

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

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1921, ON 17 FEBRUARY 2017

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

HELD IN DUBLIN CASTLE
ON TUESDAY, 26TH SEPTEMBER 2017 - DAY 25

25

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

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1 THE HEARING RESUMED, AS FOLLOWS, ON TUESDAY, 26TH
2 SEPTEMBER 2017:

3
4 MS. LEADER: Sir, the first witness today is Sergeant
5 Brigid McGowan. Her statement starts in volume 2 at 10:00
6 page 704 and continues into volume 3 of the materials.
7

8 SERGEANT BRIGID MCGOWAN, HAVING BEEN SWORN, WAS
9 DIRECTLY EXAMINED BY MS. LEADER:

10 1 Q. MS. LEADER: Sergeant McGowan, I understand you are now 10:01
11 attached to Claremorris Garda Station?

12 A. That's correct.

13 2 Q. And if you could tell the Tribunal, please, about your
14 career in An Garda Síochána to date?

15 A. I joined An Garda Síochána in December 1991. In 10:02
16 February of 1993 I was attested to the force and I was
17 allocated to Dalkey Garda Station. I remained there
18 for a couple of years. Then I was allocated to a
19 district crime task force in the Dun Laoghaire
20 district. I remained there I think until -- can I just 10:02
21 check my notes, Mr. Chairman, if you don't mind. I
22 remained there until I think it was 1996, and then --
23 yes, March '96, and then I went to the chief

24 superintendent's office for the division there in Dun
25 Laoghaire, and that was the DMOR Eastern Division. In 10:02
26 is the 1998, September 1998, I was appointed -- or
27 January '98 I was allocated as an aid to the detective
28 unit at Dalkey, and in December -- or September 1998 I
29 was appointed to the role of detective and I was

1 allocated to Dun Laoghaire Garda Station. In December
2 of 2000 I went on voluntary transfer to Burnfoot Garda
3 Station in the Donegal division. I was allocated to
4 regular policing duties there. In May of 2002 I was
5 allocated to the divisional drugs unit in Donegal. I 10:03
6 remained there until 2003 when I was allocated to the
7 detective branch at Letterkenny Garda Station. I was
8 promoted to the rank of sergeant in 2007, and I was
9 allocated to Kerrykeel Garda Station in the Milford
10 district, where I remained until July of 2014. And I 10:03
11 went on voluntary transfer to Claremorris Garda
12 Station, where I was allocated as a unit sergeant to
13 the regular unit. Throughout my service I was been
14 involved in numerous investigations. I have completed
15 a number of courses, including Children First training, 10:04
16 family liaison officer, standard CAR course, other
17 courses. I have also attended continuous professional
18 development courses in relation to Children First
19 training, joint training with the HSE, and I have
20 served I suppose really in both rural and city 10:04
21 locations, and that is my career to date.

22 3 Q. So in the time of interest to the Tribunal, which is
23 2012, 2013 and 2014, you were in Kerrykeel Garda
24 Station as sergeant in charge?

25 A. That's correct, in the Milford district in Donegal. 10:04

26 4 Q. And your superintendent at that time was Superintendent
27 Eugene McGovern, is that correct?

28 A. That's correct.

29 5 Q. And your chief superintendent was Terry McGinn?

1 A. Correct.

2 6 Q. Now, you had a particular role in 2010 with regard to
3 children, and if you could explain to the Tribunal
4 about that role, please?

5 A. Well, under the Children First Guidelines, a HSE 10:05
6 liaison manager is appointed in each Garda district and
7 basically you have responsibility to liaise with the
8 HSE in relation to any referrals that are forwarded
9 from the district. Likewise, the HSE, I have contact
10 counterparts there, they would liaise with me and 10:05
11 predominantly, the main objective is to ensure that the
12 welfare of children is protected and to ensure that you
13 would share information and review matters as they
14 arose.

15 7 Q. And I think in that role, you abided by the Children 10:05
16 First Guidelines, which are at volume 4 of the
17 materials, and also there is a particular section of
18 the Garda Code which sets out what you are supposed to
19 do in relation to your role as liaison officer?

20 A. That is correct. And you know, the Code instructions 10:06
21 or the policy document and the children if -- in
22 conjunction with the Children First Guidelines in
23 relation to how all members deal with HSE referrals or
24 engage with the HSE in relation to child protection
25 concerns. 10:06

26 8 Q. Okay. And I don't intend to go into the Children First
27 Guidelines, the Tribunal has already heard evidence in
28 July of this year about them, but in essence, chapter 7
29 of the Children First Guidelines sets out the procedure

1 which you were to follow as Garda liaison officer when
2 concerns come to your -- or allegations in relation to
3 children come to your attention, isn't that correct?
4 A. That's correct. Children First Guidelines --
5 9 Q. Now, in February 2012, you received a phone call from a 10:06
6 social worker in the HSE, which was then the HSE, not
7 Tusla?
8 A. That's correct.
9 10 Q. And that social worker was Ms. Una Coll, is that
10 correct? 10:07
11 A. That's correct.
12 11 Q. Now, could you tell the Tribunal why Ms. Coll was
13 telephoning you on the 9th February 2012?
14 A. Ms. Coll made contact with me in relation to an
15 anonymous letter that the HSE had received outlining 10:07
16 concerns in relation to children, and the letter also
17 made reference to Garda Keith Harrison, who was
18 stationed in the Donegal division at the time. When
19 Ms. Coll contacted me, she spoke to me and I arranged
20 to meet with her and she handed me a copy of the 10:07
21 anonymous referral. I also informed Superintendent
22 McGovern, who was my district officer at the time,
23 about the letter.
24 12 Q. Okay. So, when you received the phone call from
25 Ms. Coll, did you know anything about Garda Harrison? 10:07
26 A. No, no. I had never met Garda Harrison, I had never
27 had any dealings with him through work, so I had -- I
28 had never met the man.
29 13 Q. Okay. And did you know that he was a member of An

1 Garda Síochána?

2 A. I knew he was a member of An Garda Síochána, but I had
3 never met the individual. Donegal is quite a big
4 division, you know, it's geographically quite large,
5 and there's quite a lot of members within the division 10:08
6 that I would never have met.

7 14 Q. Okay. Had you heard anything about him prior to --

8 A. I hadn't heard anything at all about him prior to
9 February of 2012.

10 15 Q. Did you know he was a guard at that stage? 10:08

11 A. I knew he was a guard and I knew he was stationed in
12 Donegal but I hadn't heard anything in relation to him
13 prior to 2012. I know during the course of the
14 Tribunal that there was a mention of an incident that
15 occurred in May of 2011 within the Milford district, 10:08
16 but I actually wasn't working at the time of that
17 incident. I was off work from April of that year until
18 January of 2013.

19 16 Q. Okay.

20 A. Or January 2012, sorry, excuse me. 10:09

21 17 Q. Okay. So, you said you met with Ms. Coll later on that
22 day and that meeting, where did it take place?

23 A. It took place within the offices of the HSE in
24 Letterkenny.

25 18 Q. Okay. And was it a specially arranged meeting, do you 10:09
26 know?

27 A. Well, based on, she had told me that there was an
28 anonymous letter, that they had received, and that
29 there were child protection concerns within the letter

1 and a guard was named. And, on the basis of that, I
2 felt that, well, until I had sight of the letter, I
3 didn't -- I know she was telling me over the phone but
4 until I had sight of the letter and reviewed the
5 contents, then I would be able to make an informed 10:09
6 decision in relation to the matter.

7 19 Q. Okay. Now, at that stage I think within the Children
8 First Guidelines this wasn't a formal referral from the
9 HSE?

10 A. No, that's correct. 10:09

11 20 Q. And I think there is provision in the guidelines for
12 informal referrals from the HSE?

13 A. There is, there is -- for informal referrals and also
14 for sharing of information in relation to any child
15 protection concerns. 10:10

16 21 Q. And the guidelines encourage sharing of information?

17 A. That is the fundamental -- in my opinion it's one of
18 the fundamental aspects of it; it's to create a good
19 relationship between both agencies, because
20 predominantly it's the protection of children that you 10:10
21 are tasked with.

22 22 Q. Okay. Now, the anonymous letter appears at page 717 of
23 the materials, and it should come up on the screen in
24 front of you, sergeant. But it's dated January 2012,
25 and it's addressed to Ms. McGettigan. Who is 10:10
26 Ms. McGettigan?

27 A. I believe Ms. McGettigan is somebody that works within
28 the service of the HSE but I never personally met her.
29 It was Ms. Una Coll that brought the matter to my

1 attention.

2 23 Q. Did you speak over the phone to her?

3 A. No, I just spoke directly with Una Coll.

4 24 Q. Did you make any inquiries as to why it was
5 Ms. McGettigan that was getting this letter? 10:10

6 A. No. I spoke with Ms. Coll in relation to it, and I
7 believe she said that she was somebody who worked
8 within the service but other than that, I didn't speak
9 with her.

10 25 Q. Okay. And I think the first line of the letter says: 10:11
11 "It has come to my attention that the well-being of
12 named Simms child and named Simms child is
13 questionable." That is the first line?

14 A. That's correct.

15 26 Q. And essentially it goes on to explain that: "Their 10:11
16 mother was involved with Garda Keith Harrison and that
17 their mother leaves and returns to the family home,
18 which was in Milford, on a regular basis. This was
19 causing upset to the two children and to her husband,
20 Mr. Simms." 10:11

21 A. That's correct.

22 27 Q. And it refers to Mr. Simms being at breaking point and
23 him needing help in relation to -- the meaning that is
24 conveyed, I think, in relation to caring for the
25 children and because he was working full-time? 10:12

26 A. That's correct.

27 28 Q. Now, the letter goes on to explain that the person who
28 was sending it would call but that that person had a
29 concern in relation to what Garda Harrison would do if

1 Garda Harrison found out this letter was being sent or
2 this information was being sent to the HSE?

3 A. That's correct.

4 29 Q. Okay. Now, it refers in particular to one of the
5 children becoming very withdrawn and that the stress of 10:12
6 the whole situation was too much for that child?

7 A. That's correct.

8 30 Q. And then the letter goes on to outline that whoever was
9 sending the letter was doing so out of a sense of duty
10 in relation to the children? 10:13

11 A. That is what is contained in the letter, that's
12 correct.

13 31 Q. All right. Now, you went back to the Garda station
14 after that, did you?

15 A. I did -- well, I know I spoke with the superintendent 10:13
16 in relation to it and I forwarded in a report under
17 confidential cover with a copy of the anonymous letter
18 attached. I had no knowledge of who Marisa Simms was
19 or -- I knew Garda Harrison was stationed in the
20 division, but I had no knowledge as to who Marisa Simms 10:13
21 was at the time, and as part of my role, I undertook to
22 try and ascertain some information to assist the HSE in
23 their inquiries in relation to the issues that were
24 raised.

25 32 Q. And is that what you said to Ms. Coll? 10:13

26 A. That is what I said, that's correct.

27 33 Q. Okay. Did you ask her had she any information about
28 the Simms or Garda Harrison?

29 A. She indicated to me -- normally during the course of

1 any referral, if there is any other information they
2 would make it available, but there was no other
3 information made available to me at that time.

4 34 Q. Okay. Now, you said you forwarded a report to your
5 superintendent, who was Superintendent McGovern in 10:14
6 Milford, is that correct?

7 A. That's correct.

8 35 Q. And that appears at page 716 of the materials. And
9 essentially, it outlined what you have just told the
10 Tribunal here in your evidence today? 10:14

11 A. That's correct.

12 36 Q. Yes. Now, you also say at the very last paragraph of
13 that letter: "The HSE informed me that they would call
14 and speak to both parents of the children to ensure
15 that the children were being adequately cared for and 10:14
16 that they would inform me of the outcome of their
17 inquiries."

18 A. That's correct.

19 37 Q. "Further developments in this regard will be reported
20 in early course." 10:14

21 A. That's correct.

22 38 Q. Now, what else did you say to Superintendent McGovern
23 about it?

24 A. Well, I forwarded that report in and during the course
25 of my efforts to try and ascertain further information 10:15
26 for the HSE, I was in Milford Garda Station a number of
27 days afterwards, I can't -- if I can refer to my --

28 39 Q. Maybe if we could just slow down there for a minute.
29 What did you discuss with Superintendent McGovern?

1 A. I just told him basically that there was an anonymous
2 letter after being received, that there were child
3 protection concerns raised in relation to the children,
4 that it named a serving member within the Gardaí,
5 within the division, and that, you know, I was 10:15
6 endeavouring to try and provide information to the HSE
7 to ensure that there was no concerns in relation to the
8 children.

9 40 Q. OK.

10 A. And -- 10:16

11 41 Q. And did Superintendent McGovern tell you to do anything
12 or direct you in any particular --

13 A. No. During the course of my own efforts to try and
14 ascertain information for the HSE, I happened to be in
15 Milford one morning, I had no Pulse machines in 10:16
16 Kerrykeel Garda Station, so any inquiries that I would
17 have to carry out I would have to do it in the district
18 headquarters, so I was in the divisional office, just
19 the date escapes me --

20 42 Q. I think it's referred to in your statement as the 13th 10:16
21 February?

22 A. Yes, sorry.

23 43 Q. Yes.

24 A. And the divisional clerk was there. As you can
25 imagine, there's not that many Pulse machines 10:16
26 available, she happened to be logged on to a machine
27 and I asked her would she do an inquiry, a personal
28 check, on the machine for me under the name of Marisa
29 Simms so that I could try and establish an address to

1 assist the HSE when they were carrying out their
2 inquiries. So I district clerk, Garda McWalters, she
3 duly did the check and when I saw the result on the
4 screen I saw that -- when you do a check within the
5 Pulse system, it will show you who has carried out -- 10:17
6 your check is logged within the system, but it will
7 also give a history of what checks have been done
8 previously. So when I looked at the screen I saw a
9 full screen in front of me with checks that had been
10 carried out on Marisa Simms and predominantly the vast 10:17
11 majority of them were attributed to Garda Harrison.

12 44 Q. I think that Pulse printout, which is dated the 13th
13 February 2012, appears at page 719 of the materials, it
14 will come up on the screen in front of you. So at the
15 very top we see Garda Orla McWalters' check and beneath 10:18
16 that a series of checks carried out by Keith Harrison,
17 Garda --

18 A. That's correct.

19 45 Q. -- in relation to Ms. Simms. And they stretch from the
20 13th May 2008 to the 11th February 2012? 10:18

21 A. That's correct.

22 46 Q. Okay. Did they cause you to do anything?

23 A. Well, I was surprised when I saw it and I felt that
24 maybe there was an inappropriate accessing of Pulse in
25 relation to carrying out these person checks. So I 10:18
26 took the printout, I went straight down to the
27 superintendent's office, I handed him a copy of the
28 printout and I informed him of how it had come to be in
29 my possession. And I left the matter for his

1 attention.

2 47 Q. Okay. Did you have any other discussion about it and
3 the anonymous letter?

4 A. No. I told him that it was during the course of my
5 inquiries in relation to the anonymous letter that I 10:19
6 discovered these checks had been carried out on Pulse.
7 And personally I just felt that, you know, I couldn't
8 understand why a member would carry out checks of that
9 nature and, you know, you can see that there is a
10 reason there within the field, and it just says "E" but 10:19
11 there is no reasons per se given in relation to why
12 these checks were necessary or why they were carried
13 out. So it certainly raised alarm bells with me and
14 that is why I brought it to the attention of the
15 superintendent. 10:19

16 48 Q. Okay. Now, I think you then got a report on the 29th
17 of February -- dated 29th February 2012, marked
18 confidential, from Superintendent McGowan [sic]. And
19 that appears at page 723. And essentially I think
20 Superintendent McGovern was telling you where Keith 10:20
21 Harrison, Marisa Simms and her children lived?

22 A. That's correct.

23 49 Q. Okay. And what did do you with that information?

24 A. Well, I informed the HSE of the address and I also, as
25 per the instructions of the superintendent, I informed 10:20
26 Sergeant Walsh in Letterkenny, who would be the liaison
27 manager for the HSE within the Letterkenny district.

28 50 Q. And the significance of the Letterkenny district in
29 particular?

1 A. Because the address that was identified was actually an
2 address that fell within the Letterkenny district.

3 51 Q. Okay. Now, I think you had more contacts with the HSE
4 in relation to that letter and if you could tell the
5 Tribunal about those, please? 10:21

6 A. That's correct. I subsequently spoke with the HSE in
7 relation to the letter and they informed me that they
8 had carried out a number of checks, I think it was with
9 the public-health nurse, schools, etcetera, and they
10 had invited Marisa Simms and her husband to call to 10:21
11 their offices and, as far as they were concerned, it
12 appeared that they -- that they were residing together
13 and that there were no child protection concerns for
14 the children at that time.

15 52 Q. And I think you duly reported that back to 10:21
16 Superintendent McGovern on an undated letter which
17 appears at page 726 of the materials. I think it's
18 undated, sergeant.

19 A. That's correct. The letter is undated but in the first
20 line of the letter I just note that, I have referred to 10:22
21 the superintendent's correspondence but I have dated
22 the date of the meeting.

23 53 Q. With the HSE?

24 A. Correct.

25 54 Q. And that was on the 14th of March 2012, you met with 10:22
26 Nora Roarty and Una Coll, and they informed you of what
27 you have just told the Tribunal?

28 A. That's correct.

29 55 Q. And you reported that to your superintendent and you'd

1 also told Sergeant Walsh, who was the HSE liaison
2 manager in Letterkenny?

3 A. That's correct.

4 56 Q. So at that stage was the matter of Marisa Simms closed
5 to you? 10:23

6 A. That would have been the case. There were no child
7 protection concerns identified as far as I was
8 concerned, so the matter was closed.

9 57 Q. Okay. And in relation to Garda Harrison, did you have
10 any more dealings with him prior to October 2013? 10:23

11 A. No, none whatsoever.

12 58 Q. Okay. Did you have any conversations about him prior
13 to that time, can you remember?

14 A. No, none that I can recall.

15 59 Q. Okay. So then we go on to the 1st October 2013, and
16 your counterpart from the Letterkenny district, 10:23
17 Sergeant Collins, phoned you?

18 A. That's correct.

19 60 Q. Have you a memory of that?

20 A. I can recall receiving the phone call from Sergeant 10:23
21 Collins. He informed me that he was aware that there
22 were issues, allegedly, between Marisa Simms and Garda
23 Harrison and I do recall him mentioning the wedding,
24 the upcoming wedding of Paula McDermott and he would
25 have -- the report that was disclosed by Sergeant 10:24
26 Collins to the Tribunal, he would have copied me, he
27 would have forwarded me a copy of that. I believe the
28 reason why he was engaging with me is, he believed that
29 they were residing within the Milford district and I

1 would have been on duty that day and he would have made
2 contact with me.

3 61 Q. Okay. And do you remember having any conversation with
4 him about following the matter up with Ms. Simms'
5 sister, Paula McDermott? 10:24

6 A. Well, from my recollection, Sergeant Collins told me
7 that he was going to make inquiries in relation to the
8 matter and follow it up because of the information he
9 had in his possession at the time.

10 62 Q. Okay. And did you speak to him after he had followed 10:25
11 it up with Paula, can you remember?

12 A. I can't recall specifically if I spoke to him, but I
13 know I became aware subsequently -- you know, there
14 were a number of other things that happened in the days
15 that -- and it's hard for me, thinking back, to put a 10:25
16 proper sequence on it, but I know that I would have
17 been -- I would have been aware of the fact that he was
18 going to speak with Rita McDermott.

19 63 Q. And I think he then forwarded you on a report that he
20 also sent to the superintendent in Letterkenny? 10:25

21 A. That's correct.

22 64 Q. And that report would appear to be dated 2nd of
23 October, is that correct? Just the copy I have
24 isn't --

25 A. Well, the copy I have is actually dated I think the 1st 10:26
26 October.

27 65 Q. The 1st October. And essentially, he was conveying
28 concerns expressed by Ms. McDaid, who we now know is
29 Paula McDermott, in relation to alleged threats made to

1 Marisa Simms by Garda Harrison?

2 A. That's correct.

3 66 Q. Now, you then say in your statement that you remember
4 getting phone calls from Superintendent McGovern in
5 relation to Ms. Simms and the wedding of her sister, 10:26
6 Paula McDermott, is that correct?

7 A. That's correct.

8 67 Q. Okay. Do you remember anything about what
9 Superintendent McGovern was saying to you?

10 A. I do recall that, that he had spoken, I think, with 10:27
11 Sergeant Forkin in Milford Garda Station in relation to
12 the issue, you know, in relation to the content of
13 Garda Mahon's report and Sergeant Collins' report and I
14 think he -- the station -- the purpose for that was to
15 make the station party in Milford aware of the 10:27
16 circumstances in the event that an issue could have
17 arisen. The wedding was actually taking place within
18 the Milford district in the Chúirt Hotel and I know he
19 asked me to inform Sergeant McClafferty, who would have
20 been the sergeant with responsibility for that area, to 10:27
21 make him aware of it, in the event that any issue
22 occurred during the course of the wedding. I
23 subsequently then got to know about the threats that
24 were received in relation to the threats to Garda
25 Harrison's life. I think that was on the night of the 10:28
26 wedding.

27 68 Q. The night, but that was after --

28 A. That was after, yeah.

29 69 Q. And they would have been of concern because the wedding

1 was in your district, is that correct?

2 A. That's correct.

3 70 Q. Okay. Now, in relation to your conversation with
4 Superintendent McGovern, you already had been talking
5 to Superintendent McGovern about Garda Harrison in 10:28
6 relation to accessing Pulse and an anonymous letter the
7 previous February, a year previous to that?

8 A. That's correct.

9 71 Q. Did you have any -- was there any reference to Garda
10 Harrison's name coming up again in the context of 10:28
11 domestic matters, if I can put it that way?

12 A. Well, the fact that any garda member's name came up in
13 a domestic matter, whether they are a guard or, you
14 know, a private citizen, it's a cause for concern.

15 72 Q. Yes, but did you refer back and say, oh, this is Garda 10:29
16 Harrison again?

17 A. Well, I don't think I made any specific -- I wouldn't
18 have made any specific reference to it. Obviously I
19 was aware of the matter, as was the superintendent.

20 73 Q. And do you remember, and maybe he didn't, did the 10:29
21 superintendent refer to any complaints from Rita
22 McDermott or any telephone calls to Garda stations that
23 Rita McDermott made in relation to Garda Harrison?

24 A. I just can't recall, to be perfectly honest with you.
25 I just can't recall. 10:29

26 74 Q. Okay. Now, I mean, I think what I'm really asking you
27 is: Had you any impression built up of Garda Harrison
28 at that time in relation to his domestic situation?

29 A. Well, as far as I was concerned, the concerns raised in

1 that anonymous letter, the HSE had carried out their
2 inquiries and had reported back to me that there was no
3 concerns, but the fact of what did concern me slightly
4 in around that time was the accessing of information on
5 Pulse and I suppose that certainly was at the back of 10:30
6 my mind.

7 75 Q. Okay. And then there were the allegations of threats
8 as Sergeant Collins had reported --

9 A. That's correct.

10 76 Q. -- to you. So, I'm asking, did all of this colour your 10:30
11 mind in relation to Garda Harrison or did you have a
12 discussion with Superintendent McGovern about it?

13 A. No. The information -- as far as I was concerned,
14 there was information there, it referred to threats,
15 you know, and concerns raised by her family, and it was 10:30
16 a matter, you know, whether it was a guard or wasn't a
17 guard, it was a matter that would have warranted some
18 form of inquiry.

19 77 Q. Okay. Then, if we could go on to the 6th October 2013,
20 I think you met with Inspector Goretta Sheridan at 10:31
21 Letterkenny Garda Station?

22 A. That's correct.

23 78 Q. And what did you understand you were going to
24 Letterkenny Garda Station to do that day?

25 A. My understanding on the day was that Ms. Simms had made 10:31
26 an arrangement to come to Letterkenny Garda Station
27 with a view to making a complaint.

28 79 Q. Okay. And do you know what time you got to the Garda
29 station, can you remember?

1 A. I think I got to the Garda station roughly about half
2 two in the afternoon, between 2:00 and 2:30 in the
3 afternoon.

4 80 Q. Okay. And did you have any materials with you in
5 relation to Garda Harrison at that time? 10:31

6 A. No.

7 81 Q. For instance, Sergeant Collins' report?

8 A. No. I would have read that on the Pulse system -- you
9 know, on my email system, but I didn't bring anything
10 with me, you know, on that date. It was simply that I 10:31
11 was meeting with Inspector Sheridan to meet this lady.
12 Whether she was going to make a complaint or not was a
13 matter for her, but my understanding was that the
14 purpose of the meeting was to explore that.

15 82 Q. Okay. And did you know anything of the report Sergeant 10:32
16 Durkin had forwarded to Superintendent Finan in
17 relation to Rita McDermott's phone calls?

18 A. I was -- when I arrived at Letterkenny Garda Station, I
19 was aware of the concerns that had been raised by Rita
20 McDermott as well in relation to the -- in relation to 10:32
21 her daughter.

22 83 Q. Okay. And do you know how you became aware of those?

23 A. I think during the course of my inquiries surrounding
24 the events of the Chúirt Hotel, I would have spoken to
25 Sergeant Durkin to establish if this man was on leave 10:32
26 or what his working status was, and I have some
27 recollection that Sergeant Durkin raised the issue with
28 me on that occasion.

29 84 Q. Okay. Now, we know that Ms. Simms called to

1 Letterkenny Garda Station that day and we have heard
2 Inspector Sheridan's evidence in relation to the
3 matter, but just, if you could in maybe summarised
4 form, tell the Tribunal of your impression of Marisa
5 Simms that day and how the interview proceeded?

10:33

6 A. Well, on the day, Ms. Simms arrived and Inspector
7 Sheridan went and met her. We decided, there was a
8 vacant office upstairs, the superintendent's office, we
9 decided to afford her privacy, and downstairs in the
10 custody area there's two interview rooms which you
11 wouldn't really bring somebody to. They are for the
12 purpose of interviewing prisoners and so on and so
13 forth. There's another smaller room which really
14 wasn't suitable. So we brought her up there. She
15 appeared, you know, to be slightly nervous in her
16 demeanour, I suppose as any person would be coming into
17 a Garda station. She struck me as being a
18 professional, credible, intelligent person. We spoke
19 to her generally first and then we explained to her,
20 you know, the whole process in relation to statements
21 and just outlined to her what is involved and she spoke
22 about things, and as she spoke about things, she -- I
23 made just notes on the back of a page because she just
24 began to speak and it suddenly went from one thing to
25 another to another, so I just made slight notes -- or
26 notes on that paper, that Inspector Sheridan referred
27 to, and then she indicated that yes, she wanted to go
28 and make a statement of complaint. The statement, it
29 took a while, but with any victim of crime you want to

10:33

10:34

10:34

10:34

1 make sure that they are comfortable in their
2 surroundings, you know, you deal with them as
3 sympathetically as you can. And I have to say, based
4 on what she told me, I felt for her.

5 85 Q. Okay. Now, if I could just ask you to look at the 10:35
6 notes at page 2425 and if you just tell me that -- just
7 confirm that they are the notes that you took prior to
8 the statement being taken. I don't intend to go into
9 them in any detail, sergeant.

10 A. Yes, they are the notes that I made. 10:35

11 86 Q. Okay. And I think your writing appears on the
12 left-hand side of the page, is that correct?

13 A. That's correct.

14 87 Q. All right. Now, just so from your point of view, can
15 you remember approximately how long the note-taking 10:36
16 session took?

17 A. I thought about its length, but to be honest with you I
18 really can't give an indication of time. When you are
19 dealing with a victim, particularly of domestic
20 violence, it's not an exact science, and I would 10:36
21 imagine it took in or around two hours, but I really --
22 there was no times noted and I cannot definitively say.
23 But again, as I say, it's not an exact science by any
24 manner or means.

25 88 Q. Okay. And in relation to the statement itself, 10:36
26 Sergeant Sheridan started to take down the statement
27 and you took over after some time, is that correct?

28 A. That's correct. Initially Inspector Sheridan started
29 the statement and I have the original here, and I am

1 just checking --

2 89 Q. I think if we could just get page 869 of the materials
3 up in front of you, sergeant. It's a copy of the
4 original statement. And it would appear just maybe
5 five lines down, you seem to have taken over and that 10:37
6 is page 13 of the original statement.

7 A. That's correct.

8 90 Q. That is your writing from there on in?

9 A. That's correct.

10 91 Q. And you finished off taking the statement, which 10:37
11 finishes at page 38?

12 A. That's correct.

13 92 Q. Now, just so as if -- in relation to the matter of the
14 burn threat which you recorded, if you would explain
15 why that appears in quotation marks? 10:37

16 A. The reason why it appears in quotation marks is because
17 it was a direct quote as told to me by Marisa.

18 93 Q. That appears at page 890 of the materials, down more
19 towards the bottom of the page. "He kept making
20 comments" I think it starts at. "He kept making 10:38
21 comments and ranting on about my sister, saying" and
22 then we see a quote "'who does she think she is? I
23 will take her down a peg or two.'" And also said 'I am
24 going to burn her and you.' He kept repeating this and
25 I told him to stop but it was if he went into a total 10:38
26 rant. He then said, I am going to burn you and at that
27 point I could see named child's eyes filling up."

28 A. Yeah, just one thing there. Just, "who does she think
29 she is, I will take her down a peg or two" and also

1 said "I am going to bury her and you", I think you said
2 "I am going to burn her and you", bury actually, I know
3 my writing might be a bit hard to read.

4 94 Q. So that appears in quotes as well?

5 A. That's correct. 10:39

6 95 Q. And then underneath the "I am going to burn you"
7 appears in quotes as well?

8 A. That's correct.

9 96 Q. Okay. And you explained the quotations by saying they
10 are Marisa Simms' words, is that correct? 10:39

11 A. That's correct. That is what she said, a direct quote
12 as he said to her.

13 97 Q. Okay. Now, in relation to her signing the statement,
14 from your point of view was there any difficulty in
15 relation to that? 10:39

16 A. No. As Inspector Sheridan said, each statement -- as
17 the statement was made, we would read over each segment
18 and, you know, as she relayed another event, we would
19 deal with that, read it over, but as you can imagine
20 when you are writing there might be things that, you 10:40
21 know, you might spell something incorrectly or there's
22 a number of amendments there that she has initialled on
23 the statement, and that was where I may have taken down
24 something incorrectly or had to, you know, amend it so
25 that it read with the way that she dictated it. So 10:40
26 basically, she would have been asked to initial each of
27 those amendments.

28 98 Q. Okay. Now, Ms. Simms I think accredits you with this
29 specific quotation, that you were telling her to think

1 of her children when she was making the statement. Do
2 you have anything to say to that?

3 A. That's -- absolutely never said that.

4 99 Q. And are you sure? It's a while ago now, sergeant.

5 A. I was actually quite shocked when I became aware that 10:40
6 she had said such a thing, but absolutely no way did I
7 say that.

8 100 Q. Okay. Well, it may be a natural thing for you to say,
9 as you are the liaison officer with the HSE, do you
10 think? 10:41

11 A. Well, I think when you are taking a statement from a
12 victim, you know, they are there and they are
13 volunteering information from you, but I took it from
14 the way that Ms. Simms tried to portray it, it was as
15 if I was trying to get her to say something, but in the 10:41
16 manner in which I understood that she has said that I
17 said something like that, I certainly did not.

18 101 Q. Okay. And in relation to meal breaks being provided or
19 not provided to Ms. Simms or her being kept in the
20 Garda station until such time as she'd signed the 10:41
21 statement or having to return tomorrow, what do you
22 have to say in relation to that?

23 A. Well, as I said earlier, any victim when they are
24 making a statement, and particularly a detailed
25 statement of the one that was made to both me and 10:42
26 Inspector Sheridan, it's never an exact science and you
27 know, it's up -- the most important thing is that the
28 victim is made to feel comfortable and at all times I
29 was conscious of the time that it was taking. I do

1 know that we did offer to allow her to come back and
2 finish it but she was adamant she wanted to finish the
3 statement on the day. During the course of the
4 statement, I think I went and I made tea and brought
5 some smacks or whatever from the vending machine. She 10:42
6 was allowed to avail -- when she needed to use the
7 bathroom, she used the bathroom. She had her phone
8 with her at all times, she was taking phone calls. I
9 think it was her sister and also Andrew Simms that she
10 may have taken phone calls from, and you know, just 10:42
11 checking in on the welfare of her children. I think
12 that may have been later on and making arrangements in
13 relation to the kids at night-time. But at all times
14 she was free to leave the station and that was made
15 very clear to her, but she was quite adamant that she 10:43
16 wanted to stay and to finish the statement. And at the
17 end, you know, she was -- I felt it was nearly that she
18 was a relieved woman, it was nearly as if she had
19 unburdened herself, for want of a better word, and we
20 read the statement back to her and she signed it as 10:43
21 being a true and correct account of what she had
22 volunteered to us. And at that stage I do recall
23 Inspector Sheridan asking her was she okay, did she
24 want a lift home, you know, or could we drive her home
25 or whatever, but she said she was perfectly fine and 10:43
26 that she would contact Inspector Sheridan when she did
27 get home, and from inspector's evidence here yesterday
28 she did do that.
29 102 Q. Okay. Have you met Marisa Simms since --

1 A. I have not.

2 103 Q. -- that time in October. Now, I think there was duties
3 that you performed in relation to the taking of the
4 statement in the days following, that's correct,
5 sergeant, isn't it? 10:44

6 A. That is correct. From the content of the statement,
7 and we have spoken about the Children First Guidelines
8 and the policies within the Gardaí, we would have been
9 obliged to forward HSE referrals to the HSE and I duly
10 did that. I know I was off work, I think it was on the 10:44
11 Monday and Tuesday, and if -- can I just check with my
12 report there?

