, in relation then to the statement itself, you
19 hadn't seen it in four years and it seems that you were
20 surprised about two aspects of it and two aspects only. 15:53
21 There was a lot of other content in the statement that
22 wouldn't exactly have been in Garda Harrison's favour.
23 But there were two -- and in fact I am counting about
24 12 incidents or observations that you made that
25 wouldn't have been in Garda Harrison's favour, but you 15:53
26 honed in to two of them. One is obviously the very
27 significant one in relation to the allegation that you
28 were told that there was a threat to burn down the
29 house?

1 A. Yeah.

2 920 Q. And the other was in relation to the --

3 CHAIRMAN: Sorry, it wasn't the house.

4 MR. O'NEILL: Sorry.

5 A. Burn the children. 15:53

6 921 Q. Burn her and the children, isn't that right?

7 A. Yes.

8 922 Q. You honed into, "Marisa had said that Keith threatened

9 to burn her and the children, but that she wasn't --"

10 In fact, the written text I think changes from the 15:54

11 original text. But I think that on the original

12 handwritten text it is "-- but that she wants to hold

13 off until after Paula's wedding to tell the guards.

14 She is scared for her life. He said something about

15 burning her and the children." And your evidence to 15:54

16 the Tribunal is that you didn't recognise that at the

17 time that you were given your chance to comment on this

18 in Letterkenny in August of this year, isn't that

19 right?

20 A. That's right, yeah. 15:54

21 923 Q. And you're saying to the Tribunal that you didn't

22 remember that. Now you were quite definite about it,

23 you said I didn't say that?

24 A. I honestly didn't, because it was four years since I

25 seen it like, and I didn't. 15:54

26 924 Q. And then, obviously that was the first time ever that

27 you saw the statement, and since then and today you've

28 obviously had more chance to reflect on what happened,

29 isn't that right?

1 A. That's right, yeah.

2 925 Q. And I think that last week you instructed your
3 solicitor to clarify that, isn't that correct?

4 A. That's right, yeah.

5 926 Q. And I think that you accept that that is correct, the 15:55
6 statement is correct, and that as far as you're
7 concerned that is what you were told and that's why
8 it's in the statement?

9 A. That's right, yeah.

10 927 Q. I don't think there's been any major challenge in 15:55
11 relation to the fact that you were told that today,
12 isn't that correct?

13 A. That's correct, yeah.

14 928 Q. Now, there was also a suggestion that, and I suppose
15 I've already dealt with this but I just have a note 15:55
16 here in front of me, that when Mr. Marrison was talking
17 to you there was a suggestion that you retracted that
18 entire statement, but that wasn't the case, it was only
19 two those aspects that you honed in on?

20 A. Yes. 15:55

21 929 Q. And in relation to the aspect involving the drinking of
22 Mr. Harrison, I think that your evidence is that it was
23 the formula of words maybe that you didn't recognise,
24 but you accept it's in your statement and you accept
25 that that is what you said? 15:55

26 A. That's right, yeah.

27 930 Q. Now, just very briefly, just in relation to the text
28 messages, I know that it was also characterised that
29 there was, as it were, family pressure. I think this

1 might be obvious, but just to say it anyway. There was
2 family pressure. It was put to you that it was family
3 pressure on Marisa in those text messages, it was you
4 and it was the family. But, lest that might mean that
5 there was some kind of, I suppose, major discussion 15:56
6 about how you were going to achieve an end where
7 Mr. Harrison was going to be moved out of the house or
8 that your daughter would leave Mr. Harrison, it wasn't
9 a family unit that was trying to do this, because you
10 weren't talking to Paula to any great extent at that 15:57
11 time, isn't that right?

12 A. No.

13 931 Q. And you've said that, listen, there was some
14 discussions --

15 A. Yeah. 15:57

16 932 Q. -- but I don't think it was a family decision that you
17 were going to approach Marisa in those text messages in
18 the way that they were done, was it?

