

TRIBUNAL OF INQUIRY INTO PROTECTED DISCLOSURES MADE UNDER
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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 FRIDAY, 29TH SEPTEMBER 2017 - DAY 28

28

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

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1 THE HEARING RESUMED, AS FOLLOWS, ON FRIDAY, 29TH
2 SEPTEMBER 2017:

3
4 CHAIRMAN: Ladies and gentlemen, I apologise for being
5 late. There is a car parked illegally in Castle Street 10:11
6 which is blocking a coach, and then a huge line of
7 traffic has built up. I don't know if there's any
8 Gardaí present. I notice Mr. Dwyer is stuck in the
9 same traffic jam as I walked out. There we go.

10
11 GARDA HARRISON CONTINUED TO BE EXAMINED BY MR. MARRINAN
12 AS FOLLOWS:

13 1 Q. MR. MARRINAN: Garda Harrison, we just got to the point
14 where yourself and Marisa were visited by Donna
15 McTeague from Tusla on 7th of February and also 10:12
16 subsequently her meeting on 19th February, right?

17 A. Yes.

18 2 Q. And you have seen the statement from Donna McTeague in
19 relation to this matter?

20 A. Yes, I have? 10:12

21 3 Q. And I am just going to go through it with you now
22 because she is disputing some aspects of what you say
23 or have said in your statement to the Tribunal and also
24 in an affidavit that you swore for the High Court and
25 she is disputing some of the contents of that? 10:12

26 A. That is okay.

27 4 Q. And you understand, I have to put this to you because I
28 have to put all parties' cases before the Chairman. If
29 we could just have page 2433 on the screen, please. I

1 think probably the easiest way is if I just go through
2 this with you and ask you for your comment in relation
3 to some of this. At the end of yesterday, we had
4 touched on one aspect which seemed to be quite a
5 significant part of the narrative, and we were 10:13
6 discussing that Marisa Simms was not pursuing an
7 allegation that Ms. McTeague had said that she was
8 brought -- she was under pressure from her superior,
9 who was under pressure from the Gardaí, to do a return
10 visit, do you remember that? 10:13

11 A. Yes.

12 5 Q. And I understood you yesterday to say that in insofar
13 as you were suggesting that in the statement that you
14 made and perhaps your affidavit, that you might be
15 mistaken yourself in that regard, is that right? 10:14

16 A. Chairman, the conversations between Donna McTeague and
17 Marisa did not happen in my presence. The information
18 that came from that came from Marisa, and that is what
19 I have relied on. That is the information that I have
20 had and that is the information that I have put 10:14
21 truthfully there.

22 6 Q. Yes. well, insofar as you have asserted that --

23 A. Those are my beliefs, yes.

24 7 Q. Insofar as you have asserted that in your statement and
25 also in your affidavit, you are now saying that you 10:14
26 asserted that on the basis that you had been given that
27 information from your partner?

28 A. The only time I spoke with Donna McTeague was in
29 relation to the initial meeting in St. Conal's in

1 Letterkenny, and when she came to our home in Woodbury,
2 I don't know that I had that much conversation because
3 she was more engaged with the children than myself and
4 Marisa.

5 8 Q. Well, just come back to what I was asking you there. 10:15
6 Insofar as you have asserted this, and you have, in
7 your statement, and also in your affidavit --

8 A. Mm-hmm.

9 9 Q. -- can we now take it that the reason that you asserted
10 it was because you were told this by your partner? 10:15

11 A. This was communicated to me at the time by Marisa. In
12 fairness, Marisa had all of the contact with
13 Ms. McTeague.

14 10 Q. And so, therefore, if Marisa Simms isn't now contending
15 that this is so, is that something that you are also 10:15
16 abandoning?

17 A. No, I am not. Because, Chairman, I will explain to you
18 that -- and I don't know you can't say because of the
19 lack of documentation means that there was anything
20 wrong, but we know from the evidence given by Sergeant 10:15
21 McGowan that there was a phone call directing Tesla not
22 to get involved on the basis if we take that the
23 statement of Marisa was true, that she directed Tesla
24 not to get involved in her mind knowing that there was
25 potentially very serious risks. And at a very early 10:16
26 stage, I would say five days, maybe six days after
27 obtaining a statement from Marisa she had the knowledge
28 that we were back together and still took the attitude
29 that there was no need for Tesla to get involved.

1 11 Q. Yes. And you know, Garda Harrison, you are making a
2 case that there was inappropriate -- this was an
3 inappropriate referral to Tusla in the first instance?
4 A. Absolutely.

5 12 Q. And I suppose in that regard you are pointing to the 10:16
6 fact that on the 8th October there was what appears to
7 have been a very major conference involving senior
8 officers?
9 A. Yes.

10 13 Q. And you, no doubt, make the point that this seemed 10:17
11 inappropriate for what was, at the end of the day, a
12 domestic dispute, as you would see it, is that right?
13 A. A domestic dispute, yes.

14 14 Q. And therefore, you would regard that, if I can put it
15 this way, overkill by the Gardaí as evidence of some 10:17
16 maliciousness --
17 A. Yes.

18 15 Q. -- towards you?
19 A. Yes.

20 16 Q. Is that right? 10:17
21 A. That's correct.

22 17 Q. And you would also rely on the fact that there was what
23 was deemed to be, you would say, an inappropriate
24 referral to GSOC as being further evidence of an
25 attitude of senior management in Donegal to do you down 10:17
26 at that time?
27 A. Chairman, in relation to the referral to GSOC, we are
28 not dealing with an inexperienced member who thinks
29 they have done right by it. We are dealing with people

1 who's bread and butter -- every day a chief's duty is
2 to deal with matters like this to GSOC. Within I
3 think, was it, 18 or 20 minutes of sending the
4 recommendations of a 102 referral to internal affairs,
5 to Chief Superintendent Anthony McLoughlin - who I 10:18
6 would say is an expert in this area being in that field
7 - he quickly came back and said that it was completely
8 inappropriate and the wrong avenue to go down. A short
9 time after GSOC themselves confirmed in early November
10 that this was the wrong thing to do, and they would 10:18
11 have all the time known that under section 105 of the
12 Act they were quite entitled to pursue me, and it was
13 irregardless of whether GSOC took action or not, and
14 they didn't. The only action that was ever taken was
15 when I received a letter on 1st of December 2014 10:18
16 stating that there was now commencing a criminal and
17 disciplinary investigation despite the fact that this
18 had previously been closed down I think in January of
19 that year.

20 18 Q. Indeed. And the Tribunal is not blind to all the 10:18
21 points that you make in that regard, do you stand?
22 A. I appreciate that.

23 19 Q. Do you appreciate that?
24 A. Yeah.

25 20 Q. And the Tribunal is very alert to the fact that 10:19
26 subsequent to these meetings that you had with Tusla in
27 May of 2014, you made a Protected Disclosure?
28 A. That's correct, yes.

29 21 Q. But you will realise that matters that fall within that

1 and that happened to you subsequently, aren't a matter
2 for the term of reference that we are now dealing with,
3 which is term of reference N, do you understand that?

4 A. I accept that.

5 22 Q. Just that we are not blind to those matters or to the 10:19
6 points that you seek to advance in relation to the
7 manner in which you say, which you say was
8 inappropriate that senior management dealt with this,
9 with the statement of your partner. But coming back to
10 the point that I am dealing with, because it's my 10:20
11 obligation to put every aspect of the evidence to you
12 and to test it, this is a meeting that you had had with
13 Tesla, all right?

14 A. Mm-hmm.

15 23 Q. Isn't that right? 10:20

16 A. That's correct.

17 24 Q. And in the statement that you made to the Tribunal, and
18 also in the affidavit, would it be fair to characterise
19 what you were saying in the following way: You were
20 saying, look, I had this meeting and the social worker 10:20
21 that I was dealing with, Donna McTeague, seemed bemused
22 as to why she was visiting us at all?

23 A. Mm-hmm.

24 25 Q. All right. would that be fair to say, that is what you
25 were saying? 10:20

26 A. She was -- we met --

27 26 Q. No, I will come to the specifics, I am just trying
28 to --

29 A. Yes, that's --

1 27 Q. -- trying to give the general impression that you were
2 attempting to convey --
3 A. Yeah.
4 28 Q. -- and indeed Marisa Simms was attempting to convey in
5 the statement. 10:20
6 A. Mm-hmm.
7 29 Q. That she had no idea why she was there at all, and
8 really, the impression that you are trying to portray
9 is that perhaps she was just going through the
10 formalities? 10:21
11 A. No. What I would say is I have no doubt Donna McTeague
12 knows her job. I have no issue with how she conducted
13 herself. The issue - and it was spoken about - was
14 that this alleged incident had happened four-and-a-half
15 months previous and it was unusual that an incident 10:21
16 with that time gap would be dealt with four-and-a-half
17 months later.
18 30 Q. Well, is that what you are saying or is it what you say
19 she said?
20 A. That was part of the conversation at the meeting. 10:21
21 31 Q. So you are saying that she said that to you?
22 A. I am telling you that was part of the conversation at
23 the meeting.
24 32 Q. Okay. And I will come to deal with her version of
25 events there. But that is something that you were 10:21
26 still maintaining?
27 A. Yes.
28 33 Q. That she said to that you this was something that was
29 unusual --

1 A. Between the alleged incident and the meeting that it
2 wouldn't be normal for that.

3 34 Q. And in terms of the conclusion of the first meeting on
4 7th of February, are you maintaining that she indicated
5 to you that that was the end of the matter? 10:22

6 A. After the meeting, there was a general, I won't say
7 chitchat but it was more relaxed. She made a comment,
8 and I am paraphrasing on the comment, is that you know
9 lads, in future, if you're having a row make sure it's
10 not in front of the kids. And to be fair we never row 10:22
11 in fronts of the kids, we are always careful about
12 that, so we do. But we asked her about -- she had
13 mentioned about the possibility of having to do a home
14 visit, and we asked her before we left if she was and
15 could we have it done sooner rather than later. She 10:22
16 did say she had to talk to her team leader, she didn't
17 mention the team leader's name, and she said she didn't
18 feel that it was -- she felt that it was unlikely it
19 would go to that, but if it did she would come back to
20 us. 10:22

21 35 Q. Well, you are moving your evidence --

22 A. I am not moving it. I am certain that happened.

23 36 Q. All right. Okay. But, and I will come to precisely --

24 A. And we left the meeting relieved that that was it done
25 and we felt that that was the end of the matter. 10:23

26 37 Q. So in terms of her coming back then --

27 A. Yes.

28 38 Q. -- and her return visit --

29 A. Yes.

1 39 Q. -- are you maintaining that it was said by her that she
2 had to return because she'd been directed by her
3 superior, who had been in contact with the Gardaí?
4 A. Marisa had taken a phone call with Ms. McTeague. After
5 the phone call Marisa came in and told us that she had 10:23
6 to do a home visit. Marisa was upset, that she had to
7 do a home visit, that she had consulted with her team
8 leader, again didn't mention a name or at least no name
9 was mentioned to me at that time, so there wasn't, and
10 that it was a case that her team leader had been in 10:23
11 contact with a -- with the Gardaí. Now, that in
12 itself, it was never said at what time, when, it was
13 said that had she had been in contact with the Gardaí,
14 which we now know to be true from Brigid McGowan
15 because Brigid McGowan had contacted the -- 10:24
16 CHAIRMAN: Mr. Marrinan, I am sorry for interrupting
17 you, but again I have to be able to write down
18 something coherent, something that actually makes
19 sense, something that is, if you like, what you are
20 accusing somebody of. Now, can I write down -- 10:24
21 A. I am not accusing --
22 CHAIRMAN: No, just hang on a minute. No, no, please.
23 Can I write down that your case is that Sergeant
24 McGowan lent on - and you understand what I mean by
25 'lent on' - Donna McTeague when Donna McTeague was 10:24
26 content after the meeting of the 7th of February 2014
27 not to have a home visit, that she lent on her to
28 ensure there was a home visit; are you saying that or
29 are you not saying that?

1 A. No, what I am saying is the team leader had a
2 conversation with Sergeant McGowan that was relayed
3 back to Donna McTeague, that was the result of the
4 follow-up call. That is what I am saying. I am not
5 saying that Donna McTeague had any contact with 10:25
6 Sergeant McGowan.
7 CHAIRMAN: All right. Well, can I put it more simply:
8 Are you saying that at the end of the meeting in the
9 office -- you know what I am talking about there?
10 A. Yes, yes. 10:25
11 CHAIRMAN: -- on the 7th of February, that as far as
12 everybody was concerned, that was the end of the matter
13 and a home visit was unlikely?
14 A. Yes.
15 CHAIRMAN: So that is a yes? 10:25
16 A. Yes.
17 CHAIRMAN: And are you saying that somehow the Gardaí
18 manipulated a change of plan to a home visit.
19 A. Yes.
20 CHAIRMAN: You are? 10:25
21 A. Previous conversations, yes.
22 CHAIRMAN: You are saying that?
23 A. Yes, I am.
24 CHAIRMAN: And are you saying that that change in the
25 mind of Tusla was effected by the Gardaí for malicious 10:26
26 reasons against you?
27 A. Yes.
28 CHAIRMAN: Right. Well, then I know.
29 40 Q. MR. MARRINAN: So if we could just have page 2433 up on

1 the screen. This is the statement of Donna McTeague.

2
3 "I wish to respond to the following points contained in
4 the above statement as made available to me in the
5 Tribunal documentation." 10:26

6
7 And then she refers to page 28 of your statement. And
8 she quotes you where you say:

9
10 "With a social worker, Donna McTeague. She went on to 10:26
11 explain she had been asked to meet us over a row in
12 September 2013 but was confused as to what she was to
13 do as she explained she deals with children in
14 immediate danger and this meeting was taking place over
15 four months later." 10:27

16
17 That is in fact what you are saying, isn't that right?

18 A. Yes.

19 41 Q. And she says this, and I have to put her case to you:

20
21 "This is not an accurate representation of the 10:27
22 discussion held with Garda Harrison and Ms. Simms. As
23 stated above, at the outset of my meeting with them, I
24 outlined the role of duty social worker and
25 differentiated between a child protection referral and 10:27
26 a child welfare referral."

27
28 Did she do that?

29 A. She may have done, yes.

1 42 Q. "This is documented in summary form in the notes taken
2 by Naoimi Wallace, social care leader, at this meeting,
3 where it states: "Donna explained her role to the
4 couple and explained how she received the referral." I
5 was not confused nor did I express any confusion during 10:27
6 the meeting."

7
8 what do you say about that?

9 A. I am not saying she was confused. I am saying that she
10 said that it was an unusual case for the time -- for 10:28
11 the distance of time between and the alleged incident
12 and the meeting.

13 43 Q. Well, you did say, I mean, if you go back to the
14 previous page, 2433, the quote that she gives in
15 relation to this, where it says that: "She had been 10:28
16 asked to meet us over a row in September 2013 but was
17 confused as to what she was to do." I mean, you did
18 say that she was confused in your statement

19 A. Confused, found it unusual, Chairman, that's what was
20 done. 10:28

21 44 Q. Well, in any event, she said there was no confusion in
22 her mind in relation to it. At page 28, she quotes you
23 as saying:

24
25 "And told us she wouldn't be taking things further and 10:28
26 she would report back to her team leader but at that
27 point was happy that we wouldn't have any more
28 communications or meetings with her."
29

1 Again, in answer to the Chairman, you have confirmed
2 that that is your position?

3 A. That is my position.

4 45 Q. And your stance. She says, just in the second
5 paragraph really deals with it there: 10:29

6

7 "While this was my assessment of the information at the
8 time, I also clearly stated to them during the meeting
9 that I may need to meet with the children to which both
10 agreed." 10:29

11

12 Did she say that to you?

13 A. She did.

14 46 Q. "It is not correct to state that I said that they would
15 not be having any more communication or meetings with 10:29
16 me."

17 A. What was said, she did say that she may have to meet
18 with us and the children but based on the meeting and
19 what she had heard that it was unlikely and she would
20 be bringing and having a meeting with her team leader. 10:29
21 Myself and Marisa left the meeting that day
22 understanding that that was it because we had told them
23 what had happened.

24 47 Q. Well, what you have said in your statement, and I
25 understand to be your evidence, is: "-- but at that 10:30
26 point was happy that we wouldn't have any more
27 communications." Communications --

28 A. We were satisfied leaving that that was the end of it.

29 48 Q. -- or meetings with her?

1 A. Or meetings.

2 49 Q. So that was the end of it?

3 A. As far as we were concerned that was the end of it.

4 50 Q. And she is saying that is not so, that she "may have to
5 meet the children" and she never said that to you? 10:30

6 A. She said that she may have to meet the children but
7 having met us and spoken to us it was unlikely.

8 51 Q. Then she quotes you on page 28:
9

10 "We constantly worry that we are being watched by my 10:30
11 colleagues, who at any stage could again make
12 scurrilous accusations that could put us and our
13 children at risk."
14

15 I think we had that yesterday and you -- 10:30

16 A. Yes, our family life has been destroyed by what has
17 gone on over the last number of years.

18 52 Q. Now, her comment in relation to this is:
19

20 "The referral to the Social work Department pertained 10:31
21 to an incident that both Ms. Simms and Garda Harrison
22 confirmed had in fact happened and for which Garda
23 Harrison accepted all responsibility. The referral in
24 my view is not a scurrilous accusation but one that was
25 appropriately made and appropriately assessed based on 10:31
26 what information was known to me at the time."
27

28 A. The scurrilous accusation isn't anything arising from
29 the meeting with Ms. McTeague. As far as I am aware

1 Ms. McTeague's knowledge of it was a verbal row that
2 happened in the presence of the children. That is my
3 understanding of what Ms. McTeague knew at that time.
4 In relation to the statement -- or in relation to
5 confirming what had happened, that's what I confirmed 10:31
6 had happened. No more.

7 53 Q. Well, you will appreciate that Ms. McTeague is saying
8 that on the basis of the information that she had
9 available to her at that time, that she was happy that
10 it was an appropriate referral. And when she 10:32
11 confronted you with the information that she had, that,
12 as she puts it, "Garda Harrison accepted all
13 responsibility for it".

14 A. Yes.

15 54 Q. Again, in reference to page 38, she says: 10:32

16
17 "Later that day --"

18
19 This is a quote from your statement.

20 10:32

21 "Later that day Donna McTeague rang Marisa and
22 apologised and said she had to do a home visit. Marisa
23 asked her to come that day as she couldn't bear with it
24 hanging over us. Ms. McTeague couldn't do it that day
25 but visited the following day." 10:33

26
27 The response is:

28
29 "This is inaccurate. As per notes above, I phoned

1 Marisa on 14th February 2014 and confirmed a home visit
2 for the 19th February of 2014, which took place at the
3 date agreed."

4
5 She then goes on to quote from you: 10:33

6
7 "Ms. McTeague the next day came to our home,
8 apologising, stating that she didn't have any choice in
9 the matter, that her team leader had been in contact
10 with the guards and, as a result, she had to do the 10:33
11 visit."

12 A. Mm-hmm.

13 55 Q. Now, I understand that that in fact is something that
14 you had no knowledge of and you are now saying she
15 didn't actually say? 10:33

16 A. She didn't actually say?

17 CHAIRMAN: Sorry, and I beg your pardon for
18 interrupting, Mr. Marrinan and Garda Harrison, but we
19 have to get this clear. You make a statement in which
20 you ascribe to a woman, who speaks in your presence, 10:34
21 words to the effect that I did not want to be here, but
22 I have to be here because the Gardaí required me to be
23 here.

24 A. Mm-hmm.

25 CHAIRMAN: Now, you have to concentrate on that. 10:34

26 A. Yes.

27 CHAIRMAN: Don't tell me about, you know, other stuff
28 that may be going on here, there and everywhere or what
29 the papers may say or whatever. That is a direct

1 allegation you are making, and Mr. Marrinan is putting
2 it to you, and you really just have to answer that --
3 A. Yes.
4 CHAIRMAN: -- as opposed to talking in a general
5 fashion about hurt you are, all right? 10:34
6 A. Okay.
7 CHAIRMAN: So please do that.
8 A. Yes, Chairman.
9 56 Q. MR. MARRINAN: This is the assertion that you made in
10 your statement at page 28 which she is quoting, and she 10:34
11 is concerned about:
12
13 "Ms. McTeague the next day came to our home,
14 apologising, stating she didn't have any choice in the
15 matter." 10:34
16
17 All right?
18 A. Mm-hmm.
19 57 Q. Now, I understood from your evidence yesterday and your
20 evidence earlier on today that in actual fact this 10:35
21 isn't something that occurred --
22 A. Ms. McTeague --
23 58 Q. -- that this is something that was recounted to you by
24 Marisa Simms?
25 A. Ms. McTeague came to our home, Marisa went out to meet 10:35
26 her, I was inside in the sitting room with the two
27 children. We had told them that a friend of mammy's
28 was coming to visit. She came into the sitting and she
29 spent I would definitely say no more than ten, at the

1 very most, fifteen minutes talking to the two children.
2 Herself and Marisa left the room then and I think they
3 went into the kitchen. They had their conversation and
4 she left. Marisa came in to me and told me that she
5 was apologising and that she had no choice in the 10:35
6 matter, that her team leader had told her she had to do
7 the house visit.

8 59 Q. Well, that is not a version of events that is stood
9 over by Marisa now at this stage, you understand that?

10 A. Well, that is my recollection of it and I am clear on 10:35
11 it.

12 60 Q. That may be what she told you at the time and you are
13 saying she told you at the time --

14 A. Yes.

15 61 Q. -- but she is not now standing over that. 10:36
16 A. Well, I was told that.

17 CHAIRMAN: Again I am sorry, Mr. Marrinan, I have to
18 interrupt, I do apologise to you both. But, you know,
19 the first thing you learn probably in relation to
20 criminal law is that when somebody says something to 10:36
21 you, you know, that is a statement from that person,
22 you are entitled to rely on it. If the thing is as bad
23 as 'I murdered so-and-so', that actually is a
24 confession.

25 A. Mm-hmm. 10:36

26 CHAIRMAN: So when you ascribe to people words that you
27 hear, it actually has an effect in law.

28 A. Yes.

29 CHAIRMAN: As I read that statement, and I may be

1 wrong, but as I said that statement, you are actually
2 saying you heard this social worker saying those
3 things. Now, that is what I am interested in.

4 A. Perhaps I should have clearer in explaining --

5 CHAIRMAN: No, no, it is clear, it's perfectly clear 10:36
6 that you are saying she said that. So, I mean, the two
7 things are: Number one --

8 A. No, I --

9 CHAIRMAN: No, just hang on, please listen. Number
10 one, did she say it? And number two, if she didn't say 10:37
11 it, why are you ascribing it to her? So those are the
12 two issues that are on my mind.

13 A. Chairman, this was relayed to me after the meeting. As
14 I explained, and Ms. McTeague will confirm, I did not
15 speak to her directly after the kids -- after the 10:37
16 meeting with the kids. This is what Marisa told me
17 afterwards when she came back in.

18 62 Q. MR. MARRINAN: well, you will appreciate that on any
19 reading of your statement to the Tribunal, it indicates
20 that this is something that you had in fact heard 10:37
21 yourself during your discussions with Ms. McTeague?

22 A. No, this was told to me by Marisa and --

23 63 Q. But nowhere is there any indication of that in your
24 statement, that this was information gleaned as a
25 result of a conversation with Marisa Simms? 10:37

26 A. Perhaps I should have made that clear, but I am making
27 it clear, that is what I was told.

28 64 Q. No, but this arises in circumstances where you have
29 dealt with this by way of affidavit --

1 A. Yes.

2 65 Q. -- and you have also dealt with this in your statement
3 to the Tribunal?

4 A. Yes.

5 66 Q. And nowhere does it appear that this particular 10:38
6 information was imparted to you by Marisa and that you
7 had no direct knowledge of it yourself?

8 A. Well, I am telling you that's what happened.

9 67 Q. And we hear this for the first time when you come to
10 give evidence at the Tribunal, in circumstances where 10:38
11 Marisa has abandoned this particular allegation, do you
12 understand?

13 A. I don't remember Marisa abandoning it but I do recall
14 this being said to me. I am in no doubt that was said
15 to me. 10:38

16 68 Q. Well, you see, there might be a suggestion made that
17 you are just simply tailoring your evidence now --

18 A. No, I am not.

19 69 Q. -- to fit in?

20 A. No. I am not tailoring anything. 10:38

21 70 Q. Right. But in any event, in response to that
22 allegation, she said:
23
24 "This is not correct. I never said that my team leader
25 had been in contact with the guards, and as a result I 10:38
26 had to complete a home visit. My team leader,
27 Ms. Bridgeen Smith, never had such a conversation with
28 me, and to my knowledge, no such conversation ever took
29 place between Ms. Smith and any member of An Garda

1 Síochána. As stated previously, I had said to them
2 during our meeting on February 7th, 2014 that I may
3 need to meet the children and this was confirmed in my
4 call to them on February 14th 2014."

10:39

5
6 Then again in relation to -- and she quotes from your
7 statement:

8
9 "She spent around ten or 15 minutes in our home and
10 spoke with the children before leaving again,
11 apologising but guaranteeing this was the end of it."

10:39

12
13 Her response to that is:

14
15 "I did not apologise for my work, apologise for
16 visiting or apologies when I was leaving. I was clear
17 at all times of the purpose of my role in this case,
18 the reason for the referral and the reason for the
19 visit to meet the children. When leaving, I explained
20 that now I had met the children, coupled with their
21 explanation, it was my assessed view that there were no
22 ongoing child welfare or child protection concerns and
23 that my initial assessment would indicate this with
24 closure to the Social Work Department when this was
25 completed."

10:40

10:40

10:40

26
27 So, she is saying that she dealt with this
28 professionally.

29 A. Mm-hmm.

1 71 Q. You are saying that she arrived apologising. You are
2 maintaining, and still seem to be maintaining, that she
3 said that the only reason that she was there was
4 because of some interference by the Gardaí --
5 A. Mm-hmm. 10:41

6 72 Q. -- and that she apologised when she was leaving?
7 A. Mm-hmm.

8 73 Q. Do you still maintain that to be the case?
9 A. In the meeting in St. Conal's in Letterkenny, she made
10 a reference to her team leader being in contact with 10:41
11 Gardaí in relation to why we were being there and the
12 nature of the referral. After the meeting, when she
13 spoke with Marisa, she said she had spoken to her team
14 leader and arising out of that, because of the
15 conversations with Gardaí - now, I am not saying it 10:41
16 happened after the meeting in St. Conal's, I am saying
17 there was a conversation - that her team leader wished
18 her to come out to the house, and that arose from a
19 conversation with Gardaí at some stage.

20 74 Q. She then goes on to deal with the affidavit, your 10:41
21 affidavit of the 15th February of 2015, where she
22 refers to paragraph 16, which, this is again at page
23 2435 of the materials, and this is a quote from your
24 affidavit:
25
26 "I say that the social worker that we met, Ms. Donna 10:42
27 McTeague, was bemused but she was obliged to carry out
28 the said investigation. I say and believe that a
29 superior of Ms. McTeague's is friendly with Sergeant

1 McGowan who requested to meet with us. I say and
2 believe that Ms. McTeague was called upon with the
3 children who were allegedly in immediate danger but
4 that the period of time which had elapsed from the date
5 of the said alleged incident was some four-and-a-half 10:42
6 months and she was only requested to speak with your
7 deponent and Ms. Simms at that stage, suggesting both
8 to her and ourselves that there was no bona fide belief
9 that the children were in danger. I say that
10 Ms. McTeague again mentioned the relationship between 10:42
11 Sergeant McGowan and her superior, Bridgeen Smith."
12

13 Her response is:

14
15 "At no point in time, from receipt of the referral 10:43
16 pertaining to the children, the time-lapse between
17 receiving this referral and my meeting with Ms. Simms
18 and Garda Harrison, and my home visit to meet the
19 children, was I anything other than completely clear
20 about my role, purpose of my work and the importance of 10:43
21 my assessment. The time-lapse between the time of
22 receipt of referral and my contact with the family was
23 based on information I had received that Ms. Simms was
24 in hospital. The referral was of a child welfare
25 nature and not a child protection nature, and thus, not 10:43
26 an emergency or an indication that any child or
27 children was in immediate danger. At no point in time
28 was the referral classified as a child protection
29 referral, a point which I indicated to both Ms. Simms

1 and Garda Harrison when I met them on February 7th,
2 2014."

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Did she do that?

A. She outlined her purpose of being there, yes, or us
being there, sorry.

10:44

75 Q. "However, this was a child welfare referral and dealt
with by me in a sensitive manner at the time and in a
timely manner, as per demands on our service, as I was
the only duty social worker on our team. I did not at
any point in time believe the children were in danger.
Had I assessed the referral as a child protection
referral, I would have had contact with the family
immediately on receipt of the Garda notification.
Notwithstanding the referral was an appropriate
referral to make to the Social Work Department and was
categorised as a child welfare referral, accordingly,
based on the information known at the time."

10:44

10:44

I suppose that's a paragraph, that I have read to you,
is a matter that you actually would dispute that this
was an appropriate referral, isn't that right?

10:45

A. Strongly dispute.

76 Q. She then quoting your affidavit:

"I say that Ms. McTeague again mentioned the
relationship between Sergeant McGowan and her superior,
Bridgeen Smith."

10:45

1 Her answer to that is:

2
3 "This is not correct. At no point in time did I ever
4 make reference to any relationship or otherwise between
5 Sergeant McGowan and Bridgeen Smith in my discussions 10:45
6 with Ms. Simms or Garda Harrison. It is my
7 understanding and belief that their relationship is
8 purely professional and they had no other contact
9 outside of work-related matters. I would have had much
10 more communication and contact with Sergeant McGowan in 10:45
11 my role as duty social worker in terms of liaising with
12 the local Children First liaison officer for the
13 Milford district than Ms. Bridgeen Smith, would have
14 had as team leader."

15
16 So if we can come back to what you had said in your 10:46
17 affidavit - "I say that Ms. McTeague again mentioned
18 the relationship between Sergeant McGowan and her
19 superior, Bridgeen Smith." - that in fact is
20 incorrect, that you had no direct knowledge yourself of 10:46
21 that other than what you say Marisa Simms said to you,
22 is that right?

23 A. No, no, at that time when we met with Donna McTeague in
24 St. Conal's, we were told that her team leader had
25 regular contacts with the HSE liaison garda and that 10:46
26 this was the case, so it was. If we look at it now,
27 there had been contacts that weren't and haven't been
28 properly documented.

29 CHAIRMAN: I am going to stop, I am sorry,

1 Mr. Marrinan, and I apologise for interrupting your
2 answer. It may be there is a lack of clarity in
3 relation to something. As I read that allegation, what
4 you are saying is, and it would indeed be so, it is a
5 disgrace that Sergeant McGowan lent on Bridgeen Smith 10:47
6 in order to get her to manipulate the social workers to
7 come out to your house.

8 A. Yeah.

9 CHAIRMAN: No, if that happened that would be
10 disgraceful -- 10:47

11 A. Mm-hmm.

12 CHAIRMAN: -- do you agree with that?

13 A. Yes.

14 CHAIRMAN: And indeed, that would be what this Tribunal
15 would be all about. 10:47

16 A. Yes.

17 CHAIRMAN: Now, if you ascribe a disgraceful action to
18 somebody by saying that they said to me that they did
19 the disgraceful action, that also would be disgraceful,
20 wouldn't it? 10:48

21 A. Yes.

22 CHAIRMAN: So what Mr. Marrinan is trying to clear up
23 is: Precisely what do you say was said, as opposed to
24 telling us about a letter, a meeting, a background,
25 what do you say was said? Why was it put in the 10:48
26 particular form in your affidavit or statement which
27 clearly indicates that you were told by a social worker
28 that a member of the Gardaí had leaned on her superior
29 in order to get her to come out to your house when it

1 wasn't necessary? Now, those actually are the two
2 questions.

3 A. Yeah.

4 CHAIRMAN: And I appreciate that these are long
5 passages, but can I just leave it now, having explained 10:48
6 that, to Mr. Marrinan to pursue those two issues,
7 because I think perhaps it wasn't clear to you. So can
8 I just leave it like that? Thanks.

9 A. Chairman - sorry, Mr. Marrinan - in the meeting in
10 St. Conal's, we were told there were regular contacts 10:49
11 between her team leader and the HSE liaison garda, and
12 that information was being passed there. It was my
13 understanding from that there was a close relationship
14 between the two, and coming from that relationship
15 there was communications as regards to what was 10:49
16 actually going on with myself and Marisa. What
17 happened is, is Gerry Hone on 16th October said there
18 were no child welfare issues and unless new information
19 or further referral was made that no action would be
20 taken. Superintendent McGovern then directed Sergeant 10:49
21 McGowan to go back to the HSE and give full disclosure
22 and come back to him and confirm there were still not
23 to be any interactions with the HSE. Sergeant McGowan
24 told the HSE not to get involved, and when the
25 statement was retracted after Inspector Sheridan had 10:50
26 told Marisa of the story of a couple who in similar
27 circumstances, where a statement was withdrawn, that
28 there might be intervention by the HSE, and I believe -
29 and I am strong in the view - that it is no coincidence

1 that after Marisa retracted her statement that there
2 was contact between Sergeant McGowan and the HSE in
3 relation to that fact, and I am in no doubt that it was
4 that that triggered the meeting.