13 104 Q. Yes.

14 A. I know I was off work on the Monday and Tuesday but I
15 did forward the referrals. Prior to forwarding the 10:44
16 referrals I did have contact with Superintendent
17 McGovern and he was aware of the content of the
18 statement and he also requested me to ensure that I did
19 send in the referrals when I returned on duty.

20 105 Q. Okay. Now, I think you prepared referrals and you sent 10:45
21 them to Superintendent McGovern, and that is the
22 procedure to be followed under the Garda Code in
23 relation to notifying the HSE, is that correct; you
24 prepare them and the superintendent signs off on them?

25 A. That's correct. 10:45

26 106 Q. Okay. And is that more a formality than anything else,
27 that the superintendent would sign off on them, it
28 would be your responsibility to prepare them?

29 A. Well, any guard, any operational member that goes to

1 any call or deals with any matter where they have
2 concerns in relation to, you know, child protection
3 concerns of any nature, they are obliged, in accordance
4 with the Garda policy, to complete a referral and
5 forward it through their district officer for onward 10:45
6 transmission to the HSE.

7 107 Q. Okay. So, if we look at the notification forms, we
8 will just look at one, there are two children and
9 identical details bar the child's identity are
10 contained in them. They are at page 753 of the 10:46
11 materials. I don't know, you may have a better copy
12 yourself, Sergeant, in front of you.

13 A. Yes, it's just at number 3 there, I have ticked
14 "emotional abuse", and then at number 3, "Additional
15 information: Child present during argument between 10:46
16 mother and partner. HSE to contact Gardaí" I think it
17 is, "on receipt of notification to confirm contact
18 details".

19 108 Q. Contact details. Thank you. So first of all, it's a
20 standard notification form? 10:46

21 A. That is the standard form that's used in all referrals.

22 109 Q. Okay. And the heading is: "Notification of suspected
23 child abuse." The child's name is set out, date of
24 birth, the address, the father and the mother, and it's
25 identified that the parents are separated. And then 10:47
26 number 1: "The above-named child has come to notice as
27 a possible victim of child abuse. Form of abuse
28 suspected" and there are four different options and you
29 have ticked "emotional abuse" there?

1 A. That's correct.

2 110 Q. And in relation to "additional information" what is set
3 out there you have already outlined, "Child present
4 during argument between mother and partner. HSE to
5 contact Gardaí on receipt of notification to confirm 10:47
6 contact details." And then you have the designated
7 garda dealing with the matter is you and the designated
8 officer signing off on the notification is
9 Superintendent McGovern?

10 A. That's correct. 10:48

11 111 Q. Now, if I can just go there to the "additional
12 information" and you will see that what it says is
13 "child present during argument between mother and
14 partner". Did you at any time consider elaborating on
15 that, considering the contents of the statement that 10:48
16 you had just taken from Ms. Simms?

17 A. I did elaborate on it. I knew I was meeting with the
18 HSE in relation to other matters, and I spoke with the
19 social worker that I met with that day. I informed her
20 that referrals would be making their way in and I 10:48
21 informed her of the situation surrounding the
22 referrals, and as a result of that, a strategy meeting
23 was subsequently arranged and I think that occurred on
24 21st October.

25 112 Q. Okay. well, I suppose, if I can put it this way to 10:48
26 you, Sergeant: That a child being present during an
27 argument between mother and partner may be not ideal
28 but it certainly perhaps probably in every household
29 from time to time?

1 A. That's correct.

2 113 Q. It's not an extreme situation to be present during an
3 argument of itself?

4 A. It's not, but I was just mindful of the fact that
5 Ms. Simms had made a statement and quite a detailed 10:49
6 statement and that there were serious threats and I was
7 aware -- well, I was of the opinion that there was an
8 ongoing investigation into the matter. I have no
9 control, when these forms leave, they go into the HSE,
10 into an administrative area and I have no control over 10:49
11 who gets to see the form or anything of that nature and
12 from that point of view, I just didn't want to include
13 details for fear somebody that may be known to either
14 party would be aware of the specific allegations
15 contained in the statement. 10:49

16 114 Q. Okay. well, keeping that in mind, I suppose, Sergeant,
17 you could have put in that additional information
18 'child present during argument between mother and
19 partner when partner made a threat to mother and her
20 sister', that in itself wouldn't be giving too much 10:50
21 information out or 'when partner made serious threat to
22 mother and sister'. Did you ever at any time consider
23 elaborating even slightly with regard to the nature of
24 the argument, considering the contents of the
25 statement? 10:50

26 A. Well, as I said, I knew I was going to be meeting with
27 the HSE in person and I would have had the opportunity
28 to inform them and because it was -- the statement had
29 been made, I was just very mindful of the

1 confidentiality surrounding the contents of it, and I
2 certainly didn't want to put any information into any
3 forum which could ultimately impact on the integrity of
4 the investigation.

5 115 Q. Okay. Well, I suppose, it may not have been the most 10:51
6 helpful thing to the HSE to know that there was an
7 argument; they may have liked to know the nature of the
8 argument, what had been going on in the house prior to
9 the argument, when they went in to assess the
10 information that had been supplied to them by the 10:51
11 guards?

12 A. Well, I would have disclosed details to them during the
13 course of the strategy meeting.

14 116 Q. Okay. You didn't think at any stage further -- you 10:51
15 see, very particular information is set out here, "That
16 the HSE are to contact Gardaí on receipt of
17 notification to confirm contact details." You didn't
18 think of putting in an extra sentence saying 'To
19 confirm contact details and nature of argument'?

20 A. No, I didn't at the time. 10:52

21 117 Q. Okay. Well, I just have to suggest to you it may be
22 the case that you weren't taking it seriously, is that
23 to say in any way that you weren't?

24 A. Oh no, absolutely not, no. I was just very mindful
25 that once this left my control, it went to the 10:52
26 superintendent but it went in to the HSE. I have no
27 knowledge as -- well, I don't know who has access to
28 the information there and I was just mindful of the
29 fact that Marisa Simms, when she came into the station

1 making her complaint, you know, she was concerned about
2 Keith knowing she was in the station and so on and so
3 forth.

4 118 Q. Okay. So, they were sent off to the HSE by
5 Superintendent McGovern on 10th October, the two 10:52
6 notifications?

7 A. That's correct.

8 119 Q. Okay. And the day before, you had a meeting with Una
9 Coll, who was a HSE team leader, in relation to ongoing
10 cases, is that correct? 10:53

11 A. That's correct.

12 120 Q. Was that a scheduled meeting?

13 A. They were scheduled strategy meetings in relation to
14 two other matters.

15 121 Q. Okay. And I think you then told her that there were 10:53
16 two referrals coming her way in relation to the Simms
17 children?

18 A. That's correct.

19 122 Q. Did you link it back to the referrals that you had
20 made -- the informal consultation that had taken place 10:53
21 in February 2012?

22 A. Well, they would have had details of that already, so I
23 would have just told them that -- on the day I told her
24 that a statement of complaint had been made, quite a
25 detailed statement, and that there were serious 10:53
26 concerns and threats had been made and I told her about
27 the threats and arising from that, a strategy meeting
28 was scheduled.

29 123 Q. Okay. So, the strategy meeting, was it to deal with

1 this matter alone?

2 A. That's correct.

3 124 Q. And your diary entries appear at page 750 of the
4 materials.

5 A. That's correct. 10:54

6 125 Q. Where it's said, you informed Una Coll of referral
7 which will be forwarded re Simms children. HSE met
8 with Marisa and Andrew Simms on 7/3/2012, and that
9 related to the anonymous letter?

10 A. That's correct. 10:54

11 126 Q. The anonymous letter. And then Una Coll gave you some
12 information in relation to previous peripheral dealings
13 she had with Garda Harrison, is that correct?

14 A. That's correct.

15 127 Q. And that's recorded in your diary underneath the 10:54
16 referrals?

17 A. That's correct.

18 128 Q. And as far as Ms. Coll was concerned, Garda Harrison
19 didn't engage with her previously in relation to a
20 matter that she had been involved in, is that correct? 10:54

21 A. That's correct.

22 129 Q. That was the bottom line in relation to that piece of
23 information?

24 A. That's correct.

25 130 Q. Do you remember, did you have any other conversation 10:55
26 with her?

27 A. No, as I said, we were dealing with two other cases
28 that morning and I simply made her aware of the
29 referrals that would be coming in and told her of the

1 serious nature of the content or the threats and a
2 strategy meeting was subsequently organised then.

3 131 Q. Okay. So I think you then had the meeting on the 21st
4 October 2013, and the social worker who was assigned to
5 the matter was Donna McTeague? 10:55

6 A. That's correct.

7 132 Q. And did you know Ms. McTeague previously?

8 A. I would have known Ms. McTeague, Ms. Coll, you know,
9 from my dealings with the HSE in relation to other
10 matters. 10:55

11 133 Q. Okay. And your notes of that meeting appear at page
12 756 of the materials which is a Garda HSE liaison
13 management sheet?

14 A. That's correct.

15 134 Q. I think that is your writing? 10:56

16 A. That's correct.

17 135 Q. You made those notes. And the details of the very view
18 set out: "Allegation of emotional abuse. Child
19 allegedly present during verbal altercation."
20 A. Altercation. 10:56

21 136 Q. Sorry --

22 A. SOC, that is statement of complaint, sorry.

23 137 Q. "-- made by Marisa Simms to Gardaí."

24 A. That's correct.

25 138 Q. And then: "Further comments: M Simms recently --" 10:56

26 A. Hospitalised.

27 139 Q. "-- and has indicated she will --"

28 A. Liaise.

29 140 Q. "-- liaise with Gardaí when she fit and well to do so.

1 Case status: Ongoing." And they are signed off by the
2 team leader, which is Ms. Bridgeen Smith, is that
3 correct?

4 A. That's correct.

5 141 Q. And also by you? 10:56

6 A. That's correct.

7 142 Q. Now, again, there's no indication on this note of the
8 meeting that the argument was anything more than a
9 routine argument, sergeant, do you understand what I am
10 saying? 10:57

11 A. I understand where you are coming from but definitively
12 during the course of that meeting I told them about the
13 threats that had been made while the children were
14 present on the 28th and I told them that it was a very
15 serious matter that was being taken very seriously, 10:57
16 that there was a comprehensive 38-page statement that
17 had been made and that there were other allegations
18 there which were currently under investigation.

19 143 Q. Okay. Well, I'm not sure that the HSE personnel agree
20 that that information was given to them, and maybe if 10:57
21 we could go then to their notes of the strategy meeting
22 which appear in volume 1 of the materials and at page
23 124. This is the record that the HSE made of the
24 strategy meeting on 21st October 2013. It should be in
25 front of you there? 10:58

26 A. Yeah.

27 144 Q. And it's dated and then the reason for the strategy
28 meeting: "To agree a strategy with the Gardaí and SWD
29 regarding Garda notification into alleged incident of

1 verbal disagreement between the child's mother and her
2 current partner in front of both children." And then
3 in the minutes of the meeting: "Marisa Simms --" which
4 is at the very bottom of the page.

5 A. Yeah.

10:58

6 145 Q. "-- made statement of complaint to Gardaí detailing
7 incident --", which is one incident as set out
8 there "-- when child/children were present. Incident
9 was a verbal disagreement between Marisa Simms and
10 current partner." So, both from your note of the
11 strategy meeting and from the HSE's note of the
12 strategy meeting, it would appear that what information
13 was given to the HSE was that there had been a verbal
14 disagreement between Marisa Simms and her current
15 partner, do you understand what I'm pointing out to
16 you, sergeant?

10:58

10:59

17 A. I do, but I specifically remember the meeting because I
18 know that I told them about the threats to burn,
19 because that was the purpose of having the meeting
20 because the serious threats were there.

10:59

21 146 Q. Now, I think Ms. McTeague in her statement she made to
22 the Tribunal, she first statement, she is in volume 4,
23 the reference in her statement to it is at page 1143 of
24 the materials, and what she says about the meeting is:

10:59

25
26 "The incident was reported to be a verbal disagreement
27 between Ms. Simms and Mr. Harrison. Mr. Harrison was
28 reported to be under the influence of alcohol and
29 inappropriate physical contact was made by him on

1 Ms. Simms which the children witnessed."

2

3 Do you see that?

4 A. I do, yeah.

5 147 Q. And then the next sentence:

11:00

6

7 "Sergeant McGowan did not go into any additional
8 specific details contained in Ms. Simms' statement."

9 A. I did tell them that there was a very detailed
10 statement made. I specifically went into the details

11:00

11 of the date, when the children were present when the
12 threats were made, and I did tell them that there was

13 an investigation ongoing and I asked them to ensure
14 that the information I shared with them was treated
15 confidentially because I didn't want it -- I didn't

11:01

16 want anyone else to have access to that information for
17 fear it would impact on the integrity of the
18 investigation that was being carried out.

19 148 Q. Okay. I suppose there is a disagreement between both
20 of you --

11:01

21 A. Well, I can only speak -- and I remember quite

22 distinctly telling them, Bridgeen Smith was there and
23 Donna McTeague, and it was in Bridgeen Smith's office,

24 and I told them, I did tell them that there was a very
25 detailed statement. I didn't disclose details of

11:01

26 certain matters to the HSE, but I did specifically make
27 reference to the threats that occurred while the
28 children were present.

29 149 Q. Okay. Did you tell -- do you think you told the HSE

1 about the pattern of controlling behaviour which Marisa
2 Simms had outlined to you in her statement?

3 A. I would have told them that this woman came in to us
4 and made the statement, that there would have been
5 serious allegations. Obviously I wouldn't have 11:02
6 disclosed everything to them, but I would have told
7 them about my concerns in relation to the controlling
8 element of what I saw as controlling, of Marisa by
9 Garda Harrison.

10 MR. HARTY: I must interject at that stage. There is 11:02
11 nowhere in this witness's statement referring to any
12 identification by her of any pattern of controlling
13 behaviour or otherwise. And really, it is a Tribunal,
14 I accept the ordinary Rules of Evidence don't apply,
15 but that is matters which don't arise from this witness 11:02
16 statement and I would say it's not appropriate to put
17 questions in that manner to the witness. I simply want
18 to note my objection in relation to it, I don't require
19 anything else.

20 150 Q. MS. LEADER: Yes, I suppose what I am trying to tease 11:02
21 out with you, Sergeant, is what exactly you told the
22 HSE. Because they seem to be saying they didn't have
23 appropriate information in light of what they now know
24 about the contents of Ms. Simms' statement?

25 A. I am in no doubt that I told the HSE that the children 11:03
26 were present on the 28th September when the threats
27 were made as contained in Marisa Simms' statement, and
28 I told them of the threats, and I specifically remember
29 using the words "burn and bury" during the course of

1 that meeting.

2 151 Q. Okay. And in relation to other matters contained in
3 Ms. Simms' statement in relation to the being thrown
4 out of the house matters in the previous months, do you
5 think you told the HSE anything about that? 11:03

6 A. I would have told the HSE that there were a number of
7 other allegations that had been made in relation to
8 matters between Garda Harrison as alleged by Ms. Simms
9 when the children were not present in the house.

10 152 Q. Okay. But you don't think you went into any details 11:04
11 about those, do you?

12 A. I would have said to them about her being put out of
13 the house but I wouldn't have discussed certain other
14 matters raised during the course of Ms. Simms'
15 statement in relation to -- she disclosed information 11:04
16 in relation to infidelities and that, I wouldn't have
17 disclosed that to me.

18 153 Q. Okay. Now, that brings us to the 21st October. Had
19 you any more dealings with the HSE that year in
20 relation to the matter? 11:04

21 A. I would have had phone calls to and from Ms. McTeague
22 in relation to other matters, but that would have been
23 mentioned because at the time of that meeting my
24 understanding was Ms. Simms was in hospital and she
25 would not have been available. 11:05

26 154 Q. Okay. And did you follow up with Ms. Simms when she
27 was going to be available to speak with the HSE?

28 A. I had no further contact with Ms. Simms in relation to
29 the matter. Once the referral is made to the HSE it's

1 the HSE that follow up on that. As far as I was
2 concerned, there was an ongoing criminal investigation
3 being carried out in relation to the matters raised in
4 the statement.

5 155 Q. Okay. So am I to take from that that you had no 11:05
6 responsibility with regard to advancing the HSE's
7 inquiry in relation to the matter?

8 A. If the HSE engage with me looking for further
9 information, obviously I would assist, but the HSE, the
10 matter had been referred to the HSE and as far as I was 11:05
11 aware, there was a criminal investigation being carried
12 out in relation to the contents of the statement made
13 by Marisa Simms.

14 156 Q. Okay. So, then we come to a date in January 2014, and
15 it would appear from the HSE case notes that the HSE 11:06
16 phoned you at the end of January 2014 in relation to
17 the matter. Do you have any particular memory of that?

18 A. I know I would have had ongoing contact with members of
19 the HSE in relation to a number of matters. I do know
20 that when I was made aware by Inspector Sheridan that 11:06
21 Ms. Simms had withdrawn her statement of complaint, I
22 do know I would have notified Donna McTeague in
23 relation to that.

24 157 Q. Okay. So I think that was the 11th January, am I
25 correct, the withdrawing of the statement? 11:06
26 A. The 11th or 14th, I am not just -- just if I can check
27 the notes here.

28 158 Q. Yes. I think --
29 A. Yes, it was 11th of January, you are correct.

1 159 Q. OK. And how did you become aware of that?
2 A. I received an email from Inspector Sheridan and on
3 receipt of the email, I would have informed
4 Ms. McTeague that the statement of complaint had been
5 withdrawn. 11:07

6 160 Q. Okay. You have no particular -- no specific note of
7 informing --
8 A. I have no note of it.

9 161 Q. -- the HSE in relation to it? Now, if we could turn to
10 page 160 of the materials, that would appear to be the 11:07
11 notes created by the HSE in relation to the matter.
12 And that would appear to be a note of a conversation
13 which happened in January 2014 in relation to the
14 withdrawing of the statement, and what it says is:
15
16 "Telephone call to Sergeant McGowan. Purpose of call
17 to assert current status regarding Garda investigation
18 so as to allow SWD to proceed with investigation.
19 Sergeant McGowan advised that Marisa Simms made a
20 second statement to Gardaí in the past fortnight --" 11:08
21
22 So that would have been maybe slightly longer, the 27th
23 of January. This may not accurately reflect the date.
24
25 "-- in the past fortnight, advising her that while the 11:08
26 content of the original statement was completely true,
27 she did not want the matter investigated by Gardaí.
28 She was withdrawing her complaint. Ms. Simms is back
29 in a relationship with Mr. Keith Harrison, the person

1 against who original complaint was made. DSW advised
2 that in order to progress matter report from Gardaí on
3 specific information in original complaint will be
4 required by SWD so as to progress SW investigation."

5 11:09

6 And then the outcome of that was:

7
8 "Sergeant McGowan to forward report to DSW as soon as
9 possible. DSW to send invite to Ms. Simms and
10 Mr. Harrison in first instance. Invite to meeting to 11:09
11 be sent to Mr. Andrew Simms following receipt of report
12 from Gardaí so as to ensure accurate information
13 shared."

14
15 So you see, Sergeant McGowan, it would appear from that 11:09
16 that the HSE were anxious to establish exactly what was
17 contained in the statement of Ms. Simms, and it would
18 appear from that that they didn't know what was in that
19 statement and what the original complaint made by
20 Ms. Simms in October 2013 was? 11:10

21 A. Well, the purpose of the strategy meeting on 21st
22 October was to inform the HSE of the serious
23 allegations that were contained in Ms. Simms'
24 statement. In relation to the notes of the HSE, I
25 can't answer for them, but I can say that I have never 11:10
26 been asked to forward a report of that nature in
27 relation to any matter that I have ever dealt with the
28 HSE.

29 162 Q. Okay. And then we have a further note in the case

1 recording summary on page 159, which also seems to be
2 cloned from another date, written by Ms. McTeague,
3 which seems to say:
4

5 "Telephone call to Brigid McGowan. Purpose of call to 11:10
6 ascertain details of original complaint made by Marisa
7 given she said it was an accurate account even though
8 she no longer wishes for the matter to be investigated
9 by the Gardaí."
10

11 So we know at this stage that the HSE have called to
12 Ms. Simms and Garda Harrison? 11:11

13 A. That's correct.

14 163 Q. And there was a second meeting where the children took
15 place? 11:11

16 A. That's correct.

17 164 Q. And then it would appear that sergeant McGowan, that is
18 you: "-- advised that the original account outlined
19 how Keith had been drinking at home and had made
20 threatening and abusive comments to Marisa in front of 11:11
21 blank. Marisa also said in her original statement that
22 Keith had held her wrist and it was sore and threatened
23 he would ensure she did not have the children. Marisa
24 describes Keith's behaviour as a total rant. She was
25 upset and the children saw her upset. Blank had come 11:12
26 in from the car and observed some of the arguments."
27

28 So it would appear from the HSE's records at that stage
29 that that was the most details they had in relation to

1 the contents of the original statement, and they were
2 considering Marisa had said everything -- "The original
3 complaint made by Marisa, it was an accurate account
4 even though she longer wishes for the matter to be
5 investigated by Gardaí", it was then that you had come 11:12
6 forward -- or given details of what the complaint was
7 to the HSE?

8 A. I certainly gave details to the HSE of the nature of
9 the threats made and the complaint in general made by
10 Ms. Simms. 11:12

11 165 Q. Okay. If you could just bear with me for a minute. I
12 think there were more up to date statements made by HSE
13 personnel which the Tribunal received yesterday
14 evening. But what is conveyed in those statements is
15 that had the HSE appreciated the contents of Marisa 11:13
16 Simms' statement, they would have approached the
17 meetings with Marisa Simms and Garda Harrison in a
18 different way.

19 A. Well, I can't comment for the HSE, but I can
20 definitively say here and now that, at that strategy 11:13
21 meeting I told them of the threats that were made in
22 Marisa Simms' statement in relation to the threat to
23 burn and the threat to bury and I was very specific in
24 relation to that, because I do recall that in the
25 statement made by Ms. Simms that was the only incident 11:14
26 that she referred to when the children were present.

27 166 Q. Okay. Now, I am not sure what page Ms. Smith's
28 supplemental statement is in the materials. It's at
29 2429 of the materials. And if we could go to the

1 second page at the very top, Ms. Smith says:

2
3 "It is important to note, however, that the Social work
4 Department did not have sight of Ms. Simms' statement
5 to An Garda Síochána and were not aware of the 11:14
6 environment in which the Simms children were living in
7 as alleged by Ms. Simms in her original statement to
8 the Gardaí in October 2013."

9
10 So, all of that, those records, the contemporaneous 11:14
11 records created by the HSE in their more recent
12 statement, would suggest, sergeant, that full
13 information hadn't been shared with the HSE in relation
14 to what Marisa Simms said to you and Inspector Sheridan
15 in October 2013 11:15

16 A. Well, I can only -- in relation to what is written
17 there about "in her original statement", the Gardaí
18 would never pass over a full copy of a statement made
19 to them to the HSE which is the subject of a criminal
20 investigation. I am definitive in my recollection of 11:15
21 the meeting, the strategy meeting; the purpose of
22 calling the strategy meeting was to inform them of the
23 information, particularly when the children were
24 present and those threats were made, and that
25 information was passed to both Ms. Smith and 11:15
26 Ms. McTeague during the course of that meeting.

27 167 Q. Okay. And you don't have a particular recollection of
28 the phone calls which I have highlighted to you from
29 the case management records created by the HSE?

1 A. No. The case management records are created by the HSE
2 but I do know that I would have informed Ms. McTeague
3 that Marisa Simms had withdrawn her statement of
4 complaint, as noted, but while she did withdraw it she
5 did state that the content of the statement she didn't 11:16
6 dispute -- at the time of her statement of withdrawal,
7 she didn't dispute any of the contents. So I would
8 have passed that information to them.

9 168 Q. Okay. And I think the final documentation of the HSE
10 and where things rested was in February 2014. 11:16
11 Ms. Smith wrote to you, as social work team leader, on
12 that day in relation to the referral, and a copy of
13 that appears at 777 of the materials. That says --
14 it's appendix 16 to your statement, page 777.

15 A. Yes. 11:17

16 169 Q. Yes.
17 "Dear Sergeant McGowan
18 Thank you for your referral to the Social Work
19 Department dated 10th October 2013 in relation to the
20 above-named. 11:17
21 An initial social work assessment has been completed in
22 relation to the referral information. The outcome of
23 the initial assessment is: There are no ongoing
24 identifiable child welfare and/or child protection
25 concerns at this time. Consequently this case will now 11:17
26 close to the Social Work Department.
27 If you wish to contact the Social Work Department in
28 order to discuss the matter, then please contact Donna
29 McTeague, duty social worker on the above number."

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And then that is signed on behalf of Ms. Bridgeen Smith, social work team leader.

A. That's correct.

170 Q. Did you contact Donna McTeague after that, as invited? 11:18

A. No, I didn't. I do recall I spoke to Donna McTeague before that letter issued and she told me that she had been out to visit the Simms family and my recollection of that was that they accepted, you know, that there had been issues but that from her visit and her assessment she said that she did not identify any concerns at that time. 11:18

171 Q. Okay. And I think you created a Pulse entry on 10th of February 2014 in relation to the referrals, is that correct? 11:18

A. That's correct.

172 Q. And is there any reason you have waited until then to create that Pulse entry?

A. Well, at the time when the referrals were made I do recall discussing the matter with Superintendent McGovern and because of the previous history of Garda Harrison of accessing information on Pulse and because the complaint had just been made, we felt -- well, it was decided that the incidents would not be recorded on Pulse at that time. 11:19

173 Q. Okay. And I suppose the HSE had met with the Simms on the 7th February?

A. That's correct.

174 Q. So on 10th of February it would have been obvious to

1 them that the referral was made?

2 A. That's correct.

3 175 Q. And did that factor into creating the Pulse entries --

4 A. well --

5 176 Q. -- do you think? Or did you know about the meeting? 11:19

6 A. I would have known because, as I said, I would have

7 spoken with Donna McTeague and having spoken with her

8 and having spoken with Superintendent McGovern, I would

9 have created the Pulse incidents to reflect the

10 referrals that were made. 11:19

11 177 Q. Okay. And they appear at page 774 and 775 of the

12 materials.

13 A. That's correct.

14 178 Q. Are there two separate entries in relation to the two

15 children, is that correct -- 11:19

16 A. That's correct.

17 179 Q. Now, Sergeant McGovern [sic], other than those contacts

18 that you have told the Tribunal about with the HSE in

19 relation to Garda Harrison, Ms. Simms and the Simms

20 children, had you any other contacts with the HSE in 11:20

21 relation to Garda Harrison?

22 A. None.

23 180 Q. Okay. You told Superintendent McGovern about it, as he

24 signed off on the referrals?

25 A. That's correct. 11:20

26 181 Q. Did Inspector Sheridan know about the referrals?

27 A. Inspector Sheridan would have known about the referrals

28 because even, I think if you look at the notes that

29 were made during the course of taking the statement, I

1 think there is one referral -- there is one note, HSE
2 referrals.

3 182 Q. Okay. And who else did you talk to about those
4 referrals?

5 A. I would have -- as I said, I spoke to Superintendent 11:20
6 McGovern and I really wouldn't have had any cause to
7 speak with anybody else, as far as I can recall.

8 183 Q. Okay. Would members of your station party have known
9 about the referrals?

10 A. No, I wouldn't discuss any of the referrals with anyone 11:20
11 other than if I'd cause to with Superintendent
12 McGovern. In general cases of that nature they could
13 surround issues of sexual abuse or physical abuse,
14 emotional abuse, neglect, but you don't generally go
15 and discuss them with the station party, for obvious 11:21
16 reasons.

17 184 Q. If you would answer any questions anybody else might
18 have, sergeant. Sorry, there is one thing I should
19 have asked you: Do you have any personal connection
20 with any of the HSE personnel? 11:21

21 A. None whatsoever.

22 185 Q. There is a specific allegation made in relation to your
23 personal connections with HSE.

24 A. I have seen that, and I can totally refute that. I had
25 a professional working relationship with these people 11:21
26 and that was it. This notion that I was socialising or
27 friendly with people outside of my role is totally
28 outrageous.

29 186 Q. And is there any suggestion -- there is a suggestion in

1 the papers that these referrals were created as a
2 result of the statement being withdrawn?

3 A. Absolutely not. The referrals were made long before
4 the statement of withdrawal.

5 187 Q. And there is a suggestion that the visit from the HSE 11:22
6 was as a result of a personal connection you had with
7 HSE personnel and they were doing it maybe as some sort
8 of a favour to you?

9 A. Absolutely not. As I said earlier, my relationship
10 with these people was on a purely professional level, 11:22
11 and I certainly didn't socialise with them or interact
12 with them. It was a purely professional working
13 relationship and that's the way it was.

14 MS. LEADER: Sorry. If you could answer any questions,
15 sergeant. 11:22
16

17 SERGEANT MCGOWAN WAS CROSS-EXAMINED BY MR. HARTNETT:

18 188 Q. MR. HARTNETT: Yes, sergeant. Again, I can't see you
19 because of Mr. Marrinan, if he would just move slightly
20 to the left. Your first knowledge that you were going 11:22
21 to be involved with interviewing Marisa Simms, when did
22 you get that knowledge or when were you informed of
23 that?

24 A. I know that when -- I do know from my recollection that
25 I would have spoken with Inspector Sheridan with a view 11:23
26 to making the arrangement. I would have been in touch
27 with Superintendent McGovern but my recollection is, I
28 was asked was I available to assist and I indicated
29 that I was.

1 189 Q. what I am asking you, when?
2 A. It would have been in the day or -- the day or --
3 possibly the Friday or Saturday before Ms. Simms came
4 to the station.
5 190 Q. So it could have been two days beforehand? 11:23
6 A. I can't honestly recall but I do know that I was asked
7 and I did attend.
8 191 Q. And were you asked to put time aside or to arrange your
9 schedule to accommodate this?
10 A. Well, I know that I was off that day and I did 11:23
11 rearrange my schedule.
12 192 Q. So, you were coming in on a day off?
13 A. Well, I changed -- we have rest Sundays, so I simply
14 changed one rest Sunday to a different rest Sunday.
15 193 Q. I see. Is that a usual thing? 11:24
16 A. It's not uncommon, no.
17 194 Q. I see. And during these initial discussions in the day
18 or two prior to your coming in to the station, did
19 Inspector Sheridan discuss in any detail with you what
20 was going on? 11:24
21 A. As I said, from speaking with Sergeant Collins, I was
22 aware about the concerns that had been expressed by
23 Marisa's sister and I know that I spoke with Inspector
24 Sheridan to make the arrangement and I know that the
25 concerns of the family were raised. 11:24
26 195 Q. I see. So you spoke to Sergeant Collins?
27 A. Well, Sergeant Collins and I would have spoken, yes.
28 When Sergeant Collins I think, it was the 1st of
29 October, he prepared a report in relation to Paula

1 McDermott, had gone to the station to Brendan Mahon.

2 196 Q. Were you made aware that, in his view, and he was an
3 experienced sergeant, that Marisa Simms would not wish
4 to make a statement?

5 A. No. My understanding from the phone call with him was 11:25
6 that he was pursuing the matter at the time. It was
7 only afterwards when I saw his report that I saw that,
8 the view that he expressed.

9 197 Q. When did you see his report?

10 A. I think it could have been the following day. 11:25

11 198 Q. I see. So you were aware that that was a real concern
12 of an experienced sergeant?

13 A. Well, it was his opinion.

14 199 Q. Well, did you take it on board?

15 A. Well, we all have opinions, but ultimately there were 11:25
16 concerns raised in relation to --

17 200 Q. No, I am asking you, did you take his view that Marisa
18 Simms might not wish to make a statement, on board?

19 A. Well, I noted it.

20 201 Q. All right. Did you think about it? 11:25

21 A. No.

22 202 Q. No. Did you put it out of your mind deliberately?

23 A. Well, there was an arrangement made and I was aware
24 that Ms. Simms was to call by appointment to
25 Letterkenny Garda Station. 11:26

26 203 Q. Did you discuss with Inspector Sheridan the fact that
27 an experienced sergeant was of the view that she didn't
28 wish to make a statement?