19 A. No.

20 933 Q. Was it a collective decision, that look it, get the 15:57
21 family together and I'm going to text Marisa in this
22 way? Was it anything like that or --

23 CHAIRMAN: Well, it wouldn't seem so, she's not talking
24 to Paula, where is the family decision?

25 MR. O'NEILL: Exactly. 15:57

26 CHAIRMAN: Yes, Mr. Marrinan. Ms. Kelly, do you mind
27 if finish today? Mr. Marrinan, I just have a few
28 problems before we go on to this. I would like to
29 clarify now for Mr. Hartnett, we have had a number of

1 things. Is it the case that's being made by Marisa
2 Simms now that on three occasions she left the house
3 voluntarily after an ordinary family dispute and
4 decided to go back and live with her mother and there
5 was nothing more to it than that? 15:58
6 MR. HARTNETT: She left on approximately three
7 occasions after a tempestuous row.
8 CHAIRMAN: Yes. And that there was never any question
9 of her being thrown out of the house in her pyjamas?
10 MR. HARTNETT: That's correct. 15:58
11 CHAIRMAN: And the fact that she was outside in her
12 pyjamas is due to her own approach to things as opposed
13 to any necessity --
14 MR. HARTNETT: Correct.
15 CHAIRMAN: -- to get away from Keith Harrison? 15:58
16 MR. HARTNETT: Correct.
17 CHAIRMAN: And is she saying that Keith Harrison never
18 made a threat to burn her?
19 MR. HARTNETT: That's correct.
20 CHAIRMAN: Is she saying that Keith Harrison never made 15:58
21 a threat to burn her children?
22 MR. HARTNETT: That's correct.
23 CHAIRMAN: And she is, therefore, saying that a great
24 deal of what is in the statement to the Gardaí is
25 incorrect? 15:58
26 MR. HARTNETT: That's correct.
27 CHAIRMAN: And is she saying the Gardaí invented that?
28 MR. HARTNETT: well, it is there and there is a
29 conflict and cross-examination may help to explicate

1 matters, which is the usual function of
2 cross-examination. That is all I can say.

3 CHAIRMAN: And is she saying that she never told her
4 mother that she had, after a row with Keith, been
5 thrown out of the house in her pyjamas and therefore 15:59
6 needed to be picked up?

7 MR. HARTNETT: Yes, I put it, I thought, quite
8 specifically to the witness, that she asked to be
9 picked up and the witness agreed that she may have said
10 I will be waiting in the car. 15:59

11 CHAIRMAN: Yes. And does she say that she was at any
12 time woken up by Keith Harrison from her sleep in her
13 bed by him shouting in her face?

14 MR. HARTNETT: I would have to take specific
15 instructions on that one, but I think I answered 16:00
16 various questions in relation to my instructions the
17 other day when you made inquiries, sir.

18 CHAIRMAN: Does she say that Keith Harrison did not
19 have at that time a problem with drink or a problem
20 with severe outbursts of temper in consequence of 16:00
21 drinking too much?

22 MR. HARTNETT: Well, I do feel that is best dealt with
23 by evidence rather than a specific answer to a specific
24 question. Clearly there are gradations in these
25 matters and I would submit, sir, that it would be more 16:00
26 appropriate if dealt with in evidence.

27 CHAIRMAN: Very well. Thank you Mr. Hartnett.

28

29 MRS. MCDERMOTT WAS RE-EXAMINED BY MR. MARRINAN AS

1 carefully, is that right?

2 A. That's right, yeah.

3 942 Q. And you read over that statement probably on numerous
4 occasions, isn't that so?

5 A. I have only seen the statement once until the day that 16:02
6 the investigators gave it to me.

7 CHAIRMAN: But your solicitor already had it.

8 A. Aye, but I wasn't down with him.

9 CHAIRMAN: well, the whole exercise of sending things
10 to solicitors seems pointless if that is so, and I'm 16:02
11 not sure that it is so. But there it is.