5 77 Q. MR. MARRINAN: Do you think that that deals with the 10:50
6 question that arises? The question that arises, and
7 has been identified by the Chairman --

8 A. Do I think --

9 78 Q. -- in the clearest --

10 A. Do I think the team leader was influenced by the garda? 10:50

11 79 Q. No, no, the question that arises, in the clearest
12 possible say, is a statement by you "I say that
13 Ms. McTeague again --", and this is in the meeting on
14 19th of February in your home, "-- again mentioned the
15 relationship between Sergeant McGowan and her superior, 10:51
16 Bridgeen Smith".

17 A. Yes.

18 80 Q. Now, it's as simple as that.

19 A. Yes.

20 81 Q. She didn't mention, on the 19th February, her 10:51
21 relationship or any relationship between her
22 superior --

23 A. She didn't --

24 82 Q. -- and Sergeant McGowan, isn't that right?

25 A. She didn't mention her relationship but she did mention 10:51
26 that her team leader had been in conversation.

27 83 Q. This is on the 19th February?

28 A. This is on the -- the meeting on the 7th February.

29 84 Q. No, we are talking about the 19th of February. We are

1 talking about what you have sworn in your affidavit.

2 A. Mm-hmm.

3 85 Q. what you have put in your statement to the Tribunal.

4 A. Mm-hmm.

5 86 Q. The matter, the very matter that Donna McTeague is 10:52
6 dealing with.

7 A. Mm-hmm.

8 87 Q. All right? Are we clear about this now?

9 A. Yes.

10 88 Q. We are not dealing with any earlier discussions that 10:52
11 you may have had, we are not dealing with any theories
12 that you may have had, we are not dealing with any
13 matter that may have been conveyed to you by Marisa
14 Simms in terms of any telephone conversations that she
15 had, all right. We are dealing with what you saw and 10:52
16 heard on the 19th February with Donna McTeague.

17 A. Mm-hmm.

18 89 Q. All right?

19 A. Yes.

20 90 Q. Did Donna McTeague, on the 19th of February mention the 10:52
21 relationship between Sergeant McGowan and her superior,
22 Bridgeen Smith?

23 A. There certainly was that mentioned, so there was, to
24 Marisa, I am in no doubt of that.

25 91 Q. I'm talking about in your presence. 10:52

26 A. Not to me, no.

27 92 Q. In your presence?

28 A. I remained with the children.

29 93 Q. So how does it get into your affidavit and into your

1 statement?

2 A. Because it was as a direct result of the conversation
3 Marisa had with me afterwards of what was said.

4 94 Q. And why isn't that mentioned in your statement or in
5 your affidavit? 10:53

6 A. I'm satisfied I was told the truth. And that is my
7 belief and has been my belief all along.

8 CHAIRMAN: Mr. Murrinan, can I ask you a question
9 please because I am confused, and that is this: what
10 is the current position vis-à-vis what Marisa Simms 10:53
11 says about that? Is she actually saying that that
12 conversation took place or not?

13 MR. MARRINAN: No, she is not saying that that
14 conversation took place.

15 CHAIRMAN: She is saying that conversation did not take 10:53
16 place?

17 MR. MARRINAN: Yes.

18 CHAIRMAN: Is that the case, Mr. Hartnett?

19 MR. HARTNETT: I will just confirm it.

20 MR. McDERMOTT: Page 117 of the transcript of the 27th 10:54
21 September, question 534:

22
23 "Question: You see there is a suggestion there was a
24 personal connection between HSE personnel and Sergeant
25 McGovern, you don't know anything about that? 10:54
26 Answer: I don't know anything about that."

27
28 The Chairman intervened and indicated you were puzzled
29 because you had seen a reference to that, then question

1 535:
2
3 "Do you think Garda Harrison ever said that to you?
4 Answer: I don't recall ever talking about any
5 connection." 10:54
6 MR. HARTNETT: Can I just say, you addressed the
7 question to me, Chairman, and it has been answered by
8 friend, Mr. McDermott. My client's evidence is as it
9 was given.
10 95 Q. MR. MARRINAN: And hence I am suggesting to Garda 10:54
11 Harrison that his partner has abandoned that particular
12 allegation and it appears that despite that, Garda
13 Harrison isn't inclined to do so, is that right?
14 A. Marisa may not recall it but I recall the conversations
15 after and it was my belief at the time and it's my 10:55
16 belief now.
17 CHAIRMAN: How do you mean by saying "Marisa may not
18 recall it"?
19 A. It's what was read out in the transcript, that she
20 said -- 10:55
21 CHAIRMAN: Why the qualification? Why "may"?
22 A. It's just a turn of phrase, Chairman.
23 CHAIRMAN: Do you appreciate that if you said that
24 someone had admitted to you doing something very wrong,
25 like torturing a dog, that you would think less of that 10:55
26 person? I think it would be the case, wouldn't it?
27 A. Yes.
28 CHAIRMAN: That someone says, I get my kicks out of
29 torturing a dog. Now, if you actually ascribe to

1 somebody saying something like 'I get my kicks out of
2 torturing a dog' and they never said it at all, do you
3 appreciate that is actually a wrong thing to do?
4 A. Judge or Chairman --
5 CHAIRMAN: Just answer that, please. 10:56
6 A. Yes.
7 CHAIRMAN: All right.
8 MR. MARRINAN: Thank you very much, Garda Harrison.
9 Would you answer any questions?
10 A. Thank you, Mr. Marrinan. 10:56
11
12 GARDA HARRISON WAS CROSS-EXAMINED BY MR. MCDERMOTT:
13 96 Q. MR. MCDERMOTT: On behalf of Tusla I have a couple of
14 questions. And the first one I would like to ask Garda
15 Harrison may seem a little strange, but it's this: 10:56
16 what is the price of a stamp? what is the price of a
17 stamp that you put on a letter?
18 A. A euro, isn't it?
19 97 Q. Yes. And I think back in 2017 it was 72 cent. The
20 reason I ask that is: Do you remember getting a letter 10:57
21 after the visit by Tusla and after they had decided
22 everything was well with the family?
23 A. I do remember getting -- well, I do remember a letter
24 coming and it stating that that was the end of the
25 matter and there was relief after that, yes. 10:57
26 98 Q. And did the letter say anything else after saying that
27 is the end of the matter?
28 A. I can't remember. We would have got -- or honed in on
29 the part that that was finally the end of it.

1 99 Q. I think a copy of the letter is, I think it's page
2 1155, there is also a 147 on it, I am not sure which is
3 the Tribunal's, it's a letter written by Tusla on 27th
4 of February 2014. If you could try 147 first, I just
5 have two numbers on mine, Chairman. So if we try 147. 10:58
6 Yes, that appears to be it. And I think it's addressed
7 to Marisa but as I understand it, it's the letter
8 written to your family after the visit?
9 A. Yeah.

10 100 Q. And can you just read, and we see the first paragraph 10:58
11 notes the visit?
12 A. Mm-hmm.

13 101 Q. It says: "As discussed, there are no ongoing issues."
14 A. Mm-hmm.

15 102 Q. That is the bit you were relieved about, presumably? 10:58
16 A. Yes.

17 103 Q. It notes that you have the right to access any
18 information?
19 A. Yes.

20 104 Q. So if you have any queries, you can actually access the 10:58
21 information they have?
22 A. Mm-hmm.

23 105 Q. And read the last paragraph of that letter.
24 A. "I trust the above is satisfactory and would like to
25 wish you all well for the future. Should you have any 10:59
26 further questions or concerns please do not hesitate to
27 contact Donna McTeague, duty social worker on the above
28 number."
29 106 Q. And did you have any questions or concerns about the

1 fact Tusla had visited you in the manner in which they
2 had visited you?

3 A. Yes, we had. But can I make it clear, Mr. McDermott:
4 We had no issue with Ms. McTeague herself, we had issue
5 with how about she came to be involved in our lives. 10:59

6 107 Q. Yes. You had a concern and you had a question?

7 A. Yes, I had concern, yes.

8 108 Q. And you received a letter on 22nd -- 27th of February,
9 at the time, saying if you have a question or if you
10 have a concern, do not hesitate to contact Donna 10:59
11 McTeague?

12 A. Mm-hmm. That's correct, yes.

13 109 Q. And if you had raised any question or concern by means
14 of a letter, that would have cost you a euro or in fact
15 probably 72 cent back at that time? 11:00

16 A. And it would possibly have brought Tusla back into our
17 lives again, which we didn't want.

18 110 Q. So you are saying the reason you didn't raise any
19 question or concern with Tusla is because it would have
20 brought them back into your life? 11:00

21 A. I had concern over the contacts between members of an
22 Gardaí and Tusla at that time. We were relieved to
23 have finally put the matter behind us, at that stage,
24 that there was going to be no more interference. And
25 in fairness to Ms. McTeague, in her final report she 11:00
26 says, and I am going on recollection, that any further
27 intervention by Tusla on the matter would be more
28 detrimental than the alleged incident itself, which in
29 itself would indicate that there had been or could have

1 been another home visit or more intervention had she
2 not been so strong on her last and final report.

3 111 Q. Garda Harrison, my understanding is your concern about
4 Tusla came about because you now say of a conversation
5 you had with Marisa where she told you that she'd had a 11:01
6 phone call and in that phone call there had been
7 mention of the Gardaí being the ones who had caused the
8 second visit, that was something you weren't aware of
9 but Marisa had told you about?

10 A. Yes, and we are now aware that there had been contact 11:01
11 by the Gardaí.

12 112 Q. And so, insofar as that gave rise to a question or a
13 concern in your mind, it was open to you to immediately
14 contact Tusla and say, look, would you mind just
15 explaining how the second visit came around, I have a 11:01
16 query or concern that it may have been something other
17 than a bona fide visit?

18 A. We did do that later, yes. We made a -- we made an
19 application under Freedom of Information to get
20 documents, and we got those documents. And on receipt 11:02
21 of those documents, there was a clear absence of any
22 correspondence, any communications of any formal nature
23 or proper nature between the Gardaí and Tusla.

24 113 Q. And since you received that letter on the 27th February
25 2014, have you ever contacted Donna McTeague, as she 11:02
26 invited you to, to clarify any query you had about
27 anything she said to you or to Marisa?

28 A. No.

29 114 Q. No. And I think you'll agree that, if you put on an

1 economist's hat for the moment and consider the cost of
2 a tribunal of inquiry, which can run to millions, as
3 opposed to the cost of a postage stamp, which would be
4 the preferable means of resolving any query or concern
5 you still had about the purpose of Donna McTeague's 11:03
6 visit?

7 A. With respect, in February 2014 I could never have known
8 I was going to be sitting here talking about very
9 intimate details of my family life.

10 115 Q. But isn't the reason you are sitting here because you 11:03
11 made a series of incorrect allegations about Tusla that
12 clearly haven't stood up to a moment's scrutiny?

13 A. I haven't made any allegation about Donna McTeague or
14 Tusla. What I have made an allegation of is improper,
15 incorrect contacts between the two organisations, which 11:03
16 we have seen here has been confirmed by the evidence
17 given by Sergeant Brigid McGowan. There is clearly, as
18 part of the child first protocol policy, there are
19 documents that are required not only to be filled up --
20 if we go to page 1253, please. 11:04

21 116 Q. Just be aware, I am not a witness, I don't think I can
22 actually --

23 A. No, but if I --

24 117 Q. -- if you are questioning me.

25 A. I want to explain my point. This is the form that is 11:04
26 required, a HSE liaison. Now, while Sergeant McGowan
27 is required to fill this form up, and there has been
28 much criticism over the lack of paper, it is also
29 required by the designated social worker or team leader

1 to complete it, and that wasn't done. Also --

2 118 Q. Garda Harrison if I could just stop you there.

3 A. In relation --

4 119 Q. If you have a query about a form filled in by Tusla,
5 why didn't you, as invited to, write or pick up the 11:04
6 phone to Donna McTeague and say, look, I do have a
7 query, I do have a question, I have got the
8 documentation under Freedom of Information and I am
9 concerned about the way in which a form has been filled
10 in? Did you do that? 11:05

11 A. Are you suggesting I am not entitled to query what went
12 on?

13 120 Q. Quite the opposite; I am asking you why you didn't
14 query it at the time, having been positively invited by
15 Tusla to contact them if you had any query or question 11:05
16 about the visit. And what I'm asking you is: Did you
17 at any stage take up that invitation?

18 A. No, I didn't, because the documents we received clearly
19 spoke for themselves.

20 121 Q. I see. So you don't need to raise a query or a 11:05
21 question because you've decided the matter speaks for
22 itself?

23 A. The matter spoke for itself so it did, and in the
24 greater context of other stuff that was going on
25 outside between me and senior members of An Garda 11:05
26 Síochána, this is only a snapshot, it's only a small
27 picture frame of what has been going on.

28 122 Q. Now, can I bring you back to the evidence you gave a
29 moment ago, that you haven't made any complaint about

1 Tusla or Donna McTeague, and can I ask the Tribunal if
2 I may, Chairman, to bring up page 1578? And this is a
3 letter written on behalf of you and Marisa by your
4 solicitors, and I think they are still your current
5 solicitors? 11:06

6 A. Yes.

7 123 Q. And this was written on 10th February 2017?

8 A. Yes.

9 124 Q. To Dr. Katherine Zappone, Minister for Children and
10 Youth Affairs? 11:06

11 A. Yes.

12 125 Q. And my understanding, from the face of the letter, is,
13 you are agitating for a public inquiry, and the
14 background seems to be, you have been trying to get
15 action from the Minister for Justice? 11:06

16 A. Correct.

17 126 Q. But haven't got anywhere and so you are now writing to
18 my client's minister, the Minister for Children and
19 Youth Affairs --

20 A. That's correct. 11:07

21 127 Q. -- in order to get the inquiry?

22 A. That's correct.

23 128 Q. And you will see it begins:
24
25 "Dear Minister 11:07
26 I act on behalf of our afore named clients who write to
27 you to express their upset and distress at their
28 treatment by State agencies, including An Garda
29 Síochána and Tusla."

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26
27
28
29

Do you see that?

A. Yes.

129 Q. And then the letter refers to you being a whistleblower, and in paragraph 2 it says:

11:07

"In light of the revelations regarding the treatment of Sergeant Maurice McCabe and his family, it is clear what our clients suffered was not an isolated incident but a systemic approach by State agencies to attack and undermine the credibility, good standing and reputation of our clients."

11:07

So do you understand the allegation that your solicitors are making on your behalf?

11:08

A. Yes.

130 Q. That not merely have the Gardaí behaved appallingly to destroy you, but in fact, a number of State agencies have acted in that way, and in particular Tusla, you understand that allegation being made?

11:08

A. Mr. McDermott, at all times our stance has been that there have been improper contacts from An Garda Síochána to Tusla where Tusla were -- I am in no doubt, were manipulated.

131 Q. I see. But that isn't actually what the letter is saying. The letter on its face is complaining to Tusla's minister about Tusla. Nowhere do you say in that letter, I have no complaint to make about Tusla, other than they are the victims of this sinister

11:08

1 manipulation by the Gardaí.

2 A. I should point out that I actually met with Minister
3 Katherine Zappone and we went through the documentation
4 that I have spoken about, and she had, I don't know if
5 it's an advisor or who with her, but they were 11:09
6 concerned over the lack or the missing documentation.
7 CHAIRMAN: Okay, I am now going to stop, because you
8 are being asked a specific question, which is: what is
9 the meaning of this letter?

10 A. Chairman -- 11:09

11 CHAIRMAN: No, just hang on a minute. This isn't a
12 warning, by the way, this is nothing to do with a
13 warning. This is simply to do with the fact that in
14 the Four Courts I would actually have the harp over my
15 head, it's not here now, but there is the flag. The 11:09
16 Oireachtas makes the laws and I implement the laws.
17 That is my job.

18 A. Mm-hmm.

19 CHAIRMAN: Now, you can't say things about Katherine
20 Zappone or her advisors and perhaps ascribe something 11:09
21 wrong to them, because that simply isn't fair. Now,
22 that isn't a warning; it is simply the way the law
23 works. That if do you that, we have to ask them to
24 come in and we have to see their side of the story.
25 Because the first thing a lawyer learns is that very 11:10
26 often a client will come in and you get a very bad
27 experience because you believe everything they say and
28 then suddenly discover, oh, there is another side to
29 the story. Now, you are perfectly entitled to talk

1 about Katherine Zappone or anything that happened
2 outside the context of what we are dealing with, but
3 you are being asked a specific question - which is:
4 what did you mean in the letter? - that is the question
5 - what did you mean in the letter? - that is what 11:10
6 Mr. McDermott is asking you, and that is what you have
7 to address, not bring in irrelevant stuff. Do you
8 understand? It's a question of do you understand?
9 A. I understand and I will clarify that.
10 CHAIRMAN: Yes. And that is not a warning, by the way. 11:10
11 A. I appreciate that.
12 CHAIRMAN: It's not a warning at all, I don't know why
13 anybody ever used the word warning. I am simply trying
14 to clarify what the law is that I am bound by and you
15 are bound by it, we are both bound by its. So it's 11:11
16 possibly best if you listen to Mr. McDermott putting
17 the question again and then actually answer that
18 question as opposed to telling me about your visit or
19 whether you brought your child to the visit or anything
20 else like that. 11:11
21 MR. HARTY: In fairness to my client, if he is being
22 asked about the meaning of a letter then the entire
23 letter should be put to him.
24 MR. MCDERMOTT: I am going to do that now.
25 132 Q. So Garda Harrison, I am happy to take on Mr. Harty's 11:11
26 suggestion, paragraph 1, by way of background, it
27 says:
28
29 "On 5th of 2013 Marisa Simms was invited to attend

1 Letterkenny Garda Station after much pressure was put
2 on her. During an eight-hour interview she was coerced
3 into making a statement with a threat that if she
4 didn't there may be repercussions for her and
5 children." 11:12

6
7 Now, what you appear to have omitted in that letter is
8 the fact that Marisa Simms' position, as properly
9 outlined by her counsel, Mr. Hartnett, is that in fact
10 the gist of the statement is true. There is a dispute 11:12
11 about certain words, there is a dispute about the
12 precise order of events as to precisely when the
13 children were brought out of the house, but the gist of
14 the letter -- sorry, the statement of the complaint to
15 the Gardaí is true, you understand that, that is the 11:12
16 position of Marisa Simms to this Tribunal? Now, my
17 question for you is: Did you not think it might be
18 relevant when writing this letter to Dr. Zappone to
19 mention that fact

20 A. Mr. McDermott, that statement, we have heard from 1998, 11:12
21 where there was no children involved. We have heard of
22 a dispute on the 1st April 2013 where there was no
23 children. We have heard evidence of a dispute in
24 August 2014 where there was no children. And we have
25 heard evidence from both me and Marisa confirming the 11:13
26 dispute that was the reason for the referral on 28th of
27 September, where the children witnessed the start of
28 it, were taken to the car and saw nothing further. And
29 that was our -- and that has been our case.

1 133 Q. Thank you, Garda Harrison. Now, the question I asked
2 was: When this letter was written on your behalf and
3 on your instructions and on Marisa Simms' behalf and
4 her instructions, do you think it might have been
5 relevant, when telling the Minister that she was 11:13
6 coerced into making a statement with a threat that if
7 she didn't there may be repercussions, did it occur to
8 you it might be relevant to say but in fact, the
9 substance of the statement she made is true, according
10 to her? 11:14

11 A. No, because the only relevant matter in that statement
12 was the part of it that referred to the referral, which
13 is on the 28th September.

14 134 Q. Now, in paragraph 2 --
15 MR. HARTY: Sorry, is Mr. McDermott putting to my 11:14
16 client that there is a meaning in that sentence which
17 says that the statement was false? Because that is not
18 what the sentence reads to me and if Mr. McDermott is
19 making that case he should make that case.

20 MR. MCDERMOTT: Very good. 11:14

21 135 Q. So the question Mr. Harty would like me to put, Garda
22 Harrison, is, if you see the sentence there:
23
24 "During an eight hour interview she was coerced into
25 making a statement with a threat that if she didn't 11:14
26 there may be repercussions for her and her children."
27
28 Do you think anyone reading that sentence would
29 understand that a complaint is being made that an

1 untrue statement has been taken by the Gardaí or would
2 be concerned that an untrue statement has been taken by
3 the Gardaí?

4 A. They should be, yes.

5 136 Q. Yes. Thank you. So then moving on in paragraph 2, you 11:15
6 refer to the notification that Superintendent Eugene
7 McGovern completed, and there doesn't seem to be any
8 controversy about that. Paragraph 3 --

9 A. Just on that note, on the referral, based on the
10 statement that you have just referred to, 11:15
11 Superintendent McGovern referred to an argument between
12 a partner and the mother, and that in itself -- I
13 strongly dispute, that that in itself was enough for a
14 referral in the first place.

15 137 Q. And in fact, Tusla agreed, because as you will see in 11:15
16 paragraph 3 you note, that "Mr. Hone indicated that
17 they would need more information", so there is no
18 dispute over that?

19 A. I agree with you, yes.

20 138 Q. And then you'll see, you go on to say in paragraph 4: 11:15
21
22 "Nevertheless, on 3rd of February a letter was received
23 from Donna McTeague, a duty social worker, inviting our
24 clients to a meeting to discuss referral information
25 allegedly received." 11:16

26 A. Mm-hmm.

27 139 Q. And you give the date of the meeting?

28 A. Yes.

29 140 Q. And you say: "The invitation was received following

1 Marisa's retraction of her statement made under
2 duress."

3 A. Yes.

4 141 Q. Do you think it might have been relevant to point out
5 to the Minister at that stage that in retracting the 11:16
6 statement, she had confirmed that it was accurate?

7 A. We now know Marisa felt under pressure because of that
8 threat to sign that statement and she just wanted to
9 get out of there.

10 142 Q. So I am unclear as to the answer to the question. My 11:16
11 question is: when this letter was written on behalf of
12 apparently you and Marisa, do you think it might have
13 been relevant when making the point that the invitation
14 was received following Marisa's retraction of her
15 statement under duress, to either include a copy of her 11:17
16 statement or to say, by the way, when she retracted her
17 statement she confirmed that it was correct? Do you
18 think that would be a relevant matter, as a member of
19 the Gardaí, an educated person, to bring to the
20 attention of the Minister regardless of what you then 11:17
21 want to say its significance is?

22 A. No.

23 143 Q. I see. And then paragraph 5, it says:
24
25 "Our clients attended the meeting with Tusla, who were 11:17
26 represented by Donna McTeague and Naoimi Wallace. It
27 was accepted this was a type of row which most couples
28 have from time to time."
29 A. Yes.

1 144 Q. And that remains your position as regards that
2 interaction you had with Ms. Simms, that it was a row
3 which most couples have from time to time?
4 A. I explained my part in it and Marisa explained hers,
5 and it was not in the normal run of our family home. 11:18
6 145 Q. It was not in the run of your normal family home?
7 Well, in any event, what is said in the letter is, it
8 was accepted it's the type of row which most couples
9 have from time to time.
10 11:18
11 "Ms. McTeague was satisfied to leave the matter as it
12 was, advising no further intervention was required and
13 that was the end of it."
14 A. We left that meeting, Mr. McDermott, satisfied that
15 that was the end of the matter. It had been intimated, 11:18
16 said by Ms. McTeague that there may be a home visit but
17 it was unlikely.
18 146 Q. Do you think it might have been relevant when making
19 your complaint to the Minister, trying to get a public
20 inquiry, to have indicated there that what Ms. McTeague 11:18
21 said was she may have to visit and speak to the
22 children, that you and Marisa had agreed with her and
23 had positively said you are more than welcome to come?
24 A. We did say that, and no one disputes that.
25 147 Q. You don't say it in the letter you are writing to the 11:19
26 Minister?
27 A. No.
28 148 Q. What you say in that letter is: "Ms. McTeague was
29 satisfied to leave the matter as it was, advising no

1 further intervention was required and that was the end
2 of it." And you are saying you didn't think it was
3 relevant to tell the Minister in fact what she had said
4 was, I may have to come back and speak to the children
5 and that you had responded to that by saying, you are 11:19
6 more than welcome?

7 A. It's not in the letter, and I appreciate what you have
8 said --

9 149 Q. In your statement to the Tribunal you have described
10 the visit by my client to your house as an invasion of 11:19
11 your house, do you remember using that word?

12 A. If you can hold on a second, and I know you are --
13 Chairman, you don't want me to speak about people who
14 are not here, but I need to put context on this. It's
15 not going to put anyone in any difficulty. 11:20

16 CHAIRMAN: No, no, no, I am not trying to shut anything
17 out or shut anything down. If you need to speak about
18 another matter in order to fairly answer the question,
19 well, then of course you are welcome to do that. But
20 you should -- it has to address the question. 11:20

21 A. I want to point out clearly that to Minister Zappone we
22 outlined the visit by Ms. McTeague and that we had no
23 issue with Ms. McTeague and the visit. We never, ever
24 raised issue with Ms. McTeague with Catherine Zappone.
25 In fact, we spoke very highly of Donna McTeague to 11:20
26 Minister Zappone.

27 150 Q. MR. MCDERMOTT: And in terms of your statement to the
28 Tribunal where you have described this visit by Tusla
29 as an invasion, you will see that the invasion was in

1 circumstances where you said you are more than welcome
2 to come. There is a funny kind of Donegal invasion.
3 How is that an invasion if you positively said you are
4 more than welcome to come if you want to speak to the
5 children?

11:21

6 A. We had said you are more than welcome to come but we
7 left that meeting understanding that they wouldn't be
8 coming, and they did.

9 151 Q. In paragraph 6 of the letter you say:

10

11:21

11 "However, later that evening Marisa received a phone
12 call from Donna McTeague explaining she had spoken to
13 her supervisor, Bridgeen Smith, who stated as a result
14 of a phone call from Gardaí she was now asking
15 Ms. McTeague to do a home visit despite Ms. McTeague
16 earlier having confirmed that now no further action was
17 needed."

11:21

18 A. I stand by that. That was the information and my
19 belief at the time of the writing of that letter.

20 152 Q. You see, isn't the problem you're standing behind
21 something that the person who is meant to have had the
22 phone call isn't standing behind?

11:21

23 A. You are asking me about a letter that was wrote then, I
24 am telling you then that was my belief, my strong
25 belief.

11:21

26 153 Q. Has that belief changed?

27 A. I know what I was told.

28 154 Q. Okay. And is it possible that the reason why Marisa
29 isn't standing over that is because there was no phone

1 call and the reason you are still standing over it is
2 because you have invented it and feel you have to stick
3 with it as an allegation?

4 A. I haven't invented anything.

5 155 Q. I see. And you'll see paragraph 7: 11:22
6
7 "The following day Ms. Donna McTeague visited their
8 home and interviewed the children."
9

10 That's correct? 11:22

11 A. She visited us, yes.

12 156 Q. And you then note the conclusion that was reached.
13 And I am not proposing to read it. If there is any
14 comment you want to make?

15 A. I think we should read it. 11:22

16 157 Q. Yes. "It is important to note, given the nature of the
17 referral, discussion with Sergeant McGowan and meeting
18 with Keith and Marisa in SWD earlier this month, DSW
19 made a decision it was not in keeping with the
20 children's best interests to bring up the issue in the 11:23
21 family home which led to the referral. This is based
22 on the fact the incident occurred last September and on
23 Keith and Marisa's explanation of what happened in the
24 context of the incident. It is likely child may not
25 remember the incident and even if child did revisiting 11:23
26 a one-off incident would not be beneficial to the child
27 and places unnecessary emphasis on what occurred."
28
29 Do you understand what the social workers are saying

1 there is, they met the children, they talked to the
2 children --

3 A. Mm-hmm.

4 158 Q. -- they were satisfied the children were being very
5 well cared for by you and Ms. Simms -- 11:23

6 A. Mm-hmm.

7 159 Q. -- and in those circumstances, they decided there is no
8 point reminding the children of a particular row
9 because if the children have forgotten it, it might
10 upset them, and in circumstances where they are now 11:23
11 happy, the children are happy, there would be no point
12 in distressing the children for no reason. Do you have
13 any dispute with that particular --

14 A. Mr. McDermott, I think if we read deeper into that
15 paragraph -- 11:24

16 160 Q. Just one moment. I am asking the questions.

17 A. Yes.

18 161 Q. And we will come to the rest of it in a moment, but
19 what I am asking you is: Do you understand that
20 philosophy by the social workers and do you have any 11:24
21 dispute with it?

22 A. That is absolutely correct. And if we look at the
23 letter, there is a reference to the passage of time,
24 which I say was said to me at the meeting. It is
25 correct. That passage of time was outlined and it's 11:24
26 clearly outlined there if in that. If we go down
27 further in the letter where it's suggested the
28 revisiting of a one-off incident suggests that there
29 may have been or could have been plans to come to us

1 again, but were it not for Donna McTeague and the
2 strong finish to the letter or her report we may have
3 had further interaction.

4 162 Q. I understand if you look at the context in which the
5 last sentence appears, when they are talking about 11:24
6 revisiting a one-off incident they are talking about
7 revisiting it with the children and they are explaining
8 that they are not going to bring up the row with the
9 children because by revisiting that with the children
10 it may not be in the children's best interests, you 11:25
11 understand that?

12 A. Yeah.

13 163 Q. They don't want to distress the children by saying 'Do
14 you remember this terrible row?' because the children
15 may have forgotten it, and by reminding them that they 11:25
16 were in the car crying and in their pyjamas in the
17 night-time, that might upset the children who seemed to
18 be happy, do you understand that?

19 A. They were in the car, they were not crying.

20 164 Q. I see. Now, I am going to read on in the letter. It 11:25
21 says:

22
23 "The manner of the intervention of Tusla in our
24 clients' family life is a cause of concern and is by
25 any measure an inexcusable abuse of their position." 11:25
26

27 Now, you told the Tribunal a few moments ago you
28 weren't making any allegation against Tusla, you were
29 happy in the way they had dealt with your family. Can

1 you explain that sentence, please?

2 A. I am happy with how Donna McTeague conducted herself.
3 I am not happy with, where there was an onus on both
4 parties, both on Garda Síochána, both on Tusla to
5 complete, ensure each agency had their forms completed, 11:26
6 and didn't.

7 165 Q. So you are seriously saying that because of what you
8 think is a paperwork deficiency that you have examined
9 all the paperwork and you are not happy with how one
10 piece was filled in, that that is an inexcusable abuse 11:26
11 of the position of Tusla, that is your evidence, is it?

12 A. What I am telling you is this: Is that Gerry Hone had
13 already identified that there was no reason to
14 intervene in our family life. After his, we have
15 absolutely nothing to suggest how Tusla came to be in 11:26
16 our life, we have no reason, we have no justification,
17 we have no documentation whatsoever where Marisa or I
18 can go, fair enough.

19 166 Q. Can I just explain then, if I may, the position as
20 regards that letter, my clients's instructions, just so 11:26
21 you are aware what you would have been told if you had
22 spent 72 cent on a stamp when you were invited to raise
23 any queries or questions? Mr. Hone saw the referral
24 from the Gardaí and it was very brief, it talked about
25 a row in front of the children. He wrote a standard 11:27
26 letter he was writing at that time to the Gardaí to
27 make it clear to them that more information needed to
28 be provided because at that time Tusla weren't happy
29 they were being given enough information to make a

1 call. But what he didn't know was that the social
2 worker in fact had spoken to the Gardaí and had got the
3 extra information, that the Gardaí had said there was a
4 row, there was drink taken, there was a physical
5 contact between you and Marisa in front of the 11:27
6 children. So there was never a stopping of this
7 inquiry by Tusla, they at all times were happy to take
8 it on and investigate it. Now, that is what you would
9 have been told if you had spent the 72 cent on a stamp
10 and raised the query with them. Okay? 11:28

11 A. To be fair, that letter has been sent since February of
12 this year and we have nothing from Tusla to justify
13 their position or any of the allegations or even indeed
14 refute any part of that letter, which they could have
15 spent a euro or 72 cent on. 11:28

16 167 Q. So it's really Tusla's fault that they didn't write a
17 letter explaining it to you in circumstances where they
18 wrote a letter to you saying if you have any queries or
19 concerns, please raise them with us and where you have
20 agreed with me at no stage did you ever pick up the 11:28
21 phone to Donna McTeague, write a letter to her and say,
22 look, I am a bit confused, your boss seems to have
23 written a letter which looks like it was closing the
24 case, and yet you came around to our house, what is the
25 story, you never did that? 11:28

26 A. I didn't, no.

27 168 Q. And the next sentence says:

28

29 "Their intervention caused our client untold distress,

1 stress and anguish."