29 A. I didn't. But from my understanding, I don't think

1 Sergeant Collins had spoken with Ms. Simms.

2 204 Q. I am sorry?

3 A. I don't think Sergeant Collins had spoken with Marisa
4 Simms.

5 205 Q. So, if you like, you ignored this notation? 11:26

6 A. No, as I said I noted it.

7 206 Q. You noted it. And when you say you noted it, what does
8 that mean? Intellectually you noted it?

9 A. Well, it's there in the report. I read it.

10 207 Q. I see. Now, did you discuss that feature of the 11:26
11 circumstances with Inspector Sheridan?

12 A. No, I did not.

13 208 Q. Did she mention it to you?

14 A. Not to my recollection.

15 209 Q. What did you think was going to happen when you went to 11:26
16 the Garda station at three o'clock on the Sunday?

17 A. Well an arrangement had been made to meet with
18 Ms. Simms and I was aware that concerns had been
19 expressed in relation to -- by her family in relation
20 to her and when we met her we spoke with her, we spoke 11:27
21 with her at length. She volunteered information to us
22 which, when you read the statement, I am sure you'll
23 accept that --

24 210 Q. Were you going there for the purposes of taking a
25 statement? 11:27

26 A. I don't understand your question, sorry.

27 211 Q. Were you going to the police station with the inspector
28 for the purposes of being present during the taking of
29 a statement from Marisa Simms?

1 A. That was my understanding.

2 212 Q. I see. You had indicated, I think, that it was a
3 matter for her as to whether she was going to make a
4 statement, is that right?

5 A. That's correct. 11:27

6 213 Q. So at that stage had you been told that she was going
7 to make one?

8 A. My understanding was that she was coming to the
9 station, that she had indicated to her mother that she
10 was going to make a statement and my understanding was 11:27
11 that the appointment had been made at Letterkenny Garda
12 Station to facilitate that.

13 214 Q. I see. So you are of the view that she was going to
14 make a statement?

15 A. That was my impression. 11:28

16 215 Q. Yes. And going to make a statement in relation to
17 particular events?

18 A. Well, I can't say what she was going to make the
19 statement about because she is the person that made the
20 statement so until we met with her and until she 11:28
21 disclosed --

22 216 Q. Are you saying, as an experienced sergeant of the
23 guards, that you didn't know what issue was going to be
24 addressed during the meeting in the Garda station?

25 A. Well, she was a victim coming to the station to make a 11:28
26 statement and I can't -- you know, with the best will
27 in the world, I can't foretell what any person is going
28 to say until they arrive into the station.

29 217 Q. So you have no idea?

1 A. I was aware the concerns had been raised by her family
2 but --

3 218 Q. Were the concerns in relation to an incident on 28th of
4 September?

5 A. That's correct. 11:28

6 219 Q. I see. So just biting the bullet now, you were going
7 to the police station to address concerns about
8 something that had occurred on 28th September?

9 A. I was aware that --

10 220 Q. Is that correct? 11:29

11 A. If you'd let me finish, please.

12 221 Q. Very good.

13 A. I was aware that concerns had been raised with Gardaí
14 by members of her family and that an arrangement had
15 been made and that Marisa was willing to come to the 11:29
16 station at 3:00 o'clock and she arrived at the station
17 at 3:00 o'clock, we spoke with her and she made a
18 statement of complaint.

19 222 Q. Yes. Now, were you aware, going to the station, that
20 you were going there to address the concerns about the 11:29
21 28th September?

22 A. Sorry?

23 223 Q. That you were going there to address and take a
24 statement in relation to the matters that allegedly
25 occurred on 28th September? 11:29

26 A. Well, I can't say what was going to be in the
27 statement. It was Ms. Simms that came to the station.

28 224 Q. Was it going to be in relation to, in your view, the
29 28th September and the alleged threats?

1 A. I couldn't say what Ms. Simms was going to include in
2 her statement.

3 225 Q. Was it going to concern, as a major part, the issue of
4 what occurred on 28th September, yes or no?

5 A. Well, I can't say what Ms. Simms was going to include 11:30
6 in her statement at that time.

7 226 Q. So you were going in, there was an element of surprise
8 and anticipation?

9 A. No. I said I was aware of the concerns that were
10 raised. Ms. Simms was coming to the station. She 11:30
11 spoke with us and she made a statement, a 38-page
12 statement, and the contents are as have been disclosed
13 to the Tribunal.

14 227 Q. So you had no idea what she was going to say?

15 A. She was a victim coming to the station to make a 11:30
16 statement. I can't foretell what any victim is going
17 to disclose.

18 228 Q. And it mightn't have been about the 28th of September
19 then you are saying?

20 A. Well, as you can see in the content of the statement, 11:30
21 it's a statement that discloses an awful lot of
22 incidents.

23 229 Q. Yes. Is it unusual in your experience as a sergeant
24 to take a statement over a period of eight-and-a-half
25 hours? 11:31

26 A. No, it's not unusual.

27 230 Q. Do you do that regularly?

28 A. I wouldn't say it's a regular occurrence but I have
29 taken statements that have lasted over a period of a

1 number of days and particularly when it comes to
2 victims of domestic violence or sexual abuse. As I
3 said earlier, it's definitely not an exact science.

4 231 Q. would you describe this as a complex matter?
5 A. Any statement from any victim is a complex matter. 11:31

6 232 Q. well, clearly there are fraud cases, there are
7 complicated cases. was this a complex matter?
8 A. well, in my view, any victim of domestic violence or
9 sexual assault, it's a complex matter.

10 233 Q. So somebody making an allegation about a domestic 11:31
11 threat or assault, is a complex matter which might
12 require eight-and-a-half hours in a police station,
13 yes?
14 A. It depends on what the victim is going to say. You can
15 never foretell what a victim is going to say or how 11:32
16 long it's going to take.

17 234 Q. Don't you know that it is exceptional to take a
18 statement continuously for a period of eight-and-a-half
19 hours, unbroken, in a Garda station?
20 A. I wouldn't say that. 11:32

21 235 Q. Very good.
22 A. And it wasn't unbroken, because Ms. Simms used the
23 bathroom, she had tea, and --

24 236 Q. Did you go with her to the bathroom?
25 A. -- I wouldn't think eight-and-a-half hours is 11:32
26 exceptional. I recall that I did go and showed her
27 down the corridor to where the bathroom was.

28 237 Q. But had she not been there already with Inspector
29 Sheridan?

1 A. She may have been, but at the same token, if you are
2 not familiar with Letterkenny Garda Station, it's
3 quite -- you have a long corridor, you are going
4 through a number of doors and --

5 238 Q. You were worried she might get lost in the station? 11:32

6 A. Well, as I said, it's just out of common decency that
7 you would show them where to go.

8 239 Q. And you don't think she would have learned from the
9 previous occasion, no?

10 A. Well, you wouldn't leave unauthorised person roaming 11:33
11 about a station by themselves anyway.

12 240 Q. I see. Anyway, you arrived there, and did you have a
13 plan?

14 A. I don't understand, how do you mean a plan?

15 241 Q. You know what a plan is. 11:33

16 A. Yeah, but --

17 242 Q. Had you discussed with Inspector Sheridan your plan for
18 the day?

19 A. My role in being there on the Sunday was that, as far
20 as I was concerned, Marisa Simms was coming to the 11:33
21 station and when she came, she discussed the matters
22 that are contained in the statement and she disclosed
23 all of those voluntarily to us, they were written down
24 over a course of eight-and-a-half hours, and that is
25 the statement that is there. 11:33

26 243 Q. If you would listen to my questions. Had you discussed
27 with Inspector Sheridan a plan for the day, yes or no?

28 A. Would you please explain plan, because I don't
29 understand what you mean.

1 244 Q. Do you not know as a sergeant of the guards what a plan
2 is?
3 A. Well, I understand a plan but I don't understand what
4 you mean in this context.
5 245 Q. You don't understand what I mean? 11:34
6 A. No.
7 246 Q. Okay, let's look at it very simply. Inspector Sheridan
8 and yourself are together before this --
9 A. Mm-hmm.
10 247 Q. -- did you discuss how you were going to approach this 11:34
11 situation? That is what is called a plan, Sergeant,
12 and as you well know. Now, did you have a plan and did
13 you discuss it with Inspector Sheridan?
14 A. The plan was that Ms. Simms was coming to the station
15 at 3:00 for an appointment. 11:34
16 248 Q. I see. So you had a plan, but you are saying it was
17 limited to an appointment and you didn't discuss with
18 Inspector Sheridan anything else?
19 A. Well, I was aware of the concerns that were raised and,
20 as far as I was concerned, this was a person coming to 11:34
21 a Garda station who was a potential victim and until
22 she arrived and until we spoke to her, it was only then
23 that we were aware of the matters that we were dealing
24 with.
25 249 Q. Did you discuss any concerns that she mightn't wish to 11:35
26 make a statement and that that would be a problem?
27 A. But she was told when she came in, you know, that --
28 she came to the station voluntarily. She was under no
29 illusion, she didn't -- if she wanted to make a

1 statement we were there to facilitate it. If she
2 didn't want to make a statement, that was her choice,
3 her decision. She chose to make a statement.

4 250 Q. So as far as you were concerned, you were there to a
5 take a statement and she was willing to make a 11:35
6 statement?

7 A. That's -- that is my position.

8 251 Q. But yet two hours elapsed, on your colleague's
9 evidence, before the statement was commenced, maybe
10 longer. Is that odd? 11:35

11 A. That is not odd in any way, shape or form.

12 252 Q. Was that a chat you were having beforehand?

13 A. Well, as you can see --

14 253 Q. Was it a chat you were having beforehand?

15 A. We spoke with Ms. Simms and she disclosed certain 11:35
16 information to us which formed the basis of the
17 statement.

18 254 Q. Was it a chat?

19 A. Well, it was a conversation.

20 255 Q. All right. And did you take notes of that 11:36
21 conversation?

22 A. I made notes in the page that was presented here to the
23 Tribunal yesterday.

24 256 Q. Firstly, you made notes?

25 A. I just -- as Ms. Simms was talking, I would make, it 11:36
26 could be one word, it could be two words or whatever it
27 would be, just to jog my memory that when the statement
28 was being written down, that I could say, oh, right, I
29 remember A, B and C and that was it.

1 257 Q. And was that to put a chronology on it?
2 A. That is what I would try and do.
3 258 Q. I see. So over two hours, you were getting general
4 headings which you were going to use for the taking of
5 the formal statement, is that what you are telling us? 11:36
6 A. They are words that I wrote down.
7 259 Q. No, no. Over two hours, were you getting headings,
8 that is words, which would be used to devise a
9 chronology for the statement?
10 A. Well, there are no headings in the statement. They are 11:36
11 words that I wrote down to assist me in recalling the
12 events that she had relayed to us to incorporate them
13 into the statement.
14 260 Q. I see. And was that to be used as a chronology so you
15 could put form on the statement? 11:37
16 A. Well, in any statement it's -- you have -- it's like
17 telling a story, you have a start, a middle and an end
18 and the purpose of the conversation beforehand was to
19 try and put some format on the statement.
20 261 Q. I see. 11:37
21 A. And that would be common in all statements.
22 262 Q. So it appears that you only had a page between you --
23 A. That's correct.
24 263 Q. -- in the superintendent's office. Can you explain
25 that? 11:37
26 A. Pardon?
27 264 Q. Can you explain why you had only one sheet of paper
28 between you?
29 A. Well, they were the headings that we made, but as we

1 took the statement, Ms. Simms, Marisa just started to
2 tell us about other things and --

3 265 Q. No, why did you have only one sheet of paper available
4 to both of you, that is to the two gardaí in the
5 office? 11:37

6 A. It's a sheet of paper.

7 266 Q. It is what it is, yes.

8 A. Well --

9 267 Q. It is what it is, it's a sheet of paper, but it's not
10 the question I am asking you. Why did you only have 11:38
11 one sheet of paper available to two senior members of
12 An Gardaí in the superintendent's office?

13 A. But I don't understand your question, I am sure there
14 was other people here --

15 268 Q. You don't understand that question. Very good. I will 11:38
16 move on and we will look at that sheet of paper if you
17 say you don't understand the question. So these were
18 to be, if you like, aide-memoirs to help you in
19 organising the statement, is that correct?

20 A. That's correct. 11:38

21 269 Q. Okay. Well, let's just look at that statement, or
22 sorry, those notes. Now, can I ask you how you
23 arranged the passing to and from the inspector, this
24 piece of paper; how was that done?

25 A. Well -- 11:38

26 270 Q. How did you share it is what I am asking you?

27 A. Well, I took the notes as are there and that are in my
28 handwriting.

29 271 Q. But would Inspector Sheridan lean across and say, can I

1 have the piece of paper now, I want to write something
2 down?

3 A. No, I would imagine --

4 272 Q. Or if she had it would you say can I have the piece of
5 paper now because I want to write something down? 11:39

6 A. No, as you can see, I wrote on this side of the paper,
7 it's line by line by line, Inspector Sheridan has
8 written in at the end and has made notes at the side.

9 273 Q. Are you saying that you had it throughout the eight
10 hours but she took it at the end? 11:39

11 A. No. I am not saying that. I can only say that I
12 recorded the notes that are there in my handwriting
13 that are here.

14 274 Q. Okay. well, let's just look at that note. And the
15 first line says "UCG 98, 2002", is that correct? 11:39

16 A. That's correct.

17 275 Q. Then "October '98, April'99", what does that a say,
18 "engaged"?

19 A. Engaged.

20 276 Q. And then it says "August '99, broke up". April to
21 August '99, broke up, is that correct? 11:39

22 A. That's correct.

23 277 Q. Then "Paula --" what is that?

24 A. Bebo.

25 278 Q. "-- Bebo 2000 to 2006." 11:40

26 A. 2005 to 2006.

27 279 Q. I see. I am finding it difficult to read this writing.
28 That could be my eyesight. "2010: Facebook message",
29 yes?

1 A. That's correct.

2 280 Q. And what does it say after that?

3 A. "August replied December."

4 281 Q. Yeah. And after that "Athlone exam papers"?

5 A. That's correct. 11:40

6 282 Q. "3 to --

7 A. -- 4 messages."

8 283 Q. I see. And after that?

9 A. "Text 29/1/10."

10 284 Q. And after that? 11:40

11 A. "Phone calls and messages continuously after that."

12 285 Q. Yes. That is referring to what year?

13 A. 2010.

14 286 Q. To 2010. We are now a third of the way, a little over
15 the third of the way down the page and we are at 2010. 11:41

16 So, after that "met"?

17 A. "Met in February 2011."

18 287 Q. Okay.

19 A. "Roscommon and following weekend."

20 288 Q. "March", and after that? 11:41

21 A. "March 2011 told Andrew I've met someone. Andrew said
22 it was Keith, Buncrana."

23 289 Q. I see. So, we are now halfway down the page of the
24 notes of the two hours, is that correct?

25 A. That's correct. Well now, I was asked earlier was it 11:41
26 two hours. I can't say, I didn't time it, so I don't
27 know. I know Inspector Sheridan said it was two hours.

28 290 Q. You made a point of saying you found it difficult to
29 assess times?

1 A. Well, I -- when you are in a situation where you are
2 taking a statement from a victim you're not -- well, I
3 am certainly not looking at my watch saying oh, we have
4 half an hour here and 40 minutes there.

5 291 Q. Is it because there is a problem with this document as 11:41
6 a real notation of what was going on over two hours, is
7 that your, if I can put it this way, your escaping into
8 lack of certainty about times?

9 A. No, that is the document that --

10 292 Q. Very good. Well, we will read on. What does it say 11:42
11 next?

12 A. I think it's, are we at "Mountain Top" and there's a
13 name there, "Room couple of weeks. April 2011 went to
14 Gartan. One week returned to Milford. Gartan Andrew
15 called, Keith blew it up out of proportion and arrived 11:42
16 at the house. Milford Pulse. Keith spoken to by
17 Kevin --"

18 293 Q. Let's go slowly at this because I am going to try and
19 absorb what was going on during this two hour session.
20 "Milford"? 11:42

21 A. "Pulse".

22 294 Q. Keith's --

23 A. "-- spoken to."

24 295 Q. By?

25 A. Kevin E. 11:42

26 296 Q. Who is Kevin E?

27 A. Superintendent Kevin English.

28 297 Q. I see. And --

29 A. "Transferred".

1 298 Q. "Family"?

2 A. Keith.

3 299 Q. Yes.

4 A. "(Nicole sister) brother Mark" and then "Brian".

5 300 Q. Yes. "Ballymaleel"? 11:43

6 A. "Exam papers."

7 301 Q. Yes. And next?

8 A. "Hairdresser November '11 confronted Keith."

9 302 Q. Yes.

10 A. The rest of the notes then, other than up at the top 11:43

11 where there is permission for phones and landline and

12 the number and his name, from what I can see here the

13 rest of the notes were made by Inspector Sheridan.

14 303 Q. Well, none of your notes relate to any incident of

15 complaint, do they? 11:43

16 A. Well, I think when you go through the statement and you

17 look at the notes that are made --

18 304 Q. I am asking you about these notes, if you will,

19 sergeant. None of these notes that you have made, very

20 brief notes that you made over two, two-and-a-half 11:44

21 hours, refer to any complaint, do they?

22 A. Well, I think there if you see "phone calls and

23 messages continuously," there is a theme of phone calls

24 and messages.

25 305 Q. Just pause right there. So over this two hours, you 11:44

26 had elicited that he was sending out phone calls and

27 messages, yes?

28 A. Well, we did, amongst other things.

29 306 Q. But are you saying there were other things now that you

1 didn't write down?

2 A. Pardon?

3 307 Q. Are you saying that there were other things that you
4 did not write down?

5 A. Well, as I said, these are only notes that I made to 11:44
6 help me.

7 308 Q. We know that, and you have told us the basis on which
8 you made them. And I am inquiring of you as to why
9 they do not relate to any complaints of threat being
10 made? 11:45

11 A. Well, these are notes that I made at the time.

12 309 Q. We know they are notes you made, you have told us that.
13 They are what they are, in your colleague's expression.
14 I am asking you, are you surprised to find that, over
15 that two, two-and-a-half hours, there was no mention of 11:45
16 this supposed bad behaviour? Are you?

17 A. I'm not surprised because these are just notes that
18 were made to help me put some order on how this
19 statement was going to be taken. And when the
20 statement was taken Ms. Simms, when you read through 11:45
21 it, she refers to different things at different times,
22 including the threats that she referred to.

23 310 Q. Well, sorry, there's no mention of the threats here in
24 your notes. I am asking you now, tell us how the
25 material you have written down could have helped you as 11:46
26 headings or chronology for the 28 page statement taken
27 over 28 -- sorry, taken over eight-and-a-half hours?

28 A. Well, the 38-page statement taken over eight-and-a-half
29 hours, in any statement that you take from a victim

1 it's important that you include as much information as
2 you can to assist the investigation. And from that
3 point of view, the notes at the top would be by way of
4 background, the notes following on from that would be
5 by way of how they renewed their acquaintances and 11:46
6 other events that would have happened then when he
7 arrived in Letterkenny, the initial stages there when
8 he was transferred and the family there would all refer
9 to the time when he was down at what Ms. Simms referred
10 to as his brother's 21st. The hairdresser there, that 11:47
11 would have been an incident whereby, as contained in
12 the statement, that the allegations of infidelities.
13 311 Q. And this document, and what you have read out, was
14 going to be a structure for the statement you were
15 taking, you say, because I am going to suggest to you 11:47
16 that that is not true.
17 A. Pardon?
18 312 Q. I am going to suggest to you that that is not true.
19 A. Well, I have to reject your suggestion.
20 313 Q. So was there a huge amount of stuff not written down? 11:47
21 A. Well, as I said, these are just notes --
22 314 Q. That is a simple question. Was there a huge amount of
23 conversation not written down?
24 A. Well, you wouldn't have written down everything when
25 you were discussing it initially. These are just notes 11:47
26 as I said I made --
27 315 Q. You would have written down important things, wouldn't
28 you?
29 A. If you will allow me to finish. These are just notes I

1 made to assist me when the process --

2 316 Q. If you would allow me to finish. You would have
3 written down important things, wouldn't you?

4 A. To me, as far as I was concerned, they were important
5 insofar as they put everything into context. As in, in 11:48
6 any statement that you take from any victim in relation
7 to any crime, you include background and as much
8 information and detail as you possibly can.

9 317 Q. Yes, you have made that point. And then, from time to
10 time, as you say, your colleague would ask for the 11:48
11 piece of paper?

12 A. Sorry, I missed the last part --

13 318 Q. From time to time your colleague would borrow the piece
14 of paper?

15 A. Well, I can't say that she borrowed it. I know that 11:48
16 Inspector Sheridan began the statement and I took over
17 the taking of the statement.

18 319 Q. I see. I see. Now, your colleague has described this
19 lady as being exhausted. Do you agree or disagree with
20 that? 11:48

21 A. Well, I think we were all tired after eight-and-a-half
22 hours of being in a Garda station.

23 320 Q. I wonder would you care to answer my question.

24 A. Well, I have to say --

25 321 Q. Would you care to answer my question. Your colleague 11:49
26 has described this woman as being exhausted. Do you
27 agree or disagree with your colleague?

28 A. I would say that after eight-and-a-half hours in the
29 station she would have been tired, yes, as would any

1 person.

2 322 Q. Exhausted, I am addressing the word exhausted, will you
3 address it please. Was she exhausted?

4 A. I would have said she was tired, to me exhaustion would
5 be somebody that was incapable of getting up off a 11:49
6 chair, that they were falling asleep.

7 323 Q. I see. So to you, exhaustion means somebody who is not
8 actually capable of movement?

9 A. No, I'm saying somebody -- you have mental exhaustion,
10 physical exhaustion, but mentally exhausted would be 11:49
11 somebody that just couldn't engage in any kind of
12 process, in my opinion.

13 324 Q. Well, it's the word used by your colleague.

14 A. Pardon?

15 325 Q. It's the word used by your colleague. 11:50
16 A. Well, that is a word used by my colleague.

17 326 Q. And you wish to disagree with it?

18 A. I am not disagreeing with it, that is her opinion.

19 327 Q. You have different interpretations of the word
20 exhaustion? 11:50
21 A. Well, my interpretation is that --

22 328 Q. Have you discussed this with your colleague, recently?
23 A. This, as in exhaustion?

24 329 Q. This issue of exhaustion, have you discussed it now in
25 the last 24 hours with your colleague? 11:50
26 A. I have not.

27 330 Q. Are you sure of that?

28 A. I am positive, yeah.

29 331 Q. Very good. Have you discussed it prior to that with

1 your colleague, the question of exhaustion?

2 A. No, I have not.

3 332 Q. Never? And did you even after yesterday hearing her
4 describe, use the word exhaustion, did you have any
5 consultation with her in relation to that? 11:50

6 A. I did not.

7 333 Q. You didn't. So, anyway, there was a movement then from
8 this general chat, which you say is represented by this
9 page here, it took two hours. Were there long gaps,
10 tell me, during that conversation of two, 11:51
11 two-and-a-half hours, or was it constant chat?

12 A. Well, it was a conversation in relation to the
13 complaint made by Marisa Simms. The majority of the
14 talking was done by Ms. Simms.

15 334 Q. Sorry -- go ahead. 11:51

16 A. Where she told us in detail about events that were
17 subsequently included in the statement.

18 335 Q. But looking at this notes, you see, there is no mention
19 of a complaint, no notation of a complaint, isn't that
20 correct? 11:51

21 A. Well, I don't -- you are talking specifically about the
22 complaint of 28th of September, is that your point?

23 336 Q. No. I am talking about the notes and your conversation
24 of the day.

25 A. Yeah, but I'm just asking you a question, if you 11:51
26 wouldn't mind.

27 337 Q. Well --

28 A. Sorry?

29 338 Q. If you don't mind, that I ask the questions.

1 A. I appreciate that, but I am just looking for
2 clarification, that is all.

3 339 Q. Very good. If you would seek clarification.

4 A. Are you specifically referring to the incident as
5 described on 28th of September? 11:52

6 340 Q. No. I am asking you about what went on, on that day.

7 A. Yeah, but you have asked me a question that this --

8 341 Q. Well, point out in that note the complaint she made
9 that you have written down.

10 A. Pardon? 11:52

11 342 Q. In your note, point out the complaint she made.

12 A. Well, there was an issue about phone calls and
13 messages.

14 343 Q. He was leaving her phone calls and messages, yes.

15 A. She described the incident out in Gartan where Garda 11:52
16 Harrison, according to her, it was blown out of all
17 proportion and he arrived at the house after Andrew had
18 called and following on from that I think, if you
19 reference the statement I think she makes reference to
20 phone calls and text messages that she would have 11:53
21 received.

22 344 Q. Sorry, that was a call that was made in relation to
23 Andrew Simms not in relation to him.

24 A. That's correct.

25 345 Q. We are talking about complaints against him, not 11:53
26 complaints about Andrew Simms.

27 A. Mr. Chairman, can I reference the statement just to
28 clarify that point, if you don't mind?

29 346 Q. Yes, of course.

1 A. Thank you. Yes, just there, the reference "Facebook
2 message August, replied December", I think if you read
3 through the statement --

4 347 Q. Sorry, let's just get back to this.

5 A. If you just look there -- 11:54

6 348 Q. I am looking.

7 A. "Facebook message August, replied December", and if you
8 look at the statement --

9 349 Q. At the 38-page statement, yes.

10 A. Yeah, I am just looking at the first page there, I 11:54
11 think she said "It was 29th December 2010, I first
12 texted him on the phone and then once he had my number
13 it was non-stop texts and calls from him."

14 350 Q. Well, that was serious stuff, wasn't it?

15 A. Well, if you look at the statement throughout, that 11:54
16 seems to be an underlying complaint.

17 351 Q. All right. We have a 38-page statement and we have one
18 page representing two hours of conversation and you are
19 able to point to a sentence or two sentences in the
20 38-page statement which are also referenced here, is 11:54
21 that what you are saying?

22 A. No. Sorry, maybe I misunderstood you but I thought you
23 asked me to point out something on those notes that
24 would reference to a complaint in the statement.

25 352 Q. You used an interesting word, an interesting 11:55
26 expression, can I suggest to you maybe unwittingly,
27 during your examination by Ms. Leader. You referred to
28 certain behaviour, you said "what I saw as
29 controlling". Do you remember saying that? "What I

1 saw as controlling."
2 A. In relation to my evidence here to the Tribunal?
3 353 Q. Not a half an hour ago, you used the expression --
4 A. I just missed the first part of your question, I just
5 found it difficult to hear, sorry. 11:55
6 354 Q. Do you remember referring to behaviour, referring to
7 phone calls or referring to "what I saw as
8 controlling", do you remember saying that?
9 A. Well, I thought the behaviour referred to by Ms. Simms
10 in the statement when you looked at it, particularly in 11:55
11 relation to the issue of phone calls and text messages,
12 I thought it was controlling.
13 355 Q. Controlling?
14 A. Pardon?
15 356 Q. Yes. Do you remember me cross-examining Inspector 11:56
16 Goretta about that yesterday?
17 A. It was quite a long cross-examination so if you can
18 just refresh my mind, sorry.
19 357 Q. About the possibility that herself, Inspector Goretta,
20 and yourself, were suggesting things to Ms. Simms, that 11:56
21 you would say things to her during the course of this
22 eight-and-a-half hour interview?
23 A. I didn't suggest anything to Ms. Simms.
24 358 Q. Well, would you have said to her, was that not
25 controlling? 11:56
26 A. I wouldn't have said was that -- during the course of
27 taking a statement from a victim, you might ask them
28 how did you feel or something to that degree. I
29 wouldn't have said, was that not controlling?

1 359 Q. would you have said, do you think that was controlling?
2 A. I don't believe I would have. I don't -- I didn't
3 use -- I wouldn't have asked that question, no.
4 360 Q. Are you sure of that?
5 A. I am quite sure because I'm sure I did ask her how did 11:57
6 you feel, along those lines, but --
7 361 Q. Can I suggest to you that you did, in fact, on many
8 occasions, put to this woman suggestions, wasn't that
9 controlling behaviour, to which she would say yes.
10 A. Well, I reject that. 11:57
11 362 Q. You do. would you have considered this behaviour to be
12 obsessive in your view, as well as controlling?
13 A. Well, I think after the way it was described by Marisa,
14 and it's her statement, in my opinion here now you are
15 asking me do I describe it as that, and I would say I 11:58
16 think it is.
17 363 Q. And wasn't that a word you used to her?
18 A. No. I did not use those words. Throughout the course
19 of that statement I would have asked her, how did you
20 feel? 11:58
21 364 Q. Would you not say words to the effect it's hard for her
22 to remember back exactly what was going on, to say,
23 would you say it was obsessive, your words?
24 A. I don't recall saying that.
25 365 Q. You don't recall saying it. The use of the word recall 11:58
26 by gardaí is often a very interesting one. Are you
27 saying you don't recall it, and does that open the
28 possibility that you did say it?
29 A. Well, I don't believe I said it.

1 366 Q. You don't believe you said it?
2 A. Yeah.
3 367 Q. Do you admit to the possibility that you may have said
4 it?
5 A. I doubt it very much. 11:58
6 368 Q. You doubt it?
7 A. I don't believe that I would have said that. The way I
8 would deal with victims when I am taking statements is,
9 when they are giving you information and you are -- you
10 are trying to get detail into the statement and you 11:59
11 would ask them in situations particularly of domestic
12 violence, sexual assault, you would ask them: 'well,
13 how did you feel when that happened?' And that is not
14 an uncommon question.
15 369 Q. You say you doubt it? 11:59
16 A. Pardon?
17 370 Q. You doubt that you would have said it?
18 A. Well, I don't believe I said it.
19 371 Q. But you can't go as far as certainty, can you?
20 A. Well, as I said, you are asking me, this happened in 11:59
21 2013, it's not a question that I would ask when I am
22 taking statements so I don't believe that I said that.
23 372 Q. Very good. We will move on to slightly more general
24 concepts now. The primary suggestion yesterday from
25 your colleague was that this statement was an 11:59
26 uninhibited stream, a litany which started, if you
27 like, at the beginning of a relationship and continued
28 through the eight-and-a-half hours, without
29 interruption, without questioning. Would you agree

1 with that?

2 A. well, we would have clarified dates and people that
3 were present and names and so on and so forth.

4 373 Q. Let's take those one which one. You would have
5 clarified dates, that is number one. what else would 12:00
6 you have clarified?

7 A. Names.

8 374 Q. Names?

9 A. Yes.

10 375 Q. That is number two. Number three, what else would you 12:00
11 have clarified?

12 A. This person is volunteering information to you, if they
13 said, say for example it was John Browne, if they were
14 referring to John you would say who is John and get the
15 full detail. 12:00

16 376 Q. We know that, and can I suggest you are being evasive?

17 A. well, I am certainly not being evasive, I am trying to
18 help the Tribunal here.

19 377 Q. Now, I have asked you to specify the headings of
20 clarification, you have mentioned some of them, we have 12:01
21 gone through them. One, dates. Two, names, John
22 Browne. The third area of clarification, third area of
23 clarification, please?

24 A. Pardon?

25 378 Q. what would the third area of clarification be? 12:01

26 A. well, these are things that within a statement, as you
27 are taking a statement, you would clarify names, dates,
28 places.

29 379 Q. All right. Names, dates and places. Are they the only

1 clarifications?

2 A. well, it's the facts that the person is -- details that
3 people are disclosing to you, when you are trying to
4 take a statement you want to incorporate as much detail
5 as you can. 12:01

6 380 Q. I know that. That makes sense. And we are trying to
7 work out exactly what was going on over this
8 eight-and-a-half hours, do you follow me?

9 A. I do, I follow you.

10 381 Q. All right. You say that your only interference, your 12:02
11 only interjections in this projection of fact over
12 eight-and-a-half hours was to clarify names, dates and
13 places, is that correct?

14 A. well, they are the clarifications that you would have
15 in any statement, but I mean, this statement is the 12:02
16 38-page statement and it has details that Marisa Simms
17 disclosed to us during the course of eight-and-a-half
18 hours, and I took them down, they were her words, when
19 I took -- Inspector Sheridan took the initial part of
20 the statement, I then started writing the latter part 12:02
21 of the statement and everything that Ms. Simms said I
22 took down in writing, it was read over to her and she
23 signed it as being true and correct.

24 382 Q. Maybe I am being obscure. Were there questions other
25 than in relation to names, dates and places? Now that 12:02
26 is a simple question. Were there questions other than
27 in relation to names, dates and places? That is a
28 simple question. Yes or no.

29 A. I'm sure there were questions but I don't understand

1 what questions you are referring to.