12 943 Q. MR. MARRINAN: But in any event, having studied the
13 statement you were able to go to your solicitor and say
14 look, I may have misled the investigators and given a
15 wrong impression in relation to this, isn't that right? 16:02

16 A. That's right, yeah.

17 944 Q. And you wrote to the Tribunal, or your solicitor did,
18 correcting that?

19 A. Aye.

20 945 Q. So, therefore, when you came to give evidence today the 16:03
21 Tribunal approached it on the basis that what was in
22 your statement that you gave to the Gardaí were your
23 own words?

24 A. Yes.

25 946 Q. Isn't that right? 16:03

26 A. Yeah.

27 947 Q. That they weren't as a result of any prompting by the
28 Gardaí?

29 A. No.

1 948 Q. They weren't as a result of any inappropriate behaviour
2 by Inspector Sheridan or Sergeant Collins?
3 A. No.
4 949 Q. And they did nothing to influence you in what you said
5 or didn't say in your statement? 16:03
6 A. No, they didn't, no.
7 950 Q. And they acted entirely properly?
8 A. Yeah.
9 951 Q. And not only that, but that what was contained in your
10 statement, which you made in 2013, it was read over to 16:03
11 you at that time, isn't that right?
12 A. Yeah.
13 952 Q. And you were asked whether or not you had any
14 corrections to make to the statement and you had no
15 corrections or alterations to make to the statement in 16:04
16 2013, isn't that so?
17 A. Mm-hmm.
18 953 Q. You've also had the opportunity to review that
19 statement and we went through it meticulously today
20 line-by-line? 16:04
21 A. Mm-hmm.
22 954 Q. And I asked you in relation to every aspect of it --
23 A. Yeah.
24 955 Q. -- was the statement correct. Do you remember that?
25 A. Yeah. 16:04
26 956 Q. And you were happy that it was. And if we could just
27 have page 1984 up on the screen. This is where I read
28 out to you, "This is killing Keith. Marisa had
29 said --" This isn't Paula had said. "Marisa had said

1 that Keith threatened to burn her and the children but
2 that she wants to hold off until after Paula's wedding
3 to tell the guards. She is scared for her life. He
4 said something about burning her and the children and
5 something about take a good look at them children and 16:05
6 you will only see them at weekends. She told me that
7 there one day. I don't remember what day. She said it
8 happened last Friday. And then the child was sick.
9 That's when he threatened her."
10
11 You're at all times referring to "she" as being Marisa,
12 isn't that right? 16:05
13 A. Yeah.
14 957 Q. So it would appear that Marisa did tell you that there
15 was a threat to burn her and her children, because 16:05
16 that's what you have told the Gardaí, which you confirm
17 to be correct in 2013 and which earlier on today you
18 confirmed to be correct?
19 A. Yeah.
20 CHAIRMAN: So, Mr. Marrinan is asking you, where do we 16:06
21 stand about this?
22 958 Q. MR. MARRINAN: We stand in a position where in fact
23 that is correct, that she did say these things to you,
24 isn't that so?
25 A. Well, if it's in the statement obviously it must be. 16:06
26 959 Q. No, but she did, isn't that so?
27 A. It must be true.
28 960 Q. No, forget about what is in the statement.
29 MR. HARTNETT: I should say at this stage that this is

1 re-examination and not cross-examination. And I know,
2 I know that the Tribunal has indicated that it is
3 anxious to seek the truth, but I still submit that two
4 cross-examinations by one counsel are unusual and, I
5 submit, inappropriate. That there is such a thing as 16:06
6 re-examination, there are rules concerning it and I
7 submit that my friend should abide by them.

8 CHAIRMAN: Well, as it turns out Mr. Marrinan is asking
9 exactly the same questions that are going around in my
10 head, Mr. Hartnett. I mean, and if he hadn't asked 16:06
11 them I would have asked them. And I don't think he is
12 reading my mind, I think they're the questions that's
13 on anybody's mind who has been listening.