2 A. That's correct.

3 169 Q. "It is inexplicable that over months after An Garda
4 Síochána referred our client, his partner and her
5 children to Tusla --" and you then quote Mr. Gerry 11:29
6 Hone's letter again "-- Tusla without just cause or
7 explanation would contact our clients inviting them to
8 a meeting regarding our children."

9 A. That's correct.

10 170 Q. That is still your position? 11:29

11 A. Yes, it is.

12 171 Q. That Tusla had no just cause or explanation to look at
13 the children to make sure they are fine and happy and
14 well looked after?

15 A. Yes, it is. 11:29

16 172 Q. And it is a mystery to you why, in the light of what we
17 know, Tusla may have felt a need to speak to your
18 children to make sure they are happy?

19 A. The children never, ever suffered any form of emotional
20 abuse. They are a well cared for and loved. 11:30

21 173 Q. And you are a member of the Gardaí, are you? Are you
22 on general duties?

23 A. Yes, I am.

24 174 Q. And as part of general duties would you occasionally
25 have to deal with incidents of domestic violence? 11:30

26 A. Yes, I do.

27 175 Q. So if, for example, a woman complains about domestic
28 violence, you could be the person who turns up at the
29 door?

1 A. Yes, I can.

2 176 Q. I see. And so, it's important you understand the role
3 of Tusla and how, when allegations are made, whether
4 they are true or not, that Tusla need to speak to a
5 family, just make sure everybody is happy? 11:30

6 A. I wouldn't be as well-informed as Sergeant McGowan but
7 I would know my responsibilities around filling up a
8 referral form.

9 177 Q. I see. And it's in that context your evidence to the
10 Tribunal is, it is a mystery to you why Tusla would 11:30
11 have felt the need to come and chat with the children
12 to make sure the children are happy and their welfare
13 is in order?

14 A. Not every domestic dispute requires a referral.

15 178 Q. Now, can I bring you then to page 137, which is the 11:31
16 note of the first meeting? Page 137. This is the
17 Tusla note. If we just go down to paragraph 10, which
18 is the meeting, the first meeting with the parents. It
19 says:

20 11:31
21 "Donna explained her role to the couple and explained
22 how she received the referral."

23
24 that's correct, isn't it?

25 A. Yes. 11:31

26 179 Q. "Donna clarified with the couple the basis of the
27 referral and asked if what mum had reported to the
28 Gardaí was the truth."

29 A. Yes.

1 180 Q. "Mum verified that the incident did happen and only one
2 of the children witnessed it."
3 A. Yes.

4 181 Q. So where is the mystery as to why Tusla have attended
5 your house? On your own account, leaving aside the 11:32
6 debate about the 32-page statement, there was an
7 incident, it was an incident such that Marisa made a
8 report to the Gardaí about it, and the children were
9 present for it. Where is the mystery as to why Tusla
10 are having a chat with you? 11:32

11 A. Okay, let's be clear: At this time, Tusla themselves
12 have indicated they did not know what the content of
13 the statement was. They were simply aware there was a
14 statement. Secondly, I did not know what the content
15 of that statement was. And thirdly, Marisa could not 11:32
16 recall the content of that statement. So we were going
17 off the basis that yes, there was a statement, but we
18 were all there in the same room agreeable that this
19 meeting was because of a verbal disagreement between me
20 and Marisa and no more, and that was accepted. 11:32

21 CHAIRMAN: I am sorry to interrupt, Mr. McDermott and
22 Garda Harrison. The position that I think I am in, in
23 consequence of Marisa Simms's evidence and your own
24 evidence, is that once you started on about Paula
25 McDermott, she moved the children out to the car. 11:33

26 A. That's correct.

27 CHAIRMAN: So they didn't see anything --

28 A. No.

29 CHAIRMAN: -- of a heated variety?

1 A. No. When Marisa was going out the door, [child] came
2 to the door and met Marisa at the door and the two of
3 them left. That was the end of it. There was nothing
4 -- she was present in the fact that she came to the
5 door but it was finished at that stage. 11:33

6 CHAIRMAN: So, there was no heated argument in front of
7 the children because they'd been moved to the car?

8 A. No, they were already moved in the car.

9 CHAIRMAN: Right. Well then why are the social workers
10 taking you down as admitting that the children were 11:33
11 present? That is Mr. McDermott's question.

12 A. They were present in the manner I say, not for the
13 flash point, if you want, of the argument, but [child]
14 had come out of the car to the door and Marisa ushered
15 her back to the car. 11:34

16 CHAIRMAN: Again, we won't report any names of any
17 children.

18 A. Sorry.

19 182 Q. MR. MCDERMOTT: Garda Harrison, in your statement to
20 the Tribunal you have sought to convey an impression of 11:34
21 confusion that Ms. McTeague doesn't know why she is
22 there. Now, firstly, do you understand that that is a
23 serious allegation to make against a professional
24 person; that they are performing a duty even though
25 they don't appear to understand why they are there or 11:34
26 why they are doing it?

27 A. Ms. McTeague, I have no doubt, knows her job. It was
28 through the passage of time that, from the alleged
29 incident to the meeting, there was not confusion, it

1 was -- it was said it was unusual that we'd be there.

2 183 Q. Now, this question of people being confused has arisen
3 earlier in the Tribunal, hasn't it?

4 A. In what respect?

5 184 Q. Do you remember the evidence given by George O'Doherty, 11:35
6 the gentleman from GSOC?

7 A. Yes.

8 185 Q. And this related to the call they had made to Marisa at
9 a time when they had received information from the
10 Gardaí? 11:35

11 A. Yes.

12 186 Q. And when Mr. O'Doherty was giving his evidence, an
13 allegation you had made against him was put to him?

14 A. An allegation I made against George O'Doherty?

15 187 Q. Yes. 11:35

16 A. Okay.

17 188 Q. And the allegation was that you were there when he
18 called Marisa, it's not clear how you were listening to
19 the call but in your statement you said you were there
20 when Marisa was called by GSOC and you said they were 11:35
21 confused, they didn't understand what they were doing?

22 A. No, no, let me clarify that because clearly you may not
23 understand.

24 189 Q. No, I am just reading what was put to the witness as
25 read from your statement to the Tribunal. 11:35

26 A. I will answer that for you.

27 190 Q. I haven't ask asked the question yet, my question is
28 this, and I am setting the background first: when that
29 allegation was put to Mr. O'Doherty, he disputed it,

1 and he said I wasn't confused, I was simply making a
2 call to find out the position. Mr. O'Doherty was not
3 further cross-examined by either Ms. Simms' counsel or
4 by your counsel to put that allegation of confusion to
5 him. That is where the evidence was left. Now, the 11:36
6 question I have for you is: Is it not unfortunate, to
7 say the least, that when it comes to GSOC you make an
8 allegation they are confused, that allegation seems to
9 disappear, and now when it comes to Tusla, the same
10 allegation is made, they are confused, they don't know 11:36
11 why they are here? And I am just wondering what is the
12 current status of that allegation, for allegation it
13 was?

14 A. I think Mr. O'Doherty was quite clear that the
15 documents they received and the referral they received 11:36
16 was inappropriate and did not fit into the guidelines
17 that they were being asked to investigate it, and for
18 that point, he couldn't understand. And the word
19 confused, there are many different variations of it but
20 there was a lack of understanding of how the 11:37
21 information had come to them under section 102 and he
22 rang Marisa to verify whether she wanted to proceed
23 with it under another section but she clearly stated
24 she didn't.

25 191 Q. Well, very well. Then, so the position is, you have 11:37
26 said GSOC were confused, and we know they have said
27 they weren't; you have said Ms. McTeague was confused
28 and her instructions are she wasn't?

29 A. Well, if you'd like to use a different variation of the

1 word confused, I am okay with that.

2 192 Q. Now, going through the memo, it says:

3

4 "Keith began to explain --"

5 11:37

6 And you then refer to a family medical issue

7 A. Yes.

8 193 Q. And you say you admit that you didn't deal with that

9 well and began to drink.

10 A. That's correct. 11:37

11 194 Q. And then Marisa also explains that it was a difficult

12 time, and I am not going to reopen that. It then says:

13

14 "Keith explained that it was his fault. He

15 explained --" 11:38

16

17 And again you refer to the medical issue and you

18 explain how you leaned on drink.

19 A. Yes, that's correct.

20 195 Q. You then -- it says: "Keith admitted to the incident 11:38

21 being his fault and not Marisa's."

22 A. Mm-hmm.

23 196 Q. Then you say you had attended counselling in a named

24 location for addiction services, five or six sessions

25 and you were discharged? 11:38

26 A. That's correct.

27 197 Q. Now, insofar as you have described this visit as one

28 you don't understand and can't understand and you have

29 referred to it as an invasion of your house, is it not

1 evident from that note that you fully understood the
2 concern and not only did you understand it, but in fact
3 it appears you had dealt with it and were able to
4 explain to Tusla, look, I have dealt with the problem
5 and the proof I have dealt with it is, I have not only 11:38
6 attended addiction services, but I have been discharged
7 and that would obviously convey that they have assisted
8 you and the addiction has been cured. So, you know
9 exactly what the problem is that Tusla are coming to
10 talk to the family about, and instead of saying to 11:39
11 Tusla, I don't know why you are here, what on earth are
12 you doing here, quite the opposite, you are engaging
13 with them and you are positively able to allay their
14 concerns in an appropriate manner, is that not what
15 happened? 11:39

16 A. No. Ms. McTeague appeared to have little background
17 into what had actually happened. I put it into
18 context, I explained what had happened, I did go to
19 St. Eunan's [sic], into the addiction -- the
20 counselling services. They quickly identified that it 11:39
21 wasn't an addiction problem, there was a deeper core
22 problem in relation to a work-related stress matter,
23 that was that and the loss of a baby and other stuff
24 that was going on with work, that --

25 198 Q. I am not asking you to reveal -- 11:40
26 A. That's what it was, yeah.

27 199 Q. -- this is in aid of you, I am not necessarily prying
28 into that.

29 A. Well, I am happy to tell you.

1 200 Q. For my purposes, you identified an addiction problem,
2 you attended five or six sessions and you were
3 discharged, I don't require you --
4 A. No, I'll quantify it, if you are --
5 201 Q. -- it's up to you, I am not seeking to prior into that 11:40
6 counselling, you understand that?
7 A. No, but that is the information I gave her.
8 202 Q. Donna McTeague's evidence will be --
9 MR. HARTY: Sorry, I think it's fair, and just in
10 relation to not prying, I don't want it on the 11:40
11 transcript, Garda Keith Harrison gave evidence that he
12 went to addiction counselling services and they
13 identified that it was not an addiction problem, and it
14 is not fair for Mr. McDermott to leave the question
15 standing there suggesting that Garda Harrison was 11:40
16 suffering from an addiction problem. And it is not
17 correct when he says you identified an addiction
18 problem, and that --
19 MR. MCDERMOTT: I am very happy to clarify, Garda
20 Harrison. Garda Harrison -- 11:40
21 CHAIRMAN: Mr. McDermott, sorry. There has been much
22 talk about your drinking, including a colourful phrase
23 that while you blink you'd down a bottle of brandy.
24 A. Yes.
25 CHAIRMAN: Clearly nobody can do that, I suppose. That 11:41
26 would be in the Guinness World Book of Records or
27 whatever. But, did you have a drinking problem in the
28 summer/autumn of 2013?
29 A. During that time, Chairman, I would have drank more

1 than I would normally. So it was --

2 CHAIRMAN: Well, I mean, you know, I kind of know
3 something about Alcoholics Anonymous --

4 A. I'll explain it --

5 CHAIRMAN: -- just bear with me for a minute -- and 11:41
6 what they will say is if you have a problem with drink
7 you are an alcoholic. And did you have a problem with
8 drink at that time?

9 A. It was interfering with my personal life, yes.

10 CHAIRMAN: So you did have a problem? 11:41

11 A. Yes.

12 CHAIRMAN: All right. That is fine. And was it
13 specifically for that or anger management that you went
14 to these very good people in Letterkenny?

15 A. Judge, I myself thought at that time I was going to the 11:41
16 right service, it was quickly identified that the --
17 there was a core issue relating to a lot of
18 work-related issues that needed to be addressed and I
19 did that then.

20 203 Q. Right. 11:42

21 A. In a different service.

22 CHAIRMAN: Was it anger or drink or both?

23 A. It was stress and depression, Judge.

24 CHAIRMAN: All right. And that is fine. I can
25 understand that. And did you bring your drinking then 11:42
26 back under control?

27 A. Judge, once I engaged with the services in St. Conal's
28 in relation to the depression and stress, it
29 alleviated. And may I point out --

1 CHAIRMAN: No, that is fine. Again, I don't want to
2 inquire into this, but there has been mention of it
3 and, look, the only thing that is important is, you did
4 have a problem, it may not have been a vast problem but
5 you did have a problem and you did deal with it, so 11:42
6 that is what Mr. McDermott is asking about. I think we
7 should leave it at that.

8 A. Yes, I knew myself there was something not right and it
9 needed to be addressed.

10 204 Q. MR. MCDERMOTT: You see, Garda Harrison, I will give 11:42
11 you one more opportunity to deal with it. Whilst you
12 have sought to portray this meeting as a mystery, as
13 unjustified, as an abuse of the power of Tusla, the
14 record shows that in fact you understood perfectly well
15 what the concerns were and not only did you understand 11:43
16 them but you successfully engaged with them and
17 satisfied Tusla that you had dealt with the problem?

18 A. I understood we were there because of a row in our
19 home, nothing more, nothing less, and I quantified it
20 and I took responsibility for it. 11:43

21 205 Q. Yes. Now, did you know at that time whether or not
22 Tusla had a copy of the 32-page Garda statement?

23 A. I didn't, no.

24 206 Q. So for all you knew, you were dealing with the entire
25 history of your interactions with Ms. Simms? 11:43

26 A. I had no idea what was in that statement until December
27 2014.

28 207 Q. I see. So at the time of this meeting you are sitting
29 on the sofa next to Ms. Simms --

1 A. That's correct.

2 208 Q. -- and your evidence to the Tribunal is you are sitting
3 there waiting for Tusla to visit?

4 A. That's correct.

5 209 Q. Your evidence is you are mystified as to why they are 11:44
6 visiting?

7 A. Yes.

8 210 Q. Did it ever occur to you to turn to Marisa, Ms. Simms,
9 on the sofa, and say, listen, what did you say to the
10 Gardaí? 11:44

11 A. That would have come up in conversation, she couldn't
12 recall what was in the statement.

13 211 Q. Okay. So she simply couldn't recall, so she'd made a
14 32-page statement to the Gardaí, Tusla were now
15 visiting, and when you asked her what she had said to 11:44
16 the Gardaí, she said, I can't recall, and that was
17 where the conversation stopped?

18 A. And that is confirmed by Inspector Sheridan where she
19 stated Marisa read back the statement, was shocked by
20 the content and couldn't remember much of it. 11:44

21 212 Q. Okay. I am not sure Inspector Sheridan can confirm
22 what was said on the sofa between you and Marisa --

23 A. No, but she can confirm --

24 213 Q. -- unless she was hiding behind it.

25 A. No, no. 11:44

26 214 Q. And whilst you have made allegation against the Gardaí
27 I don't think you are suggesting they were hiding
28 behind the sofa listening to the conversations?

29 A. I think you are being a small bit out of order there

1 now.

2 215 Q. Now, Donna McTeague will give the following evidence,
3 that in terms of the allegation she put to you -- and
4 it's only an allegation received by Tusla, she will say
5 she put it to you that there had been a row, that drink 11:45
6 had been taken, that you were abusive, had made
7 threatening comments, that you had grabbed Ms. Simms'
8 wrist and the children were present, one of the
9 children was present. Now, leaving aside whether you
10 think that was true or not as regards what happened on 11:45
11 the night, listen to the question, she will say those
12 are the points she put to you which led to you giving
13 the explanation, I accept it, it's my responsibility,
14 and I have now been to the addiction services; do you
15 understand that? 11:45

16 A. Yes.

17 216 Q. That is her evidence. Now, I am giving you an
18 opportunity to comment on that because the Chairman has
19 indicated witnesses should be given an opportunity to
20 respond. 11:46

21 A. Paragraph 10 clearly outlines the conversations I had,
22 the issues that were raised and how they were
23 addressed. There was never a question put in regards
24 to any matter of physical violence. I did admit to
25 saying some nasty comments and I still admit that. I 11:46
26 did admit to having drink taken and I still admit that.
27 And I did admit that had been my fault and I still
28 admit that. It's clearly there, you show me anything
29 different.

1 217 Q. So the --
2 CHAIRMAN: Sorry, Mr. McDermott, I am sorry for
3 intervening, but this is important, and it's important
4 that you actually answer this question, if you don't
5 mind -- 11:46
6 A. Yes.
7 CHAIRMAN: -- please, Garda Harrison. The social
8 worker is saying you accepted grabbing Marisa Simms by
9 the wrist in the course of the row. Clearly not --
10 A. Not -- 11:46
11 CHAIRMAN: -- in a loving manner, in a vile and a
12 hostile manner. Okay, she is saying you said that at
13 this meeting in early February. She is saying that you
14 accepted that you had made comments in a threatening
15 manner. 11:47
16 A. Yes, I did.
17 CHAIRMAN: She is saying that you accept that you were
18 abusive. Now, it's not as to whether that happened or
19 not, it's whether did you say to Donna McTeague at this
20 meeting that you did those things or did you not? That 11:47
21 actually is the question. Let's not go back to the
22 night. Did you actually say that or not?
23 A. All right. In a word for all of that, no.
24 CHAIRMAN: So you didn't say that?
25 A. No. 11:47
26 CHAIRMAN: All right, Mr. McDermott, that is the
27 answer.
28 MR. MCDERMOTT: We will move on. Thank you.
29 218 Q. Now, in Ms. Simms' evidence, and for this purpose I am

1 simply going to rely on the first day of her evidence,
2 you understand?

3 A. Yes.

4 219 Q. You will recall she came back the following morning.
5 Mr. Harty put a series of lengthy propositions to
6 her --

11:47

7 A. Mm-hmm.

8 220 Q. And she said yes, yes, yes. But just for my purposes,
9 I am going to disregard that morning's evidence and I
10 am just going to focus on what she said on day one.
11 And when she was asked about this idea of a personal
12 connection between Sergeant McGovern and the HSE, her
13 evidence at page 117 was:

11:48

14

15 "I don't know anything about a personal connection
16 between Sergeant McGovern and the HSE."

11:48

17

18 Now, that is her evidence. That will be the evidence
19 of my client. I just want to make sure you have a
20 final opportunity to withdraw the suggestion that you
21 heard someone say that there was this personal
22 connection and that was the reason for the second
23 visit.

11:48

24 A. We were told in the meeting in St. Conal's that there
25 was a close working relationship between the Garda who
26 was tasked with liaising with the HSE and the team
27 leader. That was told to us, and I am clear on that.

11:48

28 221 Q. And do you see a difference between the phrase 'close
29 working relationship', which is not only a legitimate

1 but a necessary thing to have when it comes to child
2 welfare, and your use of the word 'relationship'? Do
3 you see any difference between what you are now saying
4 and the terms in which you made that allegation to the
5 Tribunal? 11:49

6 A. I don't see any difference between 'close relationship'
7 or 'relationship'.

8 222 Q. No --

9 A. In fact, I would suggest a close relationship would be
10 closer than a relationship. 11:49

11 223 Q. Garda Harrison, I suspect you understand the question,
12 but in case you don't I'll give you another
13 opportunity. I am drawing a distinction between the
14 phrase 'close working relationship' and the bald phrase
15 'there was a relationship between them', which is the 11:49
16 manner in which the allegation was put to the Tribunal.

17 A. Whichever one you want to choose, we are in no doubt
18 that there was a close relationship between the two of
19 them.

20 224 Q. I see. And I am just going to put the question asked 11:50
21 to Ms. Simms.

22 CHAIRMAN: Sorry, I am sorry, this is serious. The
23 person in question is actually sitting down the back of
24 the Tribunal.

25 A. I understand. 11:50

26 CHAIRMAN: I mean, they have feelings the same way as
27 everybody else. And going back to the example of, you
28 know, the man who admits to torturing a dog or you
29 saying about somebody, 'I have no doubt whatsoever that

1 he goes into his back garden and tortures his dog',
2 it's a hurtful thing to say. You have to be very
3 careful about that. Are you actually saying now, am I
4 to take it as you saying that Sergeant McGowan has some
5 kind of a relationship with somebody in Tusla whereby 11:50
6 she can get things organised which shouldn't be
7 organised, or are you not saying that?

8 A. I am, Chairman. It's clearly the case in Sergeant
9 McGowan's evidence that she actually told Tusla when
10 they could or couldn't come and see us. 11:50

11 225 Q. MR. McDERMOTT: And is that your characterisation of
12 the Gardaí saying to Tusla, 'Ms. Simms is in hospital
13 so don't see her at the moment'?

14 A. I can't think of any circumstance where anyone would be
15 anywhere where there may be a genuine concern for 11:51
16 children, that a guard would tell Tusla, 'don't do your
17 job'.

18 226 Q. 'Don't do your job'?

19 A. 'Hold on and I will tell you when you can do your job'.

20 227 Q. And you understand, because you have accepted, it was 11:51
21 explained to you, that this is not a child protection
22 inquiry, it's a child welfare inquiry. Do you
23 understand, as a guard, the difference between the two
24 things?

25 A. I wouldn't know the in-depth detail, but all I can tell 11:51
26 you is this happened to our children.

27 228 Q. Yes. Now, can I tell you what you said in an affidavit
28 you swore on 15th May 2015.

29 A. Mm-hmm.

1 229 Q. You said, under oath, because an affidavit is sworn, as
2 I am sure you know:

3
4 "I say that the social worker that we met, Ms. Donna
5 McTeague, was bemused, but she was obliged to carry out 11:52
6 the said investigation. I say and believe that a
7 superior of Ms. McTeague's is friendly with Sergeant
8 McGowan, who requested to meet us."

9
10 You then, a few lines down, say: 11:52

11
12 "I say that Ms. McTeague again mentioned the
13 relationship between Sergeant McGowan and her superior,
14 Bridgeen Smith."

15 11:52
16 Now, what impression do you think a reader of that
17 paragraph in your affidavit would draw?

18 A. That affidavit was my belief then and it is my belief
19 now, and if someone wants to refute it I will accept
20 that. 11:52

21 230 Q. So you accept that what you were suggesting in that
22 paragraph, which is that the superior and Sergeant
23 McGowan are friendly and because they are friendly that
24 is why these things have happened, you are not standing
25 over that suggestion? 11:52

26 A. I am standing over that. There was a clear reference
27 made to a close working relationship, which I took as
28 that.

29 CHAIRMAN: Yes. And again, I am just intervening. You

1 will appreciate you have just said that if someone
2 refutes that allegation that Sergeant McGowan is able
3 to get things done in Tusla which perhaps ought not to
4 be done because of a close working relationship or
5 other kind of relationship with Bridgeen Smith, you do 11:53
6 know that Sergeant McGowan denied that emphatically and
7 said she was very hurt by that allegation?

8 A. Clearly, Judge, with the evidence given, Sergeant
9 McGowan had influence over what happened.

10 CHAIRMAN: All right, you are standing by that? 11:53

11 A. I am standing by that. And that in itself, Chairman,
12 is extremely unusual.

13 231 Q. MR. McDERMOTT: I just want to conclude, Garda
14 Harrison, by putting to you something Ms. Simms said,
15 and it's -- if anybody wishes to check, it's the 11:53
16 transcript of Wednesday the 27th of September and it's
17 page 113. And at question 520, Ms. Simms was asked by
18 Ms. Leader:

19

20 "So are you now making any connection with the guards 11:54
21 and the house visit?"

22

23 And the answer is: "No. I suppose that was just my
24 assumption, that they had been in contact."

25 11:54

26 And then at line -- the Chairman intervened and said
27 the impression -- line 16:

28

29 "Forgive me for intervening. The impression I was

1 getting from your statement and that of Garda Harrison
2 was that the Gardaí were manipulating Tusla into
3 pursuing you. That is the very clear impression I got
4 on that particular statement that Ms. Leader has just
5 put to you.

11:54

6 Answer: Yes.

7 Chairman: That a social worker said to you on the
8 phone, look, we have to come because the Gardaí have
9 more or less told us or directed us.

10 Answer: No."

11:54

11
12 Now, I just want to give you a final opportunity,
13 bearing in mind that I began this cross-examination by
14 pointing out you could have got an answer to your
15 paperwork queries with a 72-cent stamp, do you adopt
16 the position Ms. Simms clearly outlined on day one of
17 her evidence, which is she is now not making any case
18 that the Gardaí manipulated, pressurised, influenced
19 improperly Tusla to have an interaction with your
20 family? That was her position on day one. Is that
21 your position, or are you maintaining the allegations
22 you made in the letter to Minister Zappone?

11:55

23 A. Mr. McDermott, I don't think that is her position, and
24 I think if we go through all the evidence from the
25 minute she sat here to the minute she finished, it's
26 quite a different picture. To answer your question, I
27 stand strong on where I stand on this.

11:55

28 MR. MCDERMOTT: Thank you.

29 A. You are welcome.

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THE WITNESS WAS CROSS-EXAMINED BY DR. DWYER:

232 Q. MR. DWYER: Garda Harrison, Padraig Dwyer is my name, instructed by Carthage Conlon, representing two officers here in the Tribunal, number one being Superintendent Kevin English and the second officer being Superintendent James Coen. So I will be very brief with you, obviously, just in terms of ascertaining exactly what the issues are for the Tribunal. I appreciate the Tribunal is cognisant of that. But from our point of view, with respect to Superintendent Kevin English --

11:55

11:56

A. Yes.

233 Q. -- to summarise the evidence which you gave yesterday where you were being questioned particularly by Mr. Marrinan for the Tribunal, it's fair to say that whatever your complaints are about superior officers in Donegal and elsewhere, you have absolutely no complaint whatsoever in relation to the manner in which you interacted with Superintendent Kevin English, isn't that so?

11:56

11:56

A. That's correct.

234 Q. Okay. And in relation to Superintendent James Coen, again I think that by and large you are quite happy with the way that you interacted with Superintendent Coen?

11:56

A. Mm-hmm.

235 Q. But you do have, I think, one issue in relation to

1 Superintendent Coen, and that is his involvement in
2 ascertaining what your address was at a particular
3 time, isn't that correct?

4 A. Yes, that's correct.

5 236 Q. But you'd accept, would you, Garda Harrison, that the 11:57
6 request to find out your address came from the district
7 office in Milford, it came actually from Superintendent
8 Eugene McGovern, isn't that correct?

9 A. That's correct.

10 237 Q. And the correspondence has already been opened up to 11:57
11 the Tribunal so I won't labour everyone here with the
12 time involved again. But, in essence, you'd agree,
13 would you, that Superintendent Coen was simply acting
14 bona fide on behalf of a request from the district unit
15 in Milford, isn't that so? 11:57

16 A. He was acting at the request of Superintendent
17 McGovern. I just cannot understand -- we did have a
18 good working relationship where he could have asked me.
19 I mean, I was always open with Superintendent Coen, I
20 would never have hidden anything from him, and I 11:58
21 wouldn't have any issue with divulging the information,
22 so the manner in which it went about I do have issue
23 with, but apart from that.

24 238 Q. Right. well, in terms of his bona fides, you didn't in
25 any way seek to criticise that or challenge his bona 11:58
26 fides yesterday in your evidence?

27 A. I accept he was acting on the instructions or at a
28 request of Superintendent McGovern, yes.

29 CHAIRMAN: Is there any need to call Superintendent

1 Coen or Superintendent English in the light of that?
2 We can discuss it later, but --
3 MR. DWYER: I don't think so.
4 CHAIRMAN: Well, let's just see where we stand because
5 we are not at the end yet. 11:58
6 MR. DWYER: No further questions.
7 CHAIRMAN: Thank you, Mr. Dwyer. Is it not
8 Mr. Dockery, no?
9 MR. O'HIGGINS: I have no difficulty, Chairman, just I
10 had indicated to Mr. Dockery I was happy to proceed 11:59
11 first.
12 MR. DOCKERY: I have no difficulty with that.
13 CHAIRMAN: No, if that is the arrangement, I am not
14 going to interfere with it. Thank you.
15 11:59
16 THE WITNESS WAS CROSS-EXAMINED BY MR. O'HIGGINS:
17
18 239 Q. MR. O'HIGGINS: Now, Garda Harrison, Mícheál O'Higgins
19 for An Garda Síochána. Can I ask you to just clarify
20 one matter I am a little bit unclear on, and I don't 11:59
21 think it's a matter of controversy.
22 A. Yes.
23 240 Q. It's something dealt with by your partner, Marisa
24 Simms, in her statement. You met initially when you
25 were both in college in UCG, isn't that so? 11:59
26 A. That's correct, yes.
27 241 Q. Right. And looking at Marisa's statement there on page
28 70, it indicates you met in October 1998, you went out
29 for a time, you stayed together until August 1999, you

1 then broke up. You subsequently joined An Garda
2 Síochána?

3 A. That's correct.

4 242 Q. Isn't that right? And she indicates then:
5 "I had no further contact with Keith until 2010." 12:00

6 A. That's correct.

7 243 Q. So is that so? So when did you leave college?
8 A. I went in in '98, I left in 2000.

9 244 Q. So does that mean that between that decade, 2000 to
10 2010, you have no contact with Marisa Simms at all? 12:00

11 A. We may have had correspondence on Facebook, but it
12 wasn't anything of any nature than 'hi, how are you?'
13 And that was it.

14 245 Q. And when was that?
15 A. I can't -- I can't recall. 12:00

16 246 Q. But you are able to recall some recollection of a
17 contact you had in --

18 A. I can't give you the exact year. I know there
19 definitely was, it was a case of -- I know there was
20 messages in relation to her being married and what she 12:00
21 was doing, and that was it, but there was nothing --
22 that was it. There was nothing -- you are talking
23 about something that is ten years ago, maybe more, I
24 don't know.

25 247 Q. In any event, you weren't going out? 12:01

26 A. No.

27 248 Q. You weren't seeing each other?

28 A. No.

29 249 Q. You weren't meeting during that decade that I have

1 described, 2000 to 2010, is that so?

2 A. That's correct.

3 250 Q. You were not in a relationship, we are agreed about
4 that?

5 A. That's correct. 12:01

6 251 Q. I might just come back to that then. Can I deal with
7 the question of your transfer, which is really the
8 start of the period that this Tribunal is concerned
9 with. You transferred, am I right in thinking, to
10 Buncrana in March of 2011, isn't that so? 12:01

11 A. Yes.

12 252 Q. And you have told the Tribunal, and you might just
13 confirm this to be the case just once more so we have
14 it clear, you were welcomed, you were made to feel at
15 home, you had contacts with colleagues there, 12:01
16 Superintendent English, Inspector Kelly, all of which
17 made you feel at home and welcome, isn't that so?

18 A. Yes.

19 253 Q. And things were going fine?

20 A. Brilliantly, yes. 12:02

21 254 Q. But there was a difficulty, wasn't there? You had --
22 you had elected not to reveal, by choice, your choice,
23 the fact of the connection that you had, that your
24 partner had, with the killer of Garda McLoughlin, isn't
25 that so? 12:02

26 A. There was no Code regulations requiring me to do so,
27 but I have accepted that, in hindsight, it might have
28 been the correct thing to do.

29 255 Q. Did you at the time consider perhaps the feelings of

1 A. No, they questioned the move to that station, was it
2 the right thing.

3 270 Q. Yes.

4 A. Can I just finish? I had previously sought moves to
5 other stations, and doors were being shut in my face 12:05
6 left, right and centre. If I didn't take this, I was
7 never getting out of Athlone.

8 271 Q. So you pressed on?

9 A. Yes.

10 272 Q. And you weighed up matters? 12:05

11 A. Yes.

12 273 Q. Including how this would impact other persons who were
13 entirely innocent?

14 A. No, my intention at the time, and I am clear on this,
15 is that my intention was to get into Buncrana, spend as 12:05
16 small amount of time as I could and get out of
17 Buncrana.

18 CHAIRMAN: I am sorry, Mr. O'Higgins, there's just one
19 detail of that that is in my mind. You remember the
20 superintendent seemed to be very happy to have you in 12:05
21 Sligo doing the duties which involved moving armed
22 cash -- sorry, I beg your pardon, moving cash and
23 protecting cash. Did anybody ever -- did you know that
24 he was happy to have you in Sligo?