2 383 Q. well, either do I, because I am just trying to find out
3 from you exactly what other questions were asked. We
4 have now established that there were other questions.
5 what were there other questions in relation to? 12:03

6 A. I think there were phone numbers there.

7 384 Q. Right. We have got a fourth heading now of
8 clarification; phone numbers. Now, what other
9 questions were there?

10 A. She would have been asked in relation to incidents that 12:03
11 she described, how did she feel.

12 385 Q. All right. Fifth, she would have been asked what her
13 feelings were.

14 A. I can't say, you know, you are asking me to say well,
15 it's this question, that question. All I can say to 12:04
16 you is that when Marisa made her statement, when she
17 started, she volunteered all this information and as
18 Inspector Sheridan said, it was if once she started, it
19 just --

20 386 Q. Flowed? 12:04

21 A. well, that is your word, but it was as if when she
22 started --

23 387 Q. what is your word?

24 A. well, it was nearly as if it was a release for her.
25 That is what I felt. 12:04

26 388 Q. And so, apart from a few questions in relation to minor
27 matters of times, dates, places and phone calls, this
28 38 pages was a continuous emanation from her, yes?

29 A. well, I do know that when she would describe a certain

1 incident, we would read it over to her, we would write
2 it down, it was read over to her and then we would move
3 on to the next incident.

4 389 Q. You see, I am going to suggest to you that this woman
5 was very exhausted; she was a sick woman, she was 12:05
6 hospitalised a couple of days later, she had to attend
7 the doctor the next day. That she was a sick woman,
8 she was an emotional woman, she was an exhausted woman.

9 A. well --

10 390 Q. I haven't finished. 12:05

11 A. -- I am just trying to clarify one thing. Sorry.

12 391 Q. And that in the course of the eight-and-a-half hours,
13 you were constantly asking questions, making
14 suggestions, and using words that were ultimately
15 included in the statement? 12:05

16 A. well, I just want to address one issue, if I may. You
17 have said that she was a sick woman. If at any time
18 Marisa Simms appeared unwell, we would not have
19 continued on with the statement. To me, at all times,
20 she appeared to be in a good state of health, she was 12:05
21 there of her own free will and she volunteered the
22 statement that is here that was read into evidence.
23 That is the statement made by Marisa Simms in her own
24 words.

25 392 Q. You see, I am going to suggest to you that she did, on 12:06
26 occasion, say to you, this is my personal life, this is
27 intrusive, why do I have to answer these questions,
28 words to that effect.

29 A. No, she never said that to me.

1 393 Q. Did she say it to the inspector, possibly?
2 A. Well, I don't believe she said it to the inspector. I
3 did not hear her utter those words.
4 394 Q. You don't believe she said it to the inspector?
5 A. Well, she did not say to the inspector, that is what I 12:06
6 said.
7 395 Q. I am just interested by your use of the word "" don't
8 believe". So I am going to suggest to you there was
9 constant questioning, suggestions, that the word
10 controlling was raised by you, if she described -- 12:06
11 during the cross-examination in relation to her
12 relationship, it was -- she would have been asked was
13 this controlling, she was a tired woman and may have
14 said yes. Is it desirable that words are suggested to
15 people in interview? 12:07
16 A. No.
17 396 Q. No. It's not, is it? Why is that?
18 A. Well, you can be accused of leading people, but I
19 certainly --
20 397 Q. You mean leaving aside the fact that you might have an 12:07
21 unpleasant time in court isn't there a much more
22 primary reason; that it is considered improper because
23 it may lead to injustice or it may lead to lack of
24 certainty, would you agree? Apart from being accused
25 in court. 12:07
26 A. Oh, sorry, yes, I would agree, sorry.
27 398 Q. Okay. Have you ever interviewed a suspect without a
28 meal break and without a return to the cell for a
29 period of eight-and-a-half hours?

1 A. No, I have not.

2 399 Q. why is that, sergeant?

3 A. Because there's regulations there, treatment of persons

4 in custody.

5 400 Q. why do those regulations exist? 12:08

6 A. To protect the rights of the prisoner.

7 401 Q. And an acknowledgement since I suppose the 1980s,

8 anyway, if not before, that people in Garda stations

9 can feel oppressed?

10 A. But Marisa Simms was not a prisoner. Marisa Simms was 12:08

11 a victim that presented in the station.

12 402 Q. Oh, I know that. But the law also recognises that even

13 people who are there voluntarily can feel oppressed.

14 There is law to that effect, we needn't go into it.

15 A. I accept that. 12:08

16 403 Q. well, we will just continue with the prisoners. The

17 reason for not keeping people for eight-and-a-half

18 hours in the one room without a meal break or a lie

19 down is because people can become confused, isn't that

20 right? 12:09

21 A. I'd accept that.

22 404 Q. They can say things they don't mean, isn't that right?

23 A. That's correct.

24 405 Q. They can possibly feel, because they are surrounded by

25 people with uniforms, because they are in an office or 12:09

26 an interview room, they can feel constrained by being

27 in a police station, isn't that right?

28 A. That's correct.

29 406 Q. And in fact, you have conceded already that when she

1 arrived she appeared somewhat nervous at being in a
2 police station?

3 A. Well, any person coming to a --

4 407 Q. But she did?

5 A. She did. 12:09

6 408 Q. Yes. So I am just trying to establish, you wouldn't --
7 an accused person, it is recognised that a suspect
8 should not be treated in this way because it can lead
9 to frailties in statements taken, isn't that right?

10 A. That's correct. But Ms. Simms was not an accused 12:09
11 person, she was a victim.

12 409 Q. We accept she was not an accused person. Now, she will
13 accept that she was told that she could go home, isn't
14 that right?

15 A. That's correct. 12:10

16 410 Q. And she was told that because she was looking tired,
17 yes.

18 A. It wasn't because she was looking tired. The statement
19 was taken -- she had received phone calls from I think
20 it was her sister and who I believed to be her husband, 12:10
21 I was conscious from my recollection that she was
22 making arrangements in relation to children and I said,
23 well, we can finish the statement if you need to go and
24 you can come back at another time, but it was Marisa
25 that chose to stay, she was adamant she wanted to stay 12:10
26 until the completion of the statement.

27 411 Q. Well, she will say that you said she was free to leave
28 and she could leave, but that she would have to come
29 back the following day?

1 A. well --

2 412 Q. Is that possible?

3 A. I don't believe so because I wasn't working the next
4 day. And I wasn't working the Tuesday either so I
5 wouldn't have made any arrangement. 12:11

6 413 Q. You weren't working that day either?

7 A. I wasn't following the following Monday and Tuesday.

8 414 Q. And you weren't working that Sunday?

9 A. well, I was working that Sunday, as I had explained
10 already. 12:11

11 415 Q. You had changed your rota?

12 A. which is a regular occurrence.

13 416 Q. Is it possible that you said to her you would have to
14 come back tomorrow?

15 A. Definitely not. 12:11

16 417 Q. You are now certain?

17 A. Pardon?

18 418 Q. You are certain of that?

19 A. Certain.

20 419 Q. well, I suggest to you, you are very much mistaken in
21 relation to that? 12:11

22 A. well, I reject that.

23 420 Q. So, we still haven't clutched or still haven't grasped
24 the other questions that you asked, leaving aside
25 times, dates, names and places. Can you give us an 12:11
26 example of questions other than those that you might
27 have asked? Or, are you saying there were no other
28 questions?

29 A. Maybe I am missing the -- what you are trying to -- I

1 just don't fully understand what you are trying to say
2 here. All I can say is that this lady came to the
3 Garda station, she made this statement. These are her
4 words in the statement.

5 421 Q. Do you remember her head in her hands? 12:12

6 A. No, I don't remember that at all.

7 422 Q. And by the way, she is not saying that all of this is
8 untrue, much of this is untrue -- or is true, much of
9 what is stated in the statement. I am putting to you
10 that she was constantly questioned, that there were 12:12
11 suggestive questions asked of her over this period of
12 eight-and-a-half hours and she found it oppressive.

13 A. Well, I reject that.

14 423 Q. You reject it. But you wouldn't do it to a prisoner?

15 A. Sorry, as I said earlier, this lady presented at the 12:12
16 station. She was a victim, as far as I was concerned.
17 I felt that we had -- that well, certainly I treated
18 her with the utmost of respect. I was empathetic to
19 her situation and as the evening progressed and when
20 she described what she described, you couldn't but have 12:13
21 sympathy for her.

22 CHAIRMAN: I am just wondering is it possible in
23 relation to the idea that there were suggestive
24 questions put that you might put perhaps two examples
25 of suggestive -- 12:13

26 MR. HARTNETT: Yes, I have put one -- I have put two
27 already. One is the use of the word obsessive and the
28 other was the use of the word control.

29 CHAIRMAN: Well, they are only words, Mr. Hartnett.

1 what I am talking about is an obsessive question --
2 sorry, I beg your pardon, a suggestive question which
3 leads to Marisa Simms agreeing to something completely
4 untrue. If it was possible for you to put to the
5 sergeant perhaps one or two examples of that, I might
6 be helped. Thank you. 12:13

7 MR. HARTNETT: I am dealing with that first. I shall
8 come to other matters. And sorry, my client admits --
9 says that a lot of what is contained, most of what is
10 contained in this statement is true. She has disputes 12:14
11 with certain parts of it.

12 424 Q. Now, what I wanted to inquire about now was the change
13 from the chat of two-and-a-half hours as recorded here
14 to the formal taking of a statement, how was that
15 addressed with Marisa Simms? 12:14

16 A. When Marisa arrived at the station and came into the
17 interview room, we sat. We spoke and we explained to
18 her the process -- first of all, she knew the reason
19 why she was there, she'd come to the station and to
20 speak to the gardaí in relation to the concerns that 12:14
21 were raised. She came into the office. We spoke to
22 her, we explained to her that it was up to her if she
23 wished to make a statement of complaint in relation to
24 any matter, she was -- she could do so. If she didn't
25 want to make a statement of complaint, she was equally 12:15
26 entitled to do so. She went on and she spoke about the
27 incidents that had been raised by her mother and the
28 concerns, and she went on and she discussed different
29 things and then she said -- she indicated she was

1 willing, that she wanted to make a statement of
2 complaint.

3 425 Q. But you didn't record any of the things that were
4 subsequently recorded in the statement about threats or
5 about being put out of the house, did you? 12:15

6 A. They are contained in the statement.

7 426 Q. No, but you didn't record it in the initial chat?

8 A. But they are notes in relation to -- to try and, you
9 know, memorise -- or not memorise, but just to jog your
10 memory in relation to things that she would have 12:15
11 disclosed to us.

12 427 Q. But you don't have any notes of threats or being put
13 out of the house, or anything like that. Why not?

14 A. Well, Marisa was aware of the concerns that had been
15 raised by her family and we were aware of that incident 12:16
16 already. The notes, a lot of the notes here put into
17 context their relationship. Like, I would never have
18 known where they met, how they met, but that shows, and
19 how they subsequently got in contact with each other.

20 428 Q. Right. Did you ask the question of her, was his 12:16
21 behaviour suffocating?

22 A. I didn't ask that question.

23 429 Q. Did Inspector Sheridan?

24 A. No, she did not.

25 430 Q. Well, I am going to suggest to you that that was asked? 12:16
26 A. Well, again, I reject that.

27 431 Q. Again, did you ask questions about whether her
28 confidence was being affected?

29 A. No, I did not.

1 432 Q. Was the question asked: was he undermining your
2 confidence?
3 A. No, it was not.

4 433 Q. Well, I suggest to you it was.
5 A. Well, again, I did not, and nor did Inspector Sheridan, 12:17
6 say that.

7 434 Q. Did you ask the question: were you frightened of him?
8 A. No, I don't -- I didn't ask that question.

9 435 Q. Then what questions were you asking during this
10 eight-and-a-half hours? 12:17
11 A. This was a statement made by Marisa in relation to a
12 sequence of events that she outlined to us. These were
13 things that she described as events that she had
14 encountered or that she had been exposed to.

15 436 Q. Yes. 12:17
16 A. And when she described them, we wrote them down in the
17 statement format that is there. The statement was read
18 over to her at the end, she initialled --

19 437 Q. You have said that, you have said that many times.
20 A. Yeah, but -- 12:18

21 438 Q. I am trying to explore, and maybe I am doing it
22 ham-fistedly, I am trying to understand what form of
23 questioning or interjections by you may have occurred
24 over the eight-and-a-half hours, and, as I understand
25 it, you are saying as follows: you only asked 12:18
26 questions in relation to factual matters, four in
27 number, and there were no other questions or
28 suggestions made over that eight-and-a-half hours, is
29 that correct?

1 A. I didn't ask any questions other than to establish and
2 clarify facts that are contained in that statement.

3 439 Q. Very good. When you say "clarify facts", are you
4 talking about names, places and dates?

5 A. To put -- that is exactly what I referred to. 12:18

6 440 Q. I see. So there was no other interjection by the
7 inspector or yourself during this?

8 A. There may have been an interjection insofar as, how did
9 that make you feel? As you would ask victims. But,
10 you know, you have said, oh, did I ask her was it 12:19
11 obsessive, did I ask her -- and I did not. The words
12 used by Marisa in this statement to describe the
13 incidents and -- that occurred, are the words that
14 Marisa used.

15 441 Q. There is one question: how did that make you feel? 12:19
16 Can you think of any others that you might have asked?

17 A. I can't think. As I said, when you are taking a
18 victim's statement, it's not an exact science. Like,
19 there is no set of hard and fast rules as in, oh, you
20 are going to go in and you have X amount of time to do 12:19
21 A, B and C. You go in, and the victim themselves, it
22 depends on how their demeanour is. You know, often
23 times you will meet in their homes if they wish to, if
24 some people wish to come to the statement [sic]. It's
25 the victim that dictates the situation that they are 12:19
26 most comfortable in in volunteering a statement.

27 442 Q. I think you have said that on many occasions.
28
29 Now, if you will pardon me, sir, I just have to examine

1 my notes in relation to her evidence-in-chief.
2
3 You used the expression in your statement or affidavit
4 that "The statement was as accurate as possible in the
5 circumstances". Do you remember that? 12:20
6 A. I do.
7 443 Q. What did you mean by "circumstances"?
8 A. Well, it's as accurate as -- in relation to what Marisa
9 Simms told me and said, that is as accurately as -- the
10 way it's recorded there, that is as accurate as it can 12:21
11 be from reading it over to her, and she signed it as
12 being correct.
13 444 Q. Sorry, she said it's as accurate as possible in the
14 circumstances?
15 A. No, I am saying -- I am saying, maybe it's a wrong turn 12:21
16 of phrase, but I'm saying, as far as I am concerned,
17 everything that was said here is exactly as Marisa
18 said.
19 445 Q. I am going back to the expression that you did use,
20 that, as far as you were concerned, it was "as accurate 12:21
21 as possible in all the circumstances". Right. So "as
22 accurate as possible in all the circumstances," what
23 were those circumstances?
24 A. Well, the circumstances were that this lady came to the
25 Garda station, made this statement in the space of 12:21
26 eight-and-a-half hours. I don't know, sometimes in
27 relation to victims of domestic violence, sexual
28 assault, you may have to go back to clarify certain
29 matters, or whatever, so in relation to that,

1 it's that, as far as I was concerned at that time,
2 unless by going off and interviewing witnesses, or
3 whatever, then you may have to go back and seek
4 clarification. But as far as I was concerned at that
5 time, it's as accurate as possible. If there is a 12:22
6 follow-up investigation and there is an issue, it could
7 be in relation to a date or whatever, well then you go
8 back and you seek clarification.

9 446 Q. I asked you what were the circumstances you'd referred
10 to, and you said this lady made this statement over 12:22
11 eight-and-a-half hours?

12 A. Yes.

13 447 Q. Okay. So that's one of the circumstances, is it?
14 A. Well, this statement took eight-and-a-half hours.

15 448 Q. But one of the circumstances was this statement, 12:22
16 unusually, took eight-and-a-half hours without a break,
17 is that one of the circumstances you are referring to?
18 A. No, it's not unusual for a statement -- I have taken
19 statements that have gone over a period of days. Now,
20 obviously there is breaks, but -- 12:23

21 449 Q. Of course there are.
22 A. Of course. But, I mean, it's not -- as I keep going
23 back to, it's not an exact science. We have no idea
24 what a victim is going to tell us.

25 450 Q. You have told us that one of the circumstances you were 12:23
26 referring to was the fact that this was taken over
27 eight-and-a-half hours, correct?

28 A. That's correct.

29 451 Q. Okay. So, "as accurate as possible in all of the

1 circumstances," including the fact that it was taken
2 over eight-and-a-half hours, yes?

3 A. Yes, but what I mean by that is, this is a statement
4 that was made over a course of eight-and-a-half hours,
5 and, in any statement, you would go and you would check 12:23
6 the contents, as in follow up with witnesses, and
7 until -- it's as accurate as possible until you go and
8 follow it up and seek clarification, and, in cases,
9 sometimes you may have to go back to a victim to
10 clarify certain things. 12:24

11 452 Q. Yes, you have said all of that before. Now, let's go
12 on to other circumstances that might arise. The fact
13 that she was exhausted or, in your words, very tired,
14 is that a circumstance you were referring to when you
15 were referring to "as accurate as possible in all the 12:24
16 circumstances"? The fact that she was very tired
17 and/or exhausted, was that one of the circumstances?

18 A. No, the circumstances are the entire set of
19 circumstances in relation to the events of the day.

20 453 Q. Including what I have just referred to? 12:24

21 A. Well, if -- anybody in a station for a length of time
22 who are not used to the surroundings or whatever, they
23 may feel tired or whatever, but she at all times was
24 told she was free to go if she needed to and it was her
25 decision to stay to take -- and complete her statement. 12:24

26 454 Q. We accept entirely, and there is no need to repeat it,
27 we accept entirely that it was her decision to stay.
28 The question arises as to whether you should have
29 continued with the statement, taking a statement from

1 somebody who was very tired?

2 A. well, she may have been tired, but I did not get the
3 impression from Marisa that she was so tired that she
4 was not --

5 455 Q. Do you remember the expression being used before the 12:25
6 taking of this statement, after the two hours, as you
7 describe it, "we better get something down on paper for
8 the chief"?

9 A. Absolutely not, that was never said.

10 456 Q. I am going to suggest to you that those words were 12:25
11 said?

12 A. Absolutely not, those words were never said.

13 457 Q. well, was that the intention? I mean, the chief was
14 interested in this, wasn't he?

15 A. well, the chief -- 12:26

16 458 Q. Or she, should I say.

17 A. The chief had a discussion with Inspector Sheridan and
18 Inspector Collins, and, as Inspector Sheridan outlined
19 here yesterday, that -- you know, her dealings with the
20 chief in relation to the matter. But you have asked me 12:26
21 a question that we better get something down on paper
22 for the chief, nothing like that was said. As far as I
23 was concerned, Marisa was coming in, she was a victim,
24 and she made a statement of complaint and that was it.
25 It was solely in relation to what she outlined to us 12:26
26 that she'd experienced that went into that statement
27 and there was no mention of the chief in any way, shape
28 or form.

29 459 Q. Yes. You see, I am going to suggest to you that there

1 are mistakes, there are inaccuracies in this statement
2 and I am going to go to the major one, and you will
3 have heard me address Inspector Sheridan about it
4 yesterday, the expression "I am going to bury her and
5 you". Now, this is -- and just before I come to that, 12:27
6 we know that the main concern were the events of the
7 28th of September, isn't that right?

8 A. Pardon?

9 460 Q. The main events being addressed in this inquiry were
10 the events of 28th September? 12:27

11 A. That's correct.

12 461 Q. Now, that is dealt with in the 38 pages over, is it a
13 half a page? Sorry, maybe a page. Sorry, it's more,
14 in fact, it's a page-and-a-half. Is that right?

15 A. Well, in the original statement it's from page 34, the 12:28
16 middle of page 34, page 35, and it goes to some of page
17 36 as well.

18 462 Q. Yes. So this was the main event, if you like, for the
19 inquiry, wasn't it?

20 A. Well, this wasn't the main event for the inquiry when 12:28
21 Marisa Simms was making her statement of complaint.
22 This was one incident that she relayed in relation to a
23 litany of incidents that she described to us during the
24 course of her time at Letterkenny Garda Station.

25 463 Q. Her private life, his private life. Can I suggest to 12:28
26 you questions were asked about her private life, his
27 private life, alleged infidelities, et cetera. What
28 possible interest could that be of you -- to you,
29 Guard, in relation to a possible threat to young

1 children? What possible interest could it be to a
2 regular police inquiry?

3 A. Marisa, and I know I keep repeating myself and I
4 apologise, but Marisa arrived at the station and made a
5 statement. She was a victim, and she made a statement 12:29
6 where she outlined details of things that had happened
7 throughout the course of their relationship. There is
8 one incident there, as you described it, you have
9 referred to it as the main incident where the children
10 were present when these threats were made. But if you 12:29
11 look at, there is a common theme throughout this
12 statement whereby -- in relation to phone texts and
13 phone messages, and you could deem that to be
14 harassment, which is a very serious offence.

15 464 Q. I see. So in relation to the question of the threat to 12:29
16 the children, you were of the view that persistent
17 texting and phone calling is harassment?

18 A. Well, if you look at the definition of harassment --

19 465 Q. I see.

20 A. -- you know, and you read through it -- 12:29

21 466 Q. Were you looking for something to prosecute
22 Mr. Harrison for?

23 A. I wasn't looking for anything.

24 467 Q. Well, why were you so interested in --

25 CHAIRMAN: I wonder could I just intervene at this 12:30
26 point because it is important to clarify. What is
27 being said to you now is that yourself and Inspector
28 Sheridan made intrusive inquiries into private life,
29 for whatever reason I don't know, or made suggestions

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in relation to Ms. Simms' private life, again for whatever reason I don't know, but deliberately pursued these, instead of pursuing what was of importance; namely, the threat to her, her sister, taking place in front of the children. You need to address that. Did you do that?

12:30

A. No, I did not, and the events described to us by Marisa are the events that are contained in the statement in her words.

CHAIRMAN: Very good. Half past one.

12:30

THE HEARING ADJOURNED FOR LUNCH

1 THE HEARING RESUMED, AS FOLLOWS, AFTER LUNCH:

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468 Q. MR. HARTNETT: Yes, Sergeant. I can tell you now I will be very brief following upon the lunch break. There are certain matters I want to clarify. Just to go back to what we were discussing before lunch. You were taking a serious view of the phone calls and texts as potential harassment, yes?

13:32

A. Well, when you look at the content of the statement --

469 Q. Yeah.

13:32

A. -- I think it speaks for itself personally, but that's only my opinion.

470 Q. And you were certainly treating this as material that could be part of a criminal investigation into harassment?

13:32

A. Pardon?

471 Q. Into harassment?

A. Yes.

472 Q. I see. Just looking at your notes from the earlier part of the day in the Garda station, the notes we've referred to earlier, you refer to texts: "28/11/10 phone calls and messages continuously after that."

13:32

A. Yes.

473 Q. So that -- again, that would be part of the investigation in relation to harassment?

13:33

A. Well, I think when you look at the definition of harassment, it is a continuous -- or, I just haven't got the wording of the offence, but from my experience

1 and looking at the statement that was made, it's a
2 common theme that runs throughout the statement in
3 relation to phone calls that she refers to. And indeed
4 during the course of her attendance at the Garda
5 station -- 13:33

6 474 Q. Yes.

7 A. -- there was missed text messages, missed calls from
8 the phone and the mobile during her time at the
9 station, which she claimed came from Garda Harrison.

10 475 Q. Yes. But just looking at your note referring to 13:33
11 November 2010: "Phone calls and messages continuously
12 after that".

13 A. Yes.

14 476 Q. That would be part of the evidence in relation to the
15 harassment? 13:33

16 A. Well, if you look at a number of incidents --

17 477 Q. Well, now, can I just ask you, would you have
18 considered that to be part of the evidence in relation
19 to a potential prosecution for harassment?

20 A. If I may, if you look at that and you look at the 13:34
21 content of the statement in its entirety, in my opinion
22 there's a pattern there where she, in her words, she
23 has made reference to continuous texts and messages
24 that she's received.

25 478 Q. I see. And that would go back to 2010? 13:34

26 A. Well, it continues over a period of time. She has
27 referenced different incidents over a period of time.

28 479 Q. I see.

29 A. If you bear with me, if you wouldn't mind --

1 480 Q. It was really the early stuff I was interested in,
2 these were texts between them. I am just trying to
3 work out how --
4 A. Well, that was the first, that was the first time that
5 she made reference -- 13:34
6 481 Q. I see.
7 A. -- in the statement.
8 482 Q. And this was the potential for a prosecution against
9 Garda Harrison for harassment under the criminal law?
10 A. Well, when -- 13:35
11 483 Q. Is that correct? Is that correct?
12 A. That is -- in my opinion --
13 484 Q. I see.
14 A. -- that is one aspect of it.
15 485 Q. Well, was that a eureka moment for you, when you said 13:35
16 here's something we may be able to prosecute him for?
17 A. I had no eureka moments. This was a statement made by
18 a victim.
19 486 Q. I see.
20 A. And it's a 38-page statement which details events that 13:35
21 she told us and she outlines in relation to telephone
22 calls and text messages that -- and appears to be a
23 theme throughout.
24 487 Q. I see. Thank you. Now, I'm going to suggest to you
25 that the statement taken on the 6th was never read 13:35
26 over?
27 A. Pardon? I missed the last -- sorry, I'm just having
28 difficulty.
29 488 Q. The statement taken on the 6th was never read over to

1 Marisa Simms?

2 A. That statement was most definitely read over and she
3 initialled where there were mistakes, maybe where I
4 misspelt or whatever, you can see that her initials are
5 beside each amendment that was made. 13:36

6 489 Q. I see.

7 A. And the statement was definitely read over to her.

8 490 Q. Did you in your statement at one stage say that there
9 were no amendments?

10 A. No. What I said was, at the end of it, the statement 13:36
11 was read over to her and at the -- once it has been
12 read over to her, she has initialled everything and at
13 the end it's:

14

15 "This statement has been read over to me and I have 13:36
16 made any alterations or corrections I deem necessary
17 and it is true and correct."

18 491 Q. Did you say in your statement originally that she
19 didn't make any alterations to her statement?

20 A. Well, if I did, I was mistaken. 13:36

21 492 Q. Well, that is a curious mistake to make, isn't it?
22 CHAIRMAN: I think we've got to establish if the
23 mistake was made first. I certainly don't remember
24 that.

25 MR. HARTNETT: I'm just going to read it. 13:37

26 CHAIRMAN: I have been told now there's 23 initials by
27 Marisa Simms to the statement that was never read over
28 to her.

29 MR. HARTNETT: I am reading from the 29th May 2015.

1 Statement of Brigid McGowan:

2
3 "As I recall, she did not make any alterations to this
4 statement."

5
6 And signed it in the usual manner as being true and
7 correct.

8 CHAIRMAN: Thanks, Mr. Hartnett.

9 493 Q. MR. HARTNETT: Do you remember saying that?

10 A. Well, I'm not disputing I said that, but in relation to
11 the taking of the statement, it was read over to her --

12 494 Q. I know that, and you have said that so many times.

13 A. -- it was initialled.

14 495 Q. I want to try and direct you to my question and to the
15 issue and that which I have just read over to you.

16
17 "As I recall, she did not make any alterations to this
18 statement and signed it in the usual manner as being
19 true and correct."

20
21 Now, is that true -- or is that correct or incorrect?

22 A. Well, I'm mistaken if that's what I said. Because in
23 the statement, she has -- it was read over to her, it
24 has been initialled by her at points where she has made
25 her -- where obviously, when you go through the body of
26 the statement, you can see --

27 496 Q. Look, Guard, I'm just trying to do this. It's very
28 easy to make speeches. I am asking questions and
29 trying to do this as neatly as possible. So, when you

1 say you must have been mistaken, you're saying it is
2 incorrect?

3 A. Just, can I have a look at that document? Can you just
4 tell me --

5 497 Q. Of course. 13:38

6 A. Sorry.

7 498 Q. Page 807. Sorry, I thought you had it in front of you.
8 It could be put up on the screen. So at the end of
9 your statement of the 29th May and it's about ten lines
10 from the bottom. 13:39

11 A. Well, when it was read over, as far as I can make out,
12 I don't think she altered anything and she initialled
13 any mistakes that had been made.

14 499 Q. No, I am asking you, is that statement -- is that
15 sentence correct or incorrect? It's a very simple 13:39
16 proposition, Guard, and you know the difference between
17 correct and incorrect. You see it in front of you?

18 A. I am just reading it here now, yeah.

19 500 Q. Sorry, I thought you'd had it a moment ago.

20 A. She initialled any of the mistakes that were there. 13:39
21 She didn't alter anything in the body of the statement.

22 501 Q. Okay.

23 A. And she signed it as being true and correct.

24 502 Q. I am asking you the question again: is that sentence
25 true or untrue? Is it correct or incorrect? 13:40

26 A. She didn't alter the content of the statement. She
27 signed anything and initialled any mistakes that had
28 been taken down or had been made during it. So, as we
29 went through the statement, as I said, portion by

1 portion, it would have been read over to her and we
2 would move on to the next piece. But it was read over
3 in its entirety at the end and she signed it as being
4 true and correct.

5 503 Q. So what you are saying, this is nothing to do with 13:40
6 amendments?

7 A. Well, it's alterations that I have said there. She
8 didn't alter any of the content of the statement.

9 504 Q. Are you now saying that you draw a difference between
10 'amendments' and 'alterations'? If so, please 13:40
11 explicate and tell us.

12 A. Well, what I meant there is, she didn't alter the
13 content of the statement.

14 505 Q. Do you draw a difference between 'amendment' and
15 'alteration'? That is a simple question. 13:41

16 A. That's my --

17 506 Q. That's a simple question. Is there a difference
18 between 'amendment' and 'alteration', in your view,
19 and, if so, please tell us what it is?

20 A. Well, what I meant in the words that I used was, she 13:41
21 didn't alter any of the content of the statement.

22 507 Q. Please answer my question. Is there a difference
23 between 'amendment' and 'alteration' and, if so, please
24 tell us what the difference is?

25 A. I don't understand what you mean. Sorry, can you 13:41
26 just --

27 508 Q. Very good. You don't understand and I have put it to
28 you so many times, we will move on. Now, can I suggest
29 to you that your statement is in some respects

1 inaccurate - sorry, when I say your statement, the
2 statement presented here as signed by Marisa Simms.
3 For a start in relation to the banging of the
4 dashboard, can I suggest to you that what was suggested
5 was the throwing of keys and a fob against the 13:42
6 dashboard?

7 A. The words there in relation to the dashboard are the
8 words that Marisa Simms used to describe it. There was
9 never any mention of keys.

10 509 Q. Well, I suggest to you you are mistaken. 13:42

11 A. Well, I reject that.

12 510 Q. Now, moving down that page, and again it's at page 81,
13 or indeed internal pagination 12, I am going to suggest
14 to you that she did say that he had pulled the quilt
15 off her but she never said that she was pulled out of 13:42
16 the bed?

17 A. No, the words that she used were that she was pulled
18 out of the bed and that was what was recorded in the
19 statement.

20 511 Q. And you have an absolutely accurate memory of that, do 13:43
21 you?

22 A. I recorded the statement as was dictated by Marisa.

23 512 Q. I am going to suggest to you that she never used the
24 expression "put out of the house". She referred to
25 leaving the house after domestic rows. 13:43

26 A. The words that Melissa [sic] used to describe the
27 events as -- are contained in that statement, they are
28 her words and they are the words that were recorded.

29 513 Q. That in relation to the 28th September, that the words

1 she reported as being used by Keith Harrison was "I'm
2 going to bury her", in relation to her sister?

3 A. Again, the words that Marisa used are the words that
4 are recorded there in the statement.

5 514 Q. And I am also going to suggest to you that what she 13:44
6 said in relation to what Harrison said was, as he
7 complained about the family's interference, "you're
8 going to get burnt if you don't make up your mind where
9 your loyalties lie", words to that effect?

10 A. The words that she used, and it was a direct quotation 13:44
11 that I put in because they're the words that she told
12 me, "I am going to burn you".

13 515 Q. And that the expression, and you see it down there,
14 "after having him threaten to burn me", that, as far as
15 my client remembers, that a question was asked, was 13:44
16 that in relation to the child's eyes filling up with
17 the tears, was that after he threatened you?

18 A. I didn't ask that question, and I don't believe that
19 question was asked at all.

20 516 Q. Well, I suggest to you you are mistaken in relation to 13:45
21 that.

22 A. Well, I reject that.

23 517 Q. Thank you.

24 A. Thank you.

25 13:45

26 SERGEANT MCGOWAN WAS CROSS-EXAMINED BY MR. HARTY:

27

28 518 Q. MR. HARTY: Sergeant McGowan, perhaps if we start with
29 the anonymous letter of February 2012. I think you

1 accept that that anonymous letter makes no allegation
2 from the point of view of the HSE in relation to Garda
3 Harrison, isn't that correct?