14 MR. HARTNETT: Can I just say, sir, that you are, of
15 course, entitled to ask those questions, but the 16:07
16 question is: Is Mr. Marrinan entitled to cross-examine
17 in what I would call a heightened way on two separate
18 occasions with the one witness? I submit not.

19 CHAIRMAN: I think the answer is yes, he is.

20 MR. HARTNETT: If that is the ruling. 16:07

21 CHAIRMAN: I want him to. And he's not doing anything
22 wrong.

23 MR. HARTNETT: I see.

24 CHAIRMAN: And nobody is being forced to say anything
25 at all. It's here in black and white. And I have had 16:07
26 quite a number of versions of the same thing today.
27 So, let's see what the final version is.

28 MR. HARTNETT: If the Tribunal so rules.

29 961 Q. MR. MARRINAN: Can we know what the final version is?

1 A. Well, if it's in the statement it must be true.

2 962 Q. Yes.

3 CHAIRMAN: Well, it's not just like that,

4 Mrs. McDermott. Do you know, did your daughter tell

5 you, by which I mean not Paula, with whom apparently 16:07

6 you are not speaking, but Marisa, who actually was

7 witnessing the events and living with Keith Harrison,

8 that he had threatened to burn her and her children?

9 Did she tell you that?

10 A. It's a long time ago. 16:08

11 CHAIRMAN: It is indeed.

12 A. Yeah.

13 CHAIRMAN: But it's the kind of thing a mother would

14 remember.

15 A. I know, but -- 16:08

16 CHAIRMAN: And I'm a parent myself now, Mrs. McDermott.

17 A. Yeah. Well, if I said it, it must be true.

18 CHAIRMAN: But do you remember that? Do you remember

19 it?

20 A. I don't remember it. 16:08

21 963 Q. MR. MARRINAN: Mr. Harty suggested to you that

22 everybody concerned, including his client, was anxious

23 that Paula's wedding would go ahead, as he put it,

24 without a hitch, do you remember you agreeing to that

25 proposition? 16:09

26 A. He said what?

27 964 Q. He said to you that everybody, including his client,

28 Keith Harrison, was anxious that Paula's wedding would

29 go ahead without a hitch?

1 A. Yeah.

2 965 Q. And you agreed to that?

3 A. Yeah.

4 966 Q. But that's not what you said to Sergeant Durkin?

5 A. What did I say to him? 16:09

6 967 Q. If we could have page 672 on the screen. And again, I
7 brought you through this and you agreed with his
8 account and his report, where you point out that Paula
9 is getting married on 4th October in Bunbeg. Then I
10 will read out this portion: 16:09

11

12 "Rita McDermott has stated that her daughter, Paula,
13 has received correspondence from Keith Harrison
14 indicating that he is going to cause some sort of
15 disturbance at the reception as he is not invited to 16:09
16 the wedding. This also may have implications for
17 Gardaí at Bunbeg."

18

19 You're telling Sergeant Durkin there is a risk that
20 Keith Harrison is going to cause some sort of a 16:10
21 disturbance at the wedding, isn't that right?

22 A. Well, obviously Paula must have told me that, like.

23 968 Q. But that was the mood and the atmosphere at the time?

24 A. Yeah. It was, yeah.

25 969 Q. And this caused you to be fearful, that Garda Harrison 16:10
26 was going to cause a disturbance at the wedding, isn't
27 that right?

28 A. Mm-hmm.

29 970 Q. And you're so concerned about it, you phoned Sergeant

1 Durkin and you're telling him about this?

2 A. Yeah.

3 971 Q. So it doesn't appear that everybody was anxious that
4 the wedding would go off without a hitch in your mind?

5 A. That's right. 16:10

6 972 Q. Isn't that right?