25 A. Superintendent Glacken rang me prior to the bulletin 12:05
26 coming out moving me to Buncrana, telling me that a
27 move to Donegal wasn't -- wasn't going to be able to
28 happen and that I should -- that he had spoken to a
29 personal friend of his, who was Chief Superintendent

1 Jim Sheridan, who was going to accommodate me putting
2 me into the cash escorts unit and that I should see it
3 as a period of cleansing, that I should think about
4 taking a step backwards before taking a step --
5 CHAIRMAN: Yes. Well, that door was open to go to 12:06
6 Sligo then?
7 A. That door was open. And my conversation to him was
8 that --
9 CHAIRMAN: No, that is fine. It's just important that
10 I know that. Thank you. 12:06
11 274 Q. MR. O'HIGGINS: The cash escorts opportunity in Sligo,
12 from a financial point of view, had financial
13 incentives, isn't that right?
14 A. I understand you are on subsistence allowances on your
15 day's work, but -- 12:06
16 275 Q. A subsistence allowance?
17 A. You get subsistence, I think it's 12-something a day,
18 12-euro-something.
19 276 Q. That other guards wouldn't get, is that the point?
20 A. Well, you get it in Traffic Corps, you get it on 12:07
21 specialised units, but on the regular unit it would be
22 rare that you'd get -- it's 12 euro 70-odd cent a day.
23 277 Q. But in any event, when you came up --
24 A. You can't -- sorry, for me, I am only interested in
25 active, proactive policing, whether it be in the 12:07
26 community or in the station, or whatever. I had no
27 interest in sitting in a car all day following around a
28 money van.
29 278 Q. So you turned that down?

1 A. I didn't turn it down. I told him that -- I told
2 Superintendent Glacken, and he would have been aware
3 that I was seeing a girl from Donegal, Sligo was
4 halfway and I may as well sit where I was as to go to
5 Sligo because it wasn't any benefit. 12:07

6 279 Q. I am not asking for your reasons. Just you turned it
7 down?

8 A. I turned it down.

9 280 Q. Right. You arrived at Buncrana?

10 A. Yes. 12:07

11 281 Q. You made the decision to suppress - my language - to
12 keep quiet about your connection with Garda
13 McLoughlin's killer, all right? Is that correct?

14 A. Yes.

15 282 Q. Right. You were there for a while, and as the weeks 12:08
16 went by you continued in that position, you decided not
17 to disclose your connection, is that right?

18 A. To be fair, Mr. O'Neill [sic], myself and Marisa were
19 in the very early stages of a relationship. I couldn't
20 have known that this was going to last, I couldn't have 12:08
21 known that it was going to work out, so I didn't want
22 to, I suppose, cut my nose off to spite my face. But
23 the longer, Chairman, I stayed there, I got incredibly
24 close with the unit, incredibly friendly -- I would
25 have at the time classified them as my friends, I would 12:08
26 have socialised with them.

27 283 Q. You accept, I take it, that it was completely
28 inappropriate for you to make that decision and
29 suppress that information, wasn't it, it was completely

1 inappropriate?

2 A. It wasn't ideal.

3 284 Q. Pardon me?

4 A. It wasn't ideal, no.

5 285 Q. Well, why -- 12:08

6 A. Mr. O'Neill, I had no other choice but to take this. I
7 didn't -- as I said, I didn't know at the time that me
8 and Marisa would go the distance and I didn't know at
9 the time how close I was going to get to those people.

10 286 Q. When you say it's not ideal, and you are differing with 12:09
11 my suggestion that in fact it was really completely
12 inappropriate, you don't agree with that, is that
13 right?

14 A. No, what I am saying is this: is that what happened to
15 Garda McLoughlin can't be put at my door. 12:09

16 287 Q. Yes.

17 A. But I accept that it caused hurt and I accept that
18 there was upset over it, and I am sorry for that.

19 288 Q. I just want to read to you, Sergeant McLoughlin [sic],
20 and I wonder will this get -- Garda Harrison, excuse 12:09
21 me -- will this get to the -- your true position on the
22 matter. I want to read back to you what you said
23 yesterday in evidence, and it's evidence during the
24 cross-examination by Mr. Marrinan on page 76:
25 12:09

26 "Question: But leaving aside the fact that you felt
27 under pressure for a whole variety of reasons that
28 there is no reason to go into, do you accept now that
29 it wasn't appropriate that you would serve in Buncrana

1 in the circumstances in which you found yourself
2 there?"

3
4 And interestingly, you offered the same answer as you
5 did a moment ago to me: 12:10

6
7 "It wasn't ideal."

8
9 And then Mr. Marrinan came back:

10 12:10
11 "It wasn't appropriate, not ideal, wasn't appropriate."

12
13 And then you said:

14
15 "Chairman, I can only say that, for my part, I 12:10
16 shouldn't have been precluded or inhibited from working
17 anywhere whereby the actions of someone else is not my
18 responsibility."

19 A. Yes.

20 289 Q. And that represents your position on the matter, 12:10
21 doesn't it?

22 A. Yes.

23 290 Q. You should not be precluded from working where you
24 wanted because of the actions of somebody for whom you
25 were not responsible? 12:10

26 A. I am not responsible for the actions of that person.
27 And can I just, on that note, I want to strongly put it
28 on record that I am absolutely -- it's an absolutely
29 disgusting thing that happened that day -- or that

1 night --

2 291 Q. Yes.

3 A. -- so it is. And I, in the strongest way, condemn it.

4 And I send sympathies to his family and the colleagues

5 I work with, I apologise for the upset I caused them. 12:11

6 I didn't -- that was never my intention. But in the

7 strongest fashion, I put that distance between me and

8 Martin McDermott.

9 292 Q. Yes. But now to the question as to whether it was

10 appropriate for you to be transferred there or, once 12:11

11 there, whether or not it was necessary that you leave,

12 as to that issue, your position is, quite clearly, you

13 shouldn't have been precluded or inhibited from working

14 anywhere whereby the actions of somebody else was not

15 your responsibility, isn't that your true position? 12:11

16 A. My position is that I shouldn't have been. The Code

17 strictly says I wasn't doing -- or hadn't breached the

18 code in any way, so it did.

19 293 Q. Did you appeal the decision to transfer you from

20 Buncrana? 12:12

21 A. No.

22 294 Q. And as I understand the position, Chief Superintendent

23 Sheridan has made it clear, and has not been

24 contradicted on this, that in fact you agreed you could

25 not stay there? 12:12

26 A. I was told I wasn't staying there. I actually -- I

27 begged to stay there because of the relationships I

28 have built up, but I was told it wasn't going to

29 happen. I didn't have a choice in the matter. I left

1 the station that evening not knowing where I was going.
2 I didn't know that Chief Superintendent Sheridan
3 couldn't transfer me out of the division. I didn't
4 know that.

5 295 Q. You see, Garda Harrison, I want to ask you, I 12:12
6 understood it to be now common case, having regard to
7 the cross-examination of Chief Superintendent Jim
8 Sheridan, I had understood it to be common case that it
9 was accepted on your part that you had to go but the
10 question was to where you might be transferred, not if, 12:13
11 but to where, all right?

12 A. When I left that meeting, that was the position, yes.

13 296 Q. And that you accepted that and that you understood that
14 and that you had no difficulty with that?

15 A. I had no choice. 12:13

16 297 Q. So, in fact, can we take it from your evidence then
17 that you feel it was unfair that you were moved from
18 Buncrana, that is a grievance you have?

19 A. I feel it was unfair that I was in some way held to
20 task for somebody's actions that I had never -- I 12:13
21 appreciate the upset it caused to my colleagues and I
22 am sorry for that.

23 298 Q. And this, to use -- borrow your own phrase, this
24 continued to percolate, this disgruntlement you had or
25 this dissatisfaction you had about the fact you were 12:13
26 transferred out of Buncrana, this continued to
27 percolate, isn't that right?

28 A. After I left Buncrana, the whole environment, the
29 atmosphere towards me changed.

1 299 Q. And the way you put it immediately before lunch
2 yesterday on page 94, was:
3
4 "Chairman, and I will, I won't pull back from this, I
5 was deeply unhappy having been moved from Buncrana and 12:14
6 that continued and it festered for quite a while."
7
8 Do you recall saying that yesterday?
9 A. Yes.

10 300 Q. Right. So can I ask you this: If that is your true 12:14
11 position, is it your position that the decision to
12 transfer you was an act of oppression by Garda
13 management against you?
14 A. What I am saying is, is that I was given very little
15 choice in the matter. It was a case that I had no 12:14
16 choice and I just had to accept it.

17 301 Q. So the answer to my question is yes or no? Was it an
18 instance of management oppression upon you?
19 A. What I am saying is I had no choice, and after I left
20 Buncrana, the good working atmosphere, there was a 12:15
21 different environment surrounding me and that is what
22 created the unhappiness.

23 302 Q. So it was an act of Garda oppression, was it?
24 A. I accept that I -- that I had no choice in the matter,
25 but I had to take the move. 12:15

26 303 Q. Right. I wish to suggest to you that it is
27 unreasonable on your part to have any difficulty with
28 the necessity to move you from Buncrana, all right?
29 You disagree with that?

1 A. Do I disagree with that?

2 304 Q. Do you --

3 A. I accept that I had to move. I didn't want to, but I

4 accept I had to.

5 305 Q. All right. Can I ask you, please, to bring you forward 12:15

6 then to the afternoon of the 24th February 2012. You

7 were present for the evidence of Sergeant David Durkin,

8 isn't that so?

9 A. Yes.

10 306 Q. And you will recall that he gave evidence concerning, 12:15

11 and indeed he deals with it in his materials that were

12 provided to the Tribunal, he gave evidence concerning

13 the fact that he spotted on a vehicle that you were --

14 your car, spotted an insurance disc relating to another

15 vehicle. 12:16

16 A. That's correct.

17 307 Q. And that he raised this issue with you on the 24th of

18 February 2012. Do you recall that?

19 A. Yes, I do.

20 308 Q. Right. And he deals with it in some detail in the 12:16

21 materials, and indeed his statement on the matter is to

22 be found at page 645. But I want to ask you, first of

23 all, and the Tribunal now won't want to go into the ins

24 and outs of whether you were guilty of road traffic

25 infractions save by way of context, and nor do I. But 12:16

26 I want to ask you this: It is correct, isn't it, that

27 there was on your windscreen of your car an insurance

28 disc belonging to another car? That's correct, isn't

29 it, as a matter?

1 A. Yes, that is fact.

2 309 Q. Yes. So an insurance disc that had no business being
3 on your windscreen, was on your windscreen, is that
4 right?

5 A. That's correct. 12:16

6 310 Q. You put it there?

7 A. I didn't put it there, so I didn't. I had changed the
8 car and I was waiting on -- actually, sorry, I probably
9 did put it in there, yeah.

10 311 Q. Well, sorry, you were going to embark upon what sounded 12:17
11 like was going to be a few minutes of 'I changed the
12 car' --

13 A. No, no, sorry.

14 312 Q. Was that a gateway into a cock-and-bull story you were
15 about to tell there? 12:17

16 A. No, it wasn't.

17 313 Q. So you put it there, did you?

18 A. Yes.

19 314 Q. What was your purpose in putting on the windscreen of
20 your car an insurance disc that had no business being 12:17
21 on the windscreen of your car?

22 A. Judge, or -- the insurance disc was there but also the
23 previous cert. I had obtained insurance at that time,
24 that I was waiting for a disc to come.

25 315 Q. No, no, I am asking you now about the insurance disc 12:17
26 that you now accept you put on your car that related to
27 another vehicle, all right? Just, please, just as best
28 as you can, deal with the question.

29 A. For no purpose. I had obtained insurance.

1 316 Q. You put it there. What was your thinking in putting it
2 there where it didn't belong?
3 A. There was no thinking behind it. I had insurance with
4 a different company.
5 317 Q. Was it not to cause somebody looking at your windscreen 12:18
6 to believe, in fact, that you were insured?
7 A. No, because I had insurance with another company.
8 318 Q. So why did you put it there?
9 A. I don't recall putting it there. If it was there, it
10 was there. 12:18
11 319 Q. You don't recall? But you have just told us a few
12 moments ago you did put it there?
13 A. I am telling you the disc was there. I accept if it
14 was there, I put it there. I don't remember putting it
15 there. But I definitely didn't put it there for any 12:18
16 other reason, to induce anyone to think anything. If
17 that was the case, why bother go and get insurance with
18 a different company?
19 320 Q. You see, what Sergeant Durkin says of the matter is the
20 following. He says that: 12:18
21
22 "I noted that there was an insurance disc displayed on
23 the front left-hand side of the screen marked 6/12" --
24 that is the 6th of December -- "This indicated that the
25 vehicle was insured until" -- 12:18
26 MR. HARTY: Sorry, sir, this evidence was not given by
27 Sergeant Durkin. The Tribunal correctly accepted that
28 this evidence bore no relation on the facts before the
29 thing, and insofar as it wasn't led by Mr. O'Higgins,

1 by his client, when it wasn't led by the Tribunal, it
2 should not be put on the record now in circumstances
3 where I didn't have an opportunity to cross-examine
4 Sergeant Durkin in relation to any of it.

5 CHAIRMAN: Mr. O'Higgins, I just might indicate a view 12:19
6 that I have, and that is this: Look, this happened,
7 and it was said in the context that there was bullying
8 going on. I asked whether the issues in relation to
9 bullying alleged against Sergeant Durkin were going to
10 be put. They weren't put. I said, in relation to 12:19
11 this, the two issues that came up, first of all driving
12 the patrol car out of the district, I wasn't interested
13 in it, and secondly, in relation to this, I said, look,
14 what is relevant to me is the fact that the Garda acted
15 fairly by prosecuting a fellow garda. Now, I have 12:19
16 haven't got a difficulty with, if you wish to go in
17 this direction, with you pursuing it at reasonable
18 length, but that is the -- that is the view that I took
19 at that time. I could, of course, take a different
20 view, and if you feel I ought, well of course I am here 12:20
21 to listen.

22 MR. O'HIGGINS: Thank you, Chairman. Chairman, it's my
23 submission that -- and it's not my intention to dwell
24 unduly on a matter which ultimately resulted in a
25 prosecution that Garda Harrison appears to accept was 12:20
26 warranted, but I do say it's relevant because it goes
27 to the question of --

28 CHAIRMAN: Well, that is fine. Please continue.

29 MR. HARTY: Sorry, if the Tribunal could then note that

1 in circumstances where any issue is put to my client
2 which was not given in evidence by Sergeant Durkin, I
3 am going to require that Sergeant Durkin is called
4 back.

5 CHAIRMAN: Well, I don't take that as a threat. I am 12:20
6 sure Sergeant Durkin would be delighted - well, I don't
7 know what he would be, but to tell you the truth, look,
8 if we have to do it, we have to do it. So let's just
9 carry on for the moment.

10 321 Q. MR. O'HIGGINS: Now, I want to ask you then what you 12:20
11 say -- as to why you make that matter relevant. I
12 wonder if we could have page 12 up on the screen,
13 please. So the start of this, just so you have the
14 context of it, this is your statement of evidence to
15 the Tribunal, which commences at page 12, and I wonder 12:21
16 if Mr. Kavanagh might move down to page 23 of the
17 statement, we have the relevant portion.

18 CHAIRMAN: So it's 23 you want, not 12?

19 MR. O'HIGGINS: Sorry, page 23. 12 is the start of it.
20 322 Q. Now, about a third of the way down, Garda Harrison, do 12:21
21 you see where it says, towards the end of the line:
22 "On 2nd of June 2011 I commenced duty in Donegal Town",
23 Do you see that?

24 A. Yes.

25 323 Q. And it says: "I first met with Sergeant David Durkin. 12:22
26 The welcome here wasn't as warm as the one previously
27 in Buncrana. It is clear he held a certain view of me
28 due to who my partner's brother was. The first
29 conversation we had was him relaying a story about

1 members on the unit were always given first options
2 ahead of me, despite me being the senior garda on the
3 unit. At times there were difficulties in getting
4 annual leave. As the months rolled on, this continued
5 and the atmosphere at work gradually got worse and
6 worse where junior members on the unit took the lead
7 from Sergeant Durkin and began to take issue with me
8 taking time off and were verbally abusive to me on
9 occasions."

12:23

10
11 So you'd agree with me, that is you making allegations
12 against Sergeant Durkin, that he was somehow involved
13 in the loop of Garda management being against you,
14 isn't that right?

12:24

15 A. Chairman, to be fair, I didn't, and instructed not to
16 raise these issues at the time, that these are for a
17 different area, and I don't think it's fair if I
18 comment on that at the moment, to Sergeant Durkin.

12:24

19 CHAIRMAN: Well, it's just, you know, I think the
20 situation that we are in is, and I think I possibly
21 explained it at the time, these volumes that we have,
22 they have been widely distributed. Sergeant Durkin
23 welcomed the opportunity to say, look, I never engaged
24 in any kind of nastiness or exclusion. That is what he
25 said. And I think it's fair that counsel would put
26 that to you. It's not going to happen at length. So
27 why don't we just row with it and let's see what your
28 answer is to whatever questions are put.

12:24

12:24

29 327 Q. MR. O'HIGGINS: And you continue, Garda Harrison, with

1 your allegations against Sergeant Durkin, because later
2 on on the same page you then bring up the matter of the
3 insurance prosecution and the matter of the insurance
4 disc from February 2012.

5 A. Mm-hmm. 12:25

6 328 Q. Do you see at the bottom there:

7
8 "On 23rd of February 2012 I was called to an office to
9 speak with Sergeant Durkin and Sergeant Cornyn. They
10 asked me why my car parked outside hadn't a valid 12:25
11 insurance disc displayed and why the tax was out a
12 month. I explained that I had recently purchased the
13 car, which they would have been aware of that, and that
14 I had changed insurance companies."

15
16 And it goes on then to deal with the insurance matter
17 that we have dealt with.

18 A. Right. 12:25

19 329 Q. But what I am coming to is that, further down page 24,
20 about ten lines down -- sorry, halfway down page 24, 12:26
21 you bring up what you say is a conversation between
22 you, Sergeant Cornyn and Sergeant Durkin. Do you see
23 that?

24 A. Yes.

25 330 Q. And you say the following: 12:26

26
27 "Sergeant Cornyn said, you were lucky you didn't have a
28 crash on the way to work or get stopped at a
29 checkpoint, which I acknowledged. He told me to get

1 the car on cover before I drove it and sort the tax
2 when the logbook was returned, which I agreed to do as
3 he accepted this was a genuine error where I was not
4 aware my cover had been cancelled."

5 A. Yes. 12:26

6 331 Q. "He said that would be the end of the matter."
7 Do you see that there?

8 A. Yes.

9 332 Q. And then you say of Sergeant Durkin the following:

10 12:26

11 "At this, an irate Sergeant Durkin spoke and said 'No
12 way, Tony, we were told that everything to do with him
13 had to be brought straight back to the attention of the
14 chief and I am not leaving it at this' and he left the
15 room."

12:27

16 A. Yes.

17 333 Q. Now, Garda Harrison, in circumstances where your
18 counsel, when pressed on this by the Chairman, made it
19 clear that it was common case, common case, his words,
20 that there was no allegation of bullying being made
21 against Sergeant Durkin, and the Tribunal could take
22 that as being common case, I want to know how you are
23 attributing this allegation of malice and bullying
24 against Sergeant Durkin?

12:27

25 A. I have never said that Sergeant Durkin personally took
26 it upon himself to bully me. What I am relaying there
27 is incidents and events during my time in Donegal Town.

12:27

28 334 Q. "'No way, Tony, we were told that everything to do with
29 him had to be brought back to the attention of the

1 chief and I am not leaving it at this'."

2 Did you make that quote up?

3 A. No.

4 335 Q. Doesn't that quotation that you have attributed to 12:28

5 Sergeant Durkin, which has not been pursued against

6 him, doesn't that quotation indicate that you are

7 alleging there that he is involved in an act of

8 bullying as part of a wider bullying by Garda

9 management, isn't that what it says?

10 A. No, no, what that statement says is that there was a 12:28

11 direction there that anything to do with me was to be

12 relayed back. I am not saying that Sergeant Durkin was

13 doing it for malice; I am saying that Sergeant Durkin

14 was doing it at the direction of someone higher.

15 336 Q. "... 'I am not leaving it at this'," you attribute him 12:28

16 to saying that, you attribute those words to him, "'I

17 am not leaving it at this'." You were directly

18 alleging against him he was involved in this bullying

19 campaign?

20 A. I will say it again, and I don't know if you understand 12:29

21 me, I have never alleged that Sergeant Durkin himself

22 took it upon himself to personally bully me or harass

23 me. That statement clearly states that he was asked or

24 directed by somebody else to bring whatever the matter

25 be back to them. 12:29

26 337 Q. Did you just say that you have never alleged that

27 Sergeant Durkin took it upon himself to bully you?

28 A. What I have done at all times is outline events as they

29 happened in Donegal Town. I believe he was acting on

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the direction of senior officers within the division.
CHAIRMAN: Very good. I think we are just going to
leave it there, if you don't mind. So half past.

THE HEARING ADJOURNED FOR LUNCH

12:30

1 THE HEARING RESUMED, AS FOLLOWS, AFTER LUNCH:

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338 Q. MR. O'HIGGINS: Now, Garda Harrison, we have seen in your statement that you made an allegation specific to Sergeant Durkin concerning your suggestion that he treated you differently to other Garda members, you were rarely offered overtime, two other members on the unit got options ahead of you, you had difficulties around getting annual leave, and junior members took leave from Sergeant Durkin and gave you a hard time, all right? So I am suggesting to you those are allegations of a type of bullying or of unfair conduct that you're specifically making against Sergeant Durkin, would you agree with that?

13:32

13:32

A. I have outlined issues, Chairman, in my time in Donegal Town.

13:32

339 Q. Is that a yes? They are specific allegations referable to the named guard I'm talking about, Sergeant Durkin?

A. As I said, the statement outlined issues that I encountered while in Donegal Town.

13:32

340 Q. But the person you identify -- you see, in your statement, Garda Harrison, at times you make generalised remarks about unnamed people, but here, I'm asking you to agree with me, here you are actually naming somebody and you are naming Sergeant Durkin and you're making specific allegations against him, isn't that so?

13:33

A. He's not the only person I made allegations against.

341 Q. We will come back to that, but you did make specific

1 A. I have outlined incidents in Donegal Town that caused
2 me concern and upset.

3 349 Q. Are you no longer pursuing an allegation against
4 Sergeant Durkin?

5 A. The statement stands as it stands. 13:35

6 350 Q. Does that mean you're pursuing an allegation?

7 A. What I am saying is, the statement outlines incidents
8 in Donegal Town that caused me upset and grief.

9 351 Q. You see, your counsel, when Sergeant Durkin was giving
10 his evidence, confirmed it was common case and that the 13:35
11 Tribunal could take it, it was not being suggested
12 Sergeant Durkin participated in bullying against you --
13 MR. HARTY: Sorry, if that exact quote could be opened
14 from the transcript, it might be of assistance to me in
15 relation to -- my understanding was that I said the 13:35
16 issues weren't relevant and that is -- when pressed on
17 it by the Tribunal, I said the issues were not
18 relevant.

19 MR. O'HIGGINS: Well, in fairness to Mr. Harty, I don't
20 want to misparaphrase what he said, so I will quote 13:35
21 exactly what he said.

22 CHAIRMAN: Well, Mr. O'Higgins, my understanding at the
23 time was, and we did have the discussion on the rule in
24 Browne v. Dunn, and all the rest of it, and, God knows,
25 I have been hammering on about that for quite a while, 13:36
26 but I understood it was simply being left aside.

27 MR. O'HIGGINS: Yes --

28 CHAIRMAN: That is what I thought.

29 MR. O'HIGGINS: Chairman, in fairness I will just read

1 out precisely what was said, and it's on page -- the
2 bottom of page 93 of the relevant day's transcript.
3 You, Chairman, had intervened and asked:
4 "And it directly contradicted --"

5 CHAIRMAN: Not interceded anyway, certainly, 13:36
6 Mr. O'Higgins.

7 MR. O'HIGGINS: Excuse me?

8 CHAIRMAN: Not interceded anyway, Mr. O'Higgins.

9 MR. O'HIGGINS: You had intervened and said the
10 following: 13:36

11
12 "Chairman: And it directly contradicts what your
13 client said in his statement. Are you happy that I
14 accept that on the basis that the matter has certainly
15 been touched on by Ms. Leader, perfectly responsibly, 13:36
16 if I come to the conclusion, which is the only
17 conclusion available at the moment on the evidence,
18 that Sergeant Durkin is not, was not a bully, are you
19 content that that --"

20 13:36

21 And then Mr. Harty responds:

22
23 "I have no difficulty with this Tribunal in relation to
24 Module (n) not requiring to find any - make any
25 determination as to Sergeant Durkin's motivation in 13:37
26 relation to his treatment with Garda Harrison, and to
27 accept as common case for the purpose of Module (n)
28 that there was no such bullying and I don't think there
29 was any requirement in terms of Module (n) to go into

1 that."

2

3 And that is how it was put.

4 352 Q. So, arising from that, Garda Harrison, in circumstances
5 where your counsel is accepting as common case that 13:37
6 there was no such bullying by Sergeant Durkin, am I
7 correct that you are abandoning an allegation against
8 him?

9 A. I think what my counsel instructed was, this had no
10 relevance to the Module (n) as it stands in relation to 13:37
11 the inappropriate contacts between An Garda Síochána.

12 CHAIRMAN: I'm going to intervene at this point,

13 because I think it's a bit pointless to have a
14 discussion about, you know, what has happened here,

15 because I'm sitting here and listening to everything, 13:37
16 and, unlike anybody else, I'm not able to go out. So

17 the situation is this: There is an allegation of
18 bullying there, very definitely. Having read the

19 papers, or a very large portion of the papers, before
20 actually sitting, I have been wondering, but it has 13:38

21 been confirmed, as to the case being made. And the
22 case being made seems to be this: that a head of

23 steam, I called it a head of malice, built up, and that
24 this resulted in the Marisa Simms statement in whatever

25 way it was taken, directions or otherwise to Tusla, the 13:38
26 visit and the upset. Now, it is part of the head of

27 malice building up, the alleged mistreatment of Garda
28 Harrison in Donegal Town, and if it's not there, it may

29 be relevant to what happens later. If it is there, it

1 may be relevant to what happens later. So you're very
2 welcome to cross-examine on it, Mr. O'Higgins, and I
3 think you should simply take it as being there and as
4 being part of the necessary background of ingredients
5 from which emerged the allegations of Marisa Simms in 13:39
6 relation to the statement and the alleged interference
7 by the Gardaí with Tusla. So that's as I see it. It
8 may not be -- you know, it may not be the most
9 important thing in the world, but it is there.

10 MR. O'HIGGINS: May it please you, Chairman. 13:39

11 353 Q. You see, what Sergeant Durkin said in his evidence, and
12 here I am quoting from his evidence, this was canvassed
13 with him by the Tribunal, and the question was put to
14 Sergeant Durkin:

15
16 "And insofar as that Garda Harrison says in his 13:39
17 statement that as the months went on in Donegal that he
18 was under the impression that he got a hostile
19 reception from you, and that he was treated differently
20 from others, do you have anything to say in relation to 13:40
21 that?"

22
23 And Sergeant Durkin said the following:

24
25 "Well, I reject that. I believe Garda Harrison was 13:40
26 treated very fairly when he came there. I believe he
27 settled in well and he made nothing known to me about
28 any problems he was having. He was given the same
29 opportunities as everyone else there and treated the

1 same way and socially within the station having
2 breakfast, lunches, and everything, he was included in
3 everything. I mean, I did see a reference to overtime
4 and that in his statement. Overtime wasn't a huge
5 issue those times because there wasn't very much of it, 13:40
6 and as I said in my statement to the Tribunal, when it
7 was available it was offered out evenly. Generally,
8 the rest of the unit would be offered first, first
9 crack at any overtime that was available, and after
10 that then whoever was able to do it was given it." 13:40
11

12 And that was his position in relation to the allegation
13 of bullying and unfair and discriminatory treatment.
14 Did you hear him give that evidence?

15 A. Yes. 13:41

16 354 Q. He wasn't cross-examined on that aspect, you understand
17 that?

18 A. Yes.

19 355 Q. And it was indicated it was common case that it could
20 be taken an allegation of bullying was not being made 13:41
21 against him. My question is: If that is so, if you
22 appear to be abandoning it, doesn't that entitle the
23 Tribunal to believe you made it up?

24 A. No.

25 CHAIRMAN: Mr. O'Higgins, I think it is clear he's not 13:41
26 abandoning it. I know there are civil proceedings out
27 there. I actually haven't read any statement of claim,
28 or anything like that. But I do understand that even
29 though the law has become considerably more difficult

1 to prove in consequence of the Ruffley case in the
2 Supreme Court earlier this year, that there is a case
3 of bullying being pursued against An Garda Síochána and
4 I presume including Sergeant Durkin. Now, I think
5 rather than concentrate on what was said between the 13:42
6 Tribunal and counsel and the rule in Browne v. Dunn and
7 all the rest of it, if you have, you know, questions to
8 put on that specific aspect, probably we will save time
9 by just putting them.

10 MR. O'HIGGINS: May it please you, Chairman. I will 13:42
11 try and move along.

12 356 Q. Just before we finally leave that issue then, Garda
13 Harrison, would it be a fair summary that whilst that
14 appeared in your papers before the Tribunal, is it
15 possible that you've somehow, you've softened in 13:42
16 relation to Sergeant Durkin in later times?

17 A. I've said it and I've said it and I'll say it again:
18 my statement is my statement.

19 357 Q. Right. And indeed, you repeated an allegation against
20 Sergeant Durkin, didn't you, when it came to an 13:43
21 interview with Stephen [sic] O'Brien, investigator from
22 GSOC, in July 2015, isn't that so?

23 A. I gave a full and frank account of everything to Simon
24 O'Brien, not just -- it wasn't just about an
25 individual; it was about an overall category of stuff. 13:43

26 358 Q. And in that interview, some -- notes of which can be
27 found at page 2371, you stated to investigator O'Brien
28 from GSOC that two sergeants became aware of this and
29 questioned you and one sergeant was described as being

1 relatively understanding, the other was apparently not
2 disposed to being lenient.
3 "The second sergeant was apparently quoting instruction
4 from the chief superintendent that anything negative
5 about Garda Harrison must be dealt with harshly." 13:43
6 Do you see that at the bottom of page 2371? Is that a
7 reference to Sergeant David Durkin by you?
8 A. I never referenced anything as harshly. But I did
9 reference two sergeants, yes, and I did -- same as is
10 laid out in my statement. 13:44
11 359 Q. So what issue are you taking with investigator Stephen
12 O'Brien's --
13 A. None. I don't see any difference between what I would
14 have said to Simon O'Brien and the way he would have
15 wrote it there. I am just saying that's -- 13:44
16 360 Q. No, question was, because it's not named, is that a
17 reference to Sergeant Durkin?
18 A. Yes.
19 361 Q. So you're repeating that allegation there as of July
20 2015? 13:44
21 A. Yes.
22 362 Q. Right. Thank you. Now, I asked you to deal with a
23 matter -- I was going to ask you to deal with a matter
24 relating to Pulse, but before we do that, can I ask you
25 to turn now to the statement of Marisa Simms for a 13:44
26 moment, and I'm not going to bring you through the
27 entire statement because that is not a relevant issue
28 at this point. It has been gone over in considerable
29 detail. But I wonder if Mr. Kavanagh might bring up

1 page 83, which is page 14 of Marisa Simms' statement,
2 taken on the 6th October 2013 at Letterkenny Garda
3 Station. Perhaps actually just to give it context --
4 the bottom of page 82, please, Mr. Kavanagh. The
5 bottom of page 82. And this now is Marisa speaking, 13:45
6 all right? I just want to ask you to deal with this.
7 Toward the bottom of page 82 it says -- it's relating
8 to an incident that she has described occurring and
9 necessitating her spending the night at her mother's in
10 Raphoe, and it says, four lines from the bottom: 13:46

11
12 "After this incident and when Keith returned to work
13 after his rest days, he checked the Garda Pulse system.
14 I think Jim Quinn had told him that the guards had
15 rang." 13:46

16
17 So just to locate that in the context for you. This
18 now is what might be termed the Jim Quinn incident, do
19 you know what I mean?