4 A. Sorry, I'm just looking for the letter there. I just
5 want to consult with it while I'm discussing the matter 13:45
6 with you, if you don't mind.

7 519 Q. It's at page 717.

8 A. Sorry, I have sight of it here. Sorry, what was your
9 question?

10 520 Q. It makes no allegation at all in relation to the 13:46
11 wellbeing of the Simms children from the point of view
12 of actions of Garda Harrison, isn't that correct?

13 A. No, there is no direct allegation there.

14 521 Q. There's no indirect allegation. There's no allegation
15 at all about Garda Harrison in relation to the 13:46
16 children?

17 A. No, the letter speaks about concerns about the
18 children.

19 522 Q. Yes.

20 A. Yes. 13:46

21 523 Q. And the concerns about the children are in relation to
22 a suggestion that Marisa Simms is leaving the father of
23 the children to mind them and he is not up to the job?

24 A. Yeah.

25 524 Q. And that they are being affected by the affair, isn't 13:47
26 that correct?

27 A. Yes.

28 525 Q. Now, you were approached by Ms. Úna Coll, isn't that
29 correct, with that letter?

1 A. That's correct.

2 526 Q. And she had one purpose in relation to that, which was
3 to find out the precise address for Andrew and Marisa
4 Simms, isn't that correct?

5 A. Well, she was looking for information in an effort to 13:47
6 try and locate these people, yes.

7 527 Q. Andrew and Marisa Simms?

8 A. Yes.

9 528 Q. Yes. So why did you ask her for a copy of the letter?

10 A. Because I wanted to go and establish or try and seek 13:47
11 out the information for her. So, why shouldn't I ask
12 her for a copy of the letter?

13 529 Q. Well, I am asking you why, in order to get the name,
14 the address of two named people, Marisa Simms and
15 Andrew Simms, I presume you have a notebook every time 13:48
16 you attend meetings with the HSE, why you needed a copy
17 of this letter?

18 A. Well, I thought it was prudent to take a copy of the
19 letter.

20 530 Q. On what basis? 13:48

21 A. To enable me to carry out the relevant inquiries for
22 the HSE.

23 531 Q. What were the relevant inquiries from the HSE?

24 A. Well, they want to try and establish an address for
25 Marisa Simms and Andrew Simms. 13:48

26 532 Q. So why was that letter shown to your superiors?

27 A. Well, I wasn't aware if Marisa Simms was residing with
28 Garda Harrison or not at that time.

29 533 Q. Sorry, that letter is perfectly clear.

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"Their mother is having an extramarital affair with Garda Keith Harrison, who has a barring order against him" -- we will come to that in a second -- "from his estranged wife. She leaves and returns to the family home on a regular basis causing upset to her two children and husband. It is perfectly clear that the family home remains in Court, Milford."

13:49

There is no reason why you needed that letter to find out her address.

13:49

A. Well, I felt it necessary to take a copy.

534 Q. Why did you feel it necessary?

A. Because it had been brought to my attention.

535 Q. So you're the one who has spoken about people being indiscreet with information going between the HSE and An Garda Síochána.

13:49

A. Sorry?

536 Q. You're the one who has spoken about people being indiscreet about information going between the HSE and An Garda Síochána. And what I am asking you is, what benefit there could possibly have been in relation to the inquiry that you were asked to carry out, to have a copy of this letter?

13:49

A. Well, that was a decision that I made in order to assist me to carry out my inquiry.

13:49

537 Q. And I am now asking you to explain it, why you felt it was necessary to have a copy of that letter?

A. The matter was brought to my attention. I was given a

1 copy of the letter and I carried out my inquiries and I
2 cooperated with the HSE in trying to provide the
3 information that they required, and I didn't see any
4 problem in taking a copy of the letter.

5 538 Q. And what did you do with that letter? who did you go 13:50
6 to?

7 A. I informed my superintendent that the HSE had contacted
8 me and had brought the matter to my attention.

9 539 Q. What else did you inform him of?
10 A. Well, I sent him a copy of the letter. 13:50

11 540 Q. Mm-hmm. Why did he need the letter?
12 A. Well, I sent him a copy of the letter.

13 541 Q. Why did he need the letter?
14 A. Because --

15 542 Q. Why was it necessary? It's an anonymous letter -- 13:50
16 A. Yes.

17 543 Q. -- containing scurrilous allegations --
18 A. Mm-hmm.

19 544 Q. -- about a colleague of yours. Why was it necessary to
20 send it on to another party? 13:51
21 A. To the superintendent?

22 545 Q. Yes.
23 A. Because this matter had been brought to my attention in
24 my role as the liaison manager with the HSE and I felt
25 it prudent to notify my superintendent. 13:51

26 546 Q. What interest does the superintendent in your district
27 have in the marital affairs of Marisa Simms and Andrew
28 Simms?
29 A. I don't believe --

1 547 Q. In domestic affairs?
2 A. I don't believe he has any interest in the marital
3 affairs. Like, predominantly --
4 548 Q. So why would you feel it was necessary to send this to
5 him? 13:51
6 A. Predominantly, this was a letter that was raising
7 concerns in relation to the welfare of children. And
8 in my role, I received a copy of that letter and I
9 forwarded it to my superintendent in my role as liaison
10 manager. 13:51
11 549 Q. why?
12 A. Because there were concerns in relation to children
13 that --
14 550 Q. Which Tusla -- there was no allegations of any
15 criminal -- there was no criminal allegations in there, 13:52
16 is there?
17 A. No, but I was going to provide information to Tusla in
18 relation to children which resided in the Milford
19 district, where there was concerns raised about these
20 children. 13:52
21 551 Q. I see. So why did you make inquiries as to where -- or
22 why were inquiries caused as to where Garda Harrison
23 was living at the time?
24 A. Because -- I can't answer that. It was Superintendent
25 McGovern that made the inquiry with the superintendent 13:52
26 in Ballyshannon. So it was just -- and it was just
27 during my inquiries when I was trying to establish
28 addresses for these people concerned, that I became
29 aware of other checks that were being done in relation

1 to Marisa Simms.

2 552 Q. Yes. You began to investigate other things, didn't
3 you?

4 A. I didn't investigate anything. I became aware of the
5 Pulse entries, I printed it off and I brought it to the 13:52
6 attention of the superintendent.

7 553 Q. Did you do a Pulse check on Garda Keith Harrison in
8 relation to whether he had a barring order against him?

9 A. I don't believe I did.

10 554 Q. Right. Have you ever done that? 13:53

11 A. I certainly can't recall doing it. I don't believe I
12 did.

13 555 Q. You're investigating Garda Keith Harrison at a later
14 stage for domestic abuse, as you call it, surely a
15 simple thing to check would be whether or not Garda 13:53
16 Keith Harrison had a barring order against him?

17 A. In relation to that, I assisted in the taking of a
18 statement and, as far as I was concerned, the matter
19 was being investigated. Had I been tasked with matters
20 arising out of that, I would have completed the tasks. 13:53
21 I was never tasked with that.

22 556 Q. So nobody having received this letter, it having gone
23 up the chain of command, nobody checked to see whether
24 or not the allegation was true?

25 A. Well, I didn't, I didn't -- I wasn't tasked with it and 13:53
26 I didn't check.

27 557 Q. You do accept that this letter contains allegations
28 against Garda Keith Harrison?

29 A. I do.

1 558 Q. You do accept that you passed on those allegations to
2 third parties?

3 A. I passed on the allegations to my superintendent.

4 559 Q. And you never bothered to check whether there was any
5 basis for them? 13:54

6 A. The letter outlined concerns for the children.

7 560 Q. Mm-hmm.

8 A. And I, as you pointed out, the children were residing
9 at the family home in Milford. I sent the letter up to
10 my superintendent in relation to the concerns that were 13:54
11 identified about the children.

12 561 Q. Because Garda Harrison has never had a barring order
13 out against him, isn't that correct?

14 A. I'm not aware of any barring order or safety order.

15 562 Q. Yes. And, in fact, that has been the standard Garda 13:54
16 answer in relation to this --

17 CHAIRMAN: Sorry, Mr. Harty, have we not made a ruling
18 in relation to that?

19 MR. HARTY: This is a matter which is present in the
20 thing. 13:54

21 CHAIRMAN: No, it's up to you. If you want to bring it
22 out, it's entirely your responsibility. I just thought
23 I might add a caution.

24 MR. HARTY: Well, sorry, I am simply saying that
25 the Gardaí -- 13:55

26 CHAIRMAN: I'm leaving it to you, you can carry on as
27 you wish.

28 563 Q. MR. HARTY: The Gardaí are well aware that there was
29 never a barring order against Garda Harrison. It was

1 allowed to hang in every statement delivered to this
2 Tribunal by every member of An Garda Síochána who
3 referred to this letter, that this was the allegation
4 made and, by the way, we're not going to say whether it
5 is true or false. But the answer is, it's simply 13:55
6 untrue.

7 A. Well, I'm only aware of what was discussed here at the
8 Tribunal the other day, that I'm certainly not going to
9 go into.

10 564 Q. Okay. 13:55

11 CHAIRMAN: No, I think it's better that you don't --

12 A. Yeah.

13 CHAIRMAN: -- if you don't mind, in relation to
14 anything to do with that, and I appreciate your
15 discretion in that regard, but it's best to focus on 13:55
16 what we are supposed to be focusing on.

17 565 Q. MR. HARTY: The situation is that there was no good
18 reason for you to get that letter. Ms. Coll very
19 expressly says that, in relation to that, that she --

20 13:56
21 "On the 9th February I made contact with
22 Sergeant Brigid McGowan, who was with the Garda liaison
23 sergeant for the Milford district at the time, and
24 informed that letter had been received in relation to
25 the welfare of the Simms children who resided in the 13:56
26 Milford area and advised her of the consequences of the
27 same. I inquired if the Gardaí had the exact address
28 for the family as I was unsure if the address was a
29 correct postal address. Sergeant McGowan advised that

1 she would make inquiries and revert to me. I met with
2 Sergeant McGowan later that afternoon in my office. In
3 the course of my role as duty social worker I would
4 have regularly met with Sergeant McGowan to discuss
5 referrals which had been sent or received from Gardaí 13:56
6 to discuss progress and development in the cases. It
7 is my recollection the meeting took place on the 9th
8 February 2012 -- that the meeting that took place on
9 9th February 2012 had been previously arranged to
10 discuss a number of referrals and not specific to the 13:56
11 referral relating to the Simms children. I have no
12 notes of this meeting. However, I have a recollection
13 of this meeting. During the course of the meeting,
14 Sergeant McGowan read through the anonymous letter that
15 had been sent to the department and a copy of the 13:57
16 letter was provided to Sergeant McGowan at her
17 request."

18
19 It was at your request. You had already been asked for
20 the information earlier in the day. You could have 13:57
21 done your checks, isn't that correct? But you wanted a
22 copy of this letter?

23 A. I took the copy of the letter because there was
24 concerns raised in relation to children in the letter.

25 566 Q. At her request? 13:57

26 A. Sorry?

27 567 Q. At your request? You wanted a copy of the letter?

28 A. I asked for a copy of the letter. And they gave me a
29 copy of the letter.

1 568 Q. And there was nothing in that letter which was of any
2 relevance to anything being done by Superintendent
3 McGovern at that stage, was there?
4 CHAIRMAN: Mr. Harty, I'm wondering as to why is it
5 wrong for a Garda sergeant to get a copy of something 13:57
6 that has been reported to the Gardaí officially as
7 being a cause of concern to the Gardaí. Now, whether
8 it is or not is a different matter, but we've had maybe
9 15 minutes about why did she get a copy of the letter.
10 But I'm just wondering and perhaps you can help me. 13:58
11 MR. HARTY: Well, I can help you very easily with that,
12 sir. Ms. Coll didn't believe it was of interest to the
13 Gardaí. She was asking the Gardaí for assistance in
14 getting an address and that was the only reason she
15 made the request, and that is from her own statement. 13:58
16 She didn't look at the letter and say this is something
17 that the Gardaí need to be informed about. She simply
18 wanted to know the address, the precise address.
19 CHAIRMAN: Are you saying then that the sergeant took a
20 copy in some way for an underhand reason? 13:58
21 MR. HARTY: I am trying to work out why she needed it.
22 CHAIRMAN: Well, fine.
23 A. Well, it was Ms. Coll that made contact with me --
24 569 Q. MR. HARTY: To get an address?
25 A. -- and made me aware of the letter, and I subsequently 13:58
26 met with her and I read the letter. There's concerns
27 raised for children that reside in the Milford area and
28 I sought to get a copy of the letter and she gave me a
29 copy of the letter.

1 570 Q. And at this stage how long had you been back from, you
2 were on --

3 A. I think it was maybe four weeks.

4 571 Q. You were only back four weeks at that stage?

5 A. Yes. 13:59

6 572 Q. And you hadn't been -- how long had you been away for?

7 A. From April of the previous year.

8 573 Q. From April the previous year?

9 A. Mm-hmm.

10 574 Q. So the entire incident in relation to the transfer from 13:59
11 Buncrana to Donegal Town we have heard evidence in
12 relation to, you were away for all that time?

13 A. I wasn't working during that time period.

14 575 Q. But the situation is that -- were you aware that
15 requests were being made for updates on a regular basis 13:59
16 as to Garda Harrison's address?

17 A. I was not aware of that.

18 576 Q. But that is what was happening in your district at the
19 time.

20 A. I can't -- I wasn't making any requests and I'm not 13:59
21 aware of people who were making requests.

22 577 Q. Now, you filed a report in relation to that anonymous
23 letter, isn't that correct, and the follow-up, isn't
24 that correct?

25 A. Sorry? 14:00

26 578 Q. You filed a report in relation to that, isn't that
27 correct?

28 A. Yes.

29 579 Q. What happened with that?

1 A. The report I filed I sent it to the superintendent in
2 Milford.

3 580 Q. Yeah. And that report said that you "met with
4 Ms. Roarty and Ms. Coll on the 14th March. They
5 informed me that they had contacted and the Simms met 14:00
6 them on the 7th March 2012, that Mr. and Mrs. Simms are
7 back together and residing at the family home in An
8 Chuir, Milford. The contents of the letter with
9 regard to the welfare of the children was discussed
10 within this. In this regard, inquiries were carried 14:00
11 out with the HSE and the family doctor, the public
12 health nurse and the school that the eldest child...
13 the HSE informed me that the matter is now closed to
14 them as to there are no child welfare concerns in this
15 case." 14:01

16 A. That's correct.

17 581 Q. Yes.

18 A. But in a previous report that I would have forwarded
19 attaching a copy of the anonymous letter, I had said
20 that: 14:01

21
22 "The HSE said that they would call and speak to both
23 parents of the children to ensure that the children
24 were being adequately cared for and that they would
25 inform me of the outcome of their inquiries and further 14:01
26 developments would be reported in this regard in early
27 course."

28
29 So that was my follow-up report to say that they had

1 met and that was the position.

2 582 Q. And are you aware that other inquiries were being made
3 as to the residence of Garda Harrison?

4 A. Well, I only became aware -- when I sent in that
5 report, I received correspondence from the 14:01
6 superintendent in Milford and he had said that he had
7 received information in relation to the current
8 residential address of Keith Harrison, Marisa Simms and
9 her children and that I should liaise with the HSE and
10 provide them with the address as set out. I think 14:02
11 that's page 723.

12 583 Q. Yes. Can you just explain to me why it is or how it
13 is, what discussions did you have with Superintendent
14 McGovern in relation to this?

15 A. I made him aware of the letter. I forwarded the 14:02
16 letter. In my report, I had said that I will report
17 any updates. There were concerns raised about
18 children. And I subsequently sent up another report.
19 I can't see a date on it, but I do refer to his office,
20 correspondence of 29/2, and I outline that I met with 14:02
21 Ms. Roarty and Ms. Úna Coll and they informed me of the
22 outcome of their inquiries in relation to the welfare
23 of the children.

24 584 Q. How is it then that Superintendent McGovern has a
25 slightly different spin on all of this? Because what 14:03
26 he says in his statement is:

27

28 "Sergeant McGowan indicated in her report that the HSE
29 had now closed their file as Keith Harrison was no

1 longer residing with Ms. Simms and that no child
2 welfare concerns are evident in this case."

3 A. Well, there were no child welfare concerns, but, I
4 mean, I can't answer for Superintendent McGovern.
5 Maybe that is a question you should put to him. 14:03

6 585 Q. Well, I presume he was getting information -- the
7 information in relation to all this was coming from
8 you?

9 A. The reports are there and the copy of the anonymous
10 letter. But that's there, they are my reports and -- 14:03

11 586 Q. But just so we are clear on this, and perhaps it's a
12 matter for Superintendent McGovern now at this stage,
13 but the HSE had never opened any investigation because
14 Garda Harrison was living with Marisa Simms, isn't that
15 correct? 14:04

16 A. The whole crux of the anonymous letter were concerns in
17 relation to the children.

18 587 Q. And?

19 A. Concerns in relation to the children. That's what I
20 said. 14:04

21 588 Q. What concerns in relation to the children?

22 A. Well, if you look at the anonymous letter, it says:

23

24 "... has become very withdrawn, and I believe the
25 stress of everything is far too much for the little
26 child to handle without proper help." 14:04

27

28 So, I mean, there was obviously concerns there about
29 the welfare of the children.

1 589 Q. Yes. But I was asking you why the question of anybody
2 residing with Garda Harrison -- Marisa Simms residing
3 with Garda Harrison, I was pointing out to you that
4 that wasn't in any way relevant, was it?

5 A. Well, that is a matter for -- you're reading there from 14:04
6 Superintendent McGovern's statement, and that's a
7 matter for him to comment on. I can't comment on his
8 statement.

9 590 Q. Well, you were his source of information in relation to
10 the HSE views, isn't that correct? 14:04

11 A. Well, in relation to the anonymous letter, the report
12 that I sent it up with is there, I think it's
13 self-explanatory. And the report as to the outcome of
14 the HSE inquiries in relation to the welfare of
15 children, of the children, is also there. 14:05

16 591 Q. Do you have your notes in relation to any of this?

17 A. I don't have any -- I don't believe I have any notes
18 because if I had I would have furnished them. But what
19 happened was, I got the letter, I came back, I would
20 have immediately sent my report up and I carried out 14:05
21 further inquiries then, and that's evident by the 13th
22 February, the Pulse printout. And I subsequently
23 received correspondence from the superintendent, dated
24 29th February, and I answered that report, and the crux
25 of it is that the HSE carried out their inquiries and 14:05
26 the matter is closed as there was no child welfare
27 concerns.

28 592 Q. And it had nothing to do whether or not Mr. Harrison --
29 Garda Harrison or Ms. Simms were living together?

1 A. As far as I'm concerned, the anonymous letter outlined
2 concerns in respect of the children. I reported the
3 matter, I did the relevant inquiries, I liaised with
4 the HSE, and that was the outcome of their inquiries,
5 which I duly reported to my superintendent. 14:06

6 593 Q. What matter there would give rise to the Gardaí in
7 relation to the welfare of the children?

8 A. Well --

9 CHAIRMAN: Mr. Harty, I'm just wondering is there
10 perhaps a reason - it's up to you - for concentrating 14:06
11 on this anonymous letter?

12 MR. HARTY: And, sorry, it's very simple: this
13 anonymous letter is concentrated on because this
14 anonymous letter features significantly in the evidence
15 given by Sergeant McGowan. 14:06

16 CHAIRMAN: Well, not really. She moved on very quickly
17 from it.

18 MR. HARTY: Well, I am happy to move on from it as
19 well.

20 CHAIRMAN: No, it's up to you. 14:06

21 MR. HARTY: No, I don't feel I am being shut down, sir.
22 I don't feel there is any difficulty with moving on.

23 CHAIRMAN: No, no, it's not any question of that,
24 Mr. Harty. It's just the letter is there, and the one
25 thing that I thought this morning, reading it, is, it 14:07
26 doesn't suffer from capital letter disease, it is
27 perfectly punctuated, it is completely grammatical, so
28 it is clear that an educated person wrote it. Is there
29 an allegation that in some way the Gardaí were involved

1 in this, or is that suspicion out there?
2 MR. HARTY: No. My point is very simple: there was no
3 reason for this letter ever to have gone to the Gardaí
4 and it was only given to the Gardaí when
5 Sergeant McGowan asked for it from Ms. Coll. There was 14:07
6 no reason for it ever to be in the possession of An
7 Garda Síochána.
8 CHAIRMAN: Okay. So that is the point, and I'm sorry
9 for being slow to get there, sergeant. The point is,
10 you should never have had this letter, you should never 14:07
11 have taken it, you should never have given it to your
12 superintendent. Do you have an answer to that point?
13 A. Well, I was asked for information in relation to the
14 contents of this letter, I was asked to assist with
15 their inquiries, and in the letter it clearly states 14:08
16 that there's concerns in respect of the welfare of
17 children, so I thought it prudent to get a copy of the
18 letter on which I was going to base my inquiries on. I
19 was going to carry out a check on the Pulse system in
20 an effort to identify addresses for these people. 14:08
21 CHAIRMAN: Well, I suppose the problem is that, then,
22 in relation to this file, this, let's say, horrible
23 letter, if it is a horrible letter --
24 A. Yes.
25 CHAIRMAN: -- or ill-informed letter, if it is an 14:08
26 ill-informed letter, will then forever remain on the
27 file, if you know what I mean. I think that's the
28 point Mr. Harty is making to you.
29 MR. HARTY: Yes.

1 CHAIRMAN: So it's there, I suppose, following Garda
2 Harrison around.

3 A. Well, as I said, I'm not responsible for the content of
4 the anonymous letter. My concern there was the issues
5 raised in relation to the welfare of the children. And 14:08
6 accordingly, I liaised with the HSE in that regard, and
7 my report, I think I couldn't put it clearer, was that
8 there were no welfare concerns in the case, but -- and
9 that's it, it speaks for itself.

10 594 Q. MR. HARTY: But the point is that when you went into a 14:09
11 meeting a year later, you knew about this letter?
12 When you went in to take a statement, you knew about
13 this letter, didn't you?

14 A. Well, I did.

15 595 Q. Did you have it in your possession? 14:09

16 A. I most certainly did not.

17 596 Q. What did you have in your possession at the meeting of
18 the 6th October?

19 A. On the 6th October I would have had a pen and I would
20 have had some paper in my possession, but I wouldn't 14:09
21 have had a comprehensive file of any nature, if that's
22 what you're alluding to.

23 597 Q. We'll come to that, but I'm flabbergasted that you are
24 saying that even though you had a variety of different
25 statements, a variety of different reports -- 14:09

26 A. Mm-hmm.

27 598 Q. -- that you didn't bring anything into that room?

28 A. No. You're going in to meet a person who is a victim,
29 and I'm not going to try and have statements and

1 produce statements to people. This is a person that's
2 coming in to make a statement of their own free will
3 and they volunteer the statement. I am not responsible
4 for the content of it. It's their statement in their
5 own words.

14:10

6 599 Q. We'll come to that. The situation is that your next
7 involvement following -- in 2013, was that you received
8 a call from Sergeant David Durkin, is that correct, on
9 the 24th September 2013?

10 A. I would have received -- I would have had some contact
11 with Sergeant Durkin. I don't believe I made any notes
12 of it, but I do recall Sergeant Durkin speaking to me.

14:10

13 600 Q. Why did you not make any notes of it?

14 A. Well, it was probably that I was off duty and he just
15 would have indicated to me that there were concerns in
16 relation, voiced by members of her family, and he was
17 making me aware because they were believed to be
18 residing in the Milford district.

14:10

19 601 Q. And then you contacted Superintendent McGovern, isn't
20 that correct?

14:11

21 A. Again, I've no notes, but I do recall that I may have
22 made contact with Superintendent McGovern.

23 602 Q. You told Superintendent McGovern that there were
24 domestic issues between Marisa Simms and Keith Harrison
25 and that Marisa proposed to put him out of the house?

14:11

26 A. Well, that was the information that was relayed to me
27 by Sergeant Durkin.

28 603 Q. And was that all the information that you had at that
29 stage?

1 A. I have no notes of these -- of that conversation, but
2 whatever information Sergeant Durkin gave to me, I
3 passed it to on Superintendent McGovern.

4 604 Q. So if Superintendent McGovern recites it, that there
5 were domestic issues between Marisa Simms and Keith 14:12
6 Harrison and that Marisa proposed to put him out of the
7 house, that is an accurate reflection of your
8 conversation with him?

9 A. Well, I passed on the information that Sergeant Durkin
10 gave to me and that was -- you know, it was the subject 14:12
11 of his testimony here the other day, so that was the
12 crux of the information I would have passed on.

13 605 Q. And there is nothing in that, is there, to suggest that
14 it is any of Superintendent McGovern's business?

15 A. Well, I think the fact that they reside in the district 14:12
16 and that there are difficulties, it may be something of
17 relevance to the superintendent of that district.

18 606 Q. That she intends to ask Garda Harrison to leave, that's
19 a matter of interest to Superintendent McGovern?

20 A. Well, I think that report indicates that -- 14:12

21 607 Q. No, no, I'm not asking about the report. I'm asking
22 about the conversation you had and the information that
23 you relayed, and you agreed Superintendent McGovern's
24 recollection of it is accurate. So I am asking you why
25 Gardaí -- being asked to leave their home by their 14:13
26 partners is a matter of interest to superintendents?

27 A. In case a breach of the peace would occur during
28 something, that you'd be aware of possible flash-points
29 or whatever.

1 608 Q. would you assume that a breach of the peace would occur
2 when somebody is asked to leave -- to separate?
3 A. well, if there is domestic issues, there's potential.
4 609 Q. Do you tell your superintendent about everybody who is
5 having domestic issues in your district? 14:13
6 A. well, I have had no experience of -- other than -- I
7 don't understand, how do you mean do I tell --
8 610 Q. well, sorry, you're the HSE liaison person.
9 A. Yes.
10 611 Q. Are you telling me that you tell your superintendent 14:13
11 about every couple in the district who's having marital
12 difficulties?
13 A. well, if there's issues of a domestic nature, the HSE
14 referral that's completed by the member goes in to the
15 superintendent and he signs off on it before it's sent 14:14
16 into the HSE, so he would be aware.
17 612 Q. Are you telling me that everybody in your district, you
18 keep a close eye, and that if there are people that you
19 hear are having domestic difficulties, that you tell
20 your superintendent about it? 14:14
21 A. In relation to domestic difficulties where there's
22 children present, there would be -- and members go and
23 attend these calls, you're obliged, in line with
24 policy, to make a HSE referral, and it goes up through
25 the superintendent's office. 14:14
26 613 Q. You had no information on children present. I am
27 asking you what you're doing going telling your
28 superintendent that there are domestic issues between
29 Marisa Simms and Keith Harrison and Marisa proposed to

1 put him out of the house?

2 A. well, he was residing in the Milford district.

3 614 Q. And why is any of this in any way of interest to your
4 superintendent?

5 A. well, if there's domestic issues then there's potential 14:15
6 for, you know, something to spark. You know, I felt it
7 was better that he was aware of the matter.

8 615 Q. Rather like it was better that he was aware of the
9 anonymous letter?

10 A. I have already spoken about the anonymous letter and 14:15
11 the child concern -- the protection concerns in
12 relation to the children are quite clearly documented
13 in it.

14 616 Q. You went to try to discover their address, isn't that
15 correct? 14:15

16 A. I made inquiries.

17 617 Q. Then what did you do next?

18 A. I know that Sergeant Collins would have contacted me
19 also, and he informed me of the information that he had
20 and it's the subject of the report in relation to Paula 14:15
21 and the concerns outlined by her.

22 618 Q. You disregarded his concerns about Paula's version of
23 events, isn't that correct?

24 A. Sorry, I don't understand. what do you mean by that?

25 619 Q. You disregarded his concerns about what Paula's 14:16
26 motivation was.

27 A. I don't think I disregarded anything. I noted it.

28 620 Q. where?

29 A. well, I made a note of it, as in it was in his report

1 when I read the report.

2 621 Q. Yes. And where did you note it?

3 A. Well, as I said, it's there in black and white. When I

4 read it, I noted it, well this is -- but that's his

5 opinion on the matter. 14:16

6 622 Q. And where are your notes of any of this?

7 A. Well, to be honest with you, I don't have notes of it.

8 623 Q. Why not?

9 A. A lot of these phone calls -- a lot of these phone

10 calls I would have been off duty at home, and matters 14:16

11 that were reported to me I would have reported up the

12 line.

13 624 Q. And are you telling me that you have been off duty on

14 every single day that you're contacted in relation to

15 this? 14:17

16 A. In relation to the evening that Jim Collins contacted

17 me, I was off duty.

18 625 Q. And when you spoke to Superintendent McGovern on the

19 24th September, were you off duty?

20 A. Just one second. I can't recall. But I don't have 14:17

21 notes, and that's just the fact of the matter.

22 626 Q. Were you off duty on the 30th September when you spoke

23 to Superintendent McGovern?

24 A. I would have been. It was after five o'clock, as far

25 as I'm aware. I would have had some contact maybe 14:17

26 prior to five o'clock, but --

27 627 Q. Did you at any stage deal with this case when you were

28 on duty?

29 A. I did.

1 628 Q. Could I see the notes for those days, please?
2 A. Well, in relation to the meeting I attended with the
3 HSE, I have a cover-note there which has been provided
4 to the Tribunal.
5 629 Q. Right. And you have a note indicating in your diary 14:18
6 that you were present on the 6th October?
7 A. That's correct. Any notes that I had, I have --
8 630 Q. The meeting that you had with the HSE was the first
9 time you dealt with it when you were supposed to be on
10 duty, is that right? 14:18
11 A. Pardon?
12 631 Q. The meeting you had with the HSE was the first time you
13 dealt in relation to these matters on duty?
14 A. Well, I was on duty when Marisa came to the station on
15 Sunday. 14:18
16 632 Q. And other than that, you were off duty all the time?
17 A. Well, on Friday evening I had a number of phone calls
18 from Superintendent McGovern and I was off duty. Jim
19 Collins, when he made contact with me, informed me that
20 he was sending me a report on the matter, which I read. 14:18
21 633 Q. So when Superintendent McGovern gave you things to do,
22 such as make inquiries on Garda Harrison's return to
23 work and Ms. Simms' workplace, when did you make those
24 inquiries?
25 A. I would have made them when I was asked to do it. I 14:19
26 would have contacted relevant members within those
27 areas that might have been able to ascertain that
28 information for me.
29 634 Q. So you did that, and did you note down anywhere?

1 A. Well, I know I would have spoken to Sergeant Collins,
2 and I think he, in turn, spoke directly with
3 Superintendent McGovern.

4 635 Q. Did you note down the information that you were asked
5 to get by your superintendent anywhere? 14:19

6 A. No, I did not.

7 636 Q. You didn't?

8 A. I did not.

9 637 Q. So the dates of Garda Harrison's return to work, you
10 didn't note that down anywhere. Who did you make that 14:19
11 inquiry from?

12 A. I made that inquiry from Sergeant Durkin, I believe.

13 638 Q. And you didn't note it down anywhere?

14 A. I did not.

15 639 Q. And in relation to Ms. Simms' place of work and her 14:19
16 current status in relation to work?

17 A. I contacted Sergeant Collins and I believe he made
18 contact with Superintendent McGovern in that regard.

19 640 Q. But you were tasked to making the inquiries yourself,
20 so I take it you got the information yourself? 14:19

21 A. No, I did not. I spoke with Sergeant Collins and he,
22 in turn, I believe, spoke with Superintendent McGovern.

23 641 Q. Okay. And your next involvement after the 30th
24 September when you were asked to get the details, what
25 did you do then? 14:20

26 A. My next involvement was, I know I have a reference in
27 my statement that I had a number of phone conversations
28 with Superintendent McGovern, I have no notes of them,
29 and I know that Superintendent McGovern has furnished

1 notes to the Tribunal in that regard.

2 642 Q. Now, who assigned you to take the statement from Marisa
3 Simms?

4 A. I was contacted by inspector -- I was aware of the
5 matter and I spoke with Superintendent McGovern and I 14:20
6 had also been -- I spoke with Inspector Sheridan as
7 well, I believe. But all I know is that arrangements
8 were made and I was present when the statement was
9 taken.

10 643 Q. I am asking you what superior, who is superior to you, 14:21
11 in your district, or in the division, directed you to
12 be involved in taking the statement?

13 A. Well, I know I had some --

14 644 Q. If it helps you, Superintendent McGovern did not.

15 A. Well, I know I had some conversation with 14:21
16 Superintendent McGovern in relation to it.

17 645 Q. He makes no reference to that. He refers to the fact
18 that, afterwards, you told him that you had been
19 involved in taking the statement. I'm asking you who
20 assigned you, out of your division, out of your 14:21
21 district, to take a statement in Letterkenny Garda
22 Station on your day off?

23 A. Well, I had some conversation with Superintendent
24 McGovern and it was arising from that conversation that
25 I was present at Letterkenny Garda Station on Sunday 14:22
26 afternoon. I had also been speaking to Inspector
27 Sheridan on the matter.

28 646 Q. But it's unusual, isn't it, to go out of your district?

29 A. Well, you see, the offences that were alleged occurred

1 in the Milford district and that was why the reason was
2 there for the consultation. The fact that she came,
3 that the arrangement was made to go to Letterkenny
4 station, that was the station that was agreed with her
5 and Inspector Sheridan. 14:22

6 647 Q. why did you need to be there at all?
7 A. well, it's best practice that you have two members to
8 assist in an investigation and I was asked to assist
9 and I was present.

10 648 Q. But why? 14:22
11 A. well --

12 649 Q. I mean, Letterkenny Garda Station is a bigger Garda
13 station, I presume?
14 A. It is.

15 650 Q. Letterkenny Garda Station I presume would have had 14:23
16 members who were rostered to be on that day?
17 A. They would.

18 651 Q. So why Brigid McGowan?
19 A. I was asked would I attend, and I attended. The
20 offences were alleged to have occurred in the Milford 14:23
21 district where I'm stationed.

22 652 Q. You didn't know Marisa Simms, did you?
23 A. I did not.

24 653 Q. No. Sergeant Collins knew Marisa Simms' family; would
25 he not have been a better person to do it? 14:23
26 A. That may be the case, but nonetheless, it was me. And
27 anybody I might be thinking that it might have been
28 better if sergeant Collins was the man there.

29 654 Q. Do you know who suggested that you be asked to do this?

1 A. I know I had some discussion with Superintendent
2 McGovern and it was arising from that discussion
3 that -- and I had also been in contact with Inspector
4 Sheridan and I was there for the taking of the
5 statement. 14:24

6 CHAIRMAN: Sorry, may I just intervene here. Is there
7 a philosophy or a thought within the Gardaí that if a
8 woman is coming in to speak about matters that perhaps
9 touch on intimate affairs, domestic or sexual, that it
10 is better that she talk to a woman, two women? 14:24

11 A. That would always be the case. We would always make
12 that effort. And even if there is no female available
13 and they specifically look for a female, well then we
14 would always make a female person available,
15 particularly in those scenarios. 14:24

16 CHAIRMAN: So that would seem to rule out Sergeant
17 Collins, who seems to be a male.

18 A. It would, unfortunately.

19 655 Q. MR. HARTY: The situation is, Sergeant Collins is more
20 than capable of taking the statement from Rita
21 McDermott and assisting in that, isn't that correct? 14:24

22 A. Rita McDermott, yes.

23 656 Q. Yes. And there was no allegation of sexual offences,
24 isn't that correct?

25 A. In the statement of Rita McDermott? 14:25

26 657 Q. In anybody's statement. There has never been a
27 suggestion of sexual offences?

28 A. No, but there's domestic violence, in my opinion.

29 658 Q. And are you saying that a woman should be there for the

1 taking of a statement in respect of domestic violence?

2 A. Well, best practice, in my experience, is that a female
3 would be far more comfortable in another female's
4 company when disclosing matters of that nature.

5 659 Q. Right. Perhaps if we come then to the chat that was 14:25
6 arranged, because it was just a chat that was arranged,
7 wasn't it?

8 A. Well, this word 'chat' has been bandied about. That is
9 a matter that Inspector Sheridan has addressed. So, as
10 far as I was concerned, Marisa Simms, there was an 14:25
11 arrangement made that she was coming to the station for
12 the purpose of making a statement, that was my
13 understanding.

14 660 Q. And you took two hours worth of notes?

15 A. As I said, I can't say, there's no definitive time as 14:26
16 to the notes, and I've referred to this time and time
17 again, but the notes are there and they're the notes
18 that I made.

19 661 Q. Yes. And in relation to those notes, they stop around
20 the end of 2011/start of 2012, isn't that correct? 14:26

21 A. That's correct.

22 662 Q. And after that, there are no notes taken. Now, what
23 did you know when you were going into that room?

24 A. I knew that Marisa Simms was coming in and that she
25 wished to make a statement of complaint and that there 14:26
26 were threats that had been made but that --

27 663 Q. No, no --

28 A. -- until she came in and until she spoke to us --

29 664 Q. Wouldn't it be fair to say that you didn't know that

1 threats had been made, you knew that threats had been
2 reported, isn't that correct?

3 A. Sorry, threats had been reported, my mistake.

4 665 Q. And you also knew that the threat hadn't been reported
5 by the person to whom the threats were allegedly made, 14:27
6 isn't that correct?

7 A. That's correct.

8 666 Q. And you knew that they were made by -- that they were
9 reported to the Gardaí on both occasions in
10 confidential terms by Rita McDermott and Paula 14:27
11 McDermott, is that correct?

12 A. By a third party, that's correct.

13 667 Q. And you knew that Sergeant Collins was of the view that
14 Paula McDermott's anxieties appeared to relate more to
15 her wedding than to her sister's wellbeing? 14:27

16 A. Well, that was his opinion, but nonetheless, the report
17 was made in relation to the --

18 668 Q. This is what you knew going into the room.

19 A. I did know that, yeah.

20 669 Q. Yeah. That's the information that you had? 14:27

21 A. Yeah, but there is -- there's a policy there within the
22 Gardaí that in relation to reports of domestic
23 violence, statements from a third party, you can act on
24 those, if you know what I mean. It doesn't have to be
25 a statement from -- I just can't think of the section. 14:28

26 670 Q. And I'm not saying that you can't act on them.

27 A. Mm-hmm.

28 671 Q. I'm wondering why you didn't bring them into the room?

29 A. Well, I think it's very important that when you go in

1 to a victim who is reporting a crime, that you want the
2 statement to be free-flowing and I think the --
3 personally, I think it's bad practice to start
4 producing statements or reports from everybody else and
5 saying, do you remember A, B and C? This is an
6 opportunity for somebody to come in as, the statement
7 is in their words and not the words of somebody else.

14:28

8 672 Q. Would it not be good practice to at least have
9 completely refreshed your memory as to what's stated in
10 those other statements before you go in to take the
11 statement?

14:28

12 A. Well, I would have been aware of the content, but
13 nonetheless, they were third party, this is the victim
14 who is relaying their words in relation to the events
15 as they are describing it.

14:29

16 673 Q. Yeah. I think the notes are on page 2425, if I am
17 correct on that. Yes. Now, if we just move down
18 slightly on that page. Various different text, if we
19 stop there. You go through in some detail the
20 beginning of the relationship, that she sent a text on
21 the 29th November 2010 and there were phone calls and
22 messages continuously after that?

14:29

23 A. That's correct, that's what the note says.

24 674 Q. Now, is that what you're calling harassment?

25 A. That's one incident that she has referred to. And
26 again, I have said this I think a number of occasions,
27 if you go through the statement there is a common
28 thread of continuous phone calls and text messages at
29 various times as described by Marisa Simms.

14:29

1 675 Q. Funny, one thing you don't appear to have asked Marisa
2 Simms is whether she took those phone calls or replied
3 to those text messages?
4 A. She didn't, that -- those were the words of Marisa
5 Simms. 14:30
6 676 Q. No, no, I am asking you how many times did Marisa Simms
7 ignore those text messages or not take those phone
8 calls?
9 A. Well, during the course of the statement she
10 received -- 14:30
11 677 Q. No, no, I'm not asking -- Sergeant McGowan, this is
12 serious.
13 A. I appreciate that.
14 678 Q. I'm asking you what questions you asked her about those
15 text messages at the end of 2010/start of 2011, and I'd 14:30
16 like a very straight answer, please, as to what Marisa
17 Simms did with those text messages, did she reply to
18 hem or not?
19 A. I didn't ask her. That was the information that she
20 gave to me. 14:30
21 679 Q. And did she take the phone calls?
22 A. She didn't take the phone calls while she was in the
23 station.
24 680 Q. No, no, I'm asking you, the phone calls that are being
25 referred to there, the harassment phone calls that 14:31
26 you're relying on to build a case of harassment under
27 Section 10 of the Non-Fatal Offences Against the Person
28 Act, I'm asking you, in relation to those, please give
29 me some detail as to what Marisa Simms did with them?

1 A. Well, I know that she signed permission for the phones
2 to be examined, and obviously this is something that
3 she had said in her statement. When the phones are
4 examined, that, then, is crucial, is potentially
5 evidence in support of what she is saying. 14:31

6 681 Q. We're talking about apparently commencing a criminal
7 investigation for harassment under Section 10 of the
8 Non-Fatal Offences Against the Person Act, going back
9 over a period of three years at this stage, and you're
10 about to launch a large criminal investigation, a 14:31
11 difficult criminal investigation in relation to that.
12 I am asking you what questions did you put to her about
13 the content of those text messages, about her replies
14 to those text messages, what questions did you put to
15 her? 14:32

16 A. Just in relation to that, she mentions the texting and
17 the continuous calls at length throughout her statement
18 and she has mentioned it numerous times, and, to me,
19 that is an ingredient to harassment.

20 682 Q. You are taking this detail, this detail is very 14:32
21 important, it's early on in the notes that you're
22 taking?

23 A. Yes.

24 683 Q. You don't know at this stage that there are more texts
25 and phone calls later. So can you tell me what 14:32
26 questions you asked Marisa Simms about those phone
27 calls and messages?

28 A. Well, I don't think I asked her any questions, because
29 when a victim comes in to give a statement, this is

1 what they're telling you and you allow them to give
2 their statement. And Marisa Simms, when she started
3 dictating -- when she started telling us what happened,
4 she -- as I said, it's nearly as if she was unburdening
5 herself, and she just went and she recounted incident 14:33
6 after incident and I noted what she was saying and a
7 common thread throughout that was --

8 684 Q. What is the incident here?

9 A. Well, as far as I was concerned, throughout the
10 statement she has made reference to continuous phone 14:33
11 calls and messages and she's described them in
12 different ways, but it's over a period of time and it
13 seems to be a common thread that these texts and she
14 found them, she said -- I think, if I can check through
15 the statement, I think references have already been 14:33
16 made where she's found them to be obsessive, or words
17 to that effect.

18 685 Q. She says obsessive. But she also, in fact, I mean, on
19 one occasion refers to the texts and calls it
20 oppressive, which is August 2013? 14:33

21 A. Well, that is how she described it.

22 686 Q. Yes.

23 A. But, I mean --

24 687 Q. And that was in August 2013, she found it oppressive
25 when she was at her sister's hen party. That's the one 14:34
26 time that she puts a negative characterisation. She
27 says in relation to all the other text messages,
28 looking back on it, it might have been a bit much. She
29 didn't feel harassed at the time. That's a necessary

1 element of harassment, isn't it?

2 A. Yeah, but the nature --

3 688 Q. No, no, isn't that a necessary element of harassment,
4 that somebody would actually feel harassed by your
5 actions?

14:34

6 A. It would, but the ingredients of the offence of
7 harassment is, it's continuous over a period of time,
8 and, I mean, it has to start some place, it has to
9 conclude.

10 689 Q. And what?

14:34

11 A. Well, if you allow me just to --

12 690 Q. Well, tell me the ingredients of harassment?

13 CHAIRMAN: I am going to intervene here, Mr. Harty.
14 There's just one thing I'm worried about and perhaps
15 you will help me on this. You don't have instructions
16 from Marisa Simms in relation to anything that
17 happened?

14:34

18 MR. HARTY: No.

19 CHAIRMAN: And I'm just wondering, the point of this is
20 what? I mean, for all you know, what the witness is
21 saying is correct. It could be that what the witness
22 is saying is what Mr. Hartnett put to her, but Marisa
23 Simms is his client. It may be that Garda Harrison has
24 a view, of course he's entitled to have a view, but I'm
25 not sure there's any facts that Garda Harrison can
26 actually put to this witness in relation to what
27 happened in the interview. That is not to stop you.
28 Because it seems to me the thrust is that every step
29 taken by the Gardaí was taken with a view to gathering

14:35

14:35

1 unpleasant material on Garda Harrison and to misuse it
2 for that effect, and this is another example, and I
3 appreciate you can make that point, but is it possible
4 for you to go into putting precise things to the
5 witness in relation to what happened in an interview 14:36
6 where your client wasn't even present?
7 MR. HARTY: But I am not putting precise things to the
8 witness. I am putting to the witness that she didn't
9 do things, and as is evident from her own, the
10 statement which is taken. 14:36
11 CHAIRMAN: All right.
12 MR. HARTY: And these are things which are evident from
13 the statement and the absent of note, so these are
14 things that I know are missing. And what I am putting
15 to the witness is, she wasn't doing her job in relation 14:36
16 to a proper investigation of harassment, because, if
17 she was, the first question she would ask is whether or
18 not these texts and phone calls were welcome at the
19 time, and that question appears never to have been put.
20 CHAIRMAN: All right. well, if you are saying that the 14:36
21 actual way the statement comes out shows inherent bias.
22 MR. HARTY: Yes.
23 CHAIRMAN: I do understand that point.
24 MR. HARTY: Yeah.
25 CHAIRMAN: And if you wish to pursue that line. But I 14:36
26 they you have to understand, Sergeant, that that is
27 what is being put to you. It's not the minutiae of who
28 said what, when; it's that you are a prejudiced person
29 who was out to get Garda Harrison. Now, you have to

1 understand that's the line.

2 A. Yes, I understand.

3 CHAIRMAN: And also, please understand that Mr. Harty
4 is doing his job by putting those points to you.

5 A. I fully respect that, but I reject entirely what he's 14:37
6 trying to --

7 691 Q. MR. HARTY: The situation is, just so we are clear on
8 this:

9
10 "A person without lawful authority or reasonable 14:37
11 excuse, including by use by telephone, harasses another
12 by persistently following, watching, pestering,
13 besetting or communicating with him or her shall be
14 guilty of an offence. For the purpose of this section,
15 a person who harasses another where he or she acts 14:37
16 intentionally or recklessly, seriously interferes with
17 the other's peace or privacy or causes alarm, distress
18 or harm to the other and his or her acts are such that
19 a reasonable person will realise that the acts will
20 seriously interfere with the other's peace, privacy or 14:37
21 cause alarm, distress or harm."

22
23 Now, in relation to the texts and phone calls in
24 2010/2011, Marisa Simms' response to those was to
25 commence an affair with Garda Harrison, isn't that 14:38
26 correct?

27 A. Well, as I said, she has said in her statement that she
28 did begin a relationship with Garda Harrison.

29 692 Q. Yes. So she wasn't harassed by those text messages and

1 phone calls?

2 A. well, if you look at the statement and if you go
3 through it.

4 693 Q. No, I am not talking about the statement. We're
5 talking about your notes here for the moment.

14:38

6 CHAIRMAN: Mr. Harty, it would help if Sergeant Brigid
7 McGowan, if you would allow her just to finish the
8 questions.

9 MR. HARTY: Sure.

10 A. If you go through the statement, like, the offence of
11 harassment is not a one-off. It is something that is
12 over a period of time. And if you go through the
13 statement and you break it down, you will see that I
14 think there's a number of incidents outlined by Marisa
15 where she has told us about continuous phone calls and
16 texts. She has described them as -- I can't remember
17 the term that you used, it's in the statement, but if
18 you go through it, and can I go through it here at
19 length if you wish, but I think the statement has
20 already been read in and it's there for people.

14:38

14:39

14:39

21 694 Q. MR. HARTY: In fact, on each and every occasion, with
22 the exception of the texts in August 2013, in each and
23 every occasion she says, looking back on it, in
24 retrospect effectively, it's all looking back she
25 thinks the texts and phoning was too much, not at the
26 time. So the contact at the time did not amount to
27 harassment. Now, that is the one criminal act that you
28 had been able to identify in your notes from this, the
29 taking of this statement, the one single item of

14:39

1 criminal behaviour that you, from your notes of that
2 meeting, was those phone calls in December -- and text
3 messages, in December, January, February of 2010, 2011.
4 And are you telling us that you honestly believe that
5 Marisa Simms was being harassed by Garda Keith Harrison 14:40
6 at that time? I just want a yes or no answer to that.
7 Do you honestly believe --

8 A. I can't answer that question with a yes or no. If I
9 may, Mr. Chairman, that note is made in relation to one
10 incident that is described by Marisa. As I have said 14:40
11 already, when you go through the statement she outlines
12 and tells us of numerous incidents where she refers to
13 phone calls and text message and --

14 695 Q. You were asked to identify a criminal act, which is
15 clear from your notes, and that was the one you picked, 14:40
16 and I am asking you, was Garda Harrison, in your
17 opinion, engaging in a criminal act when he was texting
18 Marisa Simms in 2010/early 2011?

19 A. Well, if you would allow me to finish.

20 696 Q. No, no, can you just answer that yes or no, please? 14:41

21 A. Well, I was trying to answer.

22 697 Q. No, you keep giving me the same answer.

23 A. No, sorry --

24 698 Q. So I would like this question to be answered, please.

25 A. Sorry, I was in the process of answering your question 14:41
26 on the last occasion when you interrupted me with
27 another question. I am more than willing to answer
28 your questions to the best of my ability.

29 699 Q. Well, I just asked you a straightforward question, yes

1 or no?

2 A. What I am saying to you is, and maybe I'm not
3 understanding you, but that note there refers to one
4 specific incident. The statement was made by Marisa
5 Simms whereby she accounts numerous incidents -- 14:41

6 700 Q. You have actually said that five times now.

7 A. Well, that is my point.

8 701 Q. So perhaps if you could answer the question I am asking
9 you, which is that, are you telling this Tribunal that
10 when Garda Keith Harrison is texting and phoning Marisa 14:42
11 Simms in late 2010/early 2011 that he is committing a
12 criminal offence? Yes or no?

13 A. I can't answer that question with a yes or no,
14 Mr. Chairman, with the greatest of respect.

15 702 Q. Thank you. Well -- 14:42

16 A. Because the nature of the incidents referred to in the
17 statement continuously refer to texts and phone calls,
18 numerous times, and, to me, that is harassment.

19 703 Q. I haven't had an opportunity to take instructions from
20 my client in relation to it, but I am sure we will be 14:42
21 able to hear evidence from both my client and Ms. Simms
22 as to whether or not there was an offence committed
23 when they were texting at the early stages of their
24 relationship. But you didn't ask Marisa Simms any
25 questions about that, did you? 14:42

26 A. Marisa Simms made her statement, they are her words and
27 that is the information that she relayed to us in
28 relation to the incidents as outlined in the statement.

29 704 Q. And what is your role when you're taking a statement

1 from somebody?

2 A. You're taking a statement of complaint from a person.
3 Your role is to gather as much information as you can
4 in relation to the complaint that's been made.

5 705 Q. Are you supposed to see whether or not there are any 14:43
6 holes in that information?

7 A. When are you dealing with victims of domestic
8 violence --

9 706 Q. If we perhaps use the word 'complainant', it's the word
10 that you used on every occasion -- 14:43

11 CHAIRMAN: Sorry, Mr. Harty, she has to be allowed to
12 finish. I appreciate sometimes a witness will ramble,
13 but there no question of this witness rambling
14 anywhere. So she was saying that when you are taking a
15 statement from a victim of domestic violence - I would 14:43
16 like to hear the rest of the answer, if you don't mind.
17 MR. HARTY: Okay.

18 A. When you're taking a statement, it's nearly, as I said,
19 and on this occasion when they start detailing things
20 to you, you're writing them down, but sometimes it's 14:43
21 nearly as if they are offloading everything and it
22 suddenly becomes -- you're not going to start, by the
23 way can I interrupt you and ask you this. This is
24 their opportunity to tell their story, and this was
25 Marisa's story, and that is what is contained there in 14:44
26 38 pages.

27 707 Q. And you were asking no questions?

28 A. I may have asked in relation to dates or names, full
29 names or whatever, but this is their opportunity to

1 give their version of events and you're trying to
2 facilitate them because it not an easy to thing to talk
3 about.

4 708 Q. It's just their opportunity to give their version of
5 events? 14:44

6 A. Sorry, it's their version of events -- or, sorry, it's
7 their opportunity to offer, to give their story and
8 that's what's done.

9 709 Q. And that is your purpose, is to sit there and listen to
10 their version of events? 14:44

11 A. But --

12 710 Q. No, no, sorry, is that your purpose, to sit there and
13 listen to their version of event?

14 A. My purpose is, there, is to record it.

15 711 Q. Just that's your purpose? 14:44

16 A. That is the purpose of facilitating taking a statement
17 from a victim.

18 712 Q. Sorry, firstly, until today, whenever you were
19 referring to Marisa you refer to her as the complainant
20 and not the victim, so you accept that she was the 14:45
21 complainant at the time?

22 A. She's making a complaint.

23 713 Q. Yes.

24 A. But in my opinion she's a victim of domestic violence.

25 714 Q. Right. 14:45

26 A. And when you read the content of the statement as told
27 to us by Marisa.

28 715 Q. And you formed that opinion without questioning any of
29 the things that she said to you?

1 A. Well, I was aware at the time that concerns had been
2 expressed by her family members.

3 CHAIRMAN: I mean, it seems to me now we're at a
4 situation where, if the Gardaí do question what is
5 being said, they're wrong, and if they don't, they're 14:45
6 wrong. It may be there's an ideal mean, but if there
7 is an ideal mean, which was not followed, well I think
8 the ideal mean should be identified and perhaps put to
9 the witness.

10 MR. HARTY: Well, that is precisely what I was asking 14:45
11 her about, which is why didn't you ask her about how
12 she felt about the phone calls and the text messages in
13 2010 and 2011, at the time? Why didn't you ask her?

14 A. Because when a victim is making a statement, it's a
15 free-flowing statement. She was telling us her version 14:46
16 of events, we were writing it down. As I said,
17 sometimes you might clarify dates or whatever. But
18 this is the version of events that Marisa Simms told --

19 716 Q. And what you are saying is, the function of An Garda 14:46
20 Síochána in relation to investigating sexual offences
21 is to take the version of events from the complainant?

22 A. No, I didn't say that. This is a victim of a crime
23 coming in to make their complaint and often times it
24 can be difficult because of the subject matter that you
25 are dealing with. 14:46

26 717 Q. It's not hard questioning, it's not a difficult
27 question to ask somebody, how did you feel about those
28 text messages?

29 A. Well, how did you feel, would be -- and she may have

1 been asked that from time to time. But, I mean it's
2 her statement. And that's as far as I can put it.

3 718 Q. It wasn't a difficult question. Did you ask her how
4 her family felt about her relationship with Keith
5 Harrison? 14:47

6 A. She makes reference, I believe, in her statement to --
7 if I can just consult the statement because I don't
8 want to say something that I may not be correct about.
9 CHAIRMAN: well, you know, I think I know how certainly
10 some members of the family felt. They weren't happy. 14:47

11 MR. HARTY: There's a point in relation to all of this,
12 sir, and I will come to it.

13 CHAIRMAN: Yes, no, I appreciate it. But I think we do
14 know that some members of the family weren't happy.
15 whether they had reason or not is a different matter. 14:47

16 A. I know in the body of the statement she makes reference
17 to the wedding.

18 MR. HARTY: Yes.

19 A. And the issues that arose there in relation to the
20 family. 14:47

21 CHAIRMAN: There is a reference certainly to Garda
22 Harrison not being invited to a wedding, which is --

23 719 Q. MR. HARTY: would it not have been important to ask
24 her --

25 CHAIRMAN: That is usually an indication that somebody 14:47
26 is not the most welcome.

27 MR. HARTY: Yes.

28 A. That there's issues, maybe.

29 720 Q. MR. HARTY: would it not have been important to ask her

1 why her mother had pressed upon her to make a
2 statement?

3 A. As far as I was concerned, Marisa arrived at
4 Letterkenny Garda Station and she volunteered this
5 statement. She didn't appear to me to be under any 14:48
6 influence of her mother or any other person when she
7 spoke with us in the station at that time.

8 721 Q. You were all there because of her mother, isn't that
9 correct?

10 A. There were concerns expressed by her mother and also 14:48
11 her sister. Her mother had made a statement. And as I
12 said, there's a policy document there in relation to
13 third-party statements with respect to crimes of
14 domestic violence, sexual assault, and so on and so
15 forth. I just can't recall the exact reference in the 14:48
16 policy, but it is there, it's quite an extensive
17 document.

18 722 Q. Yes. But what is notable about the extensive document
19 is that there is no question of anybody trying to see
20 it from the other side when the statement is being 14:49
21 given, isn't that correct?

22 A. Well, you take your statement of complaint and then you
23 carry out your investigations.

24 723 Q. So what investigation did you carry out,
25 Sergeant McGowan? 14:49

26 A. I assisted in taking the statement of complaint.

27 724 Q. You take your statement of complaint and then you carry
28 out your investigation?

29 A. Well, I --

1 725 Q. what investigation did you carry out?
2 A. I wasn't the appointed investigating member.
3 726 Q. who was the appointed investigating member?
4 A. well, there was a meeting held, and evidence was given
5 here of it in the course of Inspector Sheridan's 14:49
6 evidence, and, as far as I was made aware, the matter
7 had been referred to GSOC. I wasn't the investigating
8 member.
9 727 Q. You weren't the investigating member?
10 A. I wasn't the appointed investigating member. 14:49
11 728 Q. You were involved in the investigation?
12 A. I assisted in the taking of the statement. I wasn't
13 the appointed investigating member. I wasn't tasked
14 with any other matters arising from the statement.
15 That's all I can say to you. 14:49
16 729 Q. You weren't tasked with any other matters arising from
17 the statement?
18 A. I was not.
19 730 Q. I see. The situation is that you took the statement
20 and you didn't do anything else to find out Garda 14:50
21 Harrison's version of events, did you?
22 A. I wasn't tasked with that.
23 731 Q. But you said you'd take somebody's statement and then
24 you'd go and investigate it, but you didn't?
25 A. I assisted in the taking of the statement. As I said, 14:50
26 in all investigations there's an appointed
27 investigating member. I was not the appointed
28 investigating member.
29 732 Q. Now, you mentioned in your evidence-in-chief that,

1 somehow, Marisa Simms was concerned that Keith Harrison
2 would know that she was in the station. That is not
3 true, is it?

4 A. Pardon?

5 733 Q. You mentioned in your evidence that Marisa Simms was 14:50
6 concerned that Keith Harrison would not know that she
7 was in the station?

8 A. She indicated that and she mentioned it and she was
9 receiving a number of text messages and phone calls and
10 she declined phone calls and she indicated to us that 14:50
11 they were from him.

12 734 Q. Yes, that is not the same thing as saying she was
13 worried that he would know that she was in the station?

14 A. Well, that is what she indicated to me.

15 735 Q. Because she was parked in the car park outside 14:51
16 Letterkenny Garda Station, isn't that correct?

17 A. Well, I presume so. I don't know where her car was
18 parked. I didn't meet her.

19 736 Q. And she had -- she told Keith Harrison the following
20 day that she had made the statement, isn't that 14:51
21 correct?

22 A. Well, I am only aware of that as a result of the
23 material furnished from the Tribunal.

24 737 Q. Are you?

25 A. Yes. 14:51

26 738 Q. The reality is that you also say that your notes
27 refer -- you also said in your evidence-in-chief that
28 your notes refer to a reference to the HSE of the
29 interview, and I just can't find it.

1 A. Sorry, I'm incorrect in that. I thought it did, but
2 I'm incorrect.

3 739 Q. No. You were very clear in your evidence that your
4 notes referred to a HSE referral, and in fact they
5 don't? 14:52

6 A. Well, I stand corrected and I apologise. It wasn't my
7 intention to mislead.

8 740 Q. Could you tell me just, and I don't want to know the
9 identity of the people, but just the sheet of paper
10 that that's written on is a Pulse reference, is it? 14:52

11 A. It is.

12 741 Q. And can you tell me the date that that Pulse reference
13 was printed out?

14 A. Sunday 6th October.

15 742 Q. What time? 14:52

16 A. 14:57.

17 743 Q. So who printed out that Pulse reference?

18 A. There's a registration number on it but I'm not
19 familiar with it, but it could very well be that
20 whatever Pulse machine it was printed from, it may have 14:52
21 printed off in the superintendent's office, it could be
22 queued to that printer, but I can't say.

23 744 Q. So why did you not take some more paper out of that
24 machine to take statements?

25 CHAIRMAN: Mr. Harty, I don't mean any disrespect to 14:53
26 anybody, but I have really heard enough about paper in
27 Garda stations. Somebody got a piece of scrap paper
28 and wrote a few notes on it. That is as much as I am
29 going to take from it.

1 MR. HARTY: well, except that, unfortunately, those
2 notes stop precisely a third of the way through the
3 story, which is what is interesting.

4 CHAIRMAN: well, it's an interesting point to make, I
5 agree, but as to whether Garda stations are properly 14:53
6 stocked with stationery or not, I really couldn't care
7 less.

8 745 Q. MR. HARTY: The situation, Sergeant McGowan, is that
9 you took that statement. As I say, it's not a matter,
10 as the Tribunal rightly pointed out, it's not a matter 14:53
11 for me to put to you that you have mis-taken-down what
12 was said by Ms. Simms, because my client wasn't there.

13 A. Well, I reject that.

14 746 Q. I'm not putting it to you. But the situation is --
15 CHAIRMAN: I'm wondering, sorry to interrupt you, would 14:54
16 you mind if I had that piece of paper?

17 A. Yes.

18 CHAIRMAN: The famous multi-coloured. Thank you.
19 [SAME HANDED].
20 Sorry, Mr. Harty, yes. 14:54

21 747 Q. MR. HARTY: The next day you were off, isn't that
22 correct?

23 A. That's correct.

24 748 Q. And the following day you were approached by
25 Superintendent McGovern and told to make a HSE 14:54
26 referral, isn't that correct?

27 A. I was actually off on the Tuesday as well and I got a
28 phone call, and the HSE referral, I was going to send
29 it anyway because of the content of the statement.

1 749 Q. But you gave the impression in your evidence-in-chief
2 that you were the one who decided to send the HSE
3 referral, but, in fact, it was a direction from your
4 superior that led to that referral being sent. It's in
5 Superintendent McGovern's own statement of evidence. 14:54

6 A. Well, based on the content of the statement, there was
7 no doubt in my mind that a HSE referral would be
8 forwarded.

9 750 Q. Yeah. And what elements of that did you think were
10 relevant? 14:55

11 A. Well, the fact that children were present during the
12 course of an altercation that was described to us where
13 there were threats made that he was going to burn and
14 bury, and so on and so forth, and that the child
15 appeared to be upset as a result of that and that there 14:55
16 were -- that whole incident, in my view --

17 751 Q. You see, can you point out to me in your referral that
18 you did for the HSE where you mention threats to burn
19 and bury?

20 A. As I said, it's not contained in the HSE notification. 14:55

21 752 Q. No. Can you show me anywhere?

22 CHAIRMAN: There's a clear conflict, Mr. Harty, between
23 the HSE and the Garda in relation to what was said.
24 But we've had trouble in relation to those kind of
25 things in another module. How it will tumble out, I 14:56
26 don't know, but there it is, there is a conflict.

27 MR. HARTY: well, the reason --

28 A. Can I clarify one thing on that, Mr. Chairman, if I
29 may. The content of the referral is there and I have

1 explained why it's completed as is, but I requested a
2 strategy meeting to take place because of the incident
3 particularly of the 28th September. A strategy meeting
4 would not be held normally in the normal course of
5 events if children were present during a verbal 14:56
6 altercation, but I saw fit to request that a strategy
7 meeting would be held because of the details of the
8 incident of the 28th.

9 753 Q. MR. HARTY: And in relation to the referral, that, in
10 fact, was rejected by the HSE, isn't that correct? 14:56

11 A. That's correct. But at the time when that
12 correspondence was received, it was dated received, I
13 think, the 22nd October, the strategy meeting had taken
14 place on the 21st October.

15 754 Q. I see. And what do you say took place at that strategy 14:57
16 meeting?

17 A. I say that I discussed the matter with the HSE. I'm
18 clear in my recollection that I informed them of the
19 threats that were made. I did point out to them that
20 there was a comprehensive statement of complaint that 14:57
21 had been made, and that, as far as I was aware, a
22 criminal investigation was being carried out and that,
23 because of that, that I asked for -- and a lot of times
24 in cases like this or -- you would ask that
25 confidentiality, obviously, would be uppermost, to 14:57
26 ensure that the details would not be disclosed to
27 anyone else, that it could ultimately impact on the
28 integrity of the investigation.

29 755 Q. In what way do you find that details of things are

1 disclosed improperly by the HSE?

2 A. well, I haven't said that they have, but I didn't want
3 to take a chance, and I have done it in the past where
4 I would ask them that whatever is discussed is of a
5 confidential nature, and that has always been 14:58
6 respected.

7 756 Q. And what does that mean?

8 A. well, I asked them not to disclose details of what had
9 been discussed in relation to the threats, that this
10 was a very serious complaint that had been made and it 14:58
11 was under investigation, and I didn't want the
12 information to be disclosed to any other party, that I
13 had no control over it ending up in any other forum.

14 757 Q. what other parties are you talking about?

15 A. well, I don't know, say, in relation to staff who are 14:59
16 employed by the HSE, administrative staff or anything
17 like that, it could well be -- Letterkenny is a small
18 place, they may know people involved or whatever, I
19 have no control over that.

20 758 Q. But why would you assume that the HSE is going to leak 14:59
21 information?

22 A. I didn't say they'd leak information. Notes that they
23 take, they automatically put it up on their system and
24 it is scanned into a system, and I have no control over
25 who can access those notes. 14:59

26 759 Q. And you have no control over who can access an
27 anonymous letter that you've sent up to the
28 superintendent's office in Milford either, in relation
29 to information that you have received confidentially?

1 A. I think I sent that up under confidential cover.

2 760 Q. But you have no control over it, do you, there either?

3 A. No, but the fact that correspondence is marked

4 "confidential", that is why it was sent up under that

5 cover. 15:00

6 761 Q. But at the strategy meeting, what did you tell them?

7 A. I told them that a statement of complaint had been

8 made, that it was an extensive statement of complaint,

9 and that I specifically mentioned the incident that

10 occurred on the 28th September where the children were 15:00

11 present and the details of the statement in relation to

12 the comments that were alleged to have been made by

13 Keith Harrison to Marisa Simms and particularly in

14 relation to the threat to bury and burn and that the

15 children, one of the children had become upset and, as 15:00

16 a result of the incident, that they had left the house.

17 762 Q. But none of the HSE people who were present at that

18 meeting seem to recall those threats being mentioned is

19 that correct?

20 A. I can't speak for those people. I know for a fact that 15:01

21 I did disclose those details, because for a strategy

22 meeting you would not normally hold a strategy meeting

23 where a verbal altercation had occurred and I requested

24 that we would have that meeting.

25 763 Q. When -- Donna McTeague, social worker, says that you 15:01

26 reported to her that inappropriate physical contact was

27 made by Keith Harrison on Ms. Simms which the children

28 witnessed. Did you report that to her?

29 A. I would have detailed --

1 764 Q. No, did you report that to her?
2 A. I would have said about the assault, the alleged
3 assault, whereby he held her -- when the children were
4 out in the car, she went back in for the uniforms and
5 she has stated in her statement that he prevented her 15:01
6 from going and I think she mentions that he held her by
7 the wrist.
8 765 Q. Which the children witnessed?
9 A. Pardon?
10 766 Q. Which the children witnessed? 15:02
11 CHAIRMAN: I am not -- did they witness that?
12 MR. HARTY: Sorry, sir.
13 767 Q. That is what Donna McTeague says you said to her.
14 A. Well, I know from my recollection what I said. I can't
15 be responsible for somebody else's notes in relation to 15:02
16 what they have taken in respect of that meeting.
17 768 Q. "Mr. Harrison was reported to be under the influence of
18 alcohol and inappropriate physical contact was made by
19 him on Ms. Simms which the children witnessed."
20 A. Well, that's a matter for Ms. McTeague to deal with. 15:02
21 769 Q. Did you report it, I am asking you?
22 A. I reported to Ms. McTeague, as I have said already,
23 what was said in the statement, particularly in
24 relation to --
25 770 Q. I'm asking you did you report that? It's a yes or no 15:02
26 answer.
27 A. I did not report that as you have outlined there.
28 771 Q. Well, I didn't outline it.
29 A. I reported what was in the statement.

1 772 Q. That is Ms. McTeague's statement of what you said to
2 her.

3 A. Well, that is a matter for Ms. McTeague. I can only
4 deal --

5 773 Q. Well, it's only a matter for Ms. McTeague if you say 15:02
6 she's not telling the truth in relation to it?

7 CHAIRMAN: Well, you know, Mr. Harty, sorry, I wouldn't
8 jump to a conclusion that someone is not telling the
9 truth. Quite often, judgments are a bit like school
10 reports; could try harder means isn't doing a tap of 15:03
11 work. I prefer the evidence of so-and-so to so-and-so
12 may well, you know, have a bit of reading between the
13 lines attached to it, but unfortunately in a tribunal I
14 have to say exactly where the truth lies and who is
15 responsible. 15:03

16 MR. HARTY: So the question is --

17 CHAIRMAN: So somebody reported something in a
18 particular way, fine.

19 774 Q. MR. HARTY: Did you report that there was physical
20 contact -- 15:03

21 A. I reported --

22 775 Q. -- witnessed by the children?

23 A. What I reported was what was contained in the
24 statement.

25 776 Q. Did you have the statement with you? 15:03

26 A. I didn't have the statement with me, but I had specific
27 recollection of that particular incident because that
28 was the only incident that was described when the
29 children were in the house when the initial incident

1 took place.

2 777 Q. In fact, it was the only incident that actually had
3 reference to the children, isn't that right?

4 A. That's correct.

5 778 Q. It's the only time. And, in fact, Marisa Simms'
6 statement of complaint is very clear in relation to
7 that. At page 11 of the statement she says that there
8 was only one incident where he was violent or where he
9 acted out in the presence of the children.

15:04

10 A. That's correct.

15:04

11 779 Q. That he could be vile on alcohol, but there was only
12 one occasion where it involved physical contact and it
13 took place in the presence of the children.

14 A. What I described or what I relayed to the HSE was
15 exactly what was in the statement in relation to the
16 threats, that one of the children got upset and that
17 she left the house and she returned, and, when she
18 returned -- the children were obviously in the car.

15:04

19 When she returned to collect the school uniforms, I
20 think she said, she said that she was prevented, and
21 these are her words, that she was prevented from going
22 back in and he physically grabbed her wrist. She then
23 goes on to relay, further on down from that, that she
24 went out to the car, and as she was making the journey
25 from there to, I believe it was Paula's house, she said
26 that she was upset and that one of the girls also was
27 conscious of the fact that she was upset. I think --
28 now, I would have to read through the statement to
29 specifically --

15:05

15:05

1 780 Q. That is precisely the version in the statement. But
2 the point is that nowhere in the statement is it
3 suggested that there was ever any physical violence
4 witnessed by the Simms children?

5 A. I didn't say that. I told them that the threats were 15:05
6 made.

7 CHAIRMAN: I know, and I think we all appreciate that,
8 and it is a criminal offence to threaten to kill
9 somebody. It used to be under the Offences Against the
10 Person Act 1861 that you had to put it in writing, but 15:06
11 that was changed in the Non-Fatal Offences Against the
12 Person Act - is it 1986? I can't remember. 1994. So
13 there it is.

14 MR. HARTY: Yes.

15 CHAIRMAN: I don't think anyone is saying there was 15:06
16 violence in front of the children.

17 A. Pardon?

18 CHAIRMAN: I don't think anyone is saying in that
19 statement that there was violence in front of the
20 children. I'm sorry for interrupting, Mr. Harty, but I 15:06
21 am just thinking, this thing about Superintendent
22 McGinn suddenly appearing in the statement and making a
23 ringing declaration that no garda is going to behave in
24 a domestically violent way in her district, it might be
25 a fine thing to say and a right thing to say, but -- 15:06

26 A. That most certainly did not happen.

27 CHAIRMAN: -- did she wander in?

28 A. Absolutely not.

29 CHAIRMAN: And is it part of your case that

1 Superintendent McGinn walked into the interview?
2 MR. HARTY: We weren't there, so it couldn't be a
3 positive case. What was related to us was the
4 following day in the course of a phone call from
5 Ms. Simms. It's not part of my case as such, in that I 15:06
6 can't --
7 CHAIRMAN: Your case is that Ms. Simms told you that
8 falsely, is it?
9 MR. HARTY: Ms. Simms said that on the phone the next
10 day to us. 15:07
11 CHAIRMAN: But that it's false?
12 MR. HARTY: I don't know if it is true or false.
13 CHAIRMAN: All right.
14 MR. HARTY: It's not case. And perhaps that might be
15 a -- 15:07
16 781 Q. Did you have any engagement with Chief Superintendent
17 McGinn coming up to the making of the statement?
18 A. Absolutely nothing.
19 782 Q. Right. And insofar as you were detailed by anybody in
20 relation to it, it was by agreement with Superintendent 15:07
21 McGovern?
22 A. That's my understanding. I know I would have spoken to
23 Inspector Sheridan because she made me aware of the
24 arrangement.
25 783 Q. But Superintendent McGinn, you never had any direct 15:07
26 communication with her in relation to it?
27 A. Chief Superintendent McGinn, no.
28 784 Q. Sorry, Chief Superintendent McGinn. Now, after the
29 strategy meeting on the 21st October, what happened

1 next?

2 A. well --

3 785 Q. In relation to the HSE?

4 A. In relation to the HSE, I would have had dealings with
5 them. My understanding was that Marisa was in 15:08
6 hospital, that she wasn't - pardon me - that she wasn't
7 available obviously because she was under -- she was
8 undergoing medical treatment. And I undertook to
9 liaise with them and inform them of when she may be in
10 a position to liaise with them. 15:08

11 786 Q. Now, after that date, you had, the 21st October, it was
12 after that date that you received the letter from
13 Mr. Hone in the HSE?

14 A. That's -- well, it was received in the superintendent's
15 office in Milford. 15:08

16 787 Q. And Superintendent McGovern received that, gave that to
17 you, isn't that correct?

18 A. He forwarded it to me by report, that's correct.

19 788 Q. And he requested you to confirm that there would be no
20 further HSE liaison on the matter. Page 769. 15:09

21 A. Just bear with me, sorry.

22 CHAIRMAN: Sorry, Mr. Hartnett, perhaps I could clarify
23 with you, if you don't mind, is Ms. Simms making the
24 case that Chief Superintendent McGinn wandered into the
25 interview somewhere in the middle of it or at some 15:09
26 stage and made a declaration that domestic violence by
27 Gardaí was not going to be tolerated under her command?

28 MR. HARTNETT: No.

29 CHAIRMAN: It's not?

1 MR. HARTNETT: No.

2 CHAIRMAN: And is it your case that she didn't say that
3 to Garda Simms -- I beg your pardon, to Garda Harrison?

4 MR. HARTNETT: I would need to take instructions on
5 that. 15:10

6 CHAIRMAN: I am sorry. You can come back to me on it.
7 Maybe you would be so kind as to come back on it.

8 789 Q. MR. HARTY: So there is the letter from Garda -- or to
9 Mr. Hone indicating that they're not doing anything
10 further in relation to it, isn't that correct? 15:10

11 A. That's correct.

12 790 Q. And then that was forwarded to you, isn't that correct?

13 A. It was forwarded - pardon me - I'm just a bit --

14 791 Q. That is 768.

15 CHAIRMAN: Sorry, Mr. Hartnett, I thought had you a 15:10
16 clarification.

17 MR. HARTNETT: I do have a clarification, and it's not
18 part of my instructions that we said that.

19 CHAIRMAN: So she didn't appear in the middle of the
20 interview and that wasn't said to Garda Harrison? 15:10

21 MR. HARTNETT: That's correct.

22 CHAIRMAN: Very good.

23 792 Q. MR. HARTY: 768.

24 A. Yes.

25 793 Q. "With reference to the above, the attached 15:10
26 correspondence from the HSE is forwarded for your
27 attention. Liaise with Bridgeen Smith relevant to this
28 referral and certify that following a discussion on the
29 matter and with full disclosure of the facts to the

1 HSE, no further HSE intervention will now take place."
2
3 what did you do when you received that?
4 A. well, at that point a strategy meeting had taken place
5 on the 21st October. 15:11
6 794 Q. And now you've received a letter saying that the HSE
7 are doing nothing in relation to it. what did you do?
8 A. well, a strategy -- it wasn't that the HSE were doing
9 nothing with it. A strategy meeting had been held on
10 the 21st October in relation to it. 15:11
11 795 Q. You were given a direction by Superintendent McGovern
12 to "Liaise with Bridgeen Smith relevant to this
13 material and certify that following a discussion on the
14 matter with full disclosure of the facts to the HSE, no
15 HSE intervention will now take place." 15:11
16
17 what did you do?
18 A. On the 21st October a strategy meeting was held and
19 Bridgeen Smith was present.
20 796 Q. And you received instruction. On the 24th October -- 15:11
21 A. Sorry --
22 797 Q. -- what did you do?
23 A. Sorry, if I could finish. On the 21st October a
24 strategy meeting was held and Bridgeen Smith was
25 present. That meeting was held at my request, and at 15:12
26 that meeting I disclosed the details of the incident of
27 the 28th. When I received that report, I felt that I
28 had already dealt with the matter insofar as a strategy
29 meeting had been held on the matter and the details had

1 already been disclosed.

2 798 Q. That is not what your instructions from Superintendent
3 McGovern tell you to do. You were given direct
4 instructions in relation to it. Did you follow those
5 instructions? Did you ignore that letter? 15:12

6 A. I didn't ignore the letter. What I am saying is, a
7 strategy meeting had already been held on the 21st
8 October where details relevant to the referral were
9 clearly discussed and shared by me with Bridgeen Smith
10 and Donna McTeague. 15:12

11 799 Q. And, after that, you're given an instruction to contact
12 Bridgeen Smith and to certify that there would be no
13 further HSE involvement.

14 A. The letter there states that "... certify that
15 following a discussion on the matter and with full 15:13
16 disclosure of the facts to the HSE, that no further HSE
17 intervention will now take place."
18 I had disclosed details to the HSE.

19 800 Q. What more, you were told to certify it, you were given
20 a direction by a superior officer to go and certify 15:13
21 that there would be no further HSE involvement. What
22 did you do?

23 A. Well, I did not certify that there would be no further
24 HSE involvement, because I had disclosed details --

25 801 Q. Did you go to anybody about it? Did you raise 15:13
26 Mr. Hone's letter with anybody? Did you raise
27 Superintendent McGovern's letter with anybody?

28 A. Well, Superintendent McGovern was aware of the letter,
29 and I'm sure that I told him that I had attended a

1 strategy meeting on the 21st October.

2 802 Q. And you're certain you just told him that, is that it?

3 A. I would imagine I did tell him. But again, I had
4 disclosed the details to the HSE in that meeting and I
5 had requested that meeting, and I think my 15:14
6 understanding of this letter is that the HSE, the
7 correspondence from Gerry Hone is stating that "no
8 evidence of abuse detailed, no further action", this
9 letter is saying: "Following a full discussion on the
10 matter and with full disclosure of the facts to the 15:14
11 HSE, that no further intervention will take place", I
12 received that, it was posted on the 24th, I had already
13 had a strategy meeting with the HSE in relation to the
14 matter.

15 803 Q. And now you received a letter to say that they were not 15:14
16 going to go ahead with it?

17 A. I discussed the matter with the HSE and I disclosed the
18 facts of what occurred on the 28th, and that's a matter
19 for the HSE to deal with from there.

20 804 Q. What steps did the HSE take? What contact did you have 15:15
21 with the HSE about Marisa Simms?

22 A. Pardon?

23 805 Q. What contact did you have with the HSE about Marisa
24 Simms and Keith Harrison after the 21st October?

25 A. After the 21st October, I would have met with -- I 15:15
26 would have met with them in relation to other matters
27 and I had no further update to give them in relation to
28 Ms. Simms, but I said that any information that I would
29 get -- I wasn't appointed as the investigating member,

1 I hadn't received any further information in relation
2 to it.

3 CHAIRMAN: Mr. Harty, there is just one thing in the
4 context of this line that you are pursuing that I am
5 wondering about, and that is this: it seems from the 15:15
6 latest statements that the Tribunal has from the HSE
7 that Ms. Leader referred to today, that the HSE are
8 complaining that, and I'm not taking a view on it one
9 way or the other, I can't possibly, that
10 Sergeant McGowan should have told them more and that 15:16
11 she didn't tell them about holding the wrist, threat in
12 front of the children, burning, threat to burn, threat
13 to kill the two sisters or the one sister or however
14 many sisters he was threatening to murder, if that
15 indeed happened, and I don't know that. But they seem 15:16
16 to be saying that if those things had been reported to
17 them, they would have taken it a lot more seriously.
18 Now, your client's complaint seems to be that it was
19 wrong to refer it to the HSE in the first place and
20 that any interference by the HSE was a heartbreak for 15:16
21 him and Ms. Simms. It seems that the HSE are making
22 the case that they would have done a lot more had they
23 known the actual details of the statement. And I'm
24 wondering are you making the case that there was some
25 kind of deliberate action by the Gardaí, by Garda 15:17
26 Headquarters, by this garda, to bring in the HSE, or
27 are you making the case that there was some kind of
28 deliberate falsification in order to minimise what had
29 allegedly happened, according to the statement, between

1 Garda Harrison and his domestic partner, Marisa Simms?

2 MR. HARTY: I am not suggesting there was any
3 deliberate minimisation. What I am coming to in
4 relation to this, it will come imminently enough, if
5 you will allow me, in relation to the HSE's newfound 15:17
6 concerns in relation to the matter, eight days into the
7 hearing of oral evidence, is, we can deal with the HSE
8 witnesses. In relation to Sergeant McGowan, I just
9 want to know what it is precisely that Sergeant McGowan
10 did. And the reason for that will effectively relate 15:18
11 to Sergeant McGowan's actual concerns and whether she
12 had any actual concerns.

13 CHAIRMAN: In other words, the point is, she had no
14 actual concerns and therefore shouldn't have gone to
15 the HSE at all? 15:18

16 MR. HARTY: Exactly.

17 CHAIRMAN: All right. That's fair enough. Whether on
18 a minimal basis, which is what the HSE are saying,
19 perhaps correctly or perhaps completely falsely, or
20 whether on the basis of what Sergeant McGowan says she 15:18
21 says at the strategy meeting of the 21st October 2013,
22 which was a great deal more than the HSE took down,
23 whether correctly or incorrectly.

24 MR. HARTY: Yes.

25 CHAIRMAN: So the point seems to be that, on the basis 15:18
26 of the statement given, Sergeant McGowan should not
27 have gone to the HSE at all?

28 MR. HARTY: No, on the basis of the statement given,
29 Sergeant McGowan, for whatever reason, and knowing the

1 full circumstances of taking a statement better than
2 anybody else, still did not have any concerns. And the
3 reason why I say Sergeant McGowan didn't have any
4 concerns -- and perhaps I can be allowed to explore
5 this with Sergeant McGowan. 15:19

6 806 Q. Sergeant McGowan, when did Marisa Simms leave hospital?

7 CHAIRMAN: I'm sorry, Mr. Harty I didn't mean to
8 interrupt you, and you will forgive me, but I'm just
9 trying to get my own mind clear as to where we are
10 going on this. You're saying perhaps a number of 15:19

11 things, and forgive the application of what is
12 attempting to be a tidy legal mind to this. You seem
13 to be saying that when the statement-taking was
14 finished, that the sergeant had no concerns and
15 therefore shouldn't have gone to the HSE. Are you 15:19
16 saying that the statement perhaps gave rise to concerns
17 but not sufficient to go to the HSE? Are you saying
18 that in some way she was part of a conspiracy to
19 involve the HSE wrongly in the lives of Garda Harrison
20 and his domestic partner? I am not actually sure. 15:20

21 MR. HARTY: And to a certain extent, I can't be
22 actually sure which one of those is correct. All I can
23 see is what Sergeant McGowan did or did not do. And
24 the answer is, is what Sergeant McGowan did was take a
25 statement. What Sergeant McGowan did next was, on 15:20
26 instructions of Superintendent McGovern, make a
27 reference to Tusla.

28 CHAIRMAN: All right.

29 MR. HARTY: What Sergeant McGowan did next --

1 CHAIRMAN: Yes.

2 MR. HARTY: -- was have a strategy meeting in which she
3 undertook to notify the HSE when Marisa Simms had left
4 hospital.

5 807 Q. So I'm asking you on what date was Marisa Simms 15:20
6 discharged from hospital?

7 CHAIRMAN: I take it, and please continue after this
8 clarification, if you don't mind, Mr. Harty, I take it
9 that you're making the case, and Mr. Hartnett is making
10 the case as well, that in the event that the statement 15:20
11 is made up, exaggerated, intrusive, mostly the product
12 of the Garda mind as opposed to the alleged victim's
13 mind, that from that I should infer that it was part of
14 a strategy or that a strategy thereby emerged to
15 unfairly go to the HSE? 15:21

16 MR. HARTY: Yes.

17 CHAIRMAN: That's the point.

18 MR. HARTY: which included going to the HSE.

19 CHAIRMAN: Yes. So the crucial thing is obviously how
20 the statement was taken. 15:21

21 MR. HARTY: And the purpose for which it was used.

22 CHAIRMAN: If it was made up by the Gardaí, it was, I'm
23 being asked to infer, made up so as to allow it to be
24 abused with the HSE to cause interference in Garda
25 Harrison's life and Marisa Simms's life, is that right? 15:21

26 MR. HARTY: There is, and perhaps I don't have the same
27 tidy legal mind and I can't express myself in such
28 clear lines in relation to it, there is also the
29 question as to what purpose was there in seeking the

1 statement in the first place and what purpose was it
2 intended to use the statement.

3 CHAIRMAN: Sure. Because it could be that the strategy
4 of unlawfully or unfairly involving the HSE and before
5 the statement was made. 15:22

6 MR. HARTY: Yes.

7 CHAIRMAN: After the statement was made. But crucial
8 to all of that is the inference that should be drawn
9 from the many inventions in the statement that are the
10 product of the Garda mind. I'm not saying that, by the 15:22
11 way, Sergeant; I'm just trying to clarify that that is
12 the case that is being made. That seems to be, it
13 could have happened before, in the middle of --

14 MR. HARTY: Yes.

15 CHAIRMAN: -- or after. But crucial to it is a whole 15:22
16 load of stuff was made up in the statement. It's from
17 that I am to draw the inference.

18 MR. HARTY: And to a large extent the Tribunal will
19 have heard yesterday about the absolute disinterest on
20 the part of the guards in actually investigating from 15:22
21 the Garda side any alleged criminal offences contained
22 within the statement.

23 CHAIRMAN: Yes.

24 MR. HARTY: So the question is the bona fides in
25 seeking the statement in the first place. 15:22

26 CHAIRMAN: Yes. And I take it it is accepted that if
27 the statement is genuine, then there was a basis for
28 going to the HSE.

29 MR. HARTY: There would be certainly nothing improper

1 in the HSE investigating into it, but one still would
2 have to look at the questions as to what the Gardaí
3 were up to in relation to it.

4 CHAIRMAN: You would be looking at that, but in the
5 event that the statement is not a farrago of Garda 15:23
6 invention and Garda prose put into the mouth of a
7 vulnerable woman, but is, instead, as Inspector
8 Sheridan described it, a cathartic statement from the
9 Greek for cleansing or washing out, ek-katharsis, then
10 there is no inference that could be drawn save for the 15:23
11 fact that it was part of the duty of the Garda to go to
12 the HSE.

13 MR. HARTY: Well, that hasn't been made clear to me in
14 relation to that statement, whether or not it's
15 sufficient to, on the face of it, require that it 15:23
16 should go to the HSE.

17 CHAIRMAN: Well, that is the case that is certainly
18 being made by the Garda --

19 MR. HARTY: Yes.

20 CHAIRMAN: -- vis-à-vis what was said to Ms. Leader. 15:24
21 But thank you for the clarification, Mr. Harty. It
22 makes it easier.

23 808 Q. MR. HARTY: The situation, Sergeant McGowan, is that
24 once the statement -- sorry, on the strategy meeting of
25 the 21st, you advised Brigid McGowan -- I get these 15:24
26 names wrong, sorry, you're Brigid McGowan -- Bridgeen
27 Smith and Donna McTeague, that you would notify them
28 when Marisa Simms would come out of hospital, isn't
29 that correct?

1 A. I did state that. But I wasn't made aware of when she
2 came out of hospital. As I said, it was -- that
3 statement, as far as I was concerned, was made for the
4 purpose of an investigation and I wasn't the
5 investigating member. Nobody indicated to me any 15:24
6 further developments in that regard.

7 809 Q. No. But in relation to the HSE's involvement, you had
8 no further involvement with the HSE in relation to
9 Garda Harrison or Marisa Simms for a number of months,
10 isn't that correct? 15:25

11 A. That's correct. Well, the matter had been referred to
12 the HSE at that stage.

13 810 Q. But you had, in fact, other involvement with -- at a
14 slightly earlier date, on the 11th October, you
15 reported to Superintendent McGovern that -- you called 15:25
16 Superintendent McGovern and you made him aware that
17 there was a possibility that Marisa Simms and Keith
18 Harrison were back together again and there may be a
19 withdrawal of her complaint against him. How did you
20 learn that? 15:25

21 A. I can't recall, and I can't recall -- I've no -- like,
22 I just can't recall that.

23 811 Q. And why did you notify Superintendent McGovern in
24 relation to it?

25 A. I can't recall that. 15:25

26 812 Q. He's very clear in his statement, page 196, towards the
27 bottom of the page. Were you working that day, 11th
28 October?

29 A. Just bear with me one second. I just don't have my 85

1 to hand to confirm if I was working that day or not.

2 813 Q. It's just, I'm wondering do you have any notes as to
3 how you came to that?

4 A. I can't recall.

5 814 Q. Do you keep any notes? 15:26

6 A. I've no recollection of that.

7 815 Q. Did you receive an email with that piece of
8 information?

9 A. If I had received an email, I would have disclosed it,
10 but I don't have an email. 15:27

11 816 Q. Do you have notes?

12 A. Pardon?

13 817 Q. Do you have notes?

14 A. Whatever notes I had, I supplied to the Tribunal. But
15 I'm just checking my 85. You asked me a question was I 15:27
16 working. I just want to --

17 818 Q. Sorry, you have the actual 85 for that?

18 A. I think I have. I was working that day, yeah.

19 819 Q. Do you have notes --

20 A. Sorry, 24th October, I was, yes. 15:27

21 820 Q. Do you have notes of that date?

22 A. No, I don't. I know that the superintendent, I think,
23 did an audit in Kerrykeel that day, and that's the only
24 thing I have in my 85 in relation to that.

25 821 Q. Do you have a personal diary from that date? 15:27

26 A. No, I don't.

27 822 Q. Do you maintain a personal diary?

28 A. No, I don't. I might make notes from time to time, but
29 I don't retain a personal diary per se.

1 823 Q. where do you put the notes that you make notes on?
2 A. I have a diary that I might write things into, but
3 it's --
4 824 Q. Do you have a diary from those -- that time, October
5 2013? 15:28
6 A. well, if I -- any notes that I may have had, I went
7 through everything, and if I had them I would have
8 disclosed them. I don't recall that.
9 825 Q. Okay. But you -- I take it you accept it, if
10 Superintendent McGovern says he contacted -- you 15:28
11 contacted him and told him that?
12 A. If that's what he's saying. I don't recall it, that's
13 all I can say to you on the matter.
14 826 Q. Do you recall how you might have heard it?
15 A. I don't. 15:28
16 827 Q. Sorry, do you recall the fact or do you -- maybe I
17 should break it down for you. Do you recall the phone
18 call with Superintendent McGovern?
19 A. I don't, I just don't recall that, and I can't put it
20 any further for you. 15:29
21 828 Q. Do you recall knowing on the 11th October that Garda
22 Harrison and Ms. Simms were back together?
23 A. Sorry, I am just reading this here just for one moment.
24 829 Q. CHAIRMAN: Was it that early? I thought it was over
25 the Christmas time? 15:29
26 MR. HARTY: No, it was that early.
27 CHAIRMAN: It was that early?
28 MR. HARTY: Yes.
29 A. I don't know where I got that information and I can't

1 put it any further for you.

2 830 Q. Just to be clear for the -- it was after she was
3 discharged from hospital, so while they were on good
4 terms on the 11th October, they weren't back living
5 together at that date because she, I think, may still 15:29
6 have been in hospital at that stage on the 11th
7 October.

8 CHAIRMAN: So around mid-October?

9 MR. HARTY: Yes.

10 831 Q. Now, your next contact in relation to this then was 15:30
11 when you received an email from Inspector Sheridan,
12 isn't that correct?

13 A. That's correct.

14 832 Q. That's at page 771. Now, why were you copied on that
15 email? 15:30

16 A. I presume I was copied because I was present when the
17 original statement was made.

18 833 Q. Do you know why Karl Campbell was copied on it?

19 A. I know Karl Campbell is attached to the divisional
20 office in Letterkenny, but I can't explain why he was 15:30
21 copied on it. I think you addressed that with
22 Inspector Sheridan. This is an email that she sent.

23 834 Q. Yes, I appreciate that. But did you copy Karl Campbell
24 on any emails?

25 A. I did not copy anyone. 15:31

26 835 Q. Did you ever send any emails to Karl Campbell?

27 A. No, I did not.

28 836 Q. Did you receive correspondence from Karl Campbell?

29 A. Sorry, I beg to differ. In relation to affidavits,

1 sorry --

2 837 Q. Yes.

3 A. Sorry, I thought you were talking about this time.

4 838 Q. No.

5 A. Sorry. I would have received some correspondence when 15:31
6 I had gone on transfer, in relation to JR proceedings.

7 839 Q. And it was Garda Campbell was the person who was --

8 A. Garda Campbell was the person who forwarded me --

9 840 Q. who was dealing with all of that, is that correct?

10 A. That's correct. 15:31

11 841 Q. And after that you phoned Donna McTeague?

12 A. I did.

13 842 Q. And you told her that the statement of complaint, which
14 she had never seen, had been withdrawn?

15 A. That's correct. 15:31

16 843 Q. what else did you say in your phone call?

17 A. I told her that the statement of withdrawal had been
18 made; that while the statement had been withdrawn, the
19 statement of withdrawal stated that the -- just if I
20 can refer to the statement of withdrawal because I 15:32
21 don't want to -- it was along -- it was the content of
22 what was in the statement of withdrawal.

23 844 Q. Yes.

24 A. Sorry.

25 845 Q. And that was it? 15:32

26 A. Yes, just that in the statement of withdrawal, that
27 she'd made the statement of withdrawal, but that she
28 had said that everything in the statement was true.

29 846 Q. what did you ask Donna McTeague?

1 A. I just made her aware of it.

2 847 Q. Did you not ask Donna McTeague what steps they had
3 taken?

4 A. Well, that's a matter for -- once we make the referral,
5 that is a matter for the HSE in relation to what steps 15:32
6 they take.

7 848 Q. Is it? I mean, surely under the Children First
8 Guidelines, you're supposed to keep in contact with
9 each other?

10 A. Well, I would have -- I would have been in contact with 15:32
11 her, but, I mean, I had no further information from her
12 or I -- until --

13 849 Q. Page 1220, perhaps if we just go to that. If we go to
14 the bottom of that page, 713.

15 15:33

16 "The HSE social worker and designated garda should stay
17 in regular contact and inform each other of the
18 developments in the case when they take place and
19 record these in the record of Garda/HSE liaison form.
20 The link between both agencies should be maintained 15:33
21 until the criminal investigation and the prosecution is
22 completed."

23

24 So under the Children First Guidelines --

25 A. I'm sorry. 15:34

26 850 Q. -- you're obliged to maintain --

27 A. Sorry, I didn't realise you were addressing me there, I
28 was reading that.

29 851 Q. Under the Children First Guidelines, you're obliged to

1 maintain ongoing communication?

2 A. well, I informed her that the statement of complaint
3 had been withdrawn, and arising from that then I
4 subsequently received a letter from them in February
5 telling me that they had no -- no concerns. 15:34

6 852 Q. In relation to your records, and just while we're on
7 the Children First Guidelines, perhaps if we just go to
8 1211, at the bottom of that page.

9
10 "Record-keeping: Record-keeping is of critical 15:35
11 importance in this area of work. Unless accurate
12 records are maintained, the ability to adequately
13 protect vulnerable children may be severely curtailed.
14 It is essential that professionals keep contemporaneous
15 record of all reported concerns in a safe place. These 15:35
16 should include details of contacts, consultations and
17 any actions taken."

18
19 There's a certain absence of records on your part in
20 relation to all of this, isn't there? 15:35

21 A. well, in relation to that, as far as I was concerned a
22 referral was made. I know that the matter was referred
23 to GSOC, so I wasn't aware of what the situation was
24 with regard to the investigation. Marisa Simms
25 subsequently made a statement of withdrawal in relation 15:35
26 to the matters, and the HSE, as far as I was concerned,
27 carried out their own inquiries in respect of the
28 referrals that were made.

29 853 Q. When were you made aware of the GSOC referral?

1 A. I became aware that the matter had been referred to
2 GSOC. I can't say definitively. But I did become
3 aware of the fact that the matter had been referred to
4 GSOC.

5 854 Q. Well, could you tell me an approximate time when you 15:36
6 became aware of that fact?

7 A. I believe it was in the days after that the statement
8 was taken, I became aware of the fact that it had been
9 referred to GSOC.

10 855 Q. When were you aware that the GSOC investigation never 15:36
11 took off the ground?