7 A. Yeah.

8 973 Q. If we could just turn to one other aspect that is of
9 concern, and it's something that you were in fact
10 present for and that you actually witnessed. This is 16:11
11 in relation to the exam papers. Do you remember me
12 bringing you through your statement in relation to that
13 aspect of it and asking you was it something that
14 happened in accordance with your description to the
15 Gardaí? Do you remember that? 16:11

16 A. About the exam papers?

17 974 Q. Yes.

18 A. What about them?

19 975 Q. Well, if we could have page 1983 up on the screen. I
20 read this out to you earlier on, and you said: 16:11
21
22 "I remember another time Marisa was marking exam
23 papers."
24
25 This is something you introduced to the statement, 16:11
26 isn't that right? The guards didn't know anything
27 about this.

28 A. No, they didn't know nothing about that, no.

29 976 Q. And it was an event that you thought that you would

1 tell them about --

2 A. Yeah.

3 977 Q. -- perhaps to highlight just how bad Garda Harrison
4 could be, isn't that right?

5 A. Yeah.

16:12

6 978 Q. You're giving them an example of very bad behaviour on
7 his part, isn't that right?

8 A. Yeah.

9 979 Q. That's why you're highlighting this. You say:

10

16:12

11 "I remember another time Marisa was marking papers, she
12 travelled to Athlone with Keith and collected secondary
13 school exam papers to correct, as she is a teacher.
14 Then Keith wouldn't give her the papers one day. He
15 put her out and said he had burned them. Marisa was
16 really worried, and so, I went to the house to her. We
17 threatened to call the guards if she didn't get the
18 papers and then he threw them out."

16:12

19

20 Right. That's a description that you gave to the
21 Gardaí.

16:12

22 A. Well, threw them off --

23 980 Q. Well, you've sought to water down this occasion and
24 Mr. Hartnett has put it to you that there might have
25 been some sort of, a bit of tension in the air or
26 whatever. Can I just read to you what your daughter
27 totally independently said of the same event to the
28 Gardaí?

16:13

29 A. Mm-hmm.

1 981 Q. If I could have page 75 on the screen, please. This is
2 what she said:
3
4 "He gets angry about this and it's worse when he is
5 drinking." 16:13
6
7 And then:
8
9 "After collecting the papers in Cornamaddy, Keith and I
10 travelled back to Donegal. I don't remember if the 16:13
11 papers were in his car or my car or how they came to be
12 in his house in Ballymaleel, but they ended up there.
13 The day after we came back from Athlone it would have
14 been my intention to check that all the papers are
15 there as you have to text the advising examiner to say 16:14
16 that all the papers are accounted for. I went to
17 Keith's house in Ballymaleel to get the papers and he
18 refused to give them to me. He said he was going to
19 burn them."
20 16:14
21 Her recollection is the same as yours; that Keith
22 Harrison was threatening to burn Leaving Cert exam
23 papers, is that right?
24 A. Well, he didn't say to me about burning.
25 982 Q. Marisa told you that he had threatened to burn them at 16:14
26 the time --
27 A. She did, yeah.
28 983 Q. -- isn't that right?
29 A. She said to me that, yeah.

1 984 Q. Yeah.

2 A. But he didn't say it to me.

3 985 Q. "It was more or less 'come and live with me or your
4 papers will be up in smoke'. I felt it as a real
5 threat and I was panicking as it was important that I 16:15
6 knew the location and number of the papers. He knew
7 how important they were to me. I had rang him first
8 looking for them and he said no. Then I collected my
9 mother, Rita, and the two of us called for them."
10 16:15

11 That's correct, isn't that right?

12 A. Yeah, that's right, yeah.

13 986 Q. "We had no conversation when we actually got there.
14 Mammy had rang him on the phone on the way over there
15 and told him if he didn't give the papers she would 16:15
16 call the guards." Is that right?

17 A. That's right, yeah.

18 987 Q. "When we arrived at the house he threw the bags outside
19 the front door." Is that right?