20 A. Yes. 13:46

21 363 Q. And her statement continues:

22
23 "I think Jim Quinn had told him that the guards had
24 rang and when he saw an incident recorded on Pulse he
25 became extremely annoyed. A case in court involving 13:46
26 him for road traffic offences was due up in May and he
27 told me that he felt that this would impact negatively
28 on it. He was extremely annoyed with me and asked me
29 why I had contacted my mother. On more than one

1 occasion he spoke to me, asking me to go to the guards
2 and tell them it never happened so that it could be
3 removed from the Pulse system. I asked him what
4 exactly he wanted me to do, and he told me to go to the
5 guards and say it didn't happen, but I kept saying to 13:47
6 him that it did happen."
7

8 Do you see that there?

9 A. Yes.

10 364 Q. And my understanding of matters is that this is not one 13:47
11 of the issues in respect of which Marisa Simms is
12 taking issue as somehow being wiggled out of her
13 involuntarily or being misquoted on or misattributed to
14 her; in other words, she's standing over this, I
15 understand. Do you understand? 13:47

16 A. I understand what you are saying.

17 365 Q. And I suggest to you this is a suggestion from her that
18 on more than one occasion you spoke to her, asking her
19 to go to the guards to tell them something that was
20 false, that a particular incident never happened, so 13:47
21 that it could be removed from the Pulse system. In
22 circumstances where Marisa says this happened, I take
23 it you don't disagree?

24 A. Firstly, I would never have said to go to the guards to
25 tell them anything to get anything removed from Pulse, 13:48
26 because you cannot remove anything from Pulse. The
27 subject of my annoyance was that there was a Pulse
28 incident outlining -- inaccurately outlining an
29 incident where nobody sought to clarify with Marisa,

1 nobody sought clarification with me, but they went and
2 put a Pulse incident on it. And we've learned since
3 that, in fact, the people that rang the guards were
4 clearly unsure of what was going on, and that was the
5 subject of a Pulse incident. So I was annoyed that
6 there was a Pulse incident up there that had very
7 little accuracy that referred to me and Marisa.

13:48

8 366 Q. You see, you appear to be missing --

9 MR. HARTY: Sorry, if Mr. O'Higgins is going to put to
10 the witness that he is incorrect, that something can be
11 removed from Pulse, I would be fascinated to hear that
12 evidence.

13:48

13 MR. O'HIGGINS: You appear to be --

14 CHAIRMAN: Sorry, just hang on a minute. We're all
15 talking about the incident, it's been referred to as
16 30th March/1st April, but it was 1st April because it's
17 about 2:00 in the morning, 2013, isn't that right? So,
18 now, so far, I'm not sure there's been any allegation
19 that the Gardaí misused Pulse in order to do down Garda
20 Harrison or Marisa Simms, and if there is such an
21 allegation it's the first time it's coming out now.

13:48

22 But I think your question is perhaps directed to
23 something slightly different to that, and it may be
24 that perhaps Garda Harrison didn't quite understand it.

25 MR. O'HIGGINS: Forgive me then, I have not been clear
26 in my question.

13:49

27 367 Q. My question, Garda Harrison, is to welcome your
28 response to the allegations made by Marisa, which I
29 understand her to be maintaining, standing over as

1 correct, that you said to her -- you asked her to go to
2 the guards to tell them, falsely, that a particular
3 incident never happened so that it could be removed
4 from Pulse. That's what Marisa says you did. Do you
5 accept that Marisa said -- do you accept what Marisa 13:50
6 says there?

7 A. Did you ask Marisa that?

8 368 Q. You will understand I ask you questions, that is how it
9 works.

10 A. I will answer it. 13:50

11 369 Q. Don't dodge it.

12 A. I'm not dodging anything.

13 370 Q. Do you accept what Marisa says there, which she is
14 standing over, is correct?

15 A. This may be an example of something that is completely 13:50
16 incorrect in the statement because it is impossible, to
17 my knowledge, unless -- but you cannot remove anything
18 from the Pulse system, so I simply wouldn't have asked
19 her to go to the station to get it removed, because you
20 can't. 13:50

21 371 Q. Did you ask her to go to the guards to tell them
22 something that happened didn't happen?

23 A. Absolutely not. I told her my annoyance of it there, I
24 told her of my annoyance of the inaccuracies reported,
25 and that was it. 13:50

26 372 Q. I wonder if we could have --
27 MR. HARTY: Yet again, sir, if Mr. O'Higgins is saying
28 that something can be removed from Pulse, I think that
29 question should be put directly to the witness.

1 CHAIRMAN: Look, that actually could be relevant, I
2 don't know. But as I understand Pulse, you can put in
3 an additional thing in relation to a Pulse entry,
4 saying -- clarifying this is the following, or
5 whatever. 13:51

6 A. Chairman --

7 CHAIRMAN: You can do that, I think, can you?

8 A. You cannot delete anything on Pulse, as I say.

9 CHAIRMAN: I know that.

10 A. But you can what is called invalidate it, whereby the 13:51
11 incident itself remains on Pulse, but there is a red
12 tab, or a red flag that shows it's invalidated for some
13 reason.

14 CHAIRMAN: well, that has to be the case, doesn't it?

15 A. That has to be -- 13:51

16 CHAIRMAN: Like, if somebody reports that somebody else
17 murdered somebody and people go out and they look and
18 in fact there's no body, there may be a Pulse entry in
19 relation to a murder.

20 A. Yes. 13:51

21 CHAIRMAN: But then you invalidate it or you put in
22 another Pulse entry saying, look, this didn't happen,
23 it was an unfortunate person who has issues of some
24 kind, talking wildly.

25 A. Chairman, I simply didn't say it because it can't be 13:51
26 done.

27 CHAIRMAN: All right. well, that's it. well, look,
28 whether it can be actually done in the sense of erased,
29 covered with Xs on the Garda computers, that is neither

1 here nor there. I think the substance of the question
2 from Mr. O'Higgins is: Did you ask Marisa Simms, after
3 the incident on the 1st April 2013, to issue a
4 clarification to the Gardaí or to require her relatives
5 to issue a clarification to the Gardaí so that the 13:52
6 incident which is portrayed pretty badly on the Pulse
7 entry would not be as bad as it was? That is really
8 the substance of the question.

9 A. No.

10 CHAIRMAN: All right. 13:52

11 373 Q. MR. O'HIGGINS: I wonder if page 291 could be put up on
12 the screen, please. To assist you, Garda Harrison,
13 this is the printout from Pulse showing, according to
14 An Garda Síochána, accessing by you over a certain
15 period of Pulse, which it was felt was inappropriate 13:52
16 and in respect of which you were tackled by Chief
17 Superintendent Sheridan in a conversation you appear to
18 have forgotten, all right? That is just to set the
19 context for you. Can you assist the Tribunal and
20 remind me, you have an answer for this, don't you? You 13:53
21 say you have an explanation as to why you were
22 accessing Pulse in relation to Marisa Simms. What is
23 that explanation?

24 A. That I believed we were being watched or under
25 surveillance of some sort. 13:53

26 CHAIRMAN: No, just to put a context on it.

27 A. Sorry, Mr. Chairman?

28 CHAIRMAN: This conversation with the chief
29 superintendent was 24th April 2012. You have a

1 different recollection of it, each of you --

2 A. Yes.

3 CHAIRMAN: -- but that's when we are talking about,

4 back in April 2012.

5 MR. O'HIGGINS: Yes. Thank you, Chairman. 13:53

6 374 Q. You have that?

7 A. Yes.

8 375 Q. You recall the conversation, presumably?

9 A. There was never a mention of Pulse to me.

10 376 Q. Pardon? 13:53

11 A. There was no mention of Pulse to me. We talked about

12 my car.

13 377 Q. Well, let's -- you're aware that the chief

14 superintendent gave evidence about that, that he

15 received a report from Superintendent Eugene McGovern 13:54

16 and the context of that was that Sergeant McGowan, it

17 had emerged that you had been accessing Pulse and she

18 provided that information to her superiors, all right?

19 A. That's correct.

20 378 Q. You're aware of the context. And you say, by way of 13:54

21 explanation, this was because you wanted to check if

22 other guards were checking on you and Marisa?

23 A. That's correct.

24 379 Q. Do you see the bottom entry there on page 291?

25 A. Yes. 13:54

26 380 Q. 13th May 2008.

27 A. Yes.

28 381 Q. "Station: Donegal Town. Inquiry by Garda R. Harrison,

29 Garda." That's you, isn't it?

1 A. That's me, yes.

2 382 Q. You weren't going out or seeing Marisa in 2008, were
3 you?

4 A. No, I wasn't.

5 383 Q. So your explanation can't possibly make any sense, can 13:55
6 it?

7 A. How do you mean?

8 384 Q. Your explanation that the reason you were accessing
9 this was to check whether other guards were checking up
10 on you and Marisa, cannot make sense if you weren't 13:55
11 even with her at that point.

12 A. I don't understand what are you saying. Sorry, can you
13 go again?

14 385 Q. Do you not understand what I am asking?

15 A. Just say it again. 13:55

16 386 Q. Do you not understand what I am asking?

17 A. Put it to me, I'll just be clear on it.

18 CHAIRMAN: Well, if you don't understand, I will ask
19 the question. It's this: Mr. O'Higgins started off at
20 about 12 o'clock today by asking you, look, what was 13:55
21 the nature of your relationship with Marisa Simms
22 between 2000 and 2010, did you see her at all, was
23 there any contact. Your answer was, well, there was no
24 contact but it may be that on Facebook we had each sent
25 each other kind of innocuous messages to the effect 13:56
26 that, hope you're all right --

27 A. Yeah.

28 CHAIRMAN: -- or thinking about you, or, you know, nice
29 polite things like that. And then we then come to the

1 meeting with Chief Superintendent Sheridan on the 24th
2 April 2012. Now, there's a dispute between you and
3 Chief Superintendent Sheridan as to what that meeting
4 was about. I think you say it's about the car
5 insurance issue. He says it was about Pulse or about 13:56
6 both. And he asked you why you were checking up on
7 Pulse. And you accepted, he said, that you had been
8 accessing Pulse incorrectly and you undertook to stop.
9 Now, leave that aside. The point Mr. O'Higgins has put
10 to you is this: If there was no contact between 13:56
11 yourself and Marisa Simms for a period of ten years,
12 2000 to 2010, and if your motivation, as you say, for
13 checking up on Marisa Simms was to see who was checking
14 up on you and Marisa Simms or on Marisa Simms in
15 relation to you, then there can be no possible valid 13:57
16 application of that theory to a Pulse check by you in
17 relation to Marisa Simms which took place in 2008 when
18 there was no contact between you.

19 A. I understand. Chairman, in relation to that, as you
20 can see, if we go above that, it's from when I'm in a 13:57
21 relationship with Marisa Simms, on that, on that
22 occasion, Judge, I would have been in contact with
23 Marisa, Judge. There was no clear directions or
24 directives in relation to the use of the Pulse system,
25 Judge. It was widely -- it is a practice that has 13:57
26 stopped, but as has been commented by I think the
27 former minister Alan Shatter, the Pulse database was
28 used similar to a social media site. It may be out of
29 a contact where I may have looked or checked Pulse in

1 relation to that, out of curiosity, but for no other
2 reason. But can I point out that I have been off work
3 for 35 months, and since I have returned I have noticed
4 there's a change in the Pulse database. Now, where you
5 log on, there's clear guidelines and directions on how 13:58
6 you're supposed to operate it.

7 387 Q. MR. O'HIGGINS: Why were you checking up on Marisa
8 Simms on the 13th May 2008?

9 A. I've just answered that.

10 388 Q. Pardon me? 13:58

11 A. I've just answered that.

12 389 Q. You answered why, say it again?

13 A. I answered it.

14 390 Q. You did check up on Marisa Simms on the 13th May 2008?

15 A. Yes, obviously, yes, I did. 13:58

16 391 Q. why?

17 A. Because it's possible at that time we had some contact,
18 and, as I said, out of a sense of curiosity, which
19 wouldn't have been uncommon, not just by me, if you
20 look at the directive that Chief Superintendent 13:58
21 Sheridan, I think, authored, it was never a particular
22 issue with me, the directive was sent to everybody in
23 the division, so obviously, from that, there was a
24 problem in the division and wider than me.

25 392 Q. Sorry, you would have been in -- we will just take it 13:59
26 sequentially. You are saying you were now, in fact,
27 contrary to your --

28 A. No, no, what I said earlier, I couldn't remember when
29 exactly we had exchanged messages of a normal platonic

1 nature, Chairman, so it is, and arising out of that it
2 is possible -- it's not possible, it's there, so I must
3 have.

4 393 Q. So were you going out with Marisa during this period,
5 were you? 13:59

6 A. No.

7 394 Q. No. But you were in contact, apparently, is that
8 right?

9 A. Not contact, as in the contact was going to lead or go
10 anywhere. It was a platonic messaging, 'how are you?' 13:59
11 That was it.

12 395 Q. A platonic messaging that necessitated you going on
13 Pulse to check on her, was it?

14 A. Yeah, I probably did.

15 396 Q. Pardon? 13:59

16 A. I probably did, yes -- or not probably. It's there, so
17 I must have.

18 397 Q. So we can read from this entry that you did check up on
19 Marisa on this date in 2008?

20 A. Yes. 14:00

21 398 Q. why?

22 A. For the third time, it was probably borne out of a
23 sense of curiosity having had contact with her. For no
24 other reason. A practice --

25 399 Q. For no other reason than? 14:00

26 A. A practice which would have been, I would say,
27 widespread, where other members would be checking
28 various things that probably weren't or shouldn't be
29 checking, but it was a practice that has and is

1 currently being driven out.

2 400 Q. Just taking things slowly there for a second, Garda
3 Harrison. You were checking up on her, is it because
4 other members do the same, is that what you are
5 claiming? 14:00

6 A. No, no, no, no. I'm giving my account. I'm telling
7 you it wasn't an uncommon practice. Clearly, by the
8 directive issued by Chief Superintendent Sheridan, I
9 wasn't the only one that had issue with the Pulse
10 database. 14:01

11 MR. HARTY: Sir, Mr. O'Higgins is in a unique position
12 of knowing what difficulties there were with Gardaí
13 casually accessing Pulse in its early stages, and he's,
14 I'm quite certain, well aware. If he is going to put
15 to the witness that this didn't happen commonly during 14:01
16 that period, he should do so. And if he has an
17 alternative case, he has asked the question in
18 cross-examination, he has gotten an answer, I would say
19 that once he has tested the answer, he is stuck with
20 the answer unless he has an alternative that he wishes 14:01
21 to put to the witness.

22 CHAIRMAN: Well, this is the situation: There's how
23 many checks on Pulse in relation to Marisa Simms by
24 24th April 2012?

25 A. There's 23. 14:01

26 CHAIRMAN: There's 23. All right. And the case being
27 made by Garda Harrison is that, again, the Gardaí were
28 against him, but specifically in relation to Chief
29 Superintendent Sheridan, that this was never mentioned

1 in relation to that meeting. But the explanation given
2 in relation to why these checks were being done on
3 Pulse was because Garda Harrison thought that he was
4 under surveillance and that Marisa Simms was under
5 surveillance. But here is a check on the Garda Pulse 14:02
6 system at a time when there was no such suspicion
7 because they weren't in any way romantically entangled
8 and they were doing no more than exchanging a very
9 occasional message on Facebook about each other's
10 wellbeing or health, of a very platonic and anodyne 14:02
11 variety.

12 A. Yes.

13 CHAIRMAN: So essentially if I could address this with
14 you, Garda Harrison. What Mr. O'Higgins is asking you
15 is, does that not completely undermine your explanation 14:02
16 that you thought that you and Marisa Simms were under
17 surveillance, since you couldn't possibly have any
18 reason to think that in 2008?

19 A. Judge, there's no question in 2008 that that would ever
20 have been my thought. After moving up to Donegal, that 14:03
21 was certainly my thought, and there is no doubt in
22 that. I have told the Tribunal that out of -- probably
23 borne out of a sense of curiosity, having had contact,
24 that was it. At the time it wasn't an unusual practice
25 or wasn't a practice that I can be solely accused of 14:03
26 engaging on my own as a single member of An Garda
27 Síochána.

28 CHAIRMAN: Just in terms of a chronology, you weren't
29 actually in Donegal and in Buncrana until 25th March

1 2011?

2 A. 10th March.

3 CHAIRMAN: I took it as your first day of duty was the
4 15th, but I may be wrong about that, don't worry about
5 it. And then the time when the connection with Martin 14:03
6 McDermott comes to light is 23rd May 2011.

7 A. Correct.

8 CHAIRMAN: So those are the relevant dates.
9 Mr. O'Higgins, would you like to continue.

10 MR. O'HIGGINS: Thank you. 14:03

11 401 Q. So if we look at the entries above 13th May 2008, Garda
12 Harrison.

13 A. Yes.

14 402 Q. The first one in time is the 29th January 2011?

15 A. Yes. 14:04

16 403 Q. The next accessing of Pulse by you is the 9th February
17 2011, 23rd February and 8th March 2011?

18 A. Yes.

19 404 Q. All of those accessing of Pulse incidents predate your
20 going to Buncrana. 14:04

21 A. Yes.

22 405 Q. And you're checking up on Marisa Simms?

23 A. Yes.

24 406 Q. Then if we see the later ones, 10th September -- sorry,
25 10th March, 26th March into 4th April, 30th April, 26th 14:04
26 May, 30th May, 5th June, 15th June and on upwards, all
27 in 2011. Am I right in thinking that, according to
28 Marisa's version of events, certainly in her statement,
29 you and she moved in together around April 2011, isn't

1 that right?

2 A. We were engaged in a relationship from January 2011.

3 407 Q. Well, you see, on page 71 of the materials in Marisa's
4 statement she says:

5

6 "I moved in with him --" that being yourself
7 " -- around April 2011. I stayed for a week and then
8 thought, oh, my God, I have made a huge mistake. I
9 moved back to my house in Milford to my husband and the
10 children. Andrew wasn't happy with me moving out.
11 During the week that I had stayed in Churchill, I had
12 spoken to Andrew and he had phoned to call out to the
13 house."

14

15 And it goes on. So at that point in time she is saying
16 that as of that week in April you weren't happy because
17 you moved in with her and then you [sic] moved out
18 again, back to her husband, all right?

19 A. Yes.

20 408 Q. And that appeared to coincide, broadly speaking, with
21 the intensification of you accessing Pulse, checking up
22 on her, do you understand what I am suggesting?

23 A. Yes.

24 409 Q. Wouldn't a reasonable construction, by anybody just
25 looking at this cold, be that these entries here on
26 this document show you are checking on Marisa, you're
27 checking her, you are being somewhat obsessive, do you
28 understand?

29 A. I understand what you are saying. My answer to that

1 is, is that during that time myself and Marisa were in
2 a relationship, be it living together or not living
3 together, and there was always a fear of someone
4 finding out the connection, someone looking at us, so
5 it was for whatever reason, because we did socialise in 14:06
6 the Buncrana area at that time.

7 410 Q. So your explanation now is that it was --

8 A. I'm not changing my explanation.

9 411 Q. That will be for the Chairman. Your explanation is,
10 that you've just offered, is that it was to check if 14:07
11 Garda management had tumbled your connection with
12 Marisa and her brother, is that your explanation?

13 A. That's not my explanation. My explanation for that
14 part of it is, that there was a certain fear that, yes,
15 that people might have found out about our 14:07
16 relationship. I would have checked myself around the
17 same time as well.

18 CHAIRMAN: But, Garda Harrison, if you did have a fear
19 that people would find out about your relationship with
20 Marisa Simms, that would seem to indicate that you 14:07
21 realised it was a wrong thing to go to Buncrana, having
22 a relationship with Marisa Simms.

23 A. I haven't said that it wasn't. What I said was that I
24 had concerns about the start that I had in Buncrana,
25 the really good one being taken away, and ultimately it 14:07
26 was.

27 412 Q. MR. O'HIGGINS: A printout indicates that later on into
28 2011 the accessing by you continued and in fact
29 continued into 2012, do you see that there?

1 A. Yes, I do.

2 413 Q. At a point in time after your relationship with Marisa
3 and her brother has emerged into the daylight, isn't
4 that right?

5 A. That's correct. 14:08

6 414 Q. So any explanation that you were doing that to check if
7 Gardaí had realised about the relationship, that
8 explanation would not stack up, would it, from the
9 entries?

10 A. I was always concerned of who or why people were 14:08
11 looking or -- looking at us. As I said clearly, and
12 maybe you can help me, why were people so interested in
13 our status of our relationship and where I was living,
14 and couldn't ask me directly but had to do it under
15 discreet cover? So my suspicions that we were being 14:08
16 watched are true.

17 415 Q. You see, Marisa paints a picture in her statement and
18 instances a number of reasonably clear and graphic
19 pictures, including a suggestion that you accessed her
20 phone account against her wishes. Do you recall that 14:09
21 evidence being given?

22 A. Yes.

23 416 Q. And do you recall in Mr. Dockery's cross-examination
24 she confirmed the correctness of that allegation; in
25 other words, that she was standing over that? 14:09

26 A. I don't recall that.

27 417 Q. Do you not recall that?

28 A. No, I don't. But I never accessed my phone accounts.

29 418 Q. So insofar as Marisa indicated that you did, she's just

1 wrong about that, is she?

2 A. I refute that, yes.

3 419 Q. You refute that?

4 A. Yes.

5 420 Q. I see. I don't recall her being cross-examined on it 14:09
6 on your behalf.

7 A. All I can say is, I didn't do that.

8 421 Q. I wonder might we just move then to broader matters
9 relating to her statement, Garda Harrison. In the
10 build-up to September -- 14:09

11 MR. HARTY: Sorry, sir, there is one thing I think
12 should be corrected at this stage. It was put to the
13 witness, and I think somewhat unfairly, that there was
14 an intensification in April in those Pulse checks, and
15 in fact that is simply not present at all. There's 14:10
16 approximately the same number of checks each month.
17 It's put to the witness, it's suggested to the witness
18 that this is the cause for it. It's also, I would
19 point out, a situation where Garda Harrison has given
20 this explanation before, has indicated that he checked 14:10
21 himself at the same time, and yet again Mr. O'Higgins
22 and An Garda Síochána are in a unique position to be
23 able to say whether or not that is true or false, and
24 they haven't adduced evidence to that effect.

25 CHAIRMAN: Sorry, where is the fault by the Gardaí on 14:10
26 this occasion, Mr. Harty? What do you say their fault
27 is on this occasion?

28 MR. HARTY: My fault is that it's been put to him that
29 his version of events is incorrect and I'm simply

1 pointing out that the one team here who is in a unique
2 position to check whether or not Keith Harrison did in
3 fact check himself at the same time, is An Garda
4 Síochána, and it hasn't been put to him that that is
5 not true.

14:10

6 CHAIRMAN: Sorry, you're saying Mr. O'Higgins is doing
7 something wrong. What is it that you're saying
8 Mr. O'Higgins is doing wrong?

9 MR. HARTY: What I'm saying he did particularly wrong
10 in this instance is that he said there was an
11 intensification in April, and, in fact, that isn't
12 present on the printout there.

14:11

13 CHAIRMAN: I suppose I'm looking at it and I see, yes,
14 there are a couple in April, there's a couple in March.

15 MR. HARTY: A couple in February, a couple in June --
16 there's three in June, I think.

14:11

17 CHAIRMAN: Yes.

18 MR. HARTY: So it is simply not accurate.

19 CHAIRMAN: Let's try and get something that's actually
20 related to the evidence.

14:11

21 MR. HARTY: Yes.

22 CHAIRMAN: Are you saying that all those checks prior
23 to your relationship between yourself and Marisa Simms
24 being discovered, which I date to Mr. Simms coming to
25 the house to give clothes to the children, to the 23rd
26 May 2011, are you saying that all of those checks prior
27 to that time are out of curiosity?

14:11

28 A. No, I'm saying no.

29 CHAIRMAN: Are you saying that they are in consequence

1 of a belief that someone was spying on you and Marisa
2 Simms? Are you saying that these accesses of Pulse
3 records in relation to Marisa Simms were for a
4 different reason? What is the reason, if you don't
5 mind me asking? 14:12

6 A. Chairman, I had raised, and without going into detail,
7 serious issues in the Westmeath division where, after
8 that, I believed I was being monitored and I was being
9 watched. These here, Judge, were -- obviously, I had a
10 fear that someone was going to find out and my start in 14:12
11 Buncrana was going to be taken from me. For that
12 reason but prior to people finding out about me and
13 Marisa, I was concerned that people were finding out or
14 people may have been checking her on Pulse.

15 CHAIRMAN: Okay. Is that the same as saying that you 14:12
16 thought that you were under surveillance?

17 A. Chairman, from the time I raised issues in Westmeath, I
18 have always felt like that.

19 CHAIRMAN: Do you feel like that now?

20 A. Yes. 14:12

21 CHAIRMAN: Who do you think is checking up on you?

22 A. Chairman, I believe that I am being closely monitored.

23 CHAIRMAN: By who?

24 A. By senior colleagues.

25 CHAIRMAN: Like who? 14:13

26 A. Well, to give you an example is, we have written to
27 Garda Headquarters seeking clarification in relation to
28 specific surveillance, very specific, and to date they
29 have failed to provide us with any answer that this

1 isn't the case.

2 CHAIRMAN: Why do you think anyone is interested in
3 having you under surveillance?

4 A. Because I and another garda in Athlone have raised
5 serious issues in relation to what was going on in
6 Westmeath. 14:13

7 CHAIRMAN: And if that be indeed what your thinking
8 was, what's the reasoning then for checking up on
9 Marisa Simms half a dozen or more times prior to
10 anything to do with your relationship with Marisa Simms 14:13
11 coming to Garda attention in Buncrana in or around the
12 23rd May 2011?

13 A. I simply wanted to see who was looking at us, that was
14 it.

15 CHAIRMAN: Why did you think anyone would be bothered 14:14
16 looking at Marisa Simms?

17 A. Because she was my partner.

18 CHAIRMAN: What indication of any kind did you have
19 that anybody in Buncrana or the Garda or anywhere else
20 knew that she was your partner? 14:14

21 A. We socialised in Buncrana.

22 CHAIRMAN: And you think that while you were
23 socialising in Buncrana, that those who were interested
24 in you both saw Marisa Simms and you and knew who
25 Marisa Simms was simply by looking at her and then you 14:14
26 wanted to see were they then checking up on Marisa
27 Simms, is that what your belief was?

28 A. I felt it might have been and what I have learned
29 since is that --

1 CHAIRMAN: Not might have been. Anything might happen.
2 Is that what you believed?
3 A. Yes, I believed at that time.
4 CHAIRMAN: So somebody walked into a, let's say a
5 public house or a coffee shop who was a garda, saw 14:14
6 Marisa Simms and actually knew it was Marisa Simms and
7 you felt as and from that time that Marisa Simms was
8 under surveillance so you needed to check Pulse to see
9 was there that surveillance going through the Pulse
10 system? 14:15
11 A. Because of what happened previous, before I came to --
12 I was very guarded of my own self personally.
13 CHAIRMAN: Okay. No, I understand that. But you do
14 appreciate that this Pulse printout is correct and my
15 understanding at the moment is you can't alter Pulse, I 14:15
16 mean that's what you have said to me.
17 A. Yes, that's correct.
18 CHAIRMAN: The checking up is your checking up.
19 A. That's correct.
20 CHAIRMAN: Nobody else. 14:15
21 A. That's correct.
22 CHAIRMAN: Well, do you have anything to say about
23 that?
24 A. Sorry, it is possible to check on Pulse under what is
25 called confidential cover. That has been referred to 14:15
26 in the documents to the Tribunal. It was done, so it
27 was, when Sergeant McGowan brought the issue to
28 Superintendent McGovern. My understanding is that
29 confidential cover means that the database can be

1 accessed to checks without leaving an electronic
2 fingerprint or an electronic trace.

3 CHAIRMAN: You're bringing this up now but --

4 A. No, I mentioned it --

5 CHAIRMAN: No, just hang on a minute. I'm not saying 14:16
6 that in any negative way, but you're bringing this up
7 now in a context where you say, look, they could have
8 been checking up in such a way as not to leave an
9 electronic fingerprint. But you are checking up the
10 system which does leave an electronic fingerprint, so I 14:16
11 actually don't understand what you are trying to say.

12 A. I, at the time, wouldn't have known that it was
13 possible to access it under confidential cover. This
14 is only something I have learned.

15 CHAIRMAN: Since? 14:16

16 A. Since the Tribunal documents were given to us.

17 CHAIRMAN: Right. Okay. That's grand. Thank you.

18 A. Thank you.

19 422 Q. MR. O'HIGGINS: Garda Harrison, then moving to the
20 wider import of the statement from Marisa, taken in 14:16
21 Letterkenny Garda Station, she narrates three separate
22 incidents on page 80 of the materials. This is within
23 her first statement. She refers to the fact, according
24 to her, that -- this is halfway down page 18:

25 14:17
26 "Since we moved into Woodbury House there are at least
27 three different occasions when Keith has put me out of
28 the house."
29

1 I will just stop there for a moment. Parking the
2 difference that Marisa Simms had with the word "put
3 out" of the house, all right, and acknowledging that
4 she had -- her position on that is somewhat different
5 to what is in her statement, she maintains she was not 14:17
6 put out of the house, I understand, but that she left,
7 all right? Just parking that. She indicates that
8 there were three separate incidents in 2013 when,
9 following a row between you and her, she left the
10 house, if I can put it neutrally like that, all right? 14:17
11 Do you understand?

12 A. Yes.

13 423 Q. And from her statement, just tracking the chronology of
14 it, from that reference on page 80 there's one incident
15 of the 31st March 2013, I think that's the Jim Quinn 14:18
16 incident. There's another one, looking at page 83, she
17 comes back to it halfway down page 83:

18
19 "Keith also put me out of the house on two other
20 occasions." 14:18

21
22 Do you have that there?

23 A. Yes.

24 424 Q. On the 6th July 2013:
25
26 "My mother appeared on winning streak." 14:18

27
28 All right?

29 A. Yes.

1 425 Q. Do you see that? Does that help to locate it for you?
2 We needn't go into the detail of that, save that that
3 is a situation in which she left the house, it seems,
4 following a disagreement between you and her, isn't
5 that right? 14:18

6 A. Where's that?

7 426 Q. Do you see that? It says:
8
9 "On the 6th July 2013 my mother appeared on winning
10 Streak and we all went to Dublin for it. I had gone to 14:19
11 Evolve --"
12
13 And there's a reference to her buying you a new shirt
14 and trousers.

15 A. Yes. 14:19

16 427 Q. And I'm not going to bring you through the detail that
17 follows that because it is not necessary for the
18 Tribunal's purposes, but it helps to locate, in time,
19 another issue or row that was between you and her, all
20 right? 14:19

21 A. Can we move the page down.

22 428 Q. Because on that particular day, if we turn over to page
23 84, she recounts that she discovered something about
24 you having contact with another woman, and I'm not
25 particularly concerned to get into private details, but 14:19
26 there was a row about that, you recall that?

27 A. Yes.

28 429 Q. And there was a row in that context, and then she says,
29 I think on page 85 of her statement, she refers to a

1 further incident in August, isn't that right?

2 A. Yes.

3 430 Q. And she says about ten lines down on page 85, halfway
4 along:

5 14:19

6 "Things weren't good between us and sometime during
7 August 2013, I don't recall the date, we had another
8 row. Keith had been drinking and the children were in
9 Milford. He became extremely abusive and aggressive
10 towards me and I had had a couple of drinks also. 14:20

11 Keith became so aggressive towards me that night that I
12 was so frightened of him I actually locked myself in my
13 car outside the house. I left that night because I was
14 so scared of him."

15 14:20

16 And then she says:

17

18 "While in the car I rang my mother."

19

20 So this is another instance of where she rang her 14:20
21 mother, it seems, in distress, do you understand?

22 A. No, that didn't happen like that. There was a row and
23 she left, rang her mother and left. There was no --
24 the rest of it. I don't know, I can't remember the
25 date of it because it wasn't anything major. But there 14:20
26 it is.

27 431 Q. Right. Well, am I correct in my understanding that
28 there was a row in August, towards the end of August,
29 where, as I understand it, you effectively woke her up

1 shouting about Paula and threatening that you were
2 going to destroy her wedding?

3 A. No. I did go upstairs, I did pull back the duvet. I
4 attempted to speak to her first, and I did raise my
5 voice afterwards. 14:21

6 432 Q. Did you threaten to destroy Paula's wedding?

7 A. No, I never mentioned Paula -- the only time I would
8 have mentioned Paula's wedding was how it was coming
9 between us.

10 433 Q. Do you mind going to page 1823 on the screen, please. 14:21
11 We can do this quickly because Mr. Marrinan has gone
12 through the texts in exhaustive detail. Just when it
13 comes up, this is a text of phone traffic between
14 yourself and Marisa from the 21st August 2013. Do you
15 see that there? 14:21

16 A. Yes.

17 434 Q. And this is a text from Marisa to you timed at 8:54:36
18 on the 21st August 2013?

19 A. Yes.

20 435 Q. And Mr. Marrinan had asked you about the detail 14:22
21 concerning the Westport hotel and you making contact
22 and all that, do you remember that?

23 A. Yes.

24 436 Q. And this text appears to record -- says the following,
25 from Marisa to you: 14:22

26

27 "Let's see, I woke up to you roaring and shouting about
28 Paula, how you're going to destroy her wedding, destroy
29 me, destroy everything or anyone who has annoyed you,

1 that I should go and kill someone like my brother."