12 A. I wouldn't have been made aware of that.

13 856 Q. You weren't made aware of that. If you just give me
14 one moment, please. Isn't the situation that you say
15 you had very serious concerns, you were dealing with a 15:37
16 victim of domestic abuse, but, in fact, all you did was
17 send a referral to GSOC, hold one meeting, and then
18 didn't even do what you said you'd do at that meeting?

19 A. Well, I wasn't the investigating member. I referred
20 the matter in the form of the referrals and any 15:37
21 information that I may have had or that I may have
22 gotten, I would have forwarded to the HSE, but I didn't
23 receive any further information in relation to the
24 matter.

25 857 Q. But, in fact, you were the one who said that you would 15:37
26 contact the HSE?

27 A. If I became aware, but I didn't receive any
28 information.

29 858 Q. Okay.

1 A. Nobody made me aware.

2 859 Q. So as a result of the two people who were sitting in
3 that room, taking that statement on the 6th October,
4 two of you sat there, and effectively within a week or
5 a fortnight, this urgent situation where you had to get 15:38
6 a statement, it was vital because of the seriousness of
7 your concerns, and it went nowhere in both cases, isn't
8 that correct?

9 A. Well, I don't know where this thing of had to get a
10 statement is coming from. Ms. Simms came to the 15:38
11 station on the day and volunteered a statement.
12 CHAIRMAN: Let's not go back there --

13 A. Yeah, but I mean --

14 CHAIRMAN: -- because really we have to move forward.
15 I mean, it's hours and hours now. 15:38

16 A. I appreciate that.

17 CHAIRMAN: But the reality is that what did happen in
18 consequence of the statement being taken was, you made
19 a referral to the HSE. Now, they may have a conflict
20 with you as to what you actually said. You didn't pass 15:38
21 them over the statement. That wasn't part of the
22 procedure that the Garda followed in these cases. You
23 were there to give them further information. They
24 apparently spoke to Keith Harrison and to Marisa Simms
25 and they also made a very short visit to their domestic 15:39
26 house and observed the children in the company of them
27 both to see whether there was visible distress on the
28 children. Now, they say they would have done more if
29 they had appreciated, for whatever reason, how serious

1 the statement was, but that is what did happen in
2 consequence. And then there was a report back to you
3 that, look, everything is fine and we're closing off
4 our inquiries.

5 A. That's correct.

15:39

6 CHAIRMAN: That seems to be what happened.

7 A. That's correct. But just in relation to the statement,
8 Mr. Chairman, we would never -- well, I wouldn't be in
9 a position to disclose a statement.

10 CHAIRMAN: No, I know, and I appreciate that.

15:39

11 A. Yeah.

12 CHAIRMAN: I have that. I don't think anyone is
13 challenging that.

14 A. Yes.

15 CHAIRMAN: But that seems to be what happened.

15:39

16 A. But the HSE on occasion if they require further
17 information, they have written to the superintendent
18 who has the authority to release that information. And
19 I'm not aware that they made any approach seeking --

20 CHAIRMAN: well, they didn't.

15:40

21 A. -- any other information.

22 CHAIRMAN: And one wonders, if they thought it was all
23 that mild, why they bothered at all. But, Mr. Harty,
24 we're going to put the point, I think, that, on the
25 basis of the statement, there was no basis of referring
26 anything to the HSE.

15:40

27 MR. HARTY: well, on the basis -- well, whatever the
28 evidence that is given here in relation to the
29 statement and how urgent she believed it was, in fact

1 nothing was done by you once -- following that strategy
2 meeting on the 21st, you didn't even come back to tell
3 them that Marisa Simms wasn't in hospital.

4 A. I didn't know when Marisa Simms was released from
5 hospital. 15:40

6 860 Q. You knew on the 11th October that she was back on good
7 terms with Keith Harrison. You appear to be very able
8 to find out information about Marisa Simms?

9 A. Well, as I said, I can't recall that. And I have --

10 CHAIRMAN: Are we certain about that? 15:40

11 MR. HARTY: Well, that is what Superintendent McGovern
12 relates in his statement.

13 CHAIRMAN: Well, that is the date that Marisa Simms
14 asks GSOC to stop the investigation.

15 MR. HARTY: Well, this is recounted by, Superintendent 15:41
16 McGovern relates that to Sergeant McGowan rang him on
17 that date.

18 CHAIRMAN: And it seems that it is after the 15th
19 October that they get back together. But certainly
20 it's on the 11th October that Marisa Simms writes to 15:41
21 GSOC asking them not to continue with the
22 investigation.

23 MR. HARTY: No, I don't think she writes on the 11th.
24 She wrote on the 15th. There may have been a phone
25 call on the 11th. 15:41

26 CHAIRMAN: Yes, inquiring as to what the situation was.

27 MR. HARTY: Yes, but there was just a phone call.

28 CHAIRMAN: And then the email comes on the 15th.

29 MR. HARTY: That's correct.

1 CHAIRMAN: And then it's in around that time that they
2 are living together.

3 MR. HARTY: The point is that Superintendent McGovern
4 said that he was informed of this by Sergeant McGowan,
5 in his statement. 15:41

6 CHAIRMAN: Okay. And the point is?

7 MR. HARTY: The point is that Sergeant McGowan knew.

8 CHAIRMAN: Don't worry, not for me, for the witness.

9 861 Q. MR. HARTY: Sergeant McGowan, you knew on the 11th
10 October that Marisa Simms and Keith Harrison were -- 15:41
11 appeared to be back on good terms?

12 A. As I have said earlier, I can't recall that. I'm
13 sorry, but I can't --

14 CHAIRMAN: Yes.

15 A. I can't recall it. 15:42

16 862 Q. MR. HARTY: But I'm asking you why you couldn't make
17 inquiries as to whether or not Marisa Simms was present
18 in hospital or not?

19 A. Well --

20 CHAIRMAN: I am not sure, will hospitals tell you if 15:42
21 you ring them?

22 MR. HARTY: I'm simply asking whether or not Sergeant
23 McGowan could not have made that. Her version of
24 events is that she put the HSE on hold.

25 CHAIRMAN: No, no, no, don't worry, Mr. Harty. It's 15:42
26 this: I'm just wondering, okay, I think if -- there's
27 clearly a point and perhaps I'm missing it. But if it
28 is the point that the referral to the HSE was for an
29 improper purpose, really that has to be put at some

1 stage, if that is the case.

2 MR. HARTY: The decision to refer.

3 CHAIRMAN: If it is the case that this was somehow
4 contrived by higher-ups in the Garda Síochána, even
5 headquarters, as it's only a belief that your client 15:42
6 expresses in his main statement, that really should be
7 put at some stage.

8 MR. HARTY: Well, the statement is that the direction
9 was given to Sergeant McGowan to make the HSE referral,
10 by Superintendent McGovern. She accepts that. 15:43

11 CHAIRMAN: Sure. And did you think there was no reason
12 to make a HSE referral?

13 A. Based on the content of the statement, absolutely not.
14 As I've said, there's policy documents there, that had
15 I not complied with the policy document -- 15:43

16 MR. HARTY: What do you say is the basis of emotional
17 abuse? Can you identify --

18 CHAIRMAN: Mr. Harty, let's go back. It is clearly a
19 really important matter and this has been concentrated
20 on, as to whether the statement was from Marisa Simms 15:43
21 or from the Gardaí, those two stark things. But if it
22 is from Marisa Simms and was taken honestly, there is a
23 litany of violent conduct and there is a threat to
24 burn, a threat to kill, violent talk in front of
25 children, dragging someone out of bed, gripping someone 15:44
26 by the wrist so that their wrist was sore thereafter,
27 punching a dashboard in anger, being out of control,
28 over-drinking, and then forget about all the texts,
29 etcetera, etcetera, but there is all of that. And then

1 the question is, is there anything wrong in referring
2 that to the HSE?
3 MR. HARTY: Well, perhaps if I can be clear about that.
4 CHAIRMAN: Yes.
5 MR. HARTY: Marisa Simms, in her statement, said there 15:44
6 was only one occasion where he was abusive in the
7 presence of the children.
8 CHAIRMAN: No, I --
9 MR. HARTY: Sorry, no --
10 CHAIRMAN: No, I didn't say that. 15:44
11 MR. HARTY: I appreciate that.
12 CHAIRMAN: I'm not getting that detail wrong.
13 MR. HARTY: No.
14 CHAIRMAN: I hope I wouldn't get a detail like that
15 wrong. I do understand that. 15:44
16 MR. HARTY: There was only one occasion.
17 CHAIRMAN: No, I know.
18 MR. HARTY: No, sorry, I am putting the question to the
19 sergeant. Sorry, sir, I appreciate what the Tribunal
20 is asking me to do. 15:44
21 CHAIRMAN: Yeah.
22 863 Q. MR. HARTY: There was one occasion and one occasion
23 only when the children witnessed an incident, isn't
24 that correct?
25 A. As described by Ms. Simms, that's correct. 15:45
26 864 Q. Are you saying Ms. Simms was not telling the truth when
27 she told you that?
28 A. Ms. Simms told me what happened on the 28th and that's
29 what is contained in the statement.

1 865 Q. Can you tell me where the definition of emotional abuse
2 for children involves seeing one heated row?

3 A. From my recollection I think it's in the Children First
4 Guidelines.

5 866 Q. I would like you to open it, please.

15:45

6 CHAIRMAN: No, it's not that, Mr. Harty. If the
7 statement is correct, and I keep coming back to this,
8 if the statement was made by Marisa Simms, was reported
9 in this way, whether accurately or not, then was there
10 a basis for the Gardaí to go to the HSE?

15:45

11 MR. HARTY: And the HSE referral was done on the basis
12 of emotional abuse to children. That was the pretext
13 given for it, based on the statement of Marisa Simms.
14 So I am asking an experienced HSE Garda liaison officer
15 for how this fits in within the meaning of emotional
16 abuse.

15:46

17 A. Well, in --

18 867 Q. In terms of the training --

19 CHAIRMAN: Well, again, it comes back, I'm really
20 sorry, Mr. Harty, but I'm not perhaps making it clear.
21 The issue is: what was reported? If it was reported
22 that the children heard Garda Harrison say 'I'm going
23 to bury you and your sister, I'm going to burn you,
24 you'll only see the children at weekends', if they
25 heard that and if indeed there was tears in one child's
26 eye, that is the point.

15:46

15:46

27 MR. HARTY: And the question is --

28 CHAIRMAN: That is the crucial point.

29 MR. HARTY: Does that meet the threshold for emotional

1 abuse?

2 CHAIRMAN: Does it? Are you saying it doesn't meet the
3 threshold for emotional abuse?

4 MR. HARTY: I'm not a social worker, I am not even a
5 garda trained in field of liaising with social workers. 15:47

6 CHAIRMAN: No, but do you say in terms of the
7 interpretation of the documents by which the Gardaí are
8 bound that that does not reach the threshold for
9 referral to HSE?

10 MR. HARTY: I'm asking the question. 15:47

11 CHAIRMAN: Yes. Do you understand the question?

12 A. I do.

13 CHAIRMAN: Yes. In other words, if what is described
14 in the statement was reported to you -- forget about
15 whether it is correct or not. 15:47

16 A. Yes.

17 CHAIRMAN: If that was reported to you, did you have an
18 obligation to report it to the HSE and if so what
19 authority or duty are you referring to?

20 A. Well, if you look at definition and recognition of a 15:47
21 child abuse in the HSE guidelines, 2.3.1 it gives
22 definition of emotional abuse and if you want me to
23 read from it I will.

24 CHAIRMAN: Well, we may parse indeed for several more
25 hours, but perhaps you would. Yes, I know you did read 15:47
26 it this morning, Ms. Leader. No, do. Read it again.

27 A. Sorry.

28 CHAIRMAN: We've had lots of things lots of times, so
29 we might as well have this again.

- 1 A. "Emotional abuse is normally to be found in the
2 relationship between a parent/carer and child rather
3 than a specific event or pattern of events. It occurs
4 when a child's developmental need for affection,
5 approval, consistency and security are not met. Unless 15:48
6 other forms of abuse are present, it is rarely
7 manifested in terms of physical signs or symptoms.
8 Examples may include:
- 9 1. The imposition of negative attributes on a child
10 expressed by persistent, criticism, sarcasm, hostility 15:48
11 or blaming;
 - 12 2. Conditional parenting in which the level of care
13 shown to a child is made contingent on his or her
14 behaviours or actions;
 - 15 3. Emotional unavailability of the child's 15:48
16 parent/carer;
 - 17 4. Unresponsiveness of the parent/carer and/or
18 inconsistent or inappropriate expectations of the
19 child;
 - 20 5. Premature imposition of responsibility on the 15:48
21 child;
 - 22 6. Unrealistic or inappropriate expectations of the
23 child's capacity to understand something or behave or
24 control himself or herself in a certain way;
 - 25 7. Under- or over-protection of the child; 15:49
26
 - 27 8. Failure to show interest in or provide
28 age-appropriate opportunities for the child's cognitive
29 and emotional development;
 9. Use of unreasonable or over-harsh disciplinary

1 measures;
2 10. Exposure to domestic violence;
3 11. Exposure to inappropriate or abusive material
4 through new technology."
5

15:49

6 868 Q. MR. HARTY: So it is fair to say that in relation to
7 those it requires exposure to domestic violence, is the
8 only one that could be suggested to apply in this case,
9 is that right?

10 A. Well, it's there in definition of emotional abuse, and 15:49
11 it says "examples may include" and it says there
12 "exposure to domestic violence".

13 869 Q. And if we read the next paragraph:

14
15 "Emotional abuse can be manifested in terms of the
16 child's behavioural, cognitive, affective or physical
17 functioning. Examples of these include insecure
18 attachment, unhappiness, low self-esteem, educational
19 and developmental underachievement, and oppositional
20 behaviour. The threshold of significant harm is
21 reached when abusive interactions dominate and become
22 typical of the relationship between the child and the
23 parent/carer."

24
25 Isn't that right?

15:50

26 A. That's another paragraph.

27 870 Q. Yes.

28 A. But within the definition of emotional abuse it says
29 "exposure to domestic violence".

1 CHAIRMAN: The point here is, that counsel is putting
2 to you --

3 A. Sorry.

4 CHAIRMAN: -- that you had no basis for referring this
5 at all at all. 15:50

6 A. Well, based on what Marisa Simms told me in relation to
7 what happened while her children were present on the
8 28th September I respectfully submit that there was
9 more than enough grounds to --

10 871 Q. MR. HARTY: The children never saw any domestic 15:50
11 violence?

12 A. Well, I think if you go through the statement -- I'm
13 sorry now.

14 CHAIRMAN: Please, let's not go back to the statement.

15 A. Yes. 15:50

16 872 Q. MR. HARTY: I put it to you that the children never saw
17 domestic violence.

18 A. Well, the --

19 CHAIRMAN: In other words, what counsel is putting to
20 you is, that the children have to actually see the man 15:50
21 clocking the woman on the head or something like that.

22 A. Well, domestic violence doesn't always manifest itself
23 in physical violence. It can be mental abuse. And as
24 a result of the interactions as described by Marisa on
25 the date there was -- and what happened between Keith 15:51
26 Harrison and Marisa, the child was present and the
27 child became visibly upset when the words that he was
28 going to burn and bury, and to me that's -- with the
29 greatest of respect, that does constitute.

1 CHAIRMAN: I'm not saying anything here, don't worry
2 about me.

3 A. Yeah. Well, I am just --

4 873 Q. MR. HARTY: Sergeant McGowan, in relation to that, you
5 weren't the one who decided to categorise this as 15:51
6 emotional abuse referral, did you?

7 A. Based on the fact when the children were present and
8 when you look at the definition.

9 874 Q. That decision was made at the meeting of the 8th
10 October, isn't that right? 15:51

11 A. No, it was not made at the meeting of the 8th.

12 875 Q. Are you sure about that?

13 A. Myself and Inspector Sheridan, after taking the
14 statement, to me it was obvious that referrals were
15 required to be sent to the HSE. 15:51

16 876 Q. So yourself and Inspector Sheridan discussed this?

17 A. After the statement was taken and based on the content
18 of the statement in my opinion to comply with the
19 policy documents that are there, it was the HSE
20 referral. 15:52

21 CHAIRMAN: Right. Well, I think understand the case.
22 Marisa Simms is saying she never said that in relation
23 to the child, the tear, the threat to kill her and her
24 sister, to burn her and the sister, but that instead,
25 as Garda Harrison said, what he said was it was burn in 15:52
26 a euphemistic sense, as in emotional trouble as being
27 pulled one way or the other. The case now that's being
28 made by Garda Harrison is if it was said there was no
29 basis for referring it to the HSE. The Gardaí are

1 saying it was said and there was a basis, indeed a duty
2 to refer it to the HSE. And the HSE are saying indeed
3 something was referred to us, but it was much milder
4 than what the Garda are saying they referred and if it
5 had been as serious as the Gardaí are now saying they 15:53
6 would have taken it a great deal more seriously and
7 perhaps taken extra steps. So that's where the parties
8 stand in relation to the matter.

9 MR. HARTY: That is where the parties stand in relation
10 to it. But, Sergeant McGowan, it is the first time 15:53
11 that we have heard that yourself and Inspector Sheridan
12 decided the form of the HSE referral on the night in
13 question.

14 A. Well, as I said, there's a policy document there that
15 you're required to forward -- 15:53

16 877 Q. If you just say yes or no to that. Yourself and
17 Inspector Sheridan decided at midnight on the 6th
18 October, or the 7th October, I suppose it was at that
19 stage, that a HSE referral needed to be made?

20 A. Well, we would have had a conversation based -- 15:53

21 878 Q. Can you just confirm that, yes or no?

22 A. Yes, yes.

23 879 Q. Inspector Sheridan never gave that evidence.

24 A. Well --

25 880 Q. She said she had nothing to do with the HSE referral? 15:54
26 CHAIRMAN: I'm not sure she was actually asked. I
27 mean, so many, many, many things have been asked but
28 that was not asked.

29 MR. HARTY: She said she had nothing to do with the HSE

1 referral.

2 CHAIRMAN: This is the liaison person. She made the
3 referral. They had a discussion around about midnight
4 or one o'clock in the morning, I don't know.

5 MR. HARTY: Can I have your notes of that decision 15:54
6 please?

7 A. I don't have any notes. It was based on the content of
8 the statement.

9 881 Q. So why is it being discussed in a meeting two days
10 later by Chief Superintendent McGinn, Superintendent 15:54
11 McGovern, Superintendent Archibald, Inspector Sheridan,
12 Inspector Michael Finan -- sorry, Inspector O'Donnell
13 and Garda Karl Campbell, why is it being discussed as
14 to what form of HSE is to be done if you had already
15 decided that was going to be done? 15:55

16 A. I wasn't at that meeting.

17 882 Q. And why does Superintendent McGovern think that he told
18 you to do a referral to the HSE if you had already done
19 it?

20 A. Well, I wasn't working those days when that meeting 15:55
21 occurred. And I did have a conversation with
22 Superintendent McGovern, but what I am saying is:
23 There's a policy document there that if you are aware
24 of incidents where there's domestic violence or
25 emotional -- emotional, neglect, physical or sexual 15:55
26 abuse, that to comply with the policy document you are
27 obliged to send a HSE referral. And any operational
28 member will comply with that.

29 883 Q. And if that's genuine you're obliged, I take it, to

1 follow up on that HSE referral?

2 A. well --

3 884 Q. You are obliged to do it. I presume you're not obliged
4 simply to fill out a form and then forget about it.

5 CHAIRMAN: There was a strategy meeting. 15:56

6 MR. HARTY: Yes.

7 CHAIRMAN: And it's contested as to what was said at
8 the strategy meeting. If indeed what the Garda said at
9 the strategy meeting is correct then the HSE didn't do
10 enough. If they did what they did in consequence of 15:56
11 the strategy meeting it may be that they were doing too
12 much. I don't know. Let's wait and hear what they
13 have to say.

14 MR. HARTY: I don't think I have any more questions,
15 thank you. 15:56

16 CHAIRMAN: Does anybody else have any more questions?
17 I mean, have we covered everything at this point?

18 MR. MCDERMOTT: Chairman, on behalf of Tusla if I can
19 outline our position. There is clearly what would seem
20 to be a minor difference in recollection as regards the 15:56
21 meeting of the 21st October 2013. As you are aware,
22 Donna McTeague recalls being told about a verbal
23 disagreement, inappropriate physical contact, under the
24 influence of alcohol and the children witnessing that,
25 and Bridgeen Smith gives a similar account. I am happy 15:57
26 Ms. Leader has fully put that case to the witness.
27 From our point of view we have no reason to believe
28 that anybody is lying or that anybody is doing anything
29 more than doing their best to remember a meeting of

1 four years ago. Ms. Leader also brought your attention
2 to the contemporaneous documents both sides kept and
3 you have them. And so, I don't propose, bearing in
4 mind your request that parties be expeditious to ask
5 questions. I'm happy Ms. Leader has put the case. 15:57

6
7 The second point I want to make is: My client is
8 making no criticism of the Gardaí as regards the amount
9 of information they were given. Clearly the Gardaí
10 have to make a judgment call. In this case they 15:57

11 decided to pass on the information that related in
12 particular to the children. We have merely made the
13 observation in the witness statements that the Gardaí
14 to the best of our recollection didn't pass on the
15 further details. And we simply make that observation 15:58
16 to assist the Tribunal in circumstances where it is
17 being suggested that Gardaí had an animus towards Garda
18 Harrison, it appears they could have provided a lot
19 more information that would cast him in a bad light if
20 they had wished, but they appear to have been 15:58

21 reasonably careful and just provided the piece of
22 information they regarded as being most essential. And
23 my client has no criticism at all to make of what
24 appears to be a judgment call. I hope those
25 observations are of assistance 15:58

26 CHAIRMAN: Thank you, Mr. McDermott, they are helpful.
27 Is there a position being taken by -- I'm sorry for
28 calling you the HSE, I know you're now Tusla, but it
29 became Tusla out of the HSE. Is there a position being

1 taken as to whether on the basis of what was said to
2 the social services that a referral was appropriate
3 under the Children First Guidelines, paragraph 2?

4 MR. McDERMOTT: Yes. Tusla regards it as being an
5 appropriate referral. They dealt with it as such. And 15:59
6 it is obviously then their job to visit the family and
7 see if the children are suffering any of the effects
8 outlined in the second paragraph. But it is a
9 legitimate basis for referring the matter to Tusla if
10 there's a concern children are being exposed to 15:59
11 domestic violence, bearing in mind it is an allegation
12 that is being referred rather than a conclusive
13 position.

14 CHAIRMAN: All right. Thanks, Mr. McDermott. That
15 helps. 15:59

16 MR. DOCKERY: Just three or four questions sir.

17
18 SERGEANT MCGOWAN WAS CROSS-EXAMINED BY MR. DOCKERY AS
19 FOLLOWS:

20 885 Q. MR. DOCKERY: Sergeant McGowan, you said to the Tribunal 15:59
21 this afternoon that you would never hand out a copy of
22 a statement of complaint in a criminal investigation to
23 another party or to an outside party, isn't that so?

24 A. That's correct.

25 886 Q. If following the strategy meeting of the 21st October 16:00
26 2013, the HSE felt that they needed to see it or that
27 they needed further information from it, was there a
28 protocol which they could follow in order to achieve
29 that?

1 A. Yes. They would write to the superintendent in charge
2 of the district requesting sight of the statement or
3 further information in relation to the content of the
4 statement.

5 887 Q. And to your knowledge was that ever done by the HSE or 16:00
6 Tusla?

7 A. Not that I'm aware of.

8 888 Q. I want to ask you this: Your presence at the station
9 in Letterkenny on the 6th October 2013, when Marisa
10 Simms made her statement, did you require or need to 16:00
11 get any authorisation from Superintendent McGovern to
12 attend the taking of a statement in Letterkenny, which
13 was outside your district?

14 A. Well, he would have been the superintendent in charge
15 of Milford, I was performing duty outside my district, 16:01
16 so you would generally discuss matters of that nature
17 with your superintendent.

18 889 Q. So you're satisfied he was aware of this?

19 A. Yes.

20 890 Q. And approved it? 16:01

21 A. Yes.

22 891 Q. All right. You're sure you notified the HSE of the
23 retraction of the statement once you learned of it on
24 the 11th January 2014?

25 A. Yes. 16:01

26 892 Q. Even if you're wrong about that, it seems to be clear
27 from the document at page 160, which is a Tusla case
28 recording summary, it seems to be clear that even if
29 you are wrong about that and Donna McTeague didn't

1 discover this until she phoned you on the 27th January
2 2014 that nonetheless they progressed their own
3 inquiries anyway, isn't that so?

4 A. That's correct.

5 893 Q. Yeah. You will see there: "Telephone call to 16:02
6 Sergeant McGowan". And that goes on to say that they
7 learn of the retraction of the statement. Next
8 paragraph: "DSW advised that in order to progress
9 matter report from Gardaí on specific information on
10 original complaint will be required." And they go on, 16:02
11 I think, to indicate -- indicating there that they are
12 still going to progress the matter regardless of their
13 state of knowledge about the retraction of the
14 statement, isn't that so?

15 A. That's correct. 16:02

16 894 Q. Yeah. All right. Just finally, sergeant, I think
17 Mr. Harty pressed you on the question of your
18 investigation into suspected -- or sorry, your
19 inquiries, your taking of a statement from Marisa
20 Simms, which, according to your evidence, disclosed 16:03
21 repeated instances of what could amount to harassment.
22 You recall being pressed about this?

23 A. I do. Yes.

24 895 Q. And he asked you where was the evidence that she was
25 telling you or that you were asking about whether she 16:03
26 felt distress or intrusion in terms of texts and
27 messages and phone calls she was getting early on in
28 the relationship, 2011/2010, isn't that right?

29 A. Yes. I'm just having difficulty in hearing you, sorry

1 about that.

2 896 Q. Do you recall Mr. Harty asking you about whether you
3 raised any questions with Marisa Simms about her level
4 of distress or whether she felt distress at text
5 messages and phone calls from Keith Harrison in 2010 16:03
6 and 2011?

7 A. I do recall, yes, yes.

8 897 Q. Yes. I take it you are familiar with the provisions of
9 section 10 of the Non-Fatal Offences Against the Person
10 Act which set out the ingredients of the offence of 16:03
11 harassment, are you familiar with the section?

12 A. I am, yes.

13 898 Q. Yeah.

14 CHAIRMAN: And you can take it I am familiar with it,
15 Mr. Dockery, and indeed once wrote a textbook with a 16:04
16 large section on this.

17 MR. DOCKERY: Yes, that's right, that's right. And
18 therefore you will be aware, Chairman, that as well as
19 the necessity for evidence that the complainant has
20 been interfered with, there's an objective aspect to 16:04
21 it, insofar as it provides that the offence requires
22 evidence that a reasonable person would realise that
23 the acts would seriously interfere with the other's
24 peace and privacy or cause alarm distress or harm,
25 isn't that so? 16:04

26 A. That's correct.

27 899 Q. And assuming that, for the moment that the statement
28 was made voluntarily and freely by Marisa Simms to you,
29 can I suggest to you that it does or would you agree

1 with me that it does outline a litany or series of
2 references to harassment from Keith Harrison, isn't
3 that so?

4 A. That's correct.

5 900 Q. And I think during the course of taking the statement 16:05
6 of complaint, your colleagues have given evidence of
7 observations and remarks made about missed calls and
8 text messages coming through to the room from Keith
9 Harrison as the interview was unfolding?

10 A. That's correct. During the course of the statement 16:05
11 Marisa made reference to phone calls and that she had
12 been receiving, and she said that's him on the phone
13 now, meaning Keith Harrison. I can't recall the exact
14 number. There was text, numerous texts messages, phone
15 calls from the landline and also from his mobile phone. 16:05

16 901 Q. And just to conclude, what did you understand the
17 purpose of her telling you about this to be? What was
18 she conveying to you?

19 A. I took it that she was telling us that this is an
20 example of the type of behaviour that she had been 16:06
21 subjected to throughout and that this was another
22 example of how she was being, you know, contacted
23 continuously and harassed by Garda Harrison.

24 902 Q. All right, thank you.

25 CHAIRMAN: Thank you, Mr. Dockery. And I am taking it 16:06
26 on board that if the harassment takes the form of
27 chocolates and flowers and is welcome that it doesn't
28 come under the section.

29 MR. DOCKERY: Yeah, I think that's correct.

1 SERGEANT MCGOWAN: Mr. Chairman, can I mention one
2 thing, if I may, before I finish? Just there is a
3 document there, I think it's page 2298 in the material
4 that was furnished and it's furnished, or it's
5 forwarded to Dr. Katherine Zappone from Kilfeather &
6 Company, and it's sent on behalf of their clients,
7 Garda Harrison and Marisa Simms, and just one thing
8 which I found disturbing in it is, by way of background
9 at number 1 there, it says:

16:06

10
11 "On the 5th October 2013 Marisa Simms was invited to
12 attend Letterkenny Garda Station and after much
13 pressure was put on her, during an eight-hour interview
14 she was coerced into making a statement with a threat
15 that if she didn't there may be repercussions for her
16 and children."

16:07

16:07

17
18 It's just, like, if you look at the definition of
19 coercion, it's that you are persuading an unwilling
20 person under threat to disclose something that isn't a
21 fact. And it's just that this has been reported up to
22 a minister in relation to what went on in the station
23 and I totally refute that. As far as I'm concerned I
24 want to point out that this statement was the words of
25 Marisa Simms and I just found that very upsetting. And
26 I am sure that that went from that minister to my
27 employer, the Minister for Justice.

16:07

16:07

28 CHAIRMAN: Yes.

29 SERGEANT MCGOWAN: I just wanted to --

1 CHAIRMAN: I have heard exactly what you have said.
2 SERGEANT MCGOWAN: Thank you. Thank you Mr. Chairman.

3

4 SERGEANT MCGOWAN WAS RE-EXAMINED BY MS. LEADER AS

5 FOLLOWS:

16:08

6 903 Q. MS. LEADER: Sergeant, there is one thing I wanted to
7 clarify with you in relation to the letter from
8 Mr. Hone dated 16th October 2013. It's at page 769.
9 Now, that letter is dated 16th October, Milford
10 district office got it on the 22nd October. You got it 16:08
11 on I think the 23rd or the 24th October, is that
12 correct?

13 A. That's correct.

14 904 Q. Okay. And what it says is:

15

16:08

16 "I acknowledge receipt of the above notification.
17 However, as there is no evidence of abuse detailed, no
18 further action will be taken from this service until we
19 receive more information."

20

16:08

21 Now at that stage you had had a strategy meeting on the
22 21st.

23 A. That's correct.

24 905 Q. So did you take it that events had overtaken that
25 letter and that the HSE had actually received more
26 information by way of the strategy meeting? 16:08

27 A. Correct. If you look at the date of when that letter
28 was issued, it was 16th October. I had already
29 requested a strategy meeting with the HSE which

1 occurred on the 21st, where I informed them of the
2 details of what had occurred particularly in relation
3 to the threats of the 28th September as contained in
4 the statement.

5 906 Q. Okay. And insofar as Superintendent McGovern was 16:09
6 telling you to do or not do certain things on foot of
7 that letter, really events had overtaken that letter?

8 A. That's correct.

9 907 Q. And was that your understanding?

10 A. That was my understanding. 16:09

11 908 Q. So, as far as you were concerned was the HSE -- did
12 they ever close their file on the matter?

13 A. No. Not as far as I was concerned.

14 909 Q. As far as you were concerned?

15 A. Yes. 16:09

16 910 Q. Thanks very much.

17 A. Thank you.

18 911 Q. There's one other thing I should ask you about. There
19 was a video shown to you by Marisa Simms while she was
20 being interviewed, is that correct? 16:09

21 A. That's correct.

22 912 Q. Now I think it may have been stated to Inspector
23 Sheridan that it wasn't possible to download it, but I
24 think it has subsequently been possible to download
25 that and it is available on the XRY analysis of 16:10
26 Ms. Simms' phone?

27 A. That's correct.

28 CHAIRMAN: Maybe just clarify, what was that video
29 supposed to be about?

1 MS. LEADER: It's in relation to --
2 CHAIRMAN: Just to encapsulate it.
3 MS. LEADER: -- Mr. Harrison standing behind the car
4 with his arms folded.
5 MR. HARTY: with his arms folded. 16:10
6 A. As per the statement of complaint.
7 CHAIRMAN: Yes.
8 913 Q. MS. LEADER: It was while Ms. Simms was in the car
9 possibly waiting for her mother to collect her, is that
10 correct? 16:10
11 A. All I know is that she made reference to it and showed
12 it to us while she was in the station and she said this
13 was just another example of what she was dealing with.
14 914 Q. Owe say. Thanks very much.
15 CHAIRMAN: Thank you sergeant. 16:10
16 A. Thank you very much, Mr. Chairman. Thank you.
17
18 THE WITNESS THEN WITHDREW
19
20 THE HEARING THEN ADJOURNED UNTIL WEDNESDAY, 27TH 16:11
21 SEPTEMBER 2017 AT 10:00AM
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