20 A. Yes. 16:16

21 988 Q. Because that's what you told the guards?

22 A. Yeah, that's right, yeah.

23 989 Q. So it wasn't just simply a matter of a little bit of
24 tension and Keith Harrison handing the papers out the
25 front door? 16:16

26 A. Well, he didn't actually throw them out on the street.
27 Like, he threw them --

28 990 Q. Well, you see, you have told the Gardaí that he threw
29 them in your statement, Marisa has said that to the

1 Gardaí, totally independently. And all of a sudden we
2 have a situation where you're changing your description
3 now. Are you doing that just simply to row in
4 behind --

5 A. I'm not changing anything. I'm only saying the way -- 16:16

6 991 Q. Sorry?

7 A. -- that he opened the door, he kind of threw the bags
8 on the top of the step.

9 992 Q. Okay.

10 A. So -- 16:16

11 993 Q. Now, just finally, you were asked by the investigators
12 if you had any knowledge of any unwarranted or
13 unjustified intervention by Tusla as referred to by
14 Garda Keith Harrison. And your answer to that was no?

15 A. That's right, yeah. 16:17

16 994 Q. Is that right?

17 A. Yeah.

18 995 Q. And does that remain the situation?

19 A. Yes.

20 MR. MARRINAN: Thank you very much. 16:17

21

22 MRS. McDERMOTT WAS THEN QUESTIONED BY THE CHAIRMAN,
23 AS FOLLOWS:

24 996 Q. CHAIRMAN: There's just one other thing on my mind,
25 Mrs. McDermott, and I don't mean to detain you. 16:17
26 Thinking back to this time and thinking back in
27 particular to April 2013 through to the wedding, the
28 statement to the Gardaí, etcetera, just that year, 2013

29 A. Mm-hmm.

1 997 Q. CHAIRMAN: So April, May, June, July, August,
2 September, a six-month period?
3 A. Mm-hmm.
4 998 Q. CHAIRMAN: Were you at any time concerned for the
5 safety of your daughter? 16:17
6 A. It wasn't that I was concerned about her safety,
7 because I knew that he would never do anything to her
8 because I know Keith very well, like.
9 999 Q. CHAIRMAN: How do you know that?
10 A. Pardon? 16:18
11 1000 Q. CHAIRMAN: How do you know that?
12 A. On my assumption, like, I know him very well, like.
13 1001 Q. CHAIRMAN: Did you know him very well back then?
14 A. Yes, I did.
15 1002 Q. CHAIRMAN: But you didn't like him back then? 16:18
16 A. Well, I didn't like him, the way he was treating my
17 daughter. Every mother expects their daughter to be
18 treated with respect, like.
19 1003 Q. CHAIRMAN: Were you in any way fearful as to what he
20 might do? 16:18
21 A. Sorry.
22 1004 Q. CHAIRMAN: Were you in any way fearful as to what he
23 might do?
24 A. Fearful?
25 1005 Q. CHAIRMAN: Yes. 16:18
26 A. No.
27 1006 Q. CHAIRMAN: Why were you contacting the Gardaí then?
28 A. I was contacting the Gardaí because I wanted -- you
29 know, because it was keeping going on and on and on,

1 like, and she had only broke up from her relationship,
2 so I didn't want -- I thought maybe if his superior
3 could talk to him it might stop things, like. I didn't
4 want it to go any further than that, like.

5 1007 Q. CHAIRMAN: well, it's gone a lot further than that. 16:19

6 A. Mmm?

7 1008 Q. CHAIRMAN: It's gone a lot further than that.

8 A. I know.

9 1009 Q. CHAIRMAN: I don't think anyone could say that you are
10 in any way to blame about contacting the Gardaí about 16:19
11 concerns you had about your daughter, it's surely the
12 right thing to do.