2

3 And then it goes on and has further unpleasant words.

4 All right?

5 A. Mm-hmm.

14:22

6 437 Q. I'm suggesting to you this appears to record, pretty
7 well contemporaneously with it occurring, you having
8 threatened her that you were going to destroy Paula's
9 wedding?

10 A. I have never threatened anybody.

14:22

11 438 Q. I beg your pardon?

12 A. I said I have never threatened anybody.

13 439 Q. I asked you a specific -- specific allegation that you
14 had threatened to destroy Paula's wedding?

15 A. No, I didn't. Any of the --

14:23

16 440 Q. Well, you understand that wasn't an allegation that you
17 threatened -- you threatened somebody, but you
18 threatened to destroy a wedding?

19 A. No, I didn't.

20 441 Q. Why would she record it here but that it happened?

14:23

21 A. I didn't write that text, so I can't say.

22 442 Q. You chose not to -- for a man who is well capable of
23 fighting his corner, you chose not to deny it, did you?

24 A. There was no point -- there's no benefit to engage in
25 text messages like that. Things like that are sorted
26 in person.

14:23

27 443 Q. Yes. So that was something she -- that was a figment
28 of her imagination, was it?

29 A. What I'm telling you is, I never threatened to destroy

1 anybody's wedding and I never threatened to hurt
2 anybody.

3 444 Q. You see, I thought it to be part of your case, your
4 evolving case, that, in fact --

5 A. Sorry -- 14:24

6 445 Q. -- you were unhappy about the wedding?

7 A. My what?

8 446 Q. You were unhappy about the wedding?

9 A. No, before that.

10 447 Q. Evolving case. 14:24

11 A. Evolving case.

12 448 Q. Were you unhappy about the wedding?

13 A. Of course I was.

14 449 Q. That you weren't invited?

15 A. Unhappy with the trouble it was bringing in to us, 14:24
16 unhappy with the treatment of Paula of Marisa, unhappy
17 with how I had been treated. That's it.

18 450 Q. You were jealous you weren't being invited and you were
19 making trouble, isn't that right?

20 A. I wasn't jealous. I was hurt that I was being 14:24
21 excluded.

22 451 Q. Yes. So your reaction was to make threats about it?

23 A. No.

24 452 Q. If we move up then into the build-up into September
25 '13. I was listening carefully to your evidence and I 14:24
26 understood you, and you might confirm this for me or
27 clarify it for the Tribunal, I'd understood you to
28 confirm to the Chairman that on the day of Paula's
29 wedding, which was 4th October, there was something of

1 a reconciliation between you and Marisa?
2 A. On the day of the wedding?
3 453 Q. Yes.
4 A. We would have spoken on the phone. I think Marisa rang
5 me, yes, and I rang Marisa. 14:25
6 454 Q. Yes.
7 A. I wouldn't say --
8 CHAIRMAN: Well, there was a pleasant message, as I
9 remember the evidence, exchanged, which was Marisa said
10 to you over the phone: I'm lonely here without my 14:25
11 partner. Words to that effect.
12 A. Yeah.
13 455 Q. MR. O'HIGGINS: Right. Indeed, just looking at the
14 transcript, the Chairman asked you:
15 14:25
16 "So you seem to be telling me by the time of the
17 wedding there was a reconciliation and before she
18 actually went into the Garda station."
19
20 That is page 128 of the transcript. 14:25
21 A. No, I think my reply to that was that she rang me --
22 456 Q. I will tell you what your reply was. Will I read it
23 out for you?
24 A. Please.
25 457 Q. "We spoke about the death threats, Judge." 14:26
26 A. Yes.
27 458 Q. "And she said that she was lonely and she was there
28 without her partner, and she put it to me as to, you
29 know, why.

1 Chairman: All right. That is fine."
2
3 And then Mr. Marrinan moved to another area. So you've
4 confirmed there was something of a reconciliation?
5 A. No, there was, given the situation as best as it could 14:26
6 be, a civil chat. There was concern over the death
7 threats, Chairman. I'm not suggesting by any means
8 that there was a defrosting of any way, but there was
9 conversation between us.
10 CHAIRMAN: Sorry. Garda Harrison, I mean, I actually 14:26
11 know a lot more about Donegal than you may actually
12 realise and I know people in Donegal aren't actually
13 any different to any of the rest of us.
14 A. Yes.
15 CHAIRMAN: Maybe they have got a better sense of 14:26
16 humour. But if A, a girl, rings B, a boy, and says
17 'I'm at this wedding and I'm lonely and I'm missing
18 you', that is a warm communication, no matter how you
19 look at it.
20 A. It was nice to hear, yeah. 14:27
21 459 Q. MR. O'HIGGINS: You see, what I'm wondering then, if
22 the disposition of Marisa on 4th October was warm
23 towards you, rang you to convey feelings of warmth --
24 A. Mm-hmm.
25 460 Q. -- and you were pleased to hear this -- 14:27
26 A. Mm-hmm.
27 461 Q. -- it's difficult to explain how, two days later, she's
28 unburdening herself in a Garda station making very
29 serious allegations to the guards about you, do you

1 understand?

2 A. I think Marisa has covered it, in that there were
3 numerous contacts, unsolicited by her, unwanted by her,
4 where she didn't seek any Garda intervention, that this
5 was brought to her by her sister and by her mother. 14:28
6 And after that it was followed up by Sergeant Jim
7 Collins, who text her -- or, no, Sergeant Collins, who
8 rang her and left a voicemail, a text message from
9 Inspector Sheridan and three -- I think three to four
10 phone calls after that, as well as the offer or threat, 14:28
11 or whatever way you want to categorise it, of sending
12 two lads from Gweedore out to the house the night
13 before the wedding. She agreed to come in to have a
14 chat, as was offered by Inspector Sheridan. She went
15 in because as she said in her evidence, I think, is 14:28
16 that she was afraid of where they might turn up after
17 that, given the fact that it had been relayed to her
18 that the chief wanted an exact date and time.

19 462 Q. So what you are saying is that although there was an
20 almighty row on the 28th September, and it appears to 14:28
21 have thawed to a situation of warmth between you and
22 her on 4th October, two days later she's unburdening
23 herself of serious allegations about you to complete
24 strangers, and you're saying that is somehow consistent
25 with that being extracted out of her involuntarily? 14:29

26 A. Yes.

27 463 Q. When did you learn from her that she had gone -- when
28 did you learn at all that she had gone to the Garda
29 station? From whom and when?

1 A. The 7th of -- the next day. The next day, yeah, we had
2 a conversation on the phone, she rang me.

3 464 Q. To do what?

4 A. She rang me, there was a general conversation. She
5 said that -- she said -- she told me she had been in 14:29
6 the Garda station, asked me why they would be taking
7 notes down and asked me what the -- what a safety order
8 meant, that she had been advised to look into it.

9 465 Q. She asked you what a safety order meant?

10 A. Yes. 14:29

11 466 Q. That she had been advised to look into it?

12 A. Yes.

13 467 Q. And she relayed in the clearest of terms and you
14 understood that she had made a statement to the guards
15 about you? 14:30

16 A. No. I pointed out to her that, at that stage, that
17 there was no way they took notes, that it was a
18 statement.

19 468 Q. Yes. So you explained to her that, hold on a moment,
20 you're after going to the guards and making a statement 14:30
21 against me?

22 A. Correct.

23 469 Q. Yes. And you knew, didn't you, that of course it
24 included, amongst the allegations, the allegation of a
25 threat to burn, you knew that, didn't you? 14:30

26 A. What I knew is that we had had a row. What I knew from
27 the text messages sent from Marisa to me is that she
28 claimed that I threatened to burn her.

29 470 Q. Did you check your phone for those records, did you?

1 A. How do you mean?

2 471 Q. You've referred to the fact you knowing it from the
3 texts. Did you access those texts on your phone to
4 check what was said?

5 A. When? 14:30

6 472 Q. On or prior to your conversation with Marisa on the
7 7th?

8 A. Those messages came to my phone before she made a
9 statement.

10 473 Q. I am aware of that. But did you check them again to 14:31
11 see precisely what allegation is recorded on them?

12 A. No, I didn't address the issue at all.

13 474 Q. So is it your sworn evidence to the Tribunal you didn't
14 actually look up the texts of -- the traffic of texts
15 between you and Marisa? 14:31

16 A. The first I saw the traffic of texts was when it was
17 supplied to us by the Tribunal on the papers.

18 475 Q. No, no, they're on your phone, they're on your phone.
19 There's no printout needed. They're on your phone.

20 A. I would have read the message when they came in. 14:31

21 476 Q. So you're aware what they're saying?

22 A. I can read.

23 477 Q. Yes. And did you read them again more than once after
24 they came in? They came on the 29th, isn't that right?

25 A. I don't know the exact dates, but yeah, if you say so. 14:31

26 478 Q. And the 30th?

27 A. Yes.

28 479 Q. Do we need to look at them?

29 A. No.

1 480 Q. You'd a good look at them, didn't you? Did you go back
2 to them?

3 A. How do you mean?

4 481 Q. Did you go back to the texts?

5 A. I can't -- I don't -- I can't say whether I did or 14:32
6 didn't.

7 482 Q. Of course you can, you can tell the Judge. Did you go
8 back to the texts?

9 A. All I can say is I read a text message. I can't -- I
10 don't know -- I can't say how many times, I can't 14:32
11 say --

12 483 Q. I want to suggest to you, Garda, that when you have
13 your conversation with Sergeant Wallace, armed with the
14 information you're armed with, you are now panicking.
15 You know there's been an allegation made to the guards, 14:32
16 you know precisely what threats you made because
17 they're recorded on your phone, and you're now going
18 about organising the counterattack?

19 A. Absolutely not.

20 484 Q. And you bring up with Sergeant Wallace your -- you 14:32
21 bring up with Sergeant Wallace the impression that you
22 want to weave now as to what, in fact, was said by way
23 of burn or burnt, isn't that right?

24 A. No.

25 485 Q. I wonder could we have page 1067, and this is a 14:33
26 statement of Sergeant Wallace dated 4th July 2017 for
27 the Tribunal, but it concerns his contact with you, I
28 think you'd agree with me, Garda Harrison, on the 7th
29 October 2013, isn't that right?

1 A. Yes.

2 486 Q. Do you see halfway down page 1067:

3

4 "Garda Harrison expressed the view that the

5 difficulties in their relationship stemmed from a 14:33

6 misunderstanding of his use of the words 'badly burnt'

7 during a verbal disagreement with his partner."

8 A. Mm-hmm.

9 487 Q. So you brought that up?

10 A. Yes. 14:34

11 488 Q. So you were aware, certainly at least by this date,

12 that what was contained, amongst other things, in

13 Marisa's statement to the guards, was an allegation

14 that you had issued a threat about burning, all right?

15 A. Mm-hmm. 14:34

16 489 Q. You're aware of that, are we agreed about that?

17 A. No, no. I'm aware that she went in. I'm not aware at

18 that stage what was said or what was contained in any

19 statement. But, as I said, I would have been more than

20 happy, if the opportunity had been given to me, to 14:34

21 address any of the allegations within the statement.

22 490 Q. But I invite you to answer the question.

23 A. And I wasn't --

24 491 Q. You were fully alive, were you not, to the realisation

25 that Marisa had reported the threat to burn and 14:34

26 related -- and that that report that Marisa had made to

27 the guards related to the use of the words "burn or

28 "burnt", that is something you were aware of, because

29 you told that to Sergeant Wallace, isn't that clear?

1 A. I spoke to Sergeant Wallace, it's clear there, so it
2 is, and I am not taking from that.

3 492 Q. I beg your pardon?

4 A. I have no problem with saying I spoke to Sergeant
5 Wallace about it. 14:35

6 493 Q. Yes. And you were putting forward your own, I won't
7 call it a spin because that's pejorative, but your own
8 version as to, in fact, what you had said and as to how
9 she apparently had misunderstood what you said. You
10 were putting forward your counter-position, would that 14:35
11 be fair?

12 A. No, no, this came as a very casual chat over a space of
13 an hour-and-a-half, perhaps two hours, and, you know,
14 if you want to call it spin or version or whatever
15 label you want to put on it, I never got an opportunity 14:35
16 to do that.

17 494 Q. No, but you are putting forward here a position, are
18 you not, that there is a misunderstanding here over the
19 use of the words "badly burnt" during a verbal
20 disagreement. I am reading precisely from what the man 14:36
21 said.

22 A. I never expected Sergeant Wallace to do anything for
23 me. I had a chat with him. He came out to look at the
24 house after the death threat and we had a chat. I
25 think I showed him several messages that were sent to 14:36
26 my phone, he will be able to confirm that. And we did
27 speak about what you are asking, yes.

28 495 Q. Oh, sorry, so you Sergeant Wallace --

29 A. I showed him my phone in relation -- as I said

1 yesterday, I think a couple of the quotes there that I
2 have of what Marisa said, I think they may have
3 actually been text messages, Chairman.

4 496 Q. So you, in fact, do know when you looked at these texts
5 again after the date of their receipt? 14:36

6 A. No, no, no. I never showed him -- or looked at the
7 text in relation to any threats or allegations of
8 threats. If we want to go back up the page --

9 497 Q. So did you or did you not show to Sergeant Wallace the
10 texts you had received from Marisa on your phone? 14:36

11 A. I showed him texts I had received that day.

12 498 Q. Did you show him texts relating to -- that recorded the
13 burn allegation?

14 A. No.

15 499 Q. That related to it? 14:37

16 A. No.

17 500 Q. Had you read them?

18 A. I said I accept I read them.

19 501 Q. On a date subsequent to you getting them, had you read
20 them? 14:37

21 A. I would have read them when they came in. I didn't
22 address them. I've said why.

23 502 Q. Did you read them on a date subsequent to them coming
24 in?

25 A. I read them when they came in. If you are asking me 14:37
26 how many times did I read a text message, I can't
27 remember that. I can't honestly say how many times, if
28 it was once, if it was twice, if it was three times.

29 503 Q. You see, if you look down the document further,

1 Sergeant Wallace records his recollection that you were
2 very agitated and kept walking around the kitchen. Do
3 you see that?
4 A. Chairman --
5 504 Q. Do you see that? Do you see that? 14:37
6 A. Yes.
7 505 Q. I am suggesting to you that is consistent with you
8 being in something of a panic at this point, things are
9 closing in on top of you?
10 A. Chairman -- 14:37
11 506 Q. Isn't that right?
12 MR. HARTY: I think he should be allowed to answer the
13 question.
14 A. Can I answer?
15 507 Q. MR. O'HIGGINS: Were you in a panic? 14:37
16 A. Can I answer?
17 508 Q. Were you in a panic?
18 A. Can I answer?
19 509 Q. Garda Harrison, were you in a panic over what was now
20 happening to you? 14:38
21 A. I had received two death threats in the space of 48
22 hours, that a bullet was going to be put in my head.
23 Of course I was anxious and upset.
24 510 Q. Right. We can come back to them. But I'm suggesting
25 to you that this notation here of the conversation you 14:38
26 had with the sergeant, where you brought up your
27 version of what the texts mean?
28 A. If that's your interpretation, well and good, but
29 that's not what happened and that's not what it is.

1 511 Q. Is it an unreasonable interpretation?
2 A. I'm afraid you weren't there, I was, and Sergeant
3 Wallace was. There was two serious -- two credible
4 death threats that were being taken serious that did
5 cause me concern, and yes, I was anxious, yes, I was 14:38
6 agitated. I had a patrol car parked at the head of the
7 road with armed Gardaí within 50 metres of my house. I
8 didn't know who had made the threat, I didn't know
9 where the threat had come from and I didn't know how
10 credible or real it was. So, I'm sorry, yes, I was 14:39
11 agitated, yes, I was anxious and walking around the
12 kitchen, absolutely.

13 512 Q. I'm suggesting to you that you are now armed with
14 important pieces of information which is causing you
15 distress, separate and apart from any distress caused 14:39
16 by the threats, which we can come back to and which are
17 separate, and I'm going to outline them to you and you
18 might assist the Tribunal with a response.

19 A. As I had -- sorry --

20 513 Q. I will just outline them for you first. You are now 14:39
21 equipped with the information from Marisa herself, on
22 your case, that she's gone to the guards and made a
23 report against you, isn't that right? You know that?

24 A. I know she had been to the Garda station, yeah.

25 514 Q. Right. You're also aware, are you not, that included 14:39
26 in the report Marisa has made is an allegation that you
27 threatened to burn?

28 A. I don't know what was in the -- hold on.

29 515 Q. Yes or no will suffice?

1 A. No, I don't, I don't know what is in that statement.

2 516 Q. I beg your pardon?

3 A. I did not see the contents of that statement until

4 December 2014.

5 517 Q. Not my question. My question is: Were you aware on 14:40

6 the 7th October, at this point of your conversation,

7 after speaking with Marisa and at the time of speaking

8 with Sergeant Wallace, were you aware that the

9 allegation included the allegation that you had uttered

10 a threat to burn? Were you aware of that, yes or no? 14:40

11 A. No.

12 518 Q. You weren't?

13 A. I did not know what was in that statement until

14 December 2014.

15 519 Q. But, you see, isn't that the relevance of this 14:40

16 document, Garda Harrison, which you appear not being

17 willing to adopt?

18 A. That document outlines a conversation had between me

19 and Sergeant Wallace in a general context, where he was

20 going through security and other things. We sat at the 14:40

21 table in the kitchen, we spoke at length about a range

22 of different matters, something -- some that were just

23 casual chat.

24 CHAIRMAN: If I could just intervene, Mr. O'Higgins,

25 please excuse me. It's just to try and clarify 14:41

26 matters, and it's this: what Mr. O'Higgins is

27 effectively putting to you is this: If you go through

28 the chronology of things, there's the row on the 28th.

29 A. Yes.

1 CHAIRMAN: Let's not go into the details of it. There
2 are the text messages which follow --

3 A. Yes.

4 CHAIRMAN: -- on the 29th, which say, you know, you
5 threatened to burn and bury me, you know, what the heck 14:41
6 are you at.

7 A. Yes.

8 CHAIRMAN: Etcetera, etcetera. I'm paraphrasing here.
9 And then there is the statement in the Garda station on
10 the 4th October. So what Mr. O'Higgins is saying, as 14:41
11 an intelligent person you would naturally have come to
12 the conclusion, well, what's she's complaining about in
13 the texts she must also have told the Gardaí. Just
14 hang on a minute.

15 A. Yes. 14:41

16 CHAIRMAN: And that, therefore, he's saying to you you
17 were in a panic over that and you were anxious to put
18 your side of the story, which may not be a true side of
19 the story, that the use of a euphemism, you're going to
20 get burnt in the sense of hurt because of your conflict 14:41
21 between our putative family, this relationship and your
22 family, has been turned into something else and you
23 want to put aside -- put across your side of the story.
24 That's what he is asking you. That's it in a nutshell.
25 Now, do you understand that? 14:42

26 A. Yes Chairman.

27 CHAIRMAN: That is fine. Well, then you might answer
28 his question.

29 A. Chairman, given the information as it was, and the text

1 messages, I assumed, as I said yesterday, that this may
2 be part of it, but I didn't know until what time, I
3 didn't know what was in that statement until I saw it
4 in December 2014. And as I said, I was quite happy and
5 confident to meet anything that was contained in it, 14:42
6 because I know I did nothing wrong on the 28th
7 September. Yes, I said stuff I shouldn't have in
8 relation to being abusive, but I certainly didn't
9 threaten anyone.

10 520 Q. MR. O'HIGGINS: Viewing matters from the position of 14:42
11 Marisa Simms for a moment, Garda Harrison, we have the
12 following, and I will endeavour to deal with this
13 neutrally: There's a row between ye on the 28th
14 September. That row, and its aftermath, is captured in
15 the texts, all right, and they speak for themselves. 14:43
16 She then goes to stay with her sister, is that right?
17 A. Yes, she went to stay in her sister's on the 28th.

18 521 Q. Yes. Right. The wedding happens on the 4th September,
19 is that right?
20 A. Yes. 14:43

21 522 Q. 4th October, excuse me.
22 A. October, sorry, yeah.

23 523 Q. You say it's also agreed and common case, as I
24 understand it, that on the 6th October she goes in and
25 gives her statement to the guards, all right? 14:43
26 A. Yes.

27 524 Q. Agreed about the dating?
28 A. Yes.

29 525 Q. The chronology. On the 7th you have your conversation

1 with Marisa, you say she telephoned you, is that right?

2 A. That's right.

3 526 Q. On the 9th she's in hospital, is that right?

4 A. That's correct, yes.

5 527 Q. And you've now gone to her. You're in contact with 14:44
6 her, is that right?

7 A. Yes.

8 528 Q. And lo and behold, on the 9th there's a conversation
9 when George O'Doherty of GSOC makes contact with her.
10 She's now indicating, after a point in time when you've 14:44
11 had contact with her, that she does not wish to pursue
12 a GSOC complaint, all right? Isn't that right?

13 A. She didn't want to pursue a GSOC complaint in the first
14 place because GSOC were never mentioned to her, nor
15 were the HSE, nor was it ever mentioned to her to make 14:44
16 a statement until after a three-hour conversation.

17 529 Q. Subsequently, just again viewing it from Marisa's
18 shoes, dealing with the essential headlines, and taking
19 it from her perspective now, in January she goes in to
20 the Garda station and indicates she does not wish the 14:45
21 statement she had given on the 6th October to be acted
22 upon, and, if you like, withdraws that statement, if I
23 can just use that word, isn't that right?

24 A. Yes.

25 530 Q. But she's given evidence in relation to that visit, 14:45
26 some of which is disputed, but she gives evidence in
27 which she confirms that certainly as of that date, 11th
28 January, she has read fully her statement, isn't that
29 right?

1 A. Yes.

2 531 Q. And obviously it's disputed that she wasn't aware of it
3 perhaps, the full extent of it, but she certainly
4 confirms on the 11th January she has read her full
5 statement, isn't that right? 14:46

6 MR. HARTY: Sorry, her evidence was not to that effect,
7 sir, in relation to it.

8 A. No.

9 MR. HARTY: Her evidence was that she only read a
10 portion of the statement. She said she read it for ten 14:46
11 minutes.

12 CHAIRMAN: Again, you know, there's an awful lot of
13 dispute about very, very tiny details, and of course
14 they do matter, but her evidence was that she had
15 started to, I suppose, skim through it and read a bit 14:46
16 of it and that Inspector Goretta Sheridan said, look,
17 you've got to read the whole thing. Now, nobody then
18 said, well, I absolutely refuse to read the whole
19 thing, so I assumed she had read the whole thing, and I
20 don't think that is an unreasonable conclusion from 14:46
21 that piece of evidence.

22 532 Q. MR. O'HIGGINS: So, flowing from that, Garda Harrison,
23 if we move forward then to February 2014 when Donna
24 McTeague is interviewing and Naoimi Wallace, social
25 care leader, is taking notes. Where is the notation on 14:46
26 page 137 -- I will put it to you so you have an
27 opportunity to deal with it, and it has been canvassed
28 already but I think it is important. It's at page 137,
29 please. Do you see that there? And this is Donna

1 McTeague's interview of you and Marisa. The second box
2 down, headed:

3
4 "Parent view: The following notes were recorded by
5 Naoimi Wallace, social care leader, at the time of 14:47
6 interview with Marisa Simms and Keith Harrison. Donna
7 explained her role to the couple and explained how she
8 received the referral."

9
10 And it says: 14:47

11
12 "Donna clarified with the couple the basis of the
13 referral and asked if what mum had reported to the
14 Gardaí was the truth. Mum verified that the incident
15 did happen and that only one of the children had 14:47
16 witnessed it, as she had put them in the car. However,
17 [blank] had got back out and had gone into the house."

18
19 Now, just pausing there. In circumstances where it
20 appears to be common case that Marisa had read her 14:48
21 statement at least in January, if not before, prior to
22 this interview, and in circumstances where somebody who
23 has no axe to grind, the social worker, is saying that
24 mum reported -- confirmed to the guards that what mum
25 had reported to the Gardaí was the truth, isn't it 14:48
26 clear from that that Marisa was confirming that what
27 she had read in the statement in January was indeed the
28 truth? Isn't that plain as a pikestaff?

29 A. No.

1 533 Q. It's not?
2 A. No. The staff at Tusla, we've clearly seen from their
3 statements there's a dispute between Sergeant Brigid
4 McGowan and staff at Tusla exactly what they were told,
5 and that's there, so it is. When we arrived there, it 14:48
6 was the referral that the children were present during
7 an argument.

8 534 Q. Are you seeking to escape a gap on that, is that your
9 point?
10 A. No, I'm not. When we went to that referral, as far as 14:49
11 Tusla were concerned it was a row and verbal argument
12 where a child was present. We were the same. I didn't
13 know the content of the statement, so I didn't. I
14 didn't know the allegations put into it. And I do
15 accept that we accepted that it was as a result of a 14:49
16 verbal argument that the eldest child --
17 CHAIRMAN: I think it is better, rather than going down
18 into a series of what might be called submissions, if
19 the question is simply answered. Did you, in fact,
20 tell Tusla that -- what is actually recorded here or 14:49
21 did you not?
22 A. In the statement, no.
23 CHAIRMAN: No, no, do you see what is in front of you
24 there?
25 A. Mm-hmm. 14:49
26 CHAIRMAN: It's at page 137 and Mr. O'Higgins just read
27 it out. Mr. O'Higgins, if you wouldn't mind just
28 reading out the passage again, and the only question
29 is, did you say that, Garda Harrison.

1 535 Q. MR. O'HIGGINS: Or were you present for it being said,
2 because it's attributed to the mother.
3 CHAIRMAN: Well, we will apply R v. Christie 1916
4 Appeal Cases, and let's just get on with it, yes,
5 thanks. 14:50

6 536 Q. MR. O'HIGGINS: What it says is, Garda Harrison:
7
8 "Donna clarified with the couple the basis of the
9 referral."
10 A. Yes. 14:50

11 537 Q. "And asked if what mum had reported to the Gardaí was
12 the truth. Mum verified that the incident did happen."
13
14 And then it goes on. So that's how the question was
15 put: "...if what mum had reported to the Gardaí was
16 the truth." And mum confirmed, yes. 14:50

17 MR. HARTY: No, sorry, mum did not confirm yes. "Mum
18 verified that the incident did happen."
19 A. Yes.

20 MR. HARTY: And words should not be put into 14:50
21 Ms. McTeague's mouth at this stage.

22 A. Ms. McTeague couldn't have possibly known what happened
23 because she hadn't access to the statement.

24 CHAIRMAN: No, but, I mean, it's a kind of a build-up,
25 and I suppose I'm listening to what has gone before and 14:50
26 what the context is, and the context is the following:
27 we know the 28th September, whatever happened --

28 A. It was acknowledged there was an argument in the house.
29 CHAIRMAN: Just hang on a minute. Yes, and everybody

1 has arguments. We know the 28th September, whatever
2 happened, we know the texts that come in on the 29th
3 and the 30th.

4 A. Yes.

5 CHAIRMAN: We know the wedding on the 4th, we know the 14:51
6 Garda statement on the 6th.

7 A. Yes.

8 CHAIRMAN: And now this is moving on a bit later.

9 A. Yes.

10 CHAIRMAN: And what Mr. O'Higgins has been building up 14:51
11 to is, you knowing that, it is highly likely that what
12 is in the texts from Marisa Simms about you burying and
13 burning her was repeated to the Gardaí on the 6th, and
14 that, in that context, when the social workers ask you
15 about that at this meeting which you're having with 14:51
16 them on the 7th February 2014, that it is highly likely
17 that you are taking things, if you like, at their worst
18 and confirming that. So did you confirm something and,
19 if so, what did you think you were confirming?

20 A. No, I didn't confirm that. What I was confirming is 14:51
21 that we had a row, that I had alcohol taken, that I
22 said some nasty stuff, that Marisa left. And we
23 confirmed that the child was not present but walked in,
24 as I said, as Marisa was leaving.

25 538 Q. MR. O'HIGGINS: Was this the same occasion on which 14:52
26 Donna McTeague, as summarised by Mr. McDermott, will
27 say that she relayed there had been a row, that drink
28 had been taken, that you were abusive, that you made
29 threatening comments, that you had grabbed Ms. Simms'

1 wrist and that one of the children was present for
2 this, is this the same occasion?

3 A. That's the occasion of the 28th September, I
4 acknowledged I had drink taken, I acknowledged I was
5 abusive and I acknowledged that I was out of order. 14:52

6 539 Q. My question to you is: Is the occasion that's captured
7 in the note that I've read out to you, is that the same
8 occasion as the occasion where Donna McTeague says she
9 outlined there had been a row, drink had been taken,
10 you were abusive, you had threatened, you made 14:53
11 threatening comments and you grabbed Marisa's wrist, is
12 that the same occasion?

13 A. I cannot account for the notes taken. I can only
14 account for what I said and what I acknowledged, and
15 that's what I acknowledged. 14:53

16 MR. HARTY: That account also isn't in Ms. McTeague's
17 statement where all these things were laid out in
18 sequence.

19 MR. O'HIGGINS: We will deal with that when
20 Ms. McTeague is giving evidence. 14:53

21 CHAIRMAN: Well, did you acknowledge to the social
22 workers on that occasion, or on any occasion, that you
23 had been physically violent?

24 A. No.

25 CHAIRMAN: And that you'd grabbed Marisa Simms by the 14:53
26 wrist?

27 A. No.

28 CHAIRMAN: She says in her statement that, driving
29 home, her wrist was sore.

1 A. No.

2 CHAIRMAN: You didn't. So if they took you down as
3 saying that you accepted that you grabbed her by the
4 wrist, they are actually just taking down something
5 incorrectly? 14:54

6 A. Judge, there is confusion over what Tusla knew.

7 CHAIRMAN: No, no, I appreciate that.

8 A. And --

9 CHAIRMAN: But, you see, look, I'm sitting here and I'm
10 listening to what you are saying and I'm taking it 14:54
11 down.

12 A. Yes.

13 CHAIRMAN: So in the same way they may be doing it
14 better, they may be doing it worse, but they are
15 claiming that you said -- that you acknowledged that 14:54
16 you'd grabbed, in the course of the row, Marisa Simms
17 by the wrist. Are you saying you didn't say that?

18 A. I didn't because --

19 CHAIRMAN: It's probably better to keep it simple and
20 say no you didn't say that. 14:54

21 A. No.

22 CHAIRMAN: That is fair enough.

23 540 Q. MR. O'HIGGINS: Moving matters on, Garda Harrison. You
24 were present, were you not, for the evidence of Chief
25 Superintendent Sheridan where he expressed surprise 14:54
26 and, I will use a neutral word, disappointment, at
27 reading the allegations against him that were contained
28 in the materials, that you had made, do you understand?

29 A. Yes.

1 541 Q. Were you present for that?
2 A. Yes.

3 542 Q. And were you present for a similar message being
4 offered in evidence by Sergeant David Durkin where he
5 said that when you handed in a letter in May 2014 14:55
6 concerning the threats that had been made upon you and
7 outlining some allegation you were making about
8 bullying, he expressed surprise and asked you to
9 confirm that you weren't suggesting there was any
10 bullying in Donegal Garda Station, were you present for 14:55
11 that?
12 A. Yes.

13 543 Q. And again he expressed surprise, he indicated in his
14 evidence that somehow you were blaming him and
15 involving him in the loop in this suggestion of 14:55
16 oppression by management, do you recall that?
17 A. Yes.

18 544 Q. Am I correct in my understanding that the first time
19 you record your complaint about any degree of bullying
20 in Donegal is in your written complaint that I've 14:55
21 referred to in May 2014?
22 A. I think I may have sent a report previous to that, to
23 the chief, in relation to being kept in the office and
24 seeking to get out. But I think you're right, that the
25 first, where I put it down, was in around that date, 14:56
26 yeah.

27 545 Q. And at this point in time, in May 2014 --
28 CHAIRMAN: 9th May 2014.
29 A. Yeah, I'd accept that.

1 546 Q. MR. O'HIGGINS: And just prior to that, am I right in
2 thinking that Minister Alan Shatter had resigned on the
3 7th, is that right? Is that something you're aware of?
4 A. I have a vague recollection.
5 547 Q. And that was in relation to the provision to An 14:56
6 Taoiseach, the then-Taoiseach, of the Guerin Report
7 from Séan Guerin, Senior Counsel, in the wake of which
8 Minister Shatter resigned. You're aware of that,
9 broadly speaking, are you?
10 A. Yeah, yeah, I am. 14:56
11 548 Q. And it's at this point in time that you move into
12 confidential-recipient mode, isn't that right, and you
13 decide in May, as well, of 2014, that you now have a
14 story to tell the confidential recipient, is that
15 right? 14:57
16 A. No. I had been contacted towards the end of August
17 2013 by Garda Nicky Keogh in Athlone in relation to
18 allegations I had made in November 2008, where he
19 contacted me, seeking to speak with me, telling me that
20 the allegations I had made, that he could prove that 14:57
21 there was substance to it, so it is --
22 549 Q. Excuse me, I didn't mean to cut you off. Was
23 Sergeant Maurice McCabe all over the news in May 2014?
24 A. Probably was, yeah.
25 550 Q. And you were keen, as it were, to hitch your wagon to 14:57
26 Sergeant McCabe's train, would that be fair?
27 A. No.
28 551 Q. But wasn't that the purpose of the lobbying that you
29 carried out and that you arranged for your solicitor to

1 carry out, by going on the television and the radio and
2 giving articles seeking to be included in a commission
3 and in a tribunal, isn't that right?

4 A. Are you suggesting I did this just to get on the
5 television?

14:58

6 552 Q. Did you not seek -- have we not already seen the letter
7 to Minister Zappone?

8 A. Yes.

9 553 Q. You have been brought through it in quite a bit of
10 detail, isn't that right?

14:58

11 A. Yes.

12 554 Q. And I had understood you to agree that the general
13 background to that was your desire to have your
14 complaints dealt with in some sort of commission or
15 tribunal and you were aggrieved that the Minister
16 wasn't acting on your request, isn't that right?

14:58

17 A. Obviously you don't have an idea of exactly what was
18 going on from May 2014 to the point where I wrote to --
19 or sought a letter wrote to Minister Zappone. There is
20 a lot of correspondence sent both to the previous
21 commissioner and the minister for justice outlining the
22 poor treatment I had to endure, and that and my family,
23 whereby, for a period of 35 months, there was one
24 income coming into our house, and we were left, despite
25 attempts made to reconcile it, we were completely
26 ignored by the then-minister and the then-commissioner.

14:58

14:59

27 555 Q. When did the light bulb go off in your mind that you
28 were, if you like, a Maurice McCabe who was somewhat
29 confused that Tesla had arrived at your door? When did

1 that go off in your mind?

2 A. First of all, I don't see myself as a Maurice McCabe.
3 I am Keith Harrison, and I am my own person and I will
4 make up my mind and I will do things the way I see is
5 best. 14:59

6 556 Q. Marisa Simms has changed her position --

7 A. I don't think she has.

8 557 Q. -- concerning what she told the guards in October 2014,
9 isn't that right?

10 A. She has issues with her statement, yes. 14:59

11 558 Q. '13. Did you apply pressure on her?

12 A. Absolutely not.

13 559 Q. Did you coordinate your story with her?

14 A. Absolutely not. I couldn't have. I didn't know what
15 was in the statement until December '14, so how could I 15:00
16 coordinate anything? As far as I was concerned, it
17 related to an argument on the 28th September that I was
18 satisfied that, legally, lawfully, I had not done
19 anything wrong.

20 560 Q. I suggest to you you put her in an impossible situation 15:00
21 and have organised it that she now is bound into this
22 ridiculous story concerning her misunderstanding of the
23 threat to burn?

24 A. Absolutely not.

25 MR. HARTY: Sorry, that should have been put to 15:00
26 Ms. Simms, if that was the case the Gardaí intended to
27 make, but I notice that Mr. O'Higgins was very careful
28 not to put that version of events to the person
29 perceived as the victim of the night of the 28th, but

1 very merrily puts it to Mr. Harrison, a man who is just
2 characterised, in fact, caricatured as being somebody
3 who saw something on television and decided he wanted a
4 bit of that too. And he's now moved on to making
5 scurrilous allegations in relation to an actual
6 conspiracy. where he had the opportunity to ask the
7 previous conspirator in cross-examination, he didn't
8 put it to them.

15:01

9 CHAIRMAN: Well, my view is this: The rule in Browne
10 v. Dunn I think is very clear. Maybe it's worth
11 studying. However, the substance of the thing is that
12 of fairness. I think it would have been better if that
13 particular point had been put to Marisa Simms. But it
14 is definitely being put now to Keith Harrison and he
15 has an opportunity to answer it. If necessary, we can
16 ask Marisa Simms to come back, just in relation to that
17 point, but I don't actually see that a huge amount of
18 harm has been done because the plain reality of all of
19 the examination on behalf of the Garda parties has been
20 to that effect, and that is what I have been inferring
21 the entire way through.

15:01

15:01

15:01

22 561 Q. MR. O'HIGGINS: You organised to put Marisa under
23 pressure?

24 A. No.

25 562 Q. You have chosen to interpret the reasonable application
26 of discipline in An Garda Síochána with an invented
27 allegation of bullying, and I suggest to you it is
28 completely without foundation?

15:02

29 A. No.

1 MR. O'HIGGINS: Thank you.

2 CHAIRMAN: Maybe I could just make inquiries in
3 relation to time now as we have just an hour left. I'm
4 not trying to keep anyone to anything and I would just
5 like an indication, if you wouldn't mind, as to who is 15:02
6 going to take what length of time, just so as we can
7 organise the rest of the day and Monday.

8 MR. Ó BRAONÁIN: Sir, on behalf of Chief Superintendent
9 McGinn, my plan is to canvass with this witness matters
10 that he specifically alleges against her. 15:03

11 CHAIRMAN: Yes.

12 MR. Ó BRAONÁIN: Now, there are significant matters
13 that he alleges against her, so I can see that taking
14 between half an hour and an hour, but I would certainly
15 endeavour to keep it as short as possible. 15:03

16 CHAIRMAN: Thank you, Mr. Ó Braonáin.

17 MR. DOCKERY: On my part, sir, I just have some
18 questions to put on behalf of Sergeant McGowan, which
19 are predictable, and one or two questions beyond that,
20 but I don't expect to be any more than twenty minutes 15:03
21 to half an hour.

22 CHAIRMAN: That is fine. And, Mr. Hartnett, do you
23 have any questions?

24 MR. HARTNETT: If anything, it will be very brief.

25 CHAIRMAN: Yes. 15:03

26 MR. HARTNETT: A couple of minutes at most, if
27 anything.

28 CHAIRMAN: And then Mr. Harty?

29 MR. HARTY: As matters stand, sir, I don't see myself

1 feeling a need to sweep up, but obviously that depends
2 on --

3 CHAIRMAN: Well, it doesn't sound like it is very long.
4 And then, Mr. Marrinan, you don't have a great deal in
5 re-examination? 15:04

6 MR. MARRINAN: I don't anticipate very much, if
7 anything.

8 CHAIRMAN: We ought to finish. Well, if we sit at,
9 say, 1:30 on Monday and try and finish by 5:00, if we
10 can organise the stenography in that respect. I am 15:04
11 sure you will be well finished by that stage.

12 MS. LEADER: Sir, in relation to this afternoon, there
13 is a witness, Mary O'Donnell, who has travelled from
14 Donegal. She is a very short witness.

15 CHAIRMAN: Yes. Well, can we interpose her now? Does 15:04
16 anybody mind if we interpose Mary O'Donnell?

17 MR. HARTY: Not at all.

18 CHAIRMAN: You might take a break. So we'll do that.
19 It's a very common thing to do, anyway, in the High
20 Court, so let's just do that. 15:04

21

22 GARDA HARRISON THEN STOOD DOWN

23

24 MR. HARTY: Sir, just one thing. Garda Harrison is out
25 of the witness box, there might be matters which might 15:04
26 arise and I might need to discuss them, I don't propose
27 and I will not propose to discuss any of his evidence
28 before the thing but in relation to other witnesses
29 that would be called.

1 CHAIRMAN: I don't see there's a problem with you doing
2 that, Mr. Harty. So, I mean, if you want to go out of
3 the room and get a glass of water or whatever
4 refreshment, yes, please do that.

15:05

5
6 MARY O'DONNELL, HAVING BEEN SWORN, WAS DIRECTLY
7 EXAMINED BY MS. LEADER:

8
9 MS. LEADER: Ms. O'Donnell's interview with the
10 Tribunal investigators is in Volume 6, page 1989 of the 15:05
11 materials.

12 563 Q. Now, Ms. O'Donnell, I understand you're a receptionist
13 at An Chúirt Hotel in Gweedore, is that correct?

14 A. That's correct.

15 564 Q. And you were working there on the 4th, 5th and 6th 15:05
16 October 2013?

17 A. I was.

18 565 Q. And I think during the course of October 2013 you
19 received a telephone call from Keith Harrison, is that
20 correct? 15:05

21 A. That's correct.

22 566 Q. And if you would tell the Tribunal when you think you
23 got that telephone call and what Mr. Harrison said to
24 you?

25 A. It was on the night of Ms. Simms' sister's wedding. 15:05

26 567 Q. Okay.

27 A. And Mr. Harrison phoned saying that he was concerned
28 for his girlfriend and he wanted me to confirm if she
29 was in the hotel. And I said to him that I couldn't

1 because it was confidential and, to be honest, I
2 thought that if he was her boyfriend he would know
3 whether she was or she wasn't there. He said that he
4 was very concerned for her and the children, and we had
5 a fairly lengthy discussion about it, and he eventually 15:06
6 said to me that he was concerned for her welfare and
7 that of the children and that he was a member of An
8 Garda Síochána and he appreciated the fact of
9 confidentiality but it was purely out of concern for
10 her safety that he was phoning and that he had been 15:06
11 threatened and she had been threatened as well.

12 568 Q. Okay. And do you remember anything else about the
13 telephone call at this stage? It's been a while.

14 A. It's been a while, yeah.

15 569 Q. Can you remember what time you got that telephone call? 15:06

16 A. As far as I remember, it was late on in the evening. I
17 think the dancing was either in progress or it was
18 about to progress.

19 570 Q. Okay. And I think after getting that telephone call,
20 you spoke to Rita McDermott, is that right, the mother? 15:07

21 A. The mother, yes, yes.

22 571 Q. Okay. What was the outcome of speaking to Rita
23 McDermott?

24 A. She said to me that she felt that her daughter was
25 under threat from Garda Harrison and that -- I had said 15:07
26 to her that I -- I didn't feel the conversation
27 warranted phoning the Garda Síochána, but she insisted
28 that I would because I wasn't aware of the facts of
29 what had preceded, but she advised me that for the

1 safety of Ms. Simms that I would need to phone the
2 guards.

3 572 Q. Okay. So did you initiate the contact with Rita
4 McDermott?

5 A. Yes. Well, I actually went out to see if I could find 15:07
6 a member of the family, and I met with Rita and her
7 daughter.

8 573 Q. Okay. And her daughter being Paula, is that right?
9 A. I think that's who it was, yeah.

10 574 Q. Was it the bride, do you think? 15:08
11 A. Being honest with you, I can't remember.

12 575 Q. No, that is okay. And did you call the guards?
13 A. Yes.

14 576 Q. Okay. And when did you call the guards?
15 A. That evening. 15:08

16 577 Q. That evening?
17 A. Just not -- about -- we spoke for about maybe 20
18 minutes in the back office and then afterwards I called
19 the guards.

20 578 Q. So you spoke for 20 minutes in the back office with the 15:08
21 McDermotts?

22 A. Yes.

23 579 Q. Okay. Who did you speak to when you phoned the guards?
24 A. Well, I have a recollection of speaking to a female
25 guard, but, being honest with you, honestly I'm not 15:08
26 sure.

27 580 Q. Okay. Did you get the contact details of whoever you
28 spoke to from the McDermotts or was it a 999 call or a
29 random call?

1 A. Being honest, I'm not a hundred percent sure.

2 581 Q. You don't know. And what did you tell the guards?

3 A. Just that I had received the telephone call and that I

4 had been requested by the family to contact them

5 because they were concerned for Ms. Simms' safety. 15:09

6 582 Q. Okay. Did you meet any guards after that?

7 A. Yes. Detective Moore phoned me the following morning

8 while I was at work and he informed me that he was

9 coming to the hotel to speak to me, that he had been

10 instructed by one of his superiors to come and take 15:09

11 evidence from me. And he arrived I think it was

12 roughly around one o'clock that day and he said to me

13 that he wanted to take a statement from me. I said to

14 him that I didn't want to give a statement, because at

15 that stage I just didn't feel right about the whole 15:09

16 situation. He asked me to outline to him what had

17 happened and he took notes, I would say he took a fair

18 amount of notes and he asked me then to sign it, and I

19 said to him that I've already explained to you that I

20 don't want to sign this. He said to me 'this is your 15:09

21 interpretation of what happened', and I said to him,

22 'no, this is your interpretation of what I am telling

23 you what happened and I don't want to sign it'.

24 583 Q. So did you have any difficulty with Garda Moore?

25 A. No, he was very nice, he was very polite. But having 15:10

26 subsequently seen his statement, he did say that Garda

27 Harrison indicated at the beginning of the conversation

28 who he was. He didn't. It was -- as I say, it was

29 when we were talking about the issue of

1 confidentiality, it was then that he informed me he was
2 a guard.

3 584 Q. Okay. Now, I think our investigators showed you an
4 email where Garda Moore set down details of his
5 conversation with you?

15:10

6 A. Yes.

7 585 Q. And that will come up on the screen in front of you now
8 at page 2000 of the materials. So it would appear that
9 he met with you at about 1:30 and spoke with you, does
10 that sound about right --

15:10

11 A. That would be -- yeah.

12 586 Q. -- to you?

13 A. Yes.

14 587 Q. And what you said to him is in bold print just halfway
15 down that page. You said:

15:11

16
17 "There was a call to Aidan Raftery at 3:24am at
18 reception. A male caller who said he had been talking
19 to her on mobile asked for Marisa Simms' room. Told he
20 couldn't be given any information."

15:11

21
22 Now, Mr. Raftery worked with you, is that correct?

23 A. He did, he was the night porter.

24 588 Q. Okay. And you told Garda Moore that there had been a
25 phone called which Mr. Raftery had received, is that
26 correct?

15:11

27 A. Yeah, Aidan had told me the following morning that he
28 had also received a phone call.

29 589 Q. Okay. And he had told you that he had been talking to

1 her on the mobile and asked for Marisa Simms' room.
2 was that relayed and said, the caller had asked about
3 that, is that right? You see "Mary O'Donnell, c/o An
4 Chúirt, 5/10/2013"?

5 A. I don't have any recollection about him talking to her 15:12
6 on the mobile phone.

7 590 Q. Okay. "Told he couldn't be given any information", do
8 you think that sounds right?

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

10 591 Q. Okay. And then no further details on that call. And 15:12
11 then in relation to the call you took it says "after
12 10:00am", you have corrected that and you think it was
13 after 10:00pm?

14 A. Yes.

15 592 Q. So it is "Call to reception answered by Mary O'Donnell. 15:12
16 Caller identified himself as Keith Harrison, as a
17 member of An Garda Síochána."
18
19 You think that part is incorrect, is that right?

20 A. Yes, yeah. 15:12

21 593 Q. It was simply "Keith Harrison"?

22 A. Yeah -- no, he didn't tell me at the beginning.

23 594 Q. Yes.

24 A. He told me his name first when he started off the
25 conversation, but once we got into the issue of 15:12
26 confidentiality, he then told me he was a member of the
27 Garda Síochána.

28 595 Q. Okay. So then it continues:
29

1 "said he was concerned for the safety of Marisa Simms,
2 told checked out, wanted to know what time she checked
3 out and how she was when she was checked out. He also
4 asked were the children okay. He said his life had
5 been threatened by a member of the family involved in 15:13
6 the wedding here. He told me a member of that family
7 were involved in a subversive organisation and I then
8 told him I thought he was telling me too much. He said
9 he was concerned for her and the safety of her children
10 and again said he was a member of An Garda Síochána. 15:13
11 He was not pushy or threatening in the way he spoke but
12 very matter of fact. I told him I couldn't give out
13 any details about the guests. I told him I didn't
14 think he was following the right channels and the fact
15 that she was gone, I was no help to him. He seemed 15:13
16 fine with that and just hung up. He was never
17 aggressive or pushy or said anything out of the way. I
18 do not wish to make any statement or get involved in
19 any investigation. I have no complaint to make in
20 relation to this call." 15:13

21
22 So I don't know if you want to correct that or clarify
23 it in any way?

24 A. Just if you bring it back down slightly.

25 596 Q. Yes. 15:14

26 A. wait 'til we see now. There, "I told him I didn't
27 think he was following the right channels," there
28 should be a comma in there, and that --

29 597 Q. Okay.

1 A. -- because the fact that she was gone was actually what
2 I said to Detective Moore. I couldn't tell
3 Mr. Harrison that she was gone, because at that stage I
4 didn't know she was gone, I didn't find that out until
5 afterwards. So that was part of the conversation I had 15:14
6 with Detective Moore.

7 598 Q. Okay. All right. So in relation to her being gone,
8 you couldn't say any more about the matter, is that
9 correct, because she was gone?

10 A. No, while I was having the conversation with Garda 15:14
11 Harrison I didn't know Ms. Simms was gone.

12 599 Q. Yes.

13 A. It was with Detective Moore that I had that
14 conversation.

15 600 Q. Is there anything else you want to clarify in relation 15:14
16 to it?

17 A. The only thing I would say is that it says there about
18 him being a member of the Garda Síochána. As I say, he
19 didn't say that until very late, almost at the end of
20 the conversation. 15:15

21 601 Q. Okay. And did you hear any more about it until the
22 Tribunal contacted you?

23 A. No.

24 MS. LEADER: If you'd answer any questions anybody else
25 might have for you. 15:15

26 CHAIRMAN: Is there any questions?

27

28 MS. O'DONNELL WAS CROSS-EXAMINED BY MR. HARTY:

29

1 602 Q. MR. HARTY: Just really one question that I have,
2 Ms. O'Donnell. Thank you very much for coming down to
3 give your evidence. How did you feel -- why is it that
4 you felt uncomfortable about giving the statement?
5 A. Well, I hate admitting it, but I felt like I was being 15:15
6 played.
7 603 Q. And can you just explain that?
8 A. I felt like there was a different agenda, not by Garda
9 Harrison, but I felt I was being used, and I couldn't
10 quite put my finger on it, and I did say it to 15:15
11 Detective Moore, that I was uncomfortable with the
12 whole situation. Something just didn't sit right with
13 me about it. And the fact that a phone conversation
14 which I thought wasn't that serious resulted in
15 something so extreme, to have a guard come to my 15:16
16 workplace the following morning and tell me that he was
17 sent by one of his superiors, I just thought the whole
18 thing just didn't -- it didn't sit right with me.
19 604 Q. I just wanted to confirm with you that you have no
20 personal, apart from your meetings with Ms. McDermott's 15:16
21 family over the course of the wedding --
22 A. Never met them before in my life.
23 605 Q. And you have no dealings at all with Garda Harrison,
24 Keith Harrison?
25 A. No, no. 15:16
26 MR. HARTY: Thank you very much.
27 A. Thank you.
28
29 MR. DIGNAM: Chairman, I just have a very brief few

1 questions.

2

3

MS. O'DONNELL WAS CROSS-EXAMINED BY MR. DIGNAM:

4

5 606 Q. MR. DIGNAM: Ms. O'Donnell, my name is Conor Dignam. I 15:16

6 appear on behalf of An Garda Síochána. You referred
7 there to your reluctance to sign the statement because
8 you felt you were being played. Did you feel you were
9 being played by the McDermott family in the way that
10 you were addressed the previous evening? 15:16

11 A. Well, the telephone conversation from me to the Garda
12 Síochána would never have occurred if it hadn't been
13 for the McDermott family encouraging me to do it. And
14 the following morning, the fact that matters seemed to
15 be so extreme to be receiving a visit the following day 15:17
16 from Detective Moore, made me feel like I was being
17 played.

18 607 Q. Yes. But do you understand how An Garda Síochána
19 receive a call from --

20 A. Oh, I understand. 15:17

21 608 Q. It could be an independent person reporting this?

22 A. I do, indeed.

23 609 Q. And they have to investigate that?

24 A. Of course, yeah.

25 610 Q. So when you refer to being played, are you suggesting 15:17
26 that you were being played by any members of An Garda
27 Síochána?

28 A. I'll be quite honest with you, I just felt like I was a
29 pawn. I have no idea on whose behalf I was the pawn,

1 but I felt like I was a pawn.
2 MR. DIGNAM: Thank you, Ms. O'Donnell.
3 MS. LEADER: Nothing arises.
4 CHAIRMAN: Thanks very much for coming down.
5 MR. HARTNETT: I have to say, I have may have 15:17
6 questions. We were not aware that this witness would
7 actually give evidence today. We were asked did we
8 require her, we said no. We may have assumed.
9 CHAIRMAN: She is on the website.
10 MR. HARTNETT: She's on the list. 15:18
11 CHAIRMAN: Today. Yesterday indeed.
12 MR. HARTNETT: Yeah, we said we didn't require her.
13 CHAIRMAN: No, no, Mr. Hartnett, there is no quarrel.
14 CHAIRMAN: Ms. O'Donnell, would you mind waiting for
15 ten minutes? 15:18
16 MR. HARTNETT: Ten minutes.
17 CHAIRMAN: What do you want me to do in the meantime?
18 MR. HARTNETT: I would ask you to rise so I can take
19 instructions. My solicitor is taking certain
20 instructions. 15:18
21 CHAIRMAN: Okay. Well, would you mind hanging around
22 for ten minutes and we will come back in ten minutes
23 and finish you off today so you can get home. Thank
24 you.
25 15:18
26 AFTER A SHORT ADJOURNMENT THE TRIBUNAL RESUMED AS
27 FOLLOWS
28
29 MR. HARTNETT: I have no questions.

1 CHAIRMAN: There you go.

2

3 THE WITNESS THEN WITHDREW

4

5 CHAIRMAN: So, Garda Harrison is coming back up. 15:27

6 You're coming back, Garda Harrison. So, Mr. Dockery,
7 did you want to ask some questions question?

8 MR. DOCKERY: I beg your pardon, Chairman, yes.

9

10 GARDA HARRISON WAS CROSS-EXAMINED BY MR. DOCKERY AS 15:28

11 FOLLOWS:

12 611 Q. MR. DOCKERY: Garda Harrison, as the person who
13 represents Sergeant Durkin, am I to take it that why
14 you're not pursuing those suggestions that he gave you
15 special attention in Donegal Town when you were 15:28
16 stationed there, that you're parking those suggestions
17 for another forum and you won't withdraw them, is that
18 the position?

19 A. I think that point has been made clear twice before.

20 612 Q. Yeah. Even though he has given sworn evidence to the 15:28
21 Tribunal that in May 2014 around the time you made a
22 protected disclosure he asked you and you told him in
23 the presence of Sergeant Cornyn that you had no issue
24 whatsoever with your treatment in Donegal Town and he
25 noted that, signed it and his signature was witnessed 15:29
26 by Sergeant Cornyn in your presence?

27 A. Sorry, say that again.

28 613 Q. You are not withdrawing those allegations against
29 Sergeant Durkin despite the fact that in May 2014,

1 around the time you made a protected disclosure, he
2 asked you in the presence of Sergeant Cornyn and you
3 confirmed that you had no issue whatsoever about your
4 treatment in Donegal Town?

5 A. And I signed it?

15:29

6 614 Q. You told Sergeant Durkin when he asked you the specific
7 question in May 2014, in or around the time you made a
8 protected disclosure, you told Sergeant Durkin that you
9 had no issues whatsoever with regard to your treatment
10 in Donegal Town?

15:29

11 A. But you said I signed something.

12 615 Q. He signed, he wrote that in his notebook and initialed
13 it and that was witnessed by Sergeant Cornyn in your
14 presence.

15 A. I recall having a conversation in relation to a whole
16 range of matters, so I do. Mostly what was documented
17 in the letter. We also spoke about issues that in
18 relation to Westmeath, so we did. And there was a
19 whole range of issues.

15:30

20 616 Q. Do you remember telling Sergeant Durkin in response to
21 his question ever --

15:30

22 A. I don't remember that part of it.

23 617 Q. -- that you had no issues at all with regard to your
24 treatment in Donegal Town?

25 A. I don't specifically remember that conversation. I
26 remember a conversation.

15:30

27 618 Q. All right. Well, he has given the most specific sort
28 of evidence under oath to this Tribunal of that
29 discussion with you. Because you went to him in 2014

1 to tell him that you were making a formal complaint
2 about bullying, isn't that right?

3 A. I remember a conversation and I remember giving him the
4 paper and he said he would forward it on.

5 619 Q. All right. Now just, I also represent Sergeant Brigid 15:31
6 McGowan and I just want to draw your attention to page
7 145 of the materials very briefly, Garda Harrison.

8 A. Yes.

9 620 Q. That appears to be a typed up contemporaneous 15:31
10 memorandum of Donna McTeague's discussion in the Tusla
11 offices with you and Marisa on the 7th February 2014,
12 all right? Do you see it there?

13 A. Yes.

14 621 Q. Now I want to draw your attention to halfway down the 15:31
15 page, "Donna again clarified with Marisa --" you see it
16 there now?

17 A. Yes.

18 622 Q. "-- that she had made the statement to the Gardaí."
19 A. Yes.

20 623 Q. And this is on the 7th February 2014, just a couple of 15:32
21 weeks earlier Marisa has retracted the statement, do
22 you follow?

23 A. Yes.

24 624 Q. And the evidence is that the statement was, that she 15:32
25 read the entire statement back at that stage, she's
26 told the Tribunal that she was surprised at some of the
27 things she saw in it, all right?

28 A. Yes.

29 625 Q. But she read it through, just a couple of weeks

1 earlier, all right?

2 A. Yes.

3 626 Q. Now Marisa explained that she didn't initially go to
4 the Gardaí, that they had phoned her to make the
5 statement. She further explained that it was her 15:32
6 sister that reported it to the Gardaí. All right.
7 There's no record there of her making any remark to
8 Donna McTeague to the effect that there was no threat
9 to burn made to her, no threat to bury her and her
10 sister, or that the statement was cajoled out of her, 15:32
11 tricked out of her or pressurised out of her?

12 A. Yes.

13 627 Q. If those things had happened, I suggest to you, you'd
14 have expected Marisa and you'd have expected that you
15 would have been telling Donna McTeague about this? 15:33

16 A. Our main concern on that date was dealing with the
17 issue at hand, being in the Tusla offices and being
18 interviewed in relation to the welfare of the two
19 children.

20 628 Q. And, therefore, wouldn't your main concern have been to 15:33
21 say to Donna McTeague, I don't understand why you're
22 here at all, because you see Donna [sic] never made a
23 statement to the guards that she received a threat from
24 me, or that there were children present when I
25 threatened to bury her or her sister, that's all -- 15:33
26 that was never said, so why are you here?

27 A. Excuse me?

28 629 Q. Your main concern, you told me, was for your children
29 and the fact that Tusla were talking to you about an

1 incident on the 28th September, is that right?

2 A. Yes, that's right.

3 630 Q. If the incident had not involved a threat in front of
4 the children, if that had been cajoled out of Donna
5 [sic] by the Gardaí, you would have had to say that to 15:34
6 Donna McTeague?

7 MR. HARTY: I think the difficulty is that Mr. Dockery
8 is unfortunately mixing up Donna and Marisa in the
9 question he's putting. Which is why the last answer
10 was excuse me and I'm afraid unfortunately it happened 15:34
11 again in that question.

12 MR. DOCKERY: I'm not.

13 CHAIRMAN: I think the substance of what Mr. Dockery is
14 putting is perfectly clear, it is this: Look, you will
15 be aware of sexual violence cases where someone who 15:34
16 says, for instance, they were raped or sexually
17 assaulted, in exception to the rule against hearsay
18 they're allowed evidence to be called that for instance
19 they went to their mother and said, you know, so and so
20 raped me last night or sexually assaulted, and he's 15:34
21 saying this is more or less the same thing. Here you
22 have an opportunity to say, Marisa Simms has an
23 opportunity to say, the statement was tricked out of me
24 I abdominal experience in the Garda station and it's
25 not said, that is what he is asking you about. That is 15:35
26 the substance of it. Don't worry about the names, it
27 doesn't matter.

28 A. Chairman -- or sorry, Marisa never raised any issue
29 with Donna McTeague in relation to the taking of the

1 statement, because simply that wasn't the person to
2 deal with it. We were there to deal solely with being
3 called in over the referral in relation to an argument.

4 631 Q. MR. DOCKERY: But the statement was discussed?
5 A. No, no, the statement, the content or detail of the 15:35
6 statement wasn't discussed. It was mentioned that they
7 were aware a statement had been made. I didn't know
8 the content of that statement.

9 632 Q. No, but Marisa did, because she had read it three weeks
10 earlier and she told Donna McTeague, she told Donna 15:35
11 McTeague that she hadn't -- it had arisen when she
12 hadn't initially gone to the Gardaí but they phoned her
13 and she explained it was her sister that reported it to
14 the Gardaí, she said nothing further about the
15 statement or about the contents of the statement or 15:35
16 about threats.

17 A. For my part, I didn't know the content of the statement
18 and I was operating or working off or engaged with
19 Ms. McTeague on the basis that we were there because of
20 a verbal disagreement that occurred in our home. 15:36

21 633 Q. You suggested today and yesterday that in some form or
22 fashion my client, Sergeant McGowan, manipulated Tusla
23 into pursuing this referral, isn't that right?

24 A. Yes.

25 634 Q. And as I understand it, correct me if I am wrong, 15:36
26 you've instanced as an example of that, the fact that
27 after the 7th February, meeting in the Tusla offices,
28 you thought the matter was over?

29 A. Yes.

1 635 Q. And the fact that they came back to visit your house
2 again on the 19th February is evidence that
3 Sergeant McGowan was agitating in the background, isn't
4 that what you are said?

5 A. I am in no doubt that Sergeant McGowan was in phone 15:36
6 contact with Ms. McTeague's leader, I can't say what
7 date, I can't say when, but there was phone contact and
8 that is acceded to by Sergeant McGowan.

9 636 Q. Yes. And as a result of that phone contact then is it 15:37
10 your evidence that the visit to your home took place on
11 the 19th February?

12 A. Ms. McTeague stated that she went to her team leader
13 and after that meeting it was decided to visit our
14 home. That same team leader is the person that was in
15 contact Sergeant McGowan. 15:37

16 637 Q. Yes. So as a result of contact from Sergeant McGowan
17 with the team leader, Tusla arranged a visit to your
18 home on the 19th February, that's what you are saying,
19 isn't it?

20 A. What I am saying is: There was inappropriate contacts, 15:37
21 undocumented contacts, between Sergeant McGowan and
22 members of the HSE that resulted in people coming to
23 our home.

24 638 Q. Yes. Well, can I just show you another part of the 15:37
25 memorandum there of the 7th February 2014 prepared by
26 Donna McTeague? If the page is spooled down a little
27 bit. Do you see:

28
29 "Donna also explained that she may have to visit and

1 speak to the children. Both agreed to this, and Marisa
2 said you're more than welcome to come."

3
4 So didn't you know on the 7th February that there was
5 every likelihood that a further visit, that a visit to 15:38
6 your family would be required to enable Tusla to speak
7 to the children?

8 A. Ms. McTeague told us that there may be an instance
9 where she may have to come and we said that was fine.
10 She says having met us and heard of us that was 15:38
11 unlikely and we left that meeting on the full
12 understanding that that was the end of the matter.

13 639 Q. She hasn't specifically noted that there. And you told
14 her that you're more than welcome to come, but now it's
15 all a conspiracy? 15:39

16 A. It's clear there was contact between Brigid McGowan at
17 some stage with Bridgeen Smith, whereby Bridgeen Smith,
18 after consulting with Donna McTeague, after meeting us,
19 instructed her to come to our home.

20 640 Q. That is really just a hunch on your part, isn't it? 15:39

21 A. It's not.

22 641 Q. You see, when I put it specifically to Marisa on
23 Wednesday that there was no evidence at all -- you know
24 the significance of the word evidence, that there was
25 no evidence of any manipulation of Tusla by the Gardaí, 15:39
26 she agreed to that, and said that she had just thought
27 that it was a coincidence that she had been contacted
28 by Tusla a few weeks after she retracted her statement.
29 It was no more than that, a coincidence?

1 A. The fact is, is that Sergeant McGowan at a strategy
2 meeting whereby she knew Marisa and I were back
3 together, whereby she knew the content of the
4 statement, did not forward the information on to Tusla.
5 Instead she contacted Tusla and told them not to 15:40
6 contact us. Subsequent to the withdrawal of the
7 statement where Marisa was told by Inspector Sheridan
8 of the possibility in relation to another like couple
9 that were in a similar situation, that the HSE may get
10 involved. And it was after the retraction of the 15:40
11 statement that there was with a contact between
12 Sergeant McGowan and the HSE whereby we would then
13 receive a letter to come in and speak with them.

14 642 Q. I just draw your attention to the statement prepared
15 for the Tribunal by Bridgeen Smith. That is at page 15:40
16 1152 but I want to go to 1154. And if we go down a
17 little bit, you will see just there where the cursor
18 is, throw your eye four lines above that, this is what
19 Ms. Smith says:

20 15:41

21 "I recall Ms. McGowan informing us that Ms. Simms was
22 in hospital and asked that we delay our intervention to
23 allow Ms. Simms to recover."

24

25 She said it as a kindness to your partner, didn't she? 15:41

26 A. She also said that she believed the statement was true
27 and that there were serious allegations in it.

28 643 Q. That's correct.

29 A. Excuse me. She also knew that Marisa and I were back

1 together in the days after and chose that as the best
2 course of action where she believed I was a threat to
3 the children. It doesn't add up.

4 644 Q. Ms. Smith's understanding was that Sergeant McGowan was
5 telling her that as a kindness to Ms. Simms they should 15:41
6 delay their intervention because she was in hospital?
7 A. And isn't it there that we have Sergeant McGowan
8 telling the HSE when they can do their job or when they
9 can't?

10 645 Q. Listen, don't you know very well that once -- you're a 15:42
11 serving member of the guards for a considerable number
12 of years, don't you know very well that there is an
13 obligation on the Gardaí to make a referral to Tusla
14 where there's a suspicion of emotional or any other
15 form of abuse against a child? 15:42
16 A. Yes.

17 646 Q. Don't you know that?
18 A. Yes.

19 647 Q. And isn't domestic violence the bread and butter of
20 every garda on foot patrol around the country? 15:42
21 A. You get called to them, yes.

22 648 Q. Yeah. And aren't you familiar with your obligations as
23 regards domestic violence and as regards the protection
24 of children in your role as a guard?
25 A. Yes. 15:42

26 649 Q. Yes. And don't you know that if there is a suspicion
27 of danger to a child or a suspicion that the welfare of
28 a child is at risk, reported to the Gardaí that they
29 are obliged to refer that to Tusla?

1 A. Yes. 15:43

2 650 Q. You're familiar with the Gardaí's policies on this and
3 of your obligations, isn't that right?

4 A. Yes.

5 651 Q. You've heard of the Domestic Violence Intervention 15:43
6 Policy?

7 A. I've heard of it, yes.

8 652 Q. Yeah. which provides that, and paragraph 7.3, that:
9
10 "where a member of the Gardaí suspects that a child has 15:43
11 been the victim of emotional, physical or sexual abuse,
12 or neglect, whether willful or unintentional, they must
13 report it to Tusla."
14

15 A. Yes. 15:43

16 653 Q. Isn't that right?

17 A. That's right.

18 654 Q. "Sufficient evidence to support a criminal prosecution
19 is not required before notifying the HSE."
20 15:43

21 Isn't that so?

22 A. That's correct.

23 655 Q. Yeah. You're familiar with the Sexual Crimes Against
24 Children policy?

25 A. Vaguely. 15:43

26 656 Q. Vaguely. Well, can I just quote one paragraph of that
27 to you? "Members --" this is of the Gardaí
28 "-- encountering domestic violence, incidents between
29 persons who have children, will refer all such cases to

1 the HSE's children and family services. Bearing in
2 mind the repeated and systematic nature of domestic
3 violence, notifications should be made to the HSE
4 whether or not the children were present at the scene
5 of the incident at the time that it occurred." 15:44

6
7 All right?

8
9 "It must never be assumed that a domestic violence
10 incident is a one-off isolated event." 15:44

11
12 So what possible complaints do you have about the fact
13 that the Gardaí referred the complaint that your
14 partner made to Tusla?

15 A. There was never any violence between myself and Marisa, 15:44
16 so there wasn't. The children were never present, so
17 they weren't, for any time where they would have been
18 emotionally abused or otherwise, so they weren't. And
19 it's the referral, we look at the referral and
20 Sergeant McGowan's belief of how serious it was. If 15:44
21 she was genuinely believing that that was the case she
22 has grossly understated it in her referral.

23 657 Q. Well, she explained that --

24 A. I don't think that's good enough.

25 658 Q. Well, first of all, of course -- 15:45

26 A. The HSE depend on the information they are given.

27 659 Q. Excuse me, Garda Harrison. First of all, she had every
28 right to believe that that is what happened because
29 that is what she was told by your partner, all right?

1 A. Yes.

2 660 Q. And believing it, as she did, she was obliged to make a
3 referral to Tusla?

4 A. Yes.

5 661 Q. All right. Now, you will surely agree with me, that if 15:45
6 your partner did tell the Gardaí that you were
7 shouting, roaring drunk, you threatened to bury her and
8 her sister and that you threatened to burn her, if that
9 happened you will agree with me, presumably, that the
10 Gardaí had to refer that to Tusla? 15:45

11 A. But they never --

12 662 Q. No, no, I am asking you a question. If that happened,
13 you'll agree with me that the Gardaí had to make a
14 referral to Tusla?

15 A. I have, I have issues, my own issues around that 15:46
16 statement --

17 663 Q. I know you do.

18 A. -- and the referral.

19 664 Q. I know you did.

20 A. And that's as far as -- 15:46

21 665 Q. I know do, Garda Harrison. I am asking you if that
22 happened, hypothetically, you will agree with me that
23 the Gardaí had to refer that to Tusla?

24 A. If that statement was true --

25 666 Q. Yes? 15:46

26 A. -- and accurate --

27 667 Q. Yes?

28 A. -- which we know it isn't --

29 668 Q. That's your view. Yes?

1 A. No, I think it's been established --

2 669 Q. Sorry, you weren't there when it was taken.

3 A. Exactly, I wasn't.

4 670 Q. If that happened you will agree with me that the Gardaí
5 had to refer that to Tusla? 15:46

6 A. But I'm here --

7 671 Q. Yes or no?

8 A. -- I am here, and I have heard the evidence and I'm
9 satisfied it's not accurate.

10 672 Q. I'm not asking you that. 15:46

11 A. And the referral was on the basis of that.

12 673 Q. If that happened there had to be a referral to Tusla,
13 isn't that so?

14 A. If that statement was accurate, which it is not, but if
15 it was there should be a referral. 15:46

16 674 Q. Yes. Thank you. And even if you hadn't intended to
17 say that you would kill anyone, even if the word burn
18 was a euphemism, right, how are the children supposed
19 to know that, or the child?

20 A. I never threatened to kill anyone. 15:47

21 675 Q. Right. Now I want to say to you that, or put to you
22 that you must in the ordinary course of your duties
23 have investigated incidents where a referral was made
24 to Tusla in connection with a suspicion that a child's
25 welfare may be threatened, have you ever been involved 15:47
26 in such an investigation?

27 A. Yes.

28 676 Q. Can I suggest you have been involved in many such
29 investigations?

1 A. On occasion, yes.

2 677 Q. Yeah. And you know very well, you know very well that
3 even if all you had said was, shouting at Marisa,
4 you'll be burnt if your family don't back off, you know
5 very well that that, if a complaint is made to that 15:48
6 effect to the Gardaí that that happened in front of a
7 child that would have to be referred to Tusla as well?

8 A. It didn't happen in front of a child.

9 678 Q. Well, as I understood it, it always happened in front
10 of a child or two children until Marisa gave evidence 15:48
11 here two days ago that in fact she had taken them and
12 put them in the car at a very important point of the
13 unfolding drama, just before you could have said
14 anything about burning or about Marisa being burnt if
15 her family backed off? 15:48

16 A. The children weren't present.

17 679 Q. Well, why did you and Marisa not tell Donna McTeague
18 that on the 7th February? Instead you were telling her
19 that it was witnessed by one of the children.

20 A. We said that one of them had come out of the car and 15:49
21 Marisa left.

22 680 Q. Yeah. That's right. So one of them was present, isn't
23 that so?

24 A. There was nothing said in front of the child.

25 681 Q. You didn't make that clear to Donna McTeague. "Donna 15:49
26 clarified with the couple the basis of the referral and
27 asked if what mum had reported to the Gardaí was the
28 truth. Mum verified that the incident did happen and
29 that only one of the children had witnessed it, as she

1 had put them in the car however that child had got back
2 out and had come into the house."
3 A. There was no bad word said in the presence of any
4 child.
5 682 Q. You were drunk at the time? 15:49
6 A. I absolutely wasn't. Were you there?
7 683 Q. Sorry, you have told the chair -- we know, the evidence
8 before this Tribunal was that you had been drinking.
9 A. I had drink taken, yes.
10 684 Q. And you've told the Chairman today that at that time 15:50
11 you had a problem with alcohol.
12 A. Yes.
13 685 Q. And I'm suggesting to you that you were in a rage.
14 A. I wasn't.
15 686 Q. A drunken rage. 15:50
16 A. Absolutely not.
17 687 Q. At least certainly you were intoxicated and that's why
18 you lost your temper.
19 A. No. I did have drink taken. I said stuff, that I
20 should have held my tongue, so I did, and Marisa left. 15:50
21 688 Q. How can we be expected to take without question your
22 recollection of what was said or not said?
23 A. Because I remember.
24 689 Q. Can I just turn to this: You see I have to put it to
25 you, Garda Harrison, that Marisa was completely and 15:51
26 utterly in fear of you in the summer of 2013 and as we
27 go into September 2013?
28 A. No.
29 690 Q. She was in fear of you?

1 A. No.

2 691 Q. And that she had every right to be; you were out of
3 control?

4 A. No.

5 692 Q. And proof of that, I suggest to you, is that she went 15:51
6 so far in the course of her discussion with the Gardaí
7 or making her statement to the Gardaí on the 6th
8 October as to play them a video on her mobile phone of
9 an incident at 9:54am on the 23rd August, all right.
10 Do you recall that incident? 15:51

11 A. No.

12 693 Q. Do you recall blocking her from leaving your home in
13 Churchill when she was in her mother's car having come
14 to collect a few things?

15 A. No. 15:51

16 694 Q. Do you recall that she at that time clearly wasn't
17 living with you, she obviously left the home and she
18 had returned on the 23rd August that morning to collect
19 a few things?

20 A. Marisa never moved out of the home up until the period 15:52
21 of the wedding.

22 695 Q. She had come from her mother's house, in her mother's
23 car, to your home on the 23rd August and at 9:54 she
24 was leaving in her mother's car and you were standing
25 on the driveway or entrance blocking her exit with your 15:52
26 arms folded and she video recorded you on her phone?

27 CHAIRMAN: Yes, I'm sorry for interrupting,
28 Mr. Dockery, there's been a few references to that and
29 I haven't seen it beforehand. I don't know, are we

1 going to play it?
2 MR. DOCKERY: No, I haven't seen it.
3 CHAIRMAN: Can we play it?
4 MR. DOCKERY: I understand it --
5 CHAIRMAN: Do we have it? I'm sorry, I'm just unclear. 15:52
6 I don't think it's on the system, is it, Mr. Marrinan?
7 MR. MCGUINNESS: It's not on the system of documents,
8 but I think the position is as Ms. Leader explained the
9 other day, it was included in the download from
10 Ms. Simms' phone -- 15:53
11 CHAIRMAN: Yes.
12 MR. MCGUINNESS: -- and is available to watch. I
13 obviously brought that to the attention of Mr. Harty
14 the other day. I think the Gardaí are aware that it is
15 there. We have viewed it and nobody has asked a 15:53
16 witness yet to view it.
17 CHAIRMAN: Okay.
18 MR. MCGUINNESS: It's available.
19 CHAIRMAN: I know. I haven't viewed it beforehand. I
20 suppose it's been referred to so much, I suppose by 15:53
21 this stage I suppose I would like to view it and maybe
22 we could do it on Monday just to see. Look, it's
23 important that I'm not suggesting that anyone -- the
24 Tribunal has been completely open in relation to the
25 existence of this and for all I know it will show 15:53
26 nothing or it may be totally blurry, but maybe we
27 should have a look at it.
28 MR. HARTY: Sir, there's only one thing, sir, which is
29 that the existence of the video and everything else I

1 was fully aware of, what I am slightly perplexed about
2 is the precise specificity that Mr. Dockery has in
3 relation to the time in which it was shot, and the
4 date, which was not given in evidence by anybody.
5 MR. DOCKERY: Page 91 of the materials, sir. It's in 15:54
6 Marisa's statement to the Gardaí.
7 MR. HARTY: Sorry, that may be my mistake.
8 CHAIRMAN: Yes, I think what happened was, it was
9 played during the course of the interview on 6th
10 October and the Gardaí read out the metadata that was 15:54
11 shown on the screen and put it in the statement. So I
12 mean we think we should perhaps have a look at it. We
13 can do it Monday. Anyway you're maintaining the point
14 that according to the description of that, that that
15 shows an aggressive demeanour and that's the point 15:54
16 you're making, Mr. Dockery.
17 696 Q. MR. DOCKERY: Yes. I am suggesting to you Garda
18 Harrison that what Marisa told the Gardaí that day
19 about that incident was that you were blocking her exit
20 and that she had to lock herself into the car, and she 15:55
21 took out her phone and recorded it, and what I am
22 suggesting to you is that that displays the behaviour
23 of a woman who is in fear of you.
24 A. I simply don't recall that incident, Judge.
25 697 Q. All right. 15:55
26 CHAIRMAN: You would prefer to see the video?
27 A. I would like to see it.
28 CHAIRMAN: You would like to see the video?
29 A. Yes.

1 CHAIRMAN: It's fair you have a look at the video, yes.
2 We will see it on Monday.

3 698 Q. MR. DOCKERY: Now I want to turn to one other matter
4 and that is your statement to the Tribunal at page 27
5 of the materials. Yes. If Mr. Kavanagh just goes down 15:55
6 the page a little bit about eight or nine lines.
7 You'll see there, Mr. Harrison, do you see a line, four
8 lines down from the top:

9
10 "Marisa returned home after the wedding --" 15:56

11
12 Do you see that?

13 A. Sorry?

14 699 Q. "-- and some days after she was admitted to hospital
15 with complications due to the loss of our baby and it 15:56
16 was while in hospital that a GSOC investigator
17 contacted her while I was present. George O'Doherty
18 spoke with her on the phone and stated that he had
19 received a referral from Chief Superintendent McGinn
20 but he was confused as to what to do with it as it did 15:56
21 not fit into the criteria required for them to conduct
22 an investigation and was it Marisa's wish for them to
23 get involved."

24
25 And Marisa told him certain things. Mr. O'Doherty 15:56
26 asked Marisa to email him. Then you say in your
27 statement:

28
29 "Marisa explained what had happened to me and asked

1 what it meant."
2
3 were you intending to convey in that statement to the
4 statement that this was the first time you learned that
5 she had made a statement of complaint? 15:57
6 A. No. It was, it was that -- I was there when the phone
7 call came in, and she asked me what his contact meant
8 or what he was seeking from her.
9 700 Q. What did you mean when you said in your statement
10 "Marisa explained what had happened to me"? 15:57
11 A. Sorry, where's that?
12 701 Q. Do you see that, "Marisa explained what had happened"
13 to you?
14 A. Can we scroll down a little bit to the next line?
15 702 Q. Just where the cursor is there. I take it that means 15:57
16 you're telling the Tribunal in this statement that on
17 that occasion at the hospital bed once the telephone
18 conversation from Mr. O'Doherty had concluded that
19 Marisa explained what had happened to you?
20 A. No. She explained what had been the subject of the 15:58
21 phone call with her and Mr. O'Doherty.
22 703 Q. You weren't trying to lead the Tribunal to believe
23 perhaps that Marisa was explaining to you how it came
24 to be that Mr. O'Doherty was ringing her at all?
25 A. No, no, no. No. Marisa explained, Marisa came off the 15:58
26 phone and she explained the conversation she had and
27 what was it about, what it meant.
28 704 Q. And you say "I explained"?
29 A. Yes.

1 705 Q. All right. Now this is the 9th October 2013, isn't it?
2 A. That's correct.

3 706 Q. Right. She's made this statement just three days
4 earlier --
5 A. That's correct. 15:58

6 707 Q. -- which portrays you in a very, very damaging light
7 and instigates as far as she's concerned a possible
8 criminal investigation. And this occasion on the 9th
9 October is two days after she is texting Inspector
10 Goretta Sheridan that she has threatened you on the 15:59
11 phone with a safety order. All right?
12 A. Right.

13 708 Q. Yeah. And it's two days after she's texting Inspector
14 Sheridan that you're very upset, in a very bad way,
15 appear to be -- she's concerned about you, you're 15:59
16 crying an awful lot, presumably this is on the phone to
17 her, and you're promising her everything, including
18 that you'll move out, but that she will believe it when
19 she says it, all right?
20 A. I remember that, yes. 15:59

21 709 Q. Okay. And it's one day after she has gone back into
22 Letterkenny Garda Station of her own volition to give
23 them her mobile phone to download all the damaging text
24 messages --
25 A. Yes. 15:59

26 710 Q. -- that she had exchanged with you. All right. But
27 now on the 9th you're able to explain things to her?
28 A. Mm-hmm.

29 711 Q. All right. And two days later she's telling

1 Mr. O'Doherty that she doesn't want the GSOC
2 investigation to proceed and she is telling
3 Mr. O'Doherty that in fact you've never abused her or
4 threatened her at all?

5 A. What Marisa said was that she never intended it, or 16:00
6 intended for GSOC to get involved, nor did she want it
7 to go there.

8 712 Q. Well, you see Mr. O'Doherty prepared a note of his
9 conversation with Marisa two days later on the 11th
10 October: 16:00

11
12 "She told me she does not want GSOC to investigate her
13 complaint. She told me that her mother is not entirely
14 happy with her decision but has agreed to go along with
15 it." 16:00

16
17 This is on page 2346 of the materials.

18
19 "And Ms. Simms told me that she has told the Gardaí in
20 Letterkenny." 16:00

21
22 well, that is in dispute, but she's telling this to
23 Mr. O'Doherty.

24
25 "That she "doesn't feel under threat from Garda Keith
26 Harrison and that they are trying to work on their
27 relationship"." 16:00

28
29 Now, that is what anybody would call a volte-face from

1 the highest degree from her position on the 8th
2 October, on the 7th October and on the 6th October.
3 The only thing that is of interest is that in the
4 meantime you've explained the position to her.

5 A. I explained to her in regard to GSOC, yes. 16:01

6 713 Q. would it be a reasonable inference, one reasonable and
7 logical inference for the Tribunal to draw, that you
8 had pressurised her between the 9th and 11th October to
9 change her position?

10 A. Absolutely not. At that time Marisa was extremely ill 16:01
11 and that was the main concern. Everything else could
12 wait.

13 714 Q. what was her main concern?

14 A. I said that was my main concern.

15 715 Q. what was your main concern? 16:01

16 A. She was in hospital. Extremely ill.

17 716 Q. Did she invite you in to see her in hospital?

18 A. Yes.

19 717 Q. what hospital was she in?

20 A. Letterkenny. 16:02

21 718 Q. We have a situation here where she's going in one
22 direction and after you explain things to her she's
23 going into the opposite direction.

24 A. I never put pressure on Marisa to do anything.

25 719 Q. well, that would mean by October your behaviour and 16:02
26 attitude to her had changed fundamentally, is that so?
27 Because she's given a description of nothing but
28 pressure from you on lots of fronts prior to that. Now
29 the last thing I want to raise with you is something

1 that came up -- one second. Sorry, sergeant, while I
2 think of it, did you ever advise Marisa to make a
3 complaint to GSOC about the Gardaí's behaviour in 2013?

4 A. No.

5 720 Q. Why not? 16:03

6 A. Marisa would do that herself if she wanted.

7 721 Q. Sorry, this was something that concerned you very
8 directly.

9 A. Are you asking me would I tell Marisa to go and make a
10 complaint? No. 16:03

11 722 Q. Well, if she told you that the statement was a
12 concoction or that it was partly tricked out of her or
13 words were put into her mouth, you're a guard, surely
14 you'd say to her you know you can make a complaint to
15 GSOC about that? 16:03

16 A. Marisa could have done that on her own, she didn't need
17 me to tell her.

18 723 Q. But is it not something that you would have said to
19 her?

20 A. No. 16:03

21 724 Q. Whether she needed you to or not?

22 A. No.

23 725 Q. That sounds very odd, doesn't it?

24 A. I don't think so.

25 726 Q. Yesterday or rather on Wednesday Marisa told us, to my 16:03
26 mind, for the first time ever, because it certainly
27 didn't appear in her statement to the Tribunal and it
28 didn't appear in a sworn affidavit she made in 2015,
29 but she told the Tribunal for the first time that the

1 text messages to you that she sent between the 28th and
2 30th September admonishing you for your threats to burn
3 her and bury her and her sister, were lies; do you
4 understand?

5 A. Yes. 16:04

6 727 Q. Among those exchange of threats -- among those exchange
7 of texts she had said to you "you have threatened me
8 for the last time", she's now telling the Tribunal that
9 she was making all of this it up to hurt you. Right.
10 Now, you were asked yesterday whether you believe that 16:04
11 is the case and you said you do --

12 A. Mm-hmm.

13 728 Q. -- isn't that right?

14 A. Yes.

15 729 Q. And again I've suggest to you that you have never said 16:05
16 that in any materials before the Tribunal before; you
17 never said it in your statement of the 1st March last,
18 you've never said that anywhere before.

19 A. I simply did not know the existence of any text message
20 until -- in fact, I learned that there might be text 16:05
21 messages from a third party outside of the Tribunal
22 before we even got the text messages --

23 CHAIRMAN: I know, but I mean, Garda Harrison, you
24 know, with respect, this may be silly, I get text
25 messages, I gets whatsapp messages, I get email 16:05
26 messages, maybe my memory is better than some but not
27 flawless, but the whole point of them is you open them
28 and you read them.

29 A. Yes.

1 CHAIRMAN: So it's not exactly a big shock.

2 A. Judge, the first time I saw them again was, I don't
3 remember seeing or reading them, I obviously did, if I
4 got them in September/October 2013 but the next time I
5 saw them laid out was in the Tribunal booklet I got. 16:06

6 CHAIRMAN: Yeah. Well, I suppose, you know, it's
7 perhaps a kind of device that lawyers use to say well,
8 this should have been burned into your consciousness,
9 but let's just say that reading those and thinking
10 these are untrue and twisted, which is the position 16:06
11 you're adopting and Marisa has adopted, well, it would
12 have been a fairly strong dart into your flesh,
13 wouldn't it? So I'm just puzzled as to why you feel
14 that suddenly they were revealed to you when the
15 Tribunal documents were circulated. 16:06

16 A. I knew that they weren't true. I knew I never did any
17 of that. I knew I hadn't threatened her. So I didn't
18 dwell on it.

19 CHAIRMAN: Okay. No, that is --

20 730 Q. MR. DOCKERY: You were asked about it yesterday during 16:06
21 a passage of cross-examination by the Tribunal and by
22 the Chairman, and I think you certainly told the
23 Chairman that you believed that they were false, the
24 texts were false, that they were lies and that they
25 were sent to hurt you, isn't that what you told the 16:07
26 Chairman?

27 A. Yes.

28 731 Q. Yeah. And I think you told Mr. Marrinan when he
29 pressed you on it, that well, you know, at some stage

1 you've got some vague recollection that you might have
2 had a conversation to that effect with Marisa, isn't
3 that right?

4 A. Yes.

5 732 Q. But you couldn't, you said you couldn't remember it. 16:07
6 But you think you must have had a -- you probably had a
7 conversation with her at some stage?

8 A. Yes.

9 733 Q. I want to suggest to you that you ended up then telling
10 the Tribunal at the end of this sequence of questions 16:07
11 and answers that in fact the first time you remember
12 seeing these text messages in recent years was when you
13 got the Tribunal materials and when you asked Marisa
14 about them she said she couldn't remember sending them
15 and you couldn't remember receiving them? 16:08

16 A. That's correct. The first time.

17 734 Q. Yeah. So can I suggest to you that you had no such
18 conversation at any time prior to getting the Tribunal
19 materials, you had no conversation with Marisa whereby
20 you discussed the fact that she was lying in those text 16:08
21 messages?

22 A. What I said yesterday is that I didn't address those
23 text messages with a replying text, that I did speak to
24 Marisa, I would have rang her and I think the records
25 will clearly show I rang her at different stages and 16:08
26 asked her what was she on about, what did she mean.

27 735 Q. You never had any such conversation, I am putting it to
28 you, to say to her are they lies and where she said she
29 are lies, I admit that I was trying to hurt you?

1 A. I would have had conversation with Marisa in relation
2 to what the text messages, why she was sending those
3 text messages and I did do that.

4 736 Q. I'm suggesting to you that instead the position is that
5 you heard her saying this on wednesday and you've 16:09
6 decided to tailor your evidence to dovetail with that?

7 A. That's not correct.

8 737 Q. And that it's designed to insulate you against any
9 consequences?

10 A. That's not correct. 16:09

11 738 Q. And that it's an invention, that it's new, and it's
12 made up?

13 A. That's not correct.

14 739 Q. Thanks very much.

15 A. Thank you. 16:09

16 740 Q. Sorry, one last question, Chairman, I'm sorry. It's
17 been suggested to me that there is one thing I should
18 ask you. You haven't kept anything in the way of
19 contemporaneous notes of your dealings with anyone in
20 this, in regard to these issues? 16:09

21 A. In relation to the issue of the 28th september?

22 741 Q. In relation to that issue, in relation to your
23 discussions with Sergeant Wallace, in relation to your
24 contacts with Tusla or what occurred there, you've no
25 notes of any of that, do you? 16:10

26 A. No.

27 742 Q. Even though you would be used to taking notes and you
28 would be familiar with the importance of noting down
29 matters of moment in your life because you're a guard

1 and you carry a notebook, isn't that right?

2 A. Not at home.

3 743 Q. And your counsel has criticised and you have criticised
4 what you call the absence of notes in the dealings
5 between Gardaí and Tusla, isn't that so? 16:10

6 A. Your client was working, it was her duty, I was at
7 home.

8 744 Q. I think we have already agreed that once a referral is
9 made to Tusla it's handed over to Tusla, isn't that so?

10 A. Yes. 16:10

11 745 Q. Thank you.

12 CHAIRMAN: It's possibly best, and thank you Ms. Kelly,
13 to leave it there. And even though the website --
14 sorry, Mr. McGuinness, do you want to say something?

15 MR. MCGUINNESS: Just a couple of things, Chairman, 16:11
16 sorry. We have that video from the mobile phone which
17 is referred to in Ms. Simms's statement ready to be
18 shown on the system, should there be a request to see
19 it now.

20 CHAIRMAN: All right. Let's see it now. 16:11

21 MR. MCGUINNESS: It's very short. It's taken from
22 Ms. Simms's mobile phone which is on its side, so
23 people will see --

24 CHAIRMAN: So, do we have to lean over?

25 MR. MCGUINNESS: We have to lean over one way. 16:11

26 CHAIRMAN: Well, we could always turn the screen.

27 MR. MCGUINNESS: It probably needs to be seen a few
28 times in order to appreciate what is being shown.

29 CHAIRMAN: How many times are you proposing to play it

1 then, Mr. McGuinness?
2 MR. MCGUINNESS: Well, it's only 7 or 8 seconds.
3 CHAIRMAN: I'm going to turn this thing around.
4 MR. MCGUINNESS: You're very clever, Chairman.
5 CHAIRMAN: Well, I think a monkey could think of that 16:12
6 Mr. McGuinness. All right.
7
8 [VIDEO PLAYED]
9
10 will we see that bit again? Maybe let's stop it when 16:12
11 it goes blank. Do you want to play it a couple of
12 times?
13 MR. MCGUINNESS: Yes.
14 CHAIRMAN: It's very hard to make out the first time.
15 [VIDEO PLAYED] 16:12
16 So the two bits in the middle between the armrests
17 seems to be you, the car seems to be reversing towards
18 you, you're not moving, is that right, and then you're
19 wiggling your fingers?
20 A. I don't recall that, Judge. 16:13
21 CHAIRMAN: Sorry?
22 A. I don't remember this.
23 CHAIRMAN: Do you think that is you, Garda Harrison?
24 A. Yes, yes. That's me, yeah.
25 CHAIRMAN: Let's stop. There we go. 16:13
26 MR. HARTY: Perhaps I could ask, I don't know if there
27 was a sound in relation to it, and if there was -- it's
28 just -- no.
29 MR. MCGUINNESS: I don't believe so.

1 CHAIRMAN: There was no sound, was there?
2 MR. MCGUINNESS: No.
3 CHAIRMAN: It was a soundless video. Sometimes they do
4 have a soundless. Is there anything coming through on
5 that? 16:13
6 MR. MCGUINNESS: There's nothing coming through.
7 CHAIRMAN: All right. We have seen it now. Will we
8 adjourn then? You want to say something else?
9 MR. MCGUINNESS: Yes, Chairman. There were of course
10 other witnesses scheduled for today and obviously the 16:13
11 Tribunal is grateful for them having attended on the
12 required day.
13 CHAIRMAN: Very much. Thank you very much.
14 MR. MCGUINNESS: They may be disappointed that they
15 haven't been able to give their testimony today having 16:14
16 travelled down. My understanding is that they are
17 available and are going to be rescheduled then to be
18 here on Monday afternoon after Garda Harrison's
19 evidence concludes and we anticipate that that will
20 happen. 16:14
21 CHAIRMAN: All right. Well, if necessary we will try
22 and sit late, but we will have to change stenographers
23 in the middle in the event that it is more than three
24 hours.
25 MR. MCGUINNESS: Obviously it is the intention to 16:14
26 resume at 1:30 on Monday.
27 CHAIRMAN: It is. It is 1:30 and people should ignore
28 the website where it says two o'clock.
29 MR. MCGUINNESS: We can change that immediately today.

1 CHAIRMAN: All right.

2 MR. MCGUINNESS: And it follows from that, Chairman,
3 that the two witnesses who are scheduled for Monday
4 afternoon at present, that is Chief Superintendent
5 McGinn and Sergeant McGowan, I think will have to be 16:14
6 shifted into the Tuesday morning, just assuming that
7 that is suitable. We will update the website as best
8 we can then with any remaining witnesses.

9 CHAIRMAN: Yes.

10 MR. MCGUINNESS: I should say that on the Tuesday we 16:15
11 had scheduled five Garda witnesses to be heard and
12 everyone appears agreeable that they can be dispensed
13 with, they relate to matters which don't appear to be
14 either at issue or relevant for present purposes.

15 CHAIRMAN: Okay. And it isn't even, say, necessary 16:15
16 that we just read their statements and take their
17 statements as is?

18 MR. MCGUINNESS: There has been an inquiry as to
19 whether that could be done and if parties agreed for
20 you to take their statements as read we can proceed on 16:15
21 that basis, if people are happy to do that. The only
22 remaining matter then is, it does seem that we don't
23 require Superintendent English or Superintendent Coen I
24 think.

25 MR. HARTY: Sorry, in relation to those witnesses, we 16:15
26 were approached and certainly three of the five
27 witnesses which were listed we don't believe would be
28 required, but I think there were two that we thought
29 might be required. That was my understanding in

1 relation to it. And in relation to Superintendent
2 English, assuming Superintendent English is happy with
3 the evidence that has been given in relation to him, I
4 don't believe there is any issue I need to go into with
5 him. I haven't, and I must apologise I haven't had an 16:16
6 opportunity to get clear instructions in respect of the
7 Superintendent Coen. I will do that Monday morning.
8 MR. MCGUINNESS: I do want to apologise to Mr. Harty,
9 he did indicate that he wanted Sergeant McGroary and
10 Garda Moore, we should have them. 16:16
11 CHAIRMAN: Yes. Well, then we should have them.
12 MR. MCGUINNESS: That is my error I apologise.
13 CHAIRMAN: Don't worry about that. That is fine. So,
14 we will try and update as much as possible and get
15 through as much as possible. Again I'm not trying to 16:16
16 rush anybody, but it looks as between Mr. Harty and
17 Mr. Hartnett that we have, what, an hour of Garda
18 Harrison at most left, would that be right? And again
19 it's only to try and -- logistics.
20 MR. HARTNETT: Certainly I will be, if at all engaged I 16:16
21 will be very brief. Maybe my friend --
22 CHAIRMAN: And you will be an hour or more, Mr. Harty.
23 MR. HARTY: I anticipate being much shorter than that
24 and I feel I will be leading rather than
25 cross-examining, but there is Mr. Ó Braonáin still to 16:17
26 cross-examine.
27 CHAIRMAN: Yes, you have a few things and there's about
28 ten, 15, 20 minutes in that, so we might finish in an
29 hour.

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MR. Ó BRAONÁIN: I had said between half an hour and an hour.

CHAIRMAN: That is fine. Well then when we finish Garda Harrison what we will do is we will take a brief break and then we will go on to the other witnesses, but we will start at 1:30 and hope to continue until 5:00 or 5:30 if that is okay with Ms. Kelly and Ms. Downes. So that is it, thank you very much.

16:17

THE HEARING THEN ADJOURNED UNTIL MONDAY, 2ND OCTOBER 2017 AT 1:30PM

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