

TRIBUNAL OF INQUIRY INTO PROTECTED DISCLOSURES MADE UNDER
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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 MONDAY, 2ND OCTOBER 2017 - DAY 29

29

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 MONDAY, 2ND OCTOBER
2 2017 AT 1:30PM:

3
4 MR. MARRINAN: If Garda Harrison wouldn't mind coming
5 back, please. Thank you. 13:30

6
7 GARDA KEITH HARRISON WAS CROSS-EXAMINED BY
8 MR. Ó BRAONÁIN:

9
10 1 Q. MR. Ó BRAONÁIN: Thank you, sir. I appear, Garda 13:30
11 Harrison, for Chief Superintendent McGinn. I just have
12 a couple of matters to canvass with you in relation to
13 the complaints that you have made in relation to this
14 matter. Firstly, can I just touch on a matter that was
15 raised on Friday last in relation to your transfer 13:30
16 request to Chief Superintendent McGinn. I think you
17 said that that was made in September 2011. I don't
18 think much turns on it, but Chief Superintendent
19 McGinn's understanding is that, in fact, it was in
20 November 2011, which I think fits perhaps with the 13:31
21 statement we've gotten from Superintendent Coen in
22 relation to steps being taken in October 2011 towards
23 that transfer application.

24 A. My recollection is the end, the mid to end of
25 September, but I may be corrected on that. 13:31

26 2 Q. As I say, I don't think anything really turns on it.
27 Could I ask you just to look at page 1321 of the
28 documents, and if we just scroll down there a little
29 bit, I think that is a letter from you dated 14th

1 February 2011 to the sergeant in charge of Moate
2 Traffic Corps. And then just the last line of it
3 before forwarded for your consideration. It indicates
4 that you were at that time aware of Code 8.3(1) as
5 amended by HQ Directive 138/10? 13:32

6 A. Yes.

7 3 Q. And I think that that Code indicates that you can't
8 serve at a station within 50 kilometres where you or
9 your partner has relatives permanently residing?

10 A. Yes. 13:32

11 4 Q. And I think you agree that's the basis on you were told
12 your application for a transfer was refused, because of
13 relatives of Ms. Simms residing in Letterkenny?

14 A. Yes, that's right.

15 5 Q. I mean, do you have actually have any real complaint in 13:32
16 relation to that refusal in those circumstances?

17 A. Well, I'm aware of other members in the division who
18 would be serving in an area where relatives would be
19 residing.

20 6 Q. I see. 13:32

21 A. So I made an application in relation to looking to move
22 into the Letterkenny district, and I was denied --

23 7 Q. Yes.

24 A. -- because of --

25 8 Q. -- your connection with -- 13:33

26 A. Martin McDermott, yes.

27 9 Q. I think that one option that was suggested to you, and
28 you referred to it I think on Friday, was that you
29 could transfer to Bunbeg Garda Station?

1 A. I vaguely remember that being mentioned, yes.

2 10 Q. And I think the reason that was suggested, your
3 evidence on Friday suggested that really you wanted to
4 move to a busier station?

5 A. I just wasn't happy where I was at the time and I 13:33
6 wanted to move from where I was.

7 11 Q. I think your application was grounded on sort of
8 welfare grounds, some financial difficulties?

9 A. I think I cited financially and mentally not being --
10 or it was financially and mentally damaging where I was 13:33
11 at that time.

12 12 Q. Okay. I think one of the advantage of Bunbeg Garda
13 station is that you would be able to avail of a
14 Gaeltacht allowance and therefore, I think, 7.5% of an
15 increase in your salary on that basis? 13:33

16 A. I don't think I would have qualified for it because my
17 Irish wasn't strong enough.

18 13 Q. And I think that was canvassed and it was suggested
19 that you would be in a position to do a course in order
20 to be able to avail of that allowance? 13:34

21 A. At the time it wouldn't have been open to me because I
22 simply didn't have the grade of Irish required to
23 qualify for that allowance.

24 14 Q. Moving on then, I think one of the matters outlined in
25 your statement that Ms. Simms had been told that the 13:34
26 statement she was making was to be for the chief's eyes
27 only?

28 A. That's correct.

29 15 Q. Now, I think you'll understand that there appears to be

1 a contest in relation to that between Ms. Simms and
2 other witnesses who have given evidence?

3 A. I wasn't present and --

4 16 Q. Yes. No, as I say, I'm not asking you to comment on
5 that. But just from your own experience, if the chief 13:34
6 superintendent receives a statement outlining the
7 matters that are outlined in the statement of
8 Ms. Simms, would you not expect that she would be
9 duty-bound to act in relation to it?

10 A. But she didn't. No one ever spoke to me. And I think 13:34
11 from the papers I've seen, the action the chief saw as
12 best, either have me suspended, and, on foot of that,
13 if I wasn't to be suspended, to have me removed from
14 the division.

15 17 Q. What's the context in which you would speak to an 13:35
16 accused person in relation to allegations?

17 A. Sorry, say that again?

18 18 Q. The context in which one would speak to an accused
19 person is in the context of a criminal investigation,
20 isn't that correct? 13:35

21 A. That's correct, yes.

22 19 Q. I think we've heard some evidence of the complaint of
23 Ms. Simms being referred, rightly or wrongly, and
24 that'll be a matter for the Tribunal, to GSOC for
25 investigation. 13:35

26 A. I think it's clear that it was referred wrongly --

27 20 Q. Sorry, is that or is that not correct, Garda Harrison?

28 A. Can you repeat that, please?

29 21 Q. That the complaint, the statement of Ms. Simms was

1 forwarded on to GSOC for a criminal investigation.

2 A. That's correct.

3 22 Q. So the attempt at that early stage by Chief
4 Superintendent McGinn was to have the matter referred
5 to GSOC for a criminal investigation. One would expect 13:35
6 that, in the course of that criminal investigation, if
7 it had gone on, that you would be interviewed in
8 respect of it?

9 A. In fairness, I think Chief Superintendent McGinn would
10 have been well aware whether that would have fitted 13:36
11 the criteria for a section 102 referral.

12 23 Q. I'm sure that Chief Superintendent McGinn can give her
13 own evidence in relation to all of those matters.
14 Would you not agree, however, that it's in that context
15 that one would be interviewed, in the context of a 13:36
16 criminal investigation?

17 A. Well, Inspector Sheridan had the statement, was
18 appointed as the investigating officer, and having a
19 statement of any nature as an investigating guard --

20 24 Q. I'm sorry, Garda Harrison, I've been trying to keep 13:36
21 this as short as possible, so if you could just answer
22 the questions that I'm asking, I would be very
23 grateful. I'm not planning on being very long with
24 you, just a couple of matters that I wish to put to
25 you. I will move on from that. As I say, I think I 13:36
26 understand your case to be against Chief Superintendent
27 McGinn that, rather than acting in accordance with her
28 duties, she was acting out of some form of malice
29 towards you?

1 A. Yes.

2 25 Q. I mean, do you not think that if she was acting out of
3 some form of malice towards you, that, having received
4 this statement from Ms. Simms, that she would have an
5 investigation conducted internally within her division 13:37
6 where she would have more control over it, rather than
7 farming it out to GSOC for them to independently
8 investigate it, or anybody to do with her division?

9 A. Well, what actually happened, there were several
10 attempts to have the matter dealt with and different -- 13:37

11 26 Q. Garda Harrison, I'm going to touch on those as we go
12 along. But your view in relation to that proposition,
13 that if she was motivated by malice, why would she
14 throw the investigation out of her control to GSOC?

15 A. Well, in fairness, by giving it to GSOC was trying to 13:37
16 put a square peg into a round hole. I mean, it didn't
17 fit.

18 27 Q. Yes, and the significance of that in terms of her
19 motivation?

20 A. Was to have GSOC do the investigation, so it was. 13:37

21 28 Q. Yes. So, nobody to do with her division, no members of
22 An Garda Síochána conducting the investigation, it's
23 completely out of her control. If she is maliciously
24 inclined towards you, why on earth would she do that?

25 A. By the very nature of the referral. It's a section 102 13:38
26 referral. You know, that is a very serious referral.

27 29 Q. Additionally, I think if we just turn to page 458 of
28 the materials, we can see the request. This is a
29 report from Chief Superintendent McGinn to the

1 assistant commissioner northern region, seeking the
2 appointment and recommending an appointment of a
3 superintendent from outside of her division to conduct
4 the investigation in relation to these matters. Again,
5 here's another example of Chief Superintendent McGinn 13:38
6 seeking to have the matter as independently
7 investigated as possible on the basis of the contents
8 of Ms. Simms' statement. Again, is that not -- do you
9 not agree, Garda Harrison, that that is inconsistent
10 with your assertion -- 13:39
11 A. No, it's not.
12 30 Q. -- that she is acting with malice towards you?
13 A. No, it's not. The initial attempt was to have a
14 superintendent within the division to do it, but he
15 couldn't because he had -- formerly had interacted in 13:39
16 some way and he was precluded from it.
17 31 Q. I think you will see, Garda Harrison, from the papers,
18 and I suppose it's a matter for other people's
19 evidence, but you will see from the papers that his
20 appointment occurred after this report? 13:39
21 A. No, he was asked first, I think.
22 32 Q. I think as part of your statement, Garda Harrison, you
23 made a complaint in relation to Chief Superintendent
24 McGinn, that you wrote to her or made a complaint to
25 her in relation to being office-bound, and other 13:39
26 matters?
27 A. That's correct.
28 33 Q. I think, it's on page --
29 A. I think 9th May.

1 34 Q. -- 102 of the papers is your letter to her on the 9th
2 May.
3 A. Yes.
4 35 Q. If we can just turn then to -- that's what you're
5 referring to in your statement, is that report dated 13:40
6 9th May 2014?
7 A. One of the matters, yes.
8 36 Q. I mean, I don't think you made any other communication
9 in relation to these matters prior to that, to Chief
10 Superintendent McGinn? 13:40
11 A. No.
12 37 Q. At page 105 then, if we can just go down a little bit,
13 we will see that Sergeant David Durkin forwards that
14 report to the superintendent in Ballyshannon by letter
15 dated 10th May 2014. 13:40
16 A. Yes.
17 38 Q. And I think that then we'll see that, at page 107, by
18 letter dated 13th May, it indicates that your complaint
19 was received on the 12th May 2014 and then the very
20 next day, on the 13th May 2014, that's Chief 13:41
21 Superintendent McGinn directing that inquiries be made
22 that you be contacted in respect of your complaint and
23 inquiries be made to clarify, is this a complaint under
24 the bullying and harassment policy, to get certain
25 details from you, isn't that correct? 13:41
26 A. Yes.
27 39 Q. And I think you refer yourself in your statement to
28 being contacted repeatedly by Superintendent Archbold
29 on the 19th May following on from this?