13 A. well, I thought it was, like. Any mother would do
14 that.

15 1010 Q. CHAIRMAN: You'd hope so. 16:19

16 A. Mmm?

17 1011 Q. CHAIRMAN: You'd hope so.

18 A. Yeah, yeah.

19 1012 Q. CHAIRMAN: And looking back now, do you think you had
20 things to be concerned about in relation to his 16:19
21 behaviour?

22 A. I would say the drinking, his drinking maybe had a lot
23 to do with it.

24 1013 Q. CHAIRMAN: I thought you told me you never saw him take
25 a drink? 16:19

26 A. well, in my home, when I seen him, the consumption he
27 drank in my home, like. with regards to outside, I
28 don't know what he consumed, like.

29 1014 Q. CHAIRMAN: well, why were you worried about his

1 drinking then?

2 A. Well, drink can do a lot -- you know, can do a lot. It
3 can change people.

4 1015 Q. CHAIRMAN: Yes. Well, I suppose a criminologist will
5 tell you 70-80%% of violent crime is linked to drink. 16:20

6 A. To drink, yeah.

7 1016 Q. CHAIRMAN: I mean, you don't need to be a genius or an
8 academic to realise that.

9 A. Yeah. It can change people, like.

10 1017 Q. CHAIRMAN: Well, what had it changed him into? 16:20

11 A. A different person.

12 1018 Q. CHAIRMAN: And when it comes to the social services
13 calling to the house to see if things are calm and the
14 children are all right, are you blaming them for that?

15 A. Blaming the social -- no, that's their job, like. 16:20

16 1019 Q. CHAIRMAN: That's their job?

17 A. Yeah.

18 1020 Q. CHAIRMAN: Do you think they had reason, given the
19 statements that were made, to do that?

20 A. Yeah, I would say so. 16:20

21 1021 Q. CHAIRMAN: Would you have blamed them if they hadn't
22 done that?

23 A. I'd have been annoyed if they hadn't have done. I
24 mean, they didn't have any reason -- that, you know, it
25 was just protocol when there's something like that 16:21
26 made, like, they have to attend, like.

27 1022 Q. CHAIRMAN: And if the Gardaí hadn't taken your
28 complaints seriously would you have cause to think they
29 were in the wrong in that regard?

1 A. Yeah, I think would.

2 1023 Q. CHAIRMAN: I just wanted to finally ask you, I can
3 appreciate that this isn't easy and I appreciate as
4 well you taking the trouble to come up --

5 A. Mm-hmm. 16:21

6 1024 Q. CHAIRMAN: -- to us, Mrs. McDermott, and I also know
7 that, you know, families are families and they can be a
8 bit funny at times. You're a woman of considerable
9 dignity, is it the case or is it not the case that your
10 daughter, Paula, wasn't talking to you during the 16:21
11 relevant period, which again is April 2013 through to
12 October 2013, apart from maybe eventually inviting you
13 to the wedding or saying 'I got a nice pair of shoes',
14 in other words wasn't talking to you about matters on
15 her mind the way a daughter would talk to her mother? 16:22

16 A. No, she wasn't really talking about a few weeks before
17 the wedding or a week before the wedding.

18 1025 Q. CHAIRMAN: No, but I mentioned the six months we're
19 talking about here, these six months.

20 A. No. 16:22

21 1026 Q. CHAIRMAN: Are you on good terms now?

22 A. No, I don't see her.

23 1027 Q. CHAIRMAN: You don't see each other?

24 A. No.

25 1028 Q. CHAIRMAN: well, sure, it might change. 16:22

26 A. Sorry.

27 1029 Q. CHAIRMAN: It might change.

28 A. Hopefully.

29 CHAIRMAN: Safe journey home, Mrs. McDermott. Thank

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you. All right, is that it for the day?

MR. MARRINAN: Yes.

CHAIRMAN: Thank you.

THE HEARING THEN ADJOURNED UNTIL FRIDAY, 22ND SEPTEMBER 16:22
2017 AT 10:00AM

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