1 A. Yes, Superintendent Archbold contacted me four times
2 after I met with the official recipient, Judge Pat
3 McMahon, and he was quite eager to obtain a statement
4 in relation to aspects of the affidavit sworn and
5 handed to Judge Pat McMahon. On the first phone call I 13:41
6 explained to him that Judge McMahon informed me not to
7 speak to anybody in relation to any aspect of my
8 affidavit until such time that the official
9 investigation team had been appointed by the
10 then-acting commissioner Nóirín O'Sullivan, and I 13:42
11 informed Superintendent Archbold of the fact, and he
12 accepted it and he said he'd probably call me back.
13 About 10 or 15 minutes later, he called me back and
14 said he spoken with Chief Superintendent McGinn and
15 that it was perfectly okay for him to speak with me in 13:42
16 relation to the matters, and I again expressed my
17 reservations about it, that I had been told by Judge
18 McMahon not to discuss any part of it, which would have
19 included the bullying and harassment. And he said that
20 he would go away. And he came back a third and maybe a 13:42
21 fourth phone call, and it was on the third phone call
22 he informed me that Chief Superintendent McGinn told
23 him that it was okay for him to obtain a statement of
24 me, and they had two investigations, the one that was
25 going to the official recipient -- 13:42

26 40 Q. Yes.

27 A. -- and the one that they wanted to do within the
28 division, it was quite appropriate for it to run
29 alongside each other. And the fourth phone call was to

1 arrange a date and time the following day to meet me to
2 take that statement. I was under extreme pressure at
3 that stage and I went sick that night. I spoke with
4 Judge McMahon about it the following day and he said it
5 was completely inappropriate for anyone to speak to me 13:43
6 in relation to --

7 41 Q. Again, I think you have been told before not to insert
8 the opinions of outside people.

9 A. This was actually relayed to the acting commissioner
10 and I understand that communication was made back to 13:43
11 the Donegal division to cease.

12 42 Q. I think there are matters outlined in your letter of
13 the 9th May that aren't incorporated into your
14 complaint under the -- to the Confidential Recipient?

15 A. There are, there are. 13:43

16 43 Q. They are of the nature of bullying and harassment?

17 A. Yes.

18 44 Q. Now, if I can just turn to page 29 of your statement --
19 or, sorry, page 29 of the papers, which is a part of
20 your statement, and just six lines down from the top: 13:44
21

22 "I highlighted concerns about my treatment to Chief
23 Superintendent McGinn and the fact that I was still
24 office-bound for no good reason, and got no meaningful
25 reply." 13:44
26

27 Now, perhaps there are matters you weren't aware of,
28 perhaps there were, I don't know, but having seen the
29 papers, the correspondence, the fact that Chief

1 Superintendent McGinn, the day after she receives your
2 report, asks for superintendent to make inquiries in
3 respect of your complaint, do you think it's fair to
4 categorise that as "no meaningful reply" in those
5 circumstances? 13:44

6 A. Can I just clarify one detail there, sorry?

7 45 Q. Yes.

8 A. Is that at all times, and I think Sergeant Durkin has
9 corroborated as well, I and those in Donegal Town were
10 of the mind that I was office-bound because of death 13:44
11 threats. We now know that is not the case; that
12 through papers seen from Chief Superintendent Anthony
13 McLoughlin at the Tribunal that I was actually
14 office-bound for a completely --

15 46 Q. I understand Mr. Harty is making that argument on your 13:44
16 behalf, but if you just answer my question in relation
17 to what you said in your statement to the Tribunal. Do
18 you think it is fair to categorise the response of
19 Chief Superintendent McGinn to your complaints as "no
20 meaningful reply"? I think she appointed a 13:45
21 superintendent to make inquiries of you in respect of
22 your complaint.

23 A. She already knew that wasn't the reason why I was in
24 the office.

25 47 Q. Is it a reply? 13:45

26 A. That's my reply. She already knew the reason why I was
27 inquiring why I was still in the office, wasn't the
28 reason why I was in the office.

29 48 Q. Just in brief, Garda Harrison, I will put to you that

1 Chief Superintendent McGinn quite clearly acted in this
2 case out of her duty and in no way out of malice
3 towards you.

4 A. I wouldn't agree.

5 49 Q. Thanks. Sorry, just, I don't think you were suggesting 13:45
6 that Chief Superintendent McGinn herself was talking to
7 Judge McMahon?

8 A. No, no.

9 50 Q. Yes. That's fine.

10 MR. Ó BRAONÁIN: Thank you, sir. 13:46

11 MR. DWYER: No questions, Chairman.

12 MR. HARTY: I don't think I have anything arising.

13

14 GARDA HARRISON WAS RE-EXAMINED BY MR. MARRINAN:

15 13:46

16 51 Q. MR. MARRINAN: Just one matter, Garda Harrison. You
17 recall on Friday you were being asked by Mr. Dockery in
18 relation to the obligation on a member of An Garda
19 Síochána under arrangements between the Gardaí and the
20 HSE and Tusla, and in particular Children's First, and 13:47
21 you were being asked, and a proposition was put to you,
22 this is at page 195 of the transcript, question 673:
23

24 "If that statement --" that's the statement of Marisa
25 Simms "-- was accurate, which it is not --" this is 13:47
26 your answer to the question "-- but if it was, there
27 should be a referral."
28

29 All right?

1 A. Mm-hmm.

2 52 Q. So you were accepting there as a proposition that was
3 being put to you that, making the assumption that
4 Marisa Simms' statement was accurate, that there was an
5 obligation on the Gardaí to refer that to Tusla, all 13:47
6 right?

7 A. Mm-hmm.

8 53 Q. And your case is that the statement wasn't accurate,
9 isn't that right?

10 A. My assertion is, is that the basis for making the 13:48
11 referral, based on the incident on the 28th September,
12 that part is not accurate, and I still strongly say
13 that, that incident --

14 54 Q. And that's a situation that you have maintained and
15 we're not going to revisit that -- 13:48

16 A. I understand.

17 55 Q. -- at this juncture. But insofar as a member of An
18 Garda Síochána taking a statement, the obligation to
19 refer it to Tusla arises where the accusation is
20 actually made, isn't that right? 13:48

21 A. Yes.

22 56 Q. So there isn't, as such, an inquiry at that juncture,
23 and I will just give you an opportunity to make a point
24 which I think you would wish to make, in a moment, but
25 just dealing with this aspect of it, the obligation on 13:48
26 a member of An Garda Síochána arises where the
27 allegation is made in the first instance, isn't that
28 right?

29 A. That's correct.

1 57 Q. So Sergeant McGowan, in the circumstances where this is
2 contained and the allegations are contained in the
3 statement of your partner, was actually under an
4 obligation to refer it to Tusla?

5 A. Okay. 13:49

6 58 Q. Isn't that right?

7 A. Yes.

8 59 Q. And the initial referral to Tusla would therefore have
9 appeared to be legitimate, isn't that right?

10 A. What I am saying is, in relation to the referral, is if 13:49
11 Sergeant McGowan, being in possession of all the
12 information she had, and believed that information,
13 then it cast a serious question over why that wasn't
14 relayed on to the HSE.

15 60 Q. No, I know you have complaints in relation to what was 13:50
16 subsequently done with the referral and what wasn't
17 done, and one of the complaints that you have in that
18 regard is that your side of the story, as it were,
19 there was never any attempt to obtain that from you?

20 A. No. 13:50

21 61 Q. All right. But what I am talking about is the
22 obligation that arises once the information is imparted
23 to a member of An Garda Síochána, and it seems to me
24 that you were agreeing that there was an obligation --

25 A. There is an obligation. 13:50

26 62 Q. -- on Sergeant McGowan in the particular circumstances
27 of this case to refer the matter to Tusla, isn't that
28 right?

29 A. That's correct.

1 63 Q. So it would appear that the referral is based on what's
2 contained in the statement. It doesn't appear that
3 there is any outside influence other than what's
4 operating on Sergeant McGowan's mind in referring this
5 matter to Tusla in the first instance? 13:51

6 A. Well, to be honest, we're not exactly sure in that,
7 because there was a meeting on the 8th October in
8 Letterkenny which comprised of chief superintendent, at
9 least two superintendents, a couple of inspectors and a
10 sergeant. So we don't know what was discussed and we 13:51
11 don't know what was said at that meeting.

12 64 Q. But we know that Sergeant McGowan had already decided
13 prior to that meeting that it was a matter that ought
14 to be referred to Tusla, isn't that right, you heard
15 that evidence? 13:51

16 A. I think it was Superintendent McGovern that directed
17 her to send the referral.

18 65 Q. But that was an obligation that existed. Regardless of
19 any meeting on the 8th October, that was an obligation
20 that existed? 13:51

21 A. Well, I just think it is strange that, having the
22 statement that she had, she still needed to be directed
23 by superintendent to make a referral, and up to the
24 point of the 8th October it doesn't appear anywhere
25 that she had made up her mind to create any referral 13:51
26 before the 9th where she was directed by the
27 superintendent.

28 66 Q. Then if I could just come to the issue in terms of
29 Garda Headquarters and senior management. There

1 doesn't appear to be any suggestion being made by you
2 that there is any evidence that senior management was
3 involved in what went on in Letterkenny Garda Station
4 on the 8th October, in terms of referring the matter to
5 Tusla, isn't that right? 13:52

6 A. Well, there appears -- from what we've seen in the
7 Tribunal papers, there appears to have been
8 communications to the now-retired Assistant
9 Commissioner Kieran Kenny, and again, we don't know
10 what information was sent to him and we don't know what 13:52
11 was done with it.

12 67 Q. But there was information sent to him, but I'm talking
13 about an input into the meeting on 8th October. There
14 doesn't appear to be a scintilla of evidence to suggest
15 that either Assistant Commissioner Kenny or the 13:53
16 Commissioner of An Garda Síochána or anybody in Garda
17 Headquarters had any input in relation to the meeting
18 that took place on the 8th October and the referral of
19 the matter to Tusla?

20 A. Well, I'd disagree there, because we have seen and we 13:53
21 know that Garda Karl Campbell had sent information to
22 Internal Affairs, which is based in Phoenix
23 headquarters, so there was information leaving the
24 division and going to other areas in Garda management,
25 and that's there to be seen. 13:53

26 68 Q. Is that the highest that you can put the basis for your
27 suspicion in this regard?

28 A. Well, communications to at least an assistant
29 commissioner, which is two below the Commissioner, that

1 is fairly high.

2 69 Q. But that is the highest that you can put your
3 suspicion?

4 A. We have had sent, I'm counting off hand, but at least
5 23 letters to Commissioner or retired Commissioner 13:53
6 Nóirín O'Sullivan, highlighting this particular issue,
7 but other issues of bullying and harassment, and none
8 of them -- to date, none of them have been dealt with
9 or addressed in any way, shape or form.

10 70 Q. Right. well, you appreciate that we are dealing with 13:54
11 this particular referral to Tusla.

12 A. I understand. And we have highlighted this to the
13 previous commissioner.

14 71 Q. And could you just tell me this so that we are clear in
15 relation to what we are actually dealing with here. 13:54
16 The Tribunal is aware of the fact that you had
17 difficulties in Athlone.

18 A. Yes.

19 72 Q. And I dealt with that with you in the examination of
20 you last Thursday. But the transfer to Donegal was at 13:54
21 your request, and when you were in Buncrana you were
22 received very well, isn't that right?

23 A. That's correct.

24 73 Q. And it would appear from what you have to say in
25 relation to your colleagues in Buncrana and also and 13:54
26 perhaps in particular in regard to Superintendent
27 English, that you were treated very well?

28 A. Yes.

29 74 Q. And also even on your transfer then subsequently to

1 Donegal and your meeting with Superintendent Coen, it
2 would appear on the face of it that what had transpired
3 in Athlone was left behind and you were turning over a
4 new leaf, isn't that right?

5 A. No, there was -- Athlone never went away. Athlone 13:55
6 was --

7 75 Q. That is what I am just wondering. I mean, is it your
8 case that the meeting on the 8th October involving
9 Chief Superintendent McGinn and the other senior
10 officers, that there was a decision to refer the matter 13:55
11 to Tusla and also then to GSOC; was this based on a
12 bias against you, if I can put it that way, arising out
13 of your history in Donegal and failing to tell your
14 superiors about your relationship with Marisa Simms and
15 the embarrassment that that had caused in Buncrana, or 13:56
16 do you believe that in some way it was a throwback to
17 Athlone?

18 A. I believe it was all matters combined.

19 76 Q. It was all matters combined?

20 A. Yes. 13:56

21 77 Q. And have you been able to or can you see any link
22 between Athlone and what transpired on the 8th October
23 in Letterkenny?

24 A. Sorry?

25 78 Q. Can you point to any link? 13:56

26 A. Again, I don't know because I wasn't in that meeting
27 and we don't know what was discussed in the meeting.

28 79 Q. No, but you know, you had the papers, you had the
29 statements. I mean, there isn't any suggestion or

1 there doesn't appear to be any suggestion that any of
2 the matters that transpired in Athlone -- arose at the
3 meeting on the 8th October, were referred to or there
4 was any input in relation to it?

5 A. Mr. Marrinan, we haven't seen any notes from that 13:57
6 meeting on the 8th October so we just don't know.

7 80 Q. Okay. Thank you very much.

8 A. Thank you.

9

10 THE WITNESS THEN WITHDREW 13:57

11

12 MR. MCGUINNESS: Chairman, the issue does arise at this
13 stage, we think, having regard to some of the
14 cross-examination conducted by and on behalf of the
15 Commissioner and by Mr. Dockery on behalf of the 13:57
16 members whom he represents, of matters put to Garda
17 Harrison that, on one view, should properly in fact
18 have been put to Ms. Simms. So I'm going to recall
19 Ms. Simms and ask those representatives if they wish to
20 put any further matters to Ms. Simms at this stage. 13:58

21

22 MS. MARISA SIMMS, PREVIOUSLY SWORN, WAS RECALLED AND
23 FURTHER CROSS-EXAMINED BY MR. O'HIGGINS:

24

25 81 Q. MR. O'HIGGINS: Ms. Simms, can I put matters to you, 13:58
26 but before I put the question, can I just outline a few
27 issues of chronology --

28 A. Yeah.

29 82 Q. -- which form the context of the question I'm going to

1 be putting to you.

2 A. Yeah.

3 83 Q. You're aware, aren't you, broadly speaking, of this
4 chronology: that there was the row, I'm going to try
5 to use neutral language, the row between yourself and 13:59
6 Keith Harrison on 28th September?

7 A. Yes.

8 84 Q. There's been the evidence as to what was on the text
9 messages between yourself and Keith Harrison in the day
10 and days following that row? 13:59

11 A. Yes.

12 85 Q. There's been the evidence of the reports by family
13 members to An Garda Síochána, family members of yours,
14 your mother, your sister, your mother twice, I think,
15 reporting to An Garda Síochána concerns they had in 13:59
16 relation to you being distraught, and so on. You heard
17 all that evidence?

18 A. I did, yes.

19 86 Q. There's also been evidence concerning the fact that on
20 the 4th October you attended your sister Paula's 13:59
21 wedding?

22 A. Yes.

23 87 Q. And there was the contacts with Keith Harrison on that
24 occasion, and then the obvious fact that, two days on,
25 on 6th October, you were providing a statement, or 14:00
26 providing a -- you're making a number of allegations
27 against Keith Harrison to Inspector Goretta Sheridan
28 and Sergeant McGowan.

29 A. Yes.

1 88 Q. Isn't that right? And then two days later, on the 8th
2 October, you appear to be proceeding with your
3 allegations insofar as you're providing to An Garda
4 Síochána your mobile phone on which is recorded the
5 various text messages? 14:00

6 A. Yes.

7 89 Q. Isn't that right?

8 A. That's correct, yeah.

9 90 Q. And then lastly in the chronology we know that on the
10 9th October, the very next day -- 14:00

11 A. Mm-hmm.

12 91 Q. -- in circumstances where Keith Harrison, it seems, has
13 now made contact with you or is with you on the 9th
14 October when George O'Doherty telephones you --

15 A. Yes. 14:01

16 92 Q. -- we know that at that point in time there appears to
17 be what I am suggesting to you is a sea change, a major
18 change in your position, in that you're now indicating
19 to George O'Doherty you're not desirous of GSOC
20 carrying out any investigation into these allegations, 14:01
21 all right?

22 A. Yeah, that's the first time I had heard GSOC. GSOC
23 were never discussed on the meeting on the 6th October.

24 93 Q. All right. Well, really, my question is this: First
25 of all, I'm suggesting to you that there was a major 14:01
26 change in your position vis-à-vis you making
27 allegations against Keith Harrison and conveying those
28 to An Garda Síochána and then deciding against that
29 course, a dramatic change of mind by you?

1 A. No, absolutely not, and I totally refute that
2 suggestion. There was never any serious threat to
3 begin with. There was never any sea change. And I
4 totally refute that.

5 94 Q. Yes. And I'm suggesting to you that it is a reasonable 14:01
6 inference for the Chairman to draw from the chronology,
7 from matters, all points on the compass pointing in the
8 direction of you making -- relaying allegations to An
9 Garda Síochána against your partner and then suddenly
10 indicating a desire that that not proceed further, I 14:02
11 say it is -- I'm suggesting to you that it is a
12 reasonable inference for the Chairman to draw, that
13 something caused you to change your mind vis-à-vis
14 proceeding with the allegations, all right?

15 A. No. 14:02

16 95 Q. And I'm suggesting to you that that something is really
17 someone, in that you had contact with Keith Harrison,
18 the result of which was a change in your mind?

19 A. Absolutely not.

20 96 Q. You did make contact with him, didn't you? 14:02

21 A. Yeah.

22 97 Q. You did have contact with him?

23 A. Yes.

24 98 Q. In that period, I am speaking between 4th, 6th, 7th,
25 8th, 9th October -- 14:02

26 A. Mm-hmm.

27 99 Q. -- were you speaking to him on the telephone?

28 A. Yes.

29 100 Q. When was that?

1 A. The 4th, the day of the wedding, when he called me to
2 relay the threat that was made against his life.
3 Probably, every day I had been speaking to him.
4 101 Q. Over the phone?
5 A. Yes. 14:03
6 102 Q. And during your sister Paula's for a period and
7 subsequent to handing in the phone to the guards, you
8 also went to the hospital?
9 A. Yes.
10 103 Q. Did you meet up with Keith during this period? 14:03
11 A. He visited me while I was in hospital, yes.
12 104 Q. And did ye discuss -- well, first of all, over the
13 telephone contacts, did you discuss, did you discuss
14 with Keith Harrison what you had said to the guards?
15 A. Can I just say, I was in hospital with an infection. 14:03
16 Do you really think I was sitting talking about GSOC?
17 No, it wasn't uppermost in my mind at that time, so
18 absolutely not.
19 105 Q. I'm sorry, I don't mean in any sense to pry into
20 medical matters, private matters at all, but in your 14:03
21 phone contacts with Keith Harrison, with Garda
22 Harrison, did you discuss with him in any shape or form
23 what you had said to the guards?
24 A. No. And I couldn't remember what I had said. No.
25 106 Q. It didn't come up at all? 14:04
26 A. No.
27 107 Q. In any telephone conversation?
28 A. Not in any telephone conversation. Yes, we had talked
29 about it, but you're suggesting that there was some

1 type of collusion, or I don't know what are you
2 suggesting, but I'm totally disgusted, the fact that
3 I'm even sitting here and this is being suggested to
4 me. Have I not been through enough, this public
5 humiliation for two full weeks now? 14:04

6 108 Q. Again, dealing with matters as neutrally as I can, is
7 it not -- is it not likely that Keith -- isn't it most
8 unlikely that Keith would not express dissatisfaction
9 that you had gone to the guards?

10 A. Yes, I have no doubt that he wasn't happy that I went 14:04
11 to the guards.

12 109 Q. Right. How did he show his unhappiness about you going
13 to the guards? What did he say?

14 A. I don't recall what he said.

15 110 Q. But how did it show itself? 14:05

16 A. He would have maybe asked what I went for. I don't
17 recall the conversation.

18 111 Q. What was the flavour of his dissatisfaction? How was
19 he annoyed? Was he annoyed?

20 A. I don't remember. 14:05

21 112 Q. Well, what caused you to get the impression he was
22 dissatisfied?

23 A. He was there when George O'Doherty telephoned when I
24 was in hospital.

25 113 Q. But earlier in the phone contacts was he not 14:05
26 dissatisfied, annoyed?

27 A. Can you repeat that?

28 114 Q. In the phone contacts you had with him, was he not
29 annoyed about you going to the guards?

1 A. I couldn't remember what I had said, so he didn't know
2 what he was to be annoyed about, other than that GSOC
3 had contacted and he knew that this -- that obviously a
4 statement of complaint had been forwarded.

5 115 Q. But, sorry, you had reported allegations against him to 14:05
6 the guards. Was he not --

7 A. That was for the chief's eyes only.

8 116 Q. Would that not -- well, even -- obviously that is a
9 point of issue between us.

10 A. Yes, it is. 14:06

11 117 Q. But even if that was so, that was purely for the
12 chief's eyes, would that not be something he would be
13 annoyed about?

14 A. I'd imagine so, yes.

15 118 Q. Right. How did he communicate his annoyance? 14:06

16 A. I don't remember. I was in hospital. I genuinely
17 don't remember what he said. You're asking me for a
18 conversation four years ago. I don't remember.

19 119 Q. When he came in to see you in hospital, did you discuss
20 what was said to the guards? 14:06

21 A. No. As I said, I couldn't remember what was in the
22 statement until I saw it in January 2014. I couldn't
23 remember what was in the statement.

24 120 Q. But presumably you were able to remember you had
25 relayed allegations about him? 14:06

26 A. Yes, I knew there was allegations about him, yes.

27 121 Q. I don't think anybody would expect you to remember
28 verbatim word for word what you had said, but you would
29 remember the thrust of it, wouldn't you?

1 A. As I said, it wasn't utmost in my mind at that time. I
2 don't remember.

3 122 Q. Yes. And, of course, your partner had his mobile
4 telephone, which would have on it the texts, isn't that
5 right? 14:06

6 A. I'd imagine so, yes.

7 123 Q. And we've heard evidence that he was able to have a
8 conversation with Sergeant Wallace, I think on the 7th
9 October, making reference to his position as to a
10 threat and a misunderstanding, as he was putting it, as 14:07
11 to what he had said?

12 A. I don't know what was discussed with Sergeant Wallace.
13 I wasn't there, I don't know.

14 124 Q. But did you discuss that with your partner?

15 A. No. 14:07

16 125 Q. The threat?

17 A. Yes, he relayed the threat on the night of the wedding,
18 yes.

19 126 Q. Pardon me?

20 A. He had rang me after he received the threat on the 14:07
21 night of the wedding.

22 127 Q. Well, I'm speaking about the threat that -- the text
23 appeared to record you giving out about to him for
24 having made against you?

25 A. Yes. 14:07

26 128 Q. Those threats. I'm not talking about the threats
27 against his life now.

28 A. Okay.

29 129 Q. So did you and Keith Harrison discuss in any way those

1 threats?

2 A. No, I don't believe we did, no.

3 130 Q. But he was clearly aware of them?

4 A. I'd imagine he was, yeah.

5 131 Q. Finally, I wish to suggest to you that there's a very 14:08
6 straightforward explanation for the change in your
7 position, namely that Keith Harrison pressurised you?

8 A. No, he didn't.

9 MR. O'HIGGINS: Thank you.

10 MR. HARTY: Mr. Dockery isn't present. There is one 14:08
11 question which does arise from the cross-examination on
12 precisely this point of my client by counsel for the
13 Garda Commissioner, I wonder if I could deal with those
14 matters.

15 14:08

16 MS. SIMMS WAS FURTHER CROSS-EXAMINED BY MR. HARTY:

17

18 132 Q. MR. HARTY: Ms. Simms, last Friday --

19 A. Yes.

20 133 Q. -- in a new variant on the lines run by the Garda 14:08
21 Commissioner in respect of commissions of inquiry into
22 whistleblowers, you'll recall that there's an issue
23 before this Tribunal in relation to Maurice McCabe in
24 the sense of him being malicious in whistleblowing in a
25 matter before the last Tribunal of Inquiry. And in 14:09
26 this one, it is suggested somehow that Garda Harrison
27 was, in fact, attention-seeking when he made -- and
28 jumping on the bandwagon and looking for fame --

29 A. Yes.

1 134 Q. -- when he made his protected disclosure. You were in
2 discussion with him around the time that he had made
3 the protected disclosure in May 2014, isn't that
4 correct?

5 A. That's correct, yeah.

14:09

6 135 Q. And I think it is only fair to you, because you were
7 both being thrust into the limelight --

8 A. Yes.

9 136 Q. -- what do you say to the proposition that yourself and
10 Garda Harrison wanted the fame of being whistleblowers
11 and wanted your private lives to be centre stage?

14:09

12 A. I think anyone who would even suggest or think that,
13 number one, you're not in possession of the full facts.
14 This Tusla issue isn't even a snippet of what we have
15 had to endure. Like, I have been followed into Dunnes
16 Stores with a blue light on, driving Garda Harrison's
17 car. I have been in the garden playing with my
18 children and patrols drive past slowly, waving, just to
19 let me know they're there. We've had death threats.
20 We've had people call to the door tell Garda Harrison
21 he's going to be shot, with children inside the house,
22 but don't worry we're investigating. We couldn't take
23 any more. And absolutely no way was this for fame, no
24 way.

14:10

14:10

25 137 Q. And in relation to this, you knew what was in that
26 statement when you made representations in respect of
27 this matter to be investigated by this Tribunal, isn't
28 that correct?

14:10

29 A. Yes.

1 138 Q. And you knew that your private life would become media
2 fodder?

3 A. Yes.

4 CHAIRMAN: Well, Mr. Harty, with respect, seriously,
5 nothing in relation to private life has become media 14:11
6 fodder at this Tribunal. The Tribunal has made it
7 perfectly clear what the Tribunal is investigating is
8 the circumstances under which a statement was made,
9 whether it was made honestly, in circumstances where it
10 might fairly be relied on, and whether the referral in 14:11
11 consequence to Tusla was correct and whether Tusla
12 acted correctly in consequence of the referral.

13 Nothing else. Nobody has brought up anything else in
14 relation to private life. And nor is this Tribunal
15 about the business of creating any kind of making of 14:11
16 hay on behalf of the media or anybody else. I mean, it
17 may be that the use of the expression "bandwagon" could
18 have been improved, but I'm not sure you can make this
19 much out of it.

20 MR. HARTY: Well, the expression was made, the 14:12
21 allegation was made. It was cast wildly, rather like
22 the impression "malicious" was cast wildly about
23 Sergeant McCabe in the last Commission of
24 Investigation.

25 CHAIRMAN: No, Mr. Harty, we're not having a general 14:12
26 discussion as to who is right and who is wrong in
27 relation to those matters. I have made it perfectly
28 clear right from the start what the terms of reference
29 mean. I mean, we went so far as to actually put an

1 explanation of this term of reference onto the website.
2 It doesn't take a genius to work it out. Nor does it
3 take huge intelligence to say that I am investigating
4 contacts between the Gardaí and Tusla in relation to
5 Garda Keith Harrison. I'm not investigating anything 14:12
6 else. And there has been no, as far as I am concerned,
7 there has been no prurient exploration of anybody's
8 private life at all. It is simply in relation to the
9 issue as to whether that statement could be regarded as
10 valid. No one has been making fodder on behalf of the 14:13
11 media, least of all I, nor would I have any such
12 interest. I doubt anybody else in the room has. And I
13 don't believe either that anybody who has given
14 evidence here has been in any way mistreated. So, I
15 mean, you have a question. 14:13

16 MR. HARTY: Yes.

17 CHAIRMAN: And I would be obliged if you would ask the
18 question.

19 139 Q. MR. HARTY: My question is very simple: You knew all
20 of this was going to happen? 14:13

21 A. Yes.

22 140 Q. That your details, contained in that statement, would,
23 rightly and properly, be put before this Tribunal, and
24 you knew that, therefore, rightly and properly, they
25 would end up in the public domain? 14:13

26 A. Yes. We had no choice. We had to do something.

27 MR. HARTY: Okay. Thanks, Ms. Simms.

28

29 MS. SIMMS WAS RE-EXAMINED BY MR. MCGUINNESS:

1

2 141 Q. MR. MCGUINNESS: Could I just clarify a couple of
3 matters, Ms. Simms.

4 A. Yes.

5 142 Q. Obviously, the texts that you sent in the aftermath of 14:14
6 the 28th were sent by you?

7 A. Yes.

8 143 Q. And the statements contained in your statement made to
9 the Gardaí --

10 A. Yes. 14:14

11 144 Q. -- are similar, if not identical, in terms, isn't that
12 correct?

13 A. Yes.

14 145 Q. And you've told the Tribunal that in the aftermath of
15 the 6th, when you went to the hospital, you didn't 14:14
16 really have any discussion with Mr. Harrison about your
17 statement and you couldn't really remember what was in
18 it, is that right?

19 A. That's correct, yes.

20 146 Q. Would you agree that it's quite possible, if not 14:14
21 probable, that what you had said in your texts, you
22 also repeated in your statement to the guards?

23 A. No.

24 147 Q. Okay. So when did you have a clear appreciation and
25 when did that clear appreciation first come to your 14:14
26 mind, that there was a difference between your texts
27 and what you had told the Gardaí?

28 A. Sorry, could you repeat that?

29 148 Q. When did you appreciate there was a difference between

1 what you had texted Garda Harrison and your statement?
2 A. I didn't -- to be honest, I couldn't even remember
3 sending the text until I saw the stuff for the
4 Tribunal, I didn't even realise that I had sent them,
5 and that's being honest. 14:15

6 149 Q. Okay. So you weren't in a position to tell Minister
7 Zappone about the texts when you met her?
8 A. I didn't -- as I said, until I saw the evidence for the
9 Tribunal, that was the first time I remember sending
10 it. 14:15

11 150 Q. And when you met Minister Zappone with Garda Harrison,
12 had you given her a copy of the statement that you had
13 made to the Gardaí, that you had got back from the
14 Gardaí in December 2014?
15 A. No, I don't think we did, no. 14:15

16 151 Q. Okay. And you obviously realised, did you, when you
17 saw the texts in the Tribunal papers, that you had sent
18 those texts?
19 A. Yes.

20 152 Q. Okay. Is there any reason why you didn't furnish
21 perhaps a supplemental statement of explanation,
22 explaining why you had sent those texts? 14:15
23 A. I suppose, in hindsight, I probably should have. I
24 just -- I didn't.

25 MR. MCGUINNESS: Okay. Thank you. 14:16
26 CHAIRMAN: That's it.

27 A. Thank you.
28
29 THE WITNESS THEN WITHDREW

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MR. MCGUINNESS: Chairman, the next set of witnesses are those from Tusla who dealt with the matter. And I am going to ask you to hear the evidence of Ms. Úna Coll first.

14:16

MS. ÚNA COLL, HAVING BEEN SWORN, WAS DIRECTLY EXAMINED BY MR. MCGUINNESS:

MR. MCGUINNESS: Ms. Coll's statement is to be found at page 1792 of our papers.

153 Q. Ms. Coll, I think you have a BSS (Hons) in social work from Trinity College Dublin?

A. That's correct, yes.

154 Q. And I think you were employed as a child protection social worker within HSE/Tusla from September 2008 until July 2017?

A. That's correct, yes.

155 Q. And I think in particular in 2012 you were a duty social worker on the West Central Social Work Team and would deal with any referrals to the team?

A. That's correct, yes.

156 Q. And I think you were also at different times acting team leader --

A. I would have at various times.

157 Q. -- when necessary? And you're currently employed by Tusla in fostering support link social -- as a social worker?

A. That's right, yes.

1 158 Q. Now, I think the Tribunal drew your attention to a
2 statement made by Sergeant Brigid McGowan and diary
3 extracts that she had from October 2013?
4 A. That's correct, yes.

5 159 Q. And I think you had met Sergeant McGowan on that day in 14:18
6 October as part of a general regular HSE liaison
7 meeting?
8 A. In October 2013?

9 160 Q. In October 2013.
10 A. In October 2013, I was covering -- I was acting team 14:18
11 leader for Ms. Smith. Donna McTeague had arranged a
12 number of strategy meetings with Sergeant McGowan and I
13 was covering in my capacity as acting team leader on
14 that date.

15 161 Q. Now, I think you've no recollection of discussing the 14:18
16 matter with Sergeant McGowan at that point in time, in
17 October 2013?
18 A. I recall that, following strategy meetings, that
19 Sergeant McGowan advised that a referral had been sent
20 to the department in relation to the Simms children, 14:19
21 and that has stuck in my mind because I had dealt with
22 a previous referral. I don't have any other
23 recollection of any other conversations that took place
24 in relation to the --

25 162 Q. Okay. So you certainly don't recollect any mention of 14:19
26 Garda Harrison on that date?
27 A. No.

28 163 Q. Okay. And I think she referred to a previous case in
29 her notes in which she said there had been a mention of

1 Garda Harrison, and I think you have checked your notes
2 in relation to that case, and Garda Harrison was
3 mentioned in connection with that case, but you've no
4 recollection of her account of what was said?

5 A. I don't have any recollection of that. 14:19

6 164 Q. In relation to that meeting in October 2013, was there
7 any mention of Garda Harrison being involved in the
8 Simms reference that was being made?

9 A. My only recollection from that date is that a referral
10 was being sent to the Social Work Department in 14:20
11 relation to the Simms children. I have no other
12 recollection in relation to the conversation that was
13 had.

14 165 Q. Okay. And you presumably hadn't received any actual
15 referral at that point in time? 14:20

16 A. No. I wasn't the duty social worker at that time.
17 Donna McTeague was the duty social worker. I was
18 covering that day for Ms. Smith, who was the team
19 leader.

20 166 Q. Okay. I think in 2012 you had come into possession of 14:20
21 an anonymous letter that had been sent to the social
22 work department relating to the Simmses, isn't that
23 correct --

24 A. That's correct, yes.

25 167 Q. -- and their children? And I think you met with 14:20
26 Sergeant McGowan in connection with that, is that
27 correct?

28 A. I did, yes.

29 168 Q. And what was the purpose of meeting Sergeant McGowan at

1 that point in time?

2 A. I suppose, maybe to put it into context, I had
3 contacted Sergeant McGowan by telephone to ascertain
4 the exact postal address for the family. The address
5 that was cited in the anonymous letter was not an 14:21
6 address I was familiar with, and I had at that point in
7 time been covering the Milford district for
8 approximately two years in my role as duty social
9 worker and I hadn't heard of that address previously,
10 so I made contact with Sergeant McGowan via telephone. 14:21
11 My recollection is that there was a meeting between
12 myself and Sergeant McGowan that had already been set
13 up. We would have met regularly in terms of referrals
14 that Gardaí would have sent in to the Social Work
15 Department and, likewise, referrals that the Social 14:21
16 Work Department may have sent to the Gardaí. So my
17 recollection is that that meeting was not a specific
18 meeting in relation to the anonymous letter; it was a
19 general meeting, a liaison meeting, that I had already
20 scheduled with Sergeant McGowan. 14:21

21 169 Q. It would appear, though, that you'd brought the
22 anonymous letter with you?

23 A. The meeting took place in my office, so I would have
24 had possession --

25 170 Q. You had it there? 14:22

26 A. Yes.

27 171 Q. And you showed it to Sergeant McGowan?

28 A. I did, yes.

29 172 Q. And can you recollect how she got a copy of it? Did

1 you volunteer it or did she request it?

2 A. My recollection is that she requested a copy of the
3 letter and a copy of the letter was provided.

4 173 Q. And would that be unusual in any circumstances?

5 A. No. 14:22

6 174 Q. And is the sharing of information in relation to cases
7 on children with the Gardaí, is that part of your
8 normal collaborative work?

9 A. Absolutely. And I suppose it is also cited in Children
10 First and it's encouraged that informal and formal 14:22
11 communication between the Social work Department and
12 the Gardaí in relation to child welfare and child
13 protection matters would take place and it would be
14 deemed best practice.

15 175 Q. Now, Garda Harrison is mentioned, obviously, in the 14:22
16 anonymous letter, but your investigations led you to
17 meet and speak to the Simmses and you conducted an
18 inquiry which didn't involve Garda Harrison in any way?

19 A. That's correct, yes.

20 176 Q. I think were you satisfied that there were no child 14:23
21 protection concerns at that time in relation to the
22 Simms children and the case was closed?

23 A. Yes, that was the outcome of my assessment.

24 MR. MCGUINNESS: Would you answer any questions anyone
25 may have. Thank you. 14:23

26

27 MS. COLL WAS CROSS-EXAMINED BY MR. DALY:

28

29 177 Q. MR. DALY: Morning, Ms. Coll. I am Peter Daly,

1 appearing for Garda Harrison in relation to this
2 matter. I have a number of questions for you. Just
3 firstly, I think -- at present I think you are still
4 currently working with Tusla, is that right, not just
5 in the Donegal division? 14:23

6 A. I am Donegal. I am not in the child protection
7 service. I am in the fostering service.

8 178 Q. I think for the purpose of this Tribunal I think you
9 gave a statement to the Tribunal on the 24th August of
10 this year, is that right? 14:23

11 A. That's correct, yes.

12 179 Q. And I think, as part of that, I think you were provided
13 with a number of documents and extracts from diaries to
14 assist you in compiling your statement, is that right?

15 A. That's correct, yes. 14:23

16 180 Q. And were you here for Sergeant McGowan's evidence?

17 A. No.

18 181 Q. You weren't?

19 A. I wasn't.

20 182 Q. Firstly, I think in your direct evidence you refer to 14:24
21 the Children's First Guidelines in relation to the
22 sharing of information and that it was normal practice.
23 I think you are familiar with the guidelines, it's
24 something that you rely on, on a daily basis, is that
25 right? 14:24

26 A. I would have in my career in child protection, yes.

27 183 Q. And I think amongst other things contained in the
28 Children First Guidelines, it deals with certain
29 matters but in particular it deals with an issue of

1 record-keeping. Are you familiar with best practices
2 and guidelines within that?

3 A. I am, yes.

4 184 Q. Would you agree with me that record-keeping is
5 important, particularly in documenting exchanges
6 between social workers, An Garda Síochána and/or any
7 other agencies?

14:24

8 A. Absolutely, yes.

9 185 Q. Right. And in particular perhaps if we could just have
10 page 1219 up on the screen, in the Tribunal's
11 materials. In particular, 7.11.2, it notes:

14:24

12

13 "Record-keeping: HSE and An Garda Síochána should keep
14 a written record of decisions taken in relation to the
15 case."

14:25

16

17 That is the position. Is that something that you would
18 adopt yourself and expect all others to adopt?

19 A. Yes. And we always strive, I suppose, to maintain
20 records. It's not always possible to record absolutely
21 everything, but yes, we do strive to maintain written
22 records.

14:25

23 186 Q. It goes on to note:

24

25 "All contacts between the HSE and An Garda Síochána
26 should be recorded."

14:25

27 A. Yes.

28 187 Q. Is there any particular reason as to why that is
29 specified?

1 A. I'm not aware of any particular reason that that is
2 specified.

3 188 Q. In addition, I think record-keeping is also dealt with
4 furthermore within the guidelines at page 1211. It's
5 noted as being of critical importance in the area of 14:25
6 work. Would you agree with that?

7 A. I would, yes.

8 189 Q. And that also it is essential for professionals to keep
9 contemporaneous records of all reported concerns in a
10 safe place, obviously for reference in future, and 14:26
11 ensuring that perhaps if an alternative social worker,
12 or otherwise, was dealing with the case, they're in a
13 position to bring themselves up to speed, is that
14 right?

15 A. That's correct, yes. 14:26

16 190 Q. In addition, I think the guidelines also deal with
17 issues of confidentiality. Obviously you're dealing
18 with very sensitive pieces of information, and
19 confidentiality is of the utmost importance as well,
20 would you agree with that? 14:26

21 A. Absolutely, yes.

22 191 Q. It was touched on briefly in your direct evidence in
23 relation to this incident in January 2012, which
24 related to an unrelated case but was in the Churchill
25 area, are you familiar with that? 14:26

26 A. I am, yes.

27 192 Q. And I think there's a suggestion that you've had an
28 opportunity to view the extracts from Sergeant
29 McGowan's in the correspondence that was forwarded to

1 you, is that right?

2 A. I have, yes.

3 193 Q. And she referred to a meeting in January 2012 between
4 you and her?

5 A. Yes. I have no recollection of that meeting. 14:26

6 194 Q. You have no recollection of that. You've no notes of
7 that?

8 A. No.

9 195 Q. And I think, in fairness, having perused your diary
10 entries, I think you keep a diary in relation to noting 14:27
11 as to who you are dealing with and what the purpose of
12 the meeting was?

13 A. I would have a diary, yes.

14 196 Q. And I think you viewed those, and there's nothing in
15 your diary to suggest that you ever had a meeting with 14:27
16 Sergeant McGowan in January 2012, isn't that right?

17 A. That's correct, yes.

18 197 Q. Would you agree that if such a meeting had taken place,
19 that you would have noted it in your diary, and
20 perhaps, even further, you might have written records 14:27
21 or notes of what had happened at that meeting?

22 A. If it was a formal meeting I would agree that there
23 would have been a note in either a diary or my notebook
24 or indeed on RAISE, which is the recording system that
25 we would use in the Social Work Department, which is an 14:27
26 electronic recording system, but I reviewed all of my
27 documentation and I don't have any notes.

28 198 Q. And in dealing with that issue insofar as it related to
29 Garda Harrison in that unrelated case, you've no

1 recollection of speaking with your team leader in
2 relation to the incident insofar as it related to Garda
3 Harrison, is that correct?

4 A. No, I've no recollection.

5 199 Q. And also in relation to Garda Harrison, other than the 14:28
6 fact of there was a diary entry, you've no record or
7 otherwise?

8 A. I have no record. I have record in my notes in
9 relation to that case, that separate matter, that Garda
10 Harrison was mentioned once -- 14:28

11 200 Q. Right.

12 A. -- by --

13 201 Q. But in relation to your exchanges with -- your alleged
14 exchanges with Sergeant McGowan, you've nothing in that
15 respect, is that right? 14:28

16 A. I've nothing, no.

17 202 Q. Right. Would you be surprised to note that Sergeant
18 McGowan has no contemporaneous note of this alleged
19 meeting, or this discussion of the incident in February
20 2012? 14:28

21 A. Again, as I stated, we do -- I am particular and I know
22 my colleagues, we strive to keep notes. I don't have a
23 note of every conversation that I ever had with members
24 of An Garda Síochána or with other professionals, or
25 indeed with colleagues in relation to cases. I don't 14:29
26 have any notes in relation to that, to that meeting.
27 I'm not saying that that meeting didn't take place or a
28 discussion didn't take. I don't have any notes or any
29 recollection, and it was five-and-a-half years ago.

1 203 Q. And similarly, too, Sergeant McGowan has no
2 contemporaneous note of this meeting. Would you agree
3 with me that that is slightly unusual, that neither of
4 you would take a note of this alleged meeting if it
5 took place?

14:29

6 A. If it was a formal meeting, yes. But I don't -- I
7 don't recall any formal meeting in relation to that
8 other, that other matter.

9 204 Q. CHAIRMAN: Can you help me, Mr. Daly, please, because I
10 am not sure -- there was a meeting certainly in
11 relation to the anonymous letter, which seems to have
12 been received in January, people have dated it in
13 February, and there was a chat between Ms. Coll and
14 Sergeant McGowan over that, a copy certainly was taken,
15 but you're referring to something else and I'm not
16 quite sure what it is. It's another unrelated matter?

14:29

17 MR. DALY: It's in relation to the incident that was
18 referred to of an unrelated case in the Churchill area
19 in January 2012. Sergeant McGowan made a reference to
20 that it was discussed with Ms. Coll. I am exploring
21 that neither Ms. Coll nor Sergeant McGowan have any
22 notes of it, and Ms. Coll has no recollection, notes or
23 records of this meeting either.

14:29

24 CHAIRMAN: Yes. It's about another child, another
25 family?

14:30

26 MR. DALY: It's an unrelated case. It was addressed by
27 Sergeant McGowan in her statement and also addressed by
28 Ms. Coll in her statement to the Tribunal.

29 205 Q. In dealing with the anonymous letter, Ms. Coll, I think

1 you had a discussion with Sergeant McGowan on the 9th
2 February in the morning, is that right, in relation to
3 this?

4 A. That's correct, yes.

5 206 Q. And then there was a subsequent meeting that afternoon 14:30
6 in your office on unrelated matters or specifically in
7 relation to this anonymous letter?

8 A. My recollection is that it was in relation to unrelated
9 matters, that it was a liaison meeting. That I would
10 have had many liaison meetings with Sergeant McGowan in 14:31
11 relation to referrals received from Gardaí and also
12 referrals sent from the HSE or Tusla to the Gardaí.

13 207 Q. I think you that afternoon, I think, had a meeting with
14 Sergeant McGowan. I think there was one issue which
15 you wanted to canvass or discuss with Sergeant McGowan, 14:31
16 and that was to establish the exact -- or a correct
17 address that was originally in the letter, is that
18 right?

19 A. That's correct, yes.

20 208 Q. And I think that was the only purpose of you raising it 14:31
21 with Sergeant McGowan, would you agree with me in that?

22 A. My -- yes, I was inquiring in relation to the exact
23 address for the family. However, there were concerns
24 expressed in relation to children in the Milford area,
25 and Sergeant McGowan was the Children First liaison 14:31
26 sergeant in that area, so it would not have been
27 unusual for me to have a discussion with Sergeant
28 McGowan in relation to children in the area that she
29 was the Garda liaison sergeant in, where concerns were

1 raised in relation to their welfare. But my primary
2 concern at that point in time was to establish a
3 correct postal address for the family.

4 209 Q. Right. And in doing that, I think you asked Sergeant
5 McGowan to make inquiries, establish the address, and I 14:32
6 suppose isn't it fair to say that there was no criminal
7 issues arising from the anonymous letter and there was
8 no issues involving Garda Harrison and Tusla arising
9 from the letter also?

10 A. There were no issues arising. 14:32

11 210 Q. And I think isn't it right that Sergeant McGowan
12 specifically requested a copy of this letter, I think
13 did you copy it there and then for her and give her a
14 copy of the letter?

15 A. I would have made a copy there and then, yes. 14:32

16 211 Q. Would you agree with me that, I have to suggest that
17 there was absolutely no necessity or reason that you
18 would need to provide the letter to Sergeant McGowan if
19 she was simply to corroborate or establish an address?
20 There was nothing in the letter that could advance or 14:32
21 assist her in establishing the address, would you agree
22 with me on that?

23 A. I agree that there was nothing in the letter that would
24 assist Sergeant McGowan in establishing an address.
25 However, I had requested that she make inquiries to 14:33
26 ascertain the correct address, and Sergeant McGowan did
27 request a copy of the letter. I saw no reason not to
28 give her a copy of the letter because I was asking her
29 to make inquiries on my behalf to ascertain the

1 address.

2 212 Q. But during your discussions that morning or during the
3 course of the meeting, you didn't offer the letter to
4 her; it was specifically she requested it?

5 A. That's my recollection, yes.

14:33

6 213 Q. Would you agree with me that perhaps issues in relation
7 to confidentiality and their importance are -- of
8 handing out an anonymous letter containing certain
9 allegations, perhaps, in hindsight, it would have been
10 preferable not to provide a copy to Sergeant McGowan?

14:33

11 A. I don't agree. I'm bound by confidentiality within my
12 role as a social worker and then a child protection
13 social worker. Similarly, Sergeant McGowan is bound by
14 confidentiality in her role as a Garda liaison
15 sergeant. So it wasn't that I handed this anonymous
16 letter out to just some random person. Sergeant
17 McGowan was our Children First liaison sergeant.

14:34

18 214 Q. Right.

19 A. And I didn't see any issue in providing her with a copy
20 of it.

14:34

21 215 Q. And would you have expected Sergeant McGowan to pass
22 that letter on to anybody else or would you expect her
23 to keep it confidential to her exchanges between you
24 and involving the children the subject of the letter?

25 A. I wouldn't have expected her to pass it out, as you
26 say. However, I suppose in terms of my own dealing of
27 the matter, I would have discussed the case with my
28 team leader, and likewise, at times I'm sure Sergeant
29 McGowan would have had to discuss the case or cases,

14:34

1 not particularly this case, but a number of cases with
2 her line management.

3 216 Q. Right. So you're not surprised by the fact that it was
4 passed on to more senior management within guards --
5 within An Garda Síochána? 14:35

6 A. I'm not surprised that it was passed to Sergeant
7 McGowan's line manager, no.

8 217 Q. I think subsequently there was an appointment arranged
9 between yourself and Mr. and Mrs. Simms, is that
10 correct? 14:35

11 A. That's correct, yes.

12 218 Q. I think that was on the 7th March 2012, and I think
13 that appointment was in your offices, was it?

14 A. That's correct, yes.

15 219 Q. Right. And I think immediately, or on the same date, I 14:35
16 think, having discussed the matter with Mr. and Mrs.
17 Simms, I think you came to the conclusion that the
18 matter should be closed and in fact it was deemed that
19 it was an inappropriate referral, would you agree with
20 me? 14:35

21 A. Following discussion with Mr. and Mrs. Simms, they
22 provided consent for me to contact relevant
23 professionals involved with the children. After I had
24 spoken to those professionals and had feedback and
25 there was no concerns, yes, it was deemed at that point 14:35
26 in time that there was no evidence to substantiate the
27 referral information.

28 220 Q. I think at page 1813, I think it was noted as an
29 inappropriate referral, on the 7th March. If we could

1 scroll down a bit further. Just there at the bottom of
2 that.

3 A. Yes, that's correct.

4 221 Q. It's deemed an inappropriate referral?
5 A. Yes. 14:36

6 222 Q. And was that the end of matters, as far as you were
7 concerned, and the end of your exchange in relation to
8 this issue with Sergeant McGowan?
9 A. In relation to that referral, yes.

10 223 Q. And did you hear back from Sergeant McGowan with 14:36
11 anything arising in relation to this issue?
12 A. I don't recall.

13 224 Q. Right. Sergeant McGowan didn't come back to you with
14 the address, did she?
15 A. In terms of the family? 14:36

16 225 Q. Yes, well, I suppose the sole purpose of you contacting
17 Sergeant McGowan was to establish and corroborate an
18 address?
19 A. Yes, I do believe that she had come back to me and
20 advised me that Court, Milford was an accurate address 14:37
21 and I'd sent out the letter thereafter.

22 226 Q. Do you have a record or note of any of this return
23 conversation or exchange with Sergeant McGowan?
24 A. I don't. I don't, no.

25 227 Q. Dealing with the next issue, there was reference to a 14:37
26 meeting on the 14th March 2012 by Sergeant McGowan.
27 A. Yes.

28 228 Q. Do you recall this meeting?
29 A. No, I don't.

1 229 Q. Do you say that there was no meeting or that you don't
2 recall the meeting?

3 A. I don't recall the meeting.

4 230 Q. Right.

5 A. And I checked my diary for the 14th March and I don't 14:37
6 have --

7 231 Q. There's nothing in your diary to suggest there was a
8 meeting on the 14th March?

9 A. No.

10 232 Q. And I think there was a suggestion that there was also 14:37
11 Ms. Nora Roarty; is she a colleague of yours?

12 A. She was my team leader at the time.

13 233 Q. It was suggested that she was also at this meeting?

14 A. There was a suggestion, yes.

15 234 Q. And as far as you're concerned, there was no meeting on 14:37
16 the 14th, is that right?

17 A. I have no recollection of a meeting on the 14th.

18 235 Q. Right. I think if it was a case, that be it through
19 your diary or notes, if there was a meeting, that you
20 would have some record of it, would you agree with me? 14:38

21 A. If it was a formal meeting that I was invited to, yes,
22 I would expect to have had a note in my diary in
23 relation to it.

24 236 Q. And then just to bring you somewhat forward in relation
25 to October 2013 -- 14:38

26 A. Yes.

27 237 Q. -- was, I think, your next involvement. I think that
28 you were still dealing with Sergeant McGowan in
29 relation to other matters, and I think there was a

1 suggestion that at a meeting on the 9th October with
2 Sergeant McGowan, that there was reference of some
3 referral in transit, so to speak, is that right?
4 A. That's correct, yes.
5 238 Q. After the 9th October -- or at the 9th October, did you 14:38
6 have any further involvement? Did you arrange any
7 further meetings or strategy meetings post 9th October?
8 A. No.
9 239 Q. And I think did you have any discussion on the 9th
10 October in relation to Garda Harrison with Sergeant 14:39
11 McGowan on that date?
12 A. I've no recollection of any discussion with Sergeant
13 McGowan in relation to Garda Harrison on that date.
14 240 Q. And I think at the time, I think there was a system in
15 operation within Tusla whereby if referrals were 14:39
16 received, that they were somewhat screened, is that
17 right, by the principal social worker?
18 A. Yes.
19 241 Q. And that was a Mr. Hone, is that right?
20 A. That's correct. 14:39
21 242 Q. Was he the most senior person working in the Donegal
22 region, an experienced social worker, as the principal
23 social worker, would you agree with me on that?
24 A. He was a principal social worker. He reported to the
25 area manager. So -- 14:39
26 243 Q. Right. And was he experienced?
27 A. Yes, absolutely.
28 244 Q. And I think a referral was received on the 10th
29 October, were you aware of that?

1 A. I had no dealings with the case following my meeting on
2 the 9th October. And I wasn't the duty social worker,
3 so I wouldn't have been aware of when the referral
4 would have been received.

5 MR. DALY: Thank you, Ms Coll. 14:40

6 MR. HARTNETT: No questions.

7

8 MS. COLL WAS CROSS-EXAMINED BY MR. DIGNAM:

9

10 245 Q. MR. DIGNAM: Ms. Coll, my name is Conor Dignam and I 14:40
11 appear on behalf of An Garda Síochána. I just want to
12 clarify three things with you, and I don't think there
13 is any controversy in relation to them. The first is,
14 the anonymous letter of 2012 which you describe on the
15 assessment form as an inappropriate referral, could you 14:40
16 confirm that that's not a referral that was made by An
17 Garda Síochána?

18 A. No, that was an anonymous referral.

19 CHAIRMAN: well, I would hope not.

20 MR. DIGNAM: No, I just wanted to clarify that, Judge. 14:41

21 CHAIRMAN: I am sure you have other avenues for doing
22 things apart from writing out articulate and
23 grammatically-correct letters of an anonymous kind.

24 MR. DIGNAM: I just wanted to clarify that, Judge, in
25 case a point was being made in drawing the witness's 14:41
26 attention to that, Judge.

27 CHAIRMAN: well, lots of point are being made, but that
28 is the highest jump I think we have had so far.

29 246 Q. MR. DIGNAM: In relation then, Ms. Coll, in relation to

1 the confidential information that you exchanged with
2 Sergeant McGowan, I don't think there's any controversy
3 in relation to this, but you in your work as a Tusla
4 social worker and Sergeant McGowan's work as the
5 liaison officer with Tusla, presumably you exchanged 14:41
6 confidential information on a regular basis?

7 A. Absolutely, yes.

8 247 Q. And do I take it that your expectation would be in
9 passing something to Sergeant McGowan, as you say you
10 were duty-bound to maintain confidentiality, and your 14:42
11 expectation, I believe, is that Sergeant McGowan was
12 also duty-bound to maintain confidentiality, is that
13 right?

14 A. Yes, that's correct.

15 248 Q. And in relation to the suggestion that Sergeant McGowan 14:42
16 passed out the anonymous letter, the copy of the
17 anonymous letter, to the best of your knowledge,
18 Ms. Coll, that went to Sergeant McGowan's line manager?

19 A. Yes.

20 249 Q. Isn't that right? 14:42

21 A. Yes.

22 250 Q. You're not aware of it having been passed out beyond
23 the line management within An Garda Síochána?

24 A. No, I'm not. I was made aware of that from the
25 Tribunal documentation. 14:42

26 251 Q. And then finally just in relation to your discussions
27 and conversations, I think you describe it in your
28 evidence that you and your colleagues strive to keep
29 notes of all discussions and conversations that you

1 have, but that there are occasions when you don't
2 manage to keep a note of conversations and discussions,
3 is that a fair way of summarising your evidence?

4 A. Yes, that is fair, yes.

5 MR. DIGNAM: Thank you, Ms. Coll. 14:43

6 CHAIRMAN: Is there any other questions?

7 MR. MCDERMOTT: Chairman, just one matter.

8

9 MS. COLL WAS CROSS-EXAMINED BY MR. MCDERMOTT:

10

11 252 Q. MR. MCDERMOTT: I wonder could page 1217 be brought up,
12 please. Ms. Coll, I'm just going to bring your
13 attention to paragraph 7.5 of the document we were
14 looking at earlier, and you will see it expressly
15 provides for occasions when there can be informal 14:43
16 consultation between HSE and Tusla and the Gardaí.

17 A. Yes, that's correct.

18 253 Q. So not everything has to necessarily be a formal
19 minuted meeting. Occasionally you're just chatting
20 with Gardaí, passing information back and forth, such 14:43
21 as an address?

22 A. Absolutely, yes.

23 254 Q. And the mere fact there might not be a note of such a
24 conversation, doesn't mean that anybody in this room
25 has to worry you must be in a conspiracy with somebody 14:43
26 or must be hiding something from somebody just because
27 you haven't written down a note like that?

28 A. No.

29 MR. MCDERMOTT: Thank you.

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MS. COLL WAS QUESTIONED BY THE CHAIRMAN:

- 255 Q. CHAIRMAN: I just have a couple of questions.
Ms. Coll, I'm not sure where you graduated from or when? 14:44
- A. Trinity College in 2008.
- 256 Q. CHAIRMAN: There seems to be a lot of people from Trinity working in Donegal?
- A. There is a few of us all right. 14:44
- 257 Q. CHAIRMAN: Yes, there seems to be. Now, that is not in any way a loaded statement, by the way; it is just an observation. And I take it you take pride in your work?
- A. I do, yes. 14:44
- 258 Q. CHAIRMAN: You make your own decisions?
- A. I do, in consultation with my team leader. But I do make my own decisions, yes.
- 259 Q. CHAIRMAN: well, this may seem like one of these questions that is answered yes, yes, yes, yes, as in yes, yes, yes with the EBS. But I'm just wondering how would you feel about the Gardaí directing you as to how to do your work or as who you were to meet or as to how you were to follow up on your professional duties? 14:44
- A. That has never been something that I have come across in my working with the Gardaí, nor would I accept direction from the Gardaí. I accept direction from my line management. Yes, we consult with Gardaí in relation to various matters. However, the Gardaí have 14:44

1 most certainly never directed me in terms of how I
2 should carry out my work, nor would I accept that from
3 the Gardaí.

4 260 Q. CHAIRMAN: And have you ever heard of it in relation to
5 this case or any other case? 14:45

6 A. In terms of Gardaí directing social workers?

7 261 Q. CHAIRMAN: Yes.

8 A. No, I have not.

9 262 Q. CHAIRMAN: And if you take it one step further, where
10 the Gardaí are not only directing social workers but 14:45
11 they are directing them to do their work in such a way
12 as to cause, let us say, anxiety or even mild anxiety
13 to people for purposes of the Gardaí as opposed to
14 social work being carried out for its own purposes such
15 as child protection or family support, how would you 14:45
16 feel about that?

17 A. I wouldn't accept that. I wouldn't accept that any
18 member of An Garda Síochána would see it fit to direct,
19 not only how we carry out our job or when we carry out
20 our job, or in which manner we carry out our job. 14:46
21 Absolutely they may have information that might be
22 pertinent to when it might be inappropriate or when
23 there might be certain situations going on for people
24 that -- I suppose, social work involvement in any
25 family can be intrusive, and we endeavour to be as 14:46
26 sensitive as possible, and if any professional,
27 including the Gardaí, were to provide us with
28 information to suggest that perhaps there was a certain
29 situation for a family, that they were not in a good

1 place and the concern wasn't that of an immediate risk
2 or immediate danger, we would certainly take that on
3 board, but Tusla and I suppose myself, in conjunction
4 with my team leader, we would decide what course of
5 action to take and when to take it. We would take on 14:46
6 board advice and consultation from Gardaí, but we
7 wouldn't take direction from Gardaí in terms of when to
8 visit or how to carry out our job. Absolutely not.

9 263 Q. CHAIRMAN: There was another matter, this is the last
10 matter, it's something that has been floating around; 14:47
11 that's the whole notion of personal relationships.
12 Obviously I'm not talking about romance, let's just
13 rule that out entirely. But usually it's the case that
14 birds of a feather flock together, is there much
15 socialisation, for instance, between social workers and 14:47
16 members of the Gardaí that you're aware of in Donegal?

17 A. Not that I'm aware of, no.

18 264 Q. CHAIRMAN: I mean, do you hear of it at all? I mean,
19 is there even an annual event to which both sets of
20 people would turn up? 14:47

21 A. No. Not that I'm aware of. There's no annual event,
22 no.

23 CHAIRMAN: All right, thank you.

24 A. Thank you. 14:47

25

26 THE WITNESS WITHDREW

27

28 MR. MCGUINNESS: The next witness is Mr. Gerry Hone.
29

1 MR. GERRY HONE, HAVING BEEN SWORN, WAS DIRECTLY
2 EXAMINED BY MR. MCGUINNESS AS FOLLOWS:.

3 265 Q. MR. MCGUINNESS: Mr. Hone, thank you for coming today.

4 A. Okay.

5 266 Q. You're a professionally qualified social worker. And I 14:48
6 think you obtained your qualification in 1993 from York
7 University in the United Kingdom?

8 A. That's correct.

9 267 Q. And I think you practiced as such for over a decade in
10 a number of different councils in England? 14:48

11 A. That's correct, yes.

12 268 Q. I think you returned to Donegal in December 2003 to
13 take up a position as social work team leader for the
14 North Western Health Board, as it was then, in Donegal?

15 A. That's correct. 14:49

16 269 Q. And I think you held that post until February 2005?

17 A. That's correct.

18 270 Q. Then you took up the position as principal social
19 worker for alternative care?

20 A. That's correct, yes. 14:49

21 271 Q. And then you remained in that position until August
22 2010 when you assumed the role of principal social
23 worker for children and families within the HSE,
24 covering County Donegal?

25 A. That's correct, yes. 14:49

26 272 Q. And you remained in that position until August 2014
27 when you became area manager for Tusla covering
28 counties Sligo, Leitrim and West Cavan?

29 A. That's correct.

1 273 Q. But in the period the Tribunal is concerned with, you
2 were at that point in time still the principal social
3 worker for children and families in Donegal?
4 A. I was, yes.

5 274 Q. And were you the appropriate person to whom child 14:49
6 referrals were made at that point in time?
7 A. That's correct. My particular office was the one point
8 of contact designated for officers from the Gardaí to
9 actually forward their notifications, and then I would
10 screen those notifications and pass them on to the team 14:50
11 that was responsible for the particular area, yes.

12 275 Q. Who would you expect to get notifications from in the
13 Gardaí?
14 A. I would expect to get notifications from the Children
15 First liaison officers or from -- I used to get a lot 14:50
16 from Eugene McGovern at the time. But I would
17 generally know the individuals that I would be getting
18 notifications from because they would be people we work
19 with quite closely.

20 276 Q. Yes. And in this case I think you did receive a 14:50
21 notification from Superintendent McGovern?
22 A. Yes.

23 277 Q. And from your point of view, was he an appropriate and
24 designated officer from whom to receive a notification
25 of referral? 14:50
26 A. Yes, yes.

27 278 Q. Perhaps we would look at the letter in that regard,
28 it's at page 110 of our documents.
29 CHAIRMAN: And is this the 9th October 2013,

1 Mr. McGuinness?
2 MR. MCGUINNESS: I think it's 10th October.
3 CHAIRMAN: Is it?
4 MR. MCGUINNESS: If one looks at the top of the letter,
5 I think it says 10th there. 14:51
6 CHAIRMAN: It does seem to, yes.
7 279 Q. MR. MCGUINNESS: That's addressed to you then in your
8 capacity as principal social worker?
9 A. That's correct.
10 280 Q. And it says: "Notification of suspected child abuse. 14:51
11 Emotional." It gives the names, date of birth and
12 address and it simply says: "The attached
13 notifications are forwarded for your information
14 please. Eugene McGovern, Superintendant." And it's
15 cc'd to Sergeant Brigid McGowan. Would that be fairly 14:51
16 standard form of letter enclosing a referral?
17 A. Yes, that's completely standard, yes.
18 281 Q. Nothing unusual about it?
19 A. No
20 282 Q. Not requiring any special attention? 14:51
21 A. No.
22 283 Q. It doesn't mention Garda Harrison?
23 A. No. It mentions the children --
24 284 Q. Yes?
25 A. -- which would have been standard, yes. 14:51
26 285 Q. Perhaps we will look at page 111 then. I'm not sure
27 how well you can read that, but you received the
28 original obviously?
29 A. Yes.

1 286 Q. And you have access to the original?
2 A. Yes.

3 287 Q. It says on the top it's "Standard notification form for
4 use by An Garda Síochána in notifying cases to the
5 HSE", is that correct? 14:52
6 A. That's correct, yes.
7 CHAIRMAN: Sorry, I wonder is there any way we can make
8 it bigger?

9 288 Q. MR. MCGUINNESS: At his meeting with Minister Zappone,
10 Garda Harrison is recorded on page 1558 of our 14:52
11 documents as saying:
12
13 "The referral was not on the standard notification
14 form."
15 14:52
16 would you like to comment on that?
17 A. That is a standard notification form to the HSE, yes.

18 289 Q. Okay. The details on it, there's a box ticked
19 obviously "emotional abuse" there?
20 A. Yes. 14:53
21 290 Q. Their address is given and names given there, and then
22 there is a short piece of additional information there
23 and perhaps you would just read that out for the
24 record.
25 A. I am finding it hard to read that. 14:53
26 291 Q. Right.
27 CHAIRMAN: You can take out the volume. If you take
28 out volume 1 beside you. If you look to your left,
29 Mr. Hone.

1 A. Yes.

2 CHAIRMAN: No, to your physical left in the box there
3 is a physical file, and page 110, 111 may help you.

4 A. Thank you.

5 292 Q. MR. MCGUINNESS: I think it reads "Child present --"? 14:53
6 A. "During argument".

7 293 Q. "-- argument with mother and partner."
8 A. Yes.

9 294 Q. "HSE to contact Gardaí on receipt of notifications to
10 confirm contact details." Is that correct? 14:54
11 A. Yes, that's correct.

12 295 Q. Again that doesn't identify Garda Keith Harrison by
13 name?
14 A. No.

15 296 Q. And that is signed then by, identifying the designated 14:54
16 Garda as Sergeant McGowan and signed by Superintendent
17 McGovern?
18 A. Yes.

19 297 Q. Again there's no mention of Garda Harrison, but there's
20 no sort of special or urgent attention -- 14:54
21 A. No.

22 298 Q. -- sought on that?
23 A. No.

24 299 Q. Or no action specifically required?
25 A. No. 14:54

26 300 Q. Is that a matter that could be included on the form?
27 A. It is. And I think what stood out for me on this form
28 was the "HSE to contact the Gardaí", it was the bit in
29 brackets. So on receipt of this form I would have

1 known by that comment that the Gardaí would have held
2 further information about this particular matter. But
3 that wasn't on this particular form.

4 301 Q. Yes. We know of course there was a statement of
5 complaint made in circumstances that are in dispute 14:55
6 somewhat obviously, but would it be common or not to
7 refer to a statement of complaint or have you any
8 comment on the absence of reference to it here?

9 A. Not in this particular form, you wouldn't normally get
10 reference to a statement. You might do in subsequent 14:55
11 communications, but not on this particular form.

12 302 Q. Yes.

13 A. This form is quite limited in what you can include on
14 it. It is purely a form that is designed for
15 notification and then for matters to be followed up 14:55
16 after that.

17 303 Q. So, it's the starting block, it as were?

18 A. It's the starting block, yes.

19 304 Q. Okay. But in terms of it allowing you to make any sort
20 of judgment as to what is to occur, is it of great use 14:55
21 in that regard?

22 A. It's not really. I think the importance of it is that
23 it provides a mechanism to ensure that there's a way to
24 inform the HSE about any concern that emerges about a
25 child's welfare. And likewise, for us, we have a 14:56
26 similar form to report to the Gardaí similar concerns,
27 and it's that formal notification that allows
28 activities then to begin to examine the welfare issues
29 or the child protection issues in respect of the

1 children.

2 305 Q. And in notifications either way, that is from the
3 Gardaí to the HSE or vice versa, you wouldn't expect
4 documents to come with the notifications?

5 A. Not particularly, no.

14:56

6 306 Q. However, you considered this and you wrote back to the
7 superintendent?

8 A. Yes.

9 307 Q. And could we look at the letter, page 115 of the
10 documents? It should be on screen there. That's a
11 letter dated 16th October which was sent out at your
12 behest, is that correct?

14:56

13 A. Yes, that's correct.

14 308 Q. And it says:

15

14:57

16 "Re: Your notification regarding the two children and
17 address.

18

19 I acknowledge receipt of the above notification copy
20 attached. However, as there is no evidence of abuse
21 detailed no further action will be taken from this
22 service until we receive more information.

14:57

23

24 The notification has been forwarded to Bridgeen Smith,
25 Assistant Team Leader, West Central Team, Child and
26 Family Services, Saint Conal's Hospital, Letterkenny,
27 for information purposes only."

14:57

28

29 And Then there is a cc list --

1 A. Yes.

2 309 Q. -- of Sergeant McGowan, Bridgeen Smith and Sergeant
3 Walsh. Can I ask you, is that letter in form; is it in
4 usual or unusual form?

5 A. That's in usual form. I think one of the issues that I 14:58
6 wanted to be clear about in this particular letter is
7 that the notification, although it was ticking a box of
8 emotional abuse, that there wasn't evidence at that
9 particular point on that particular form to suggest
10 emotional abuse. And what I was trying to make clear 14:58
11 by this particular letter is that further information
12 needed to be shared between the agencies if any action
13 was to be taken by social work in this particular case.

14 310 Q. Okay. This letter has been characterised in different 14:58
15 documents as representing a decision by you that
16 sufficient threshold hadn't been met for intervention,
17 is it any such thing?

18 A. No. It's no such thing. It's really to say that based
19 on the information contained in the notification it was
20 insufficient to suggest emotional abuse at that stage. 14:59

21 311 Q. At that stage?

22 A. And further information would need to be given or we
23 would need to find out more information about the
24 situation before we could reach any such determination.

25 312 Q. Okay. It's been suggested in some way that it 14:59
26 represents a decision to close the case and that the
27 case then gets reopened later?

28 A. No, absolutely not.

29 313 Q. All right. So is it meant to be effectively a trigger

1 to, as it were, prompt both the Gardaí and HSE to in
2 fact liaise about the matter?

3 A. Absolutely. And hence, copying it into Brigid McGowan
4 and the team leader, Bridgeen Smith, because that also
5 makes it clear to the service that we have received the 14:59
6 notification, the status of the notification at that
7 particular stage and the need for more information to
8 be shared.

9 314 Q. Okay. We have also been provided by Tusla, very
10 properly in discovery obviously, with other forms which 14:59
11 seem to have been generated as about 16th October.

12 A. Yes.

13 315 Q. Could I ask you to look at page 113 in the book? Have
14 you got the hard copy there, as it were?

15 A. I have, yes. 15:00

16 316 Q. It's headed "Current Proforma"?

17 A. Yes.

18 317 Q. It has name of social worker, Donna McTeague. And
19 there's some details put in there, would that have been
20 created by her or by you? 15:00

21 A. No, that would have been created at the social work
22 office either by Donna herself or perhaps by the
23 administration in the office, but Donna would need to
24 confirm that one way or the other.

25 318 Q. All right. And there's a second page and it says 15:00
26 "Allocated to the social worker --"and it's Donna
27 McTeague there on the side --

28 A. Yes.

29 319 Q. -- and it's dated 16th, which is the same time as your

1 letter. would you have assigned her to this --

2 A. No.

3 320 Q. -- or did you assign her?

4 A. No, I didn't assign her to that. That would have been
5 between herself and her team leader at the social work 15:01
6 office.

7 321 Q. Okay. And can you recollect who her team leader was at
8 that point in time?

9 A. Think I that would have been Bridgeen Smith at the
10 time. 15:01

11 322 Q. Yes. There's a number of boxes ticked and there's the
12 referral type "child welfare"?

13 A. Yes.

14 323 Q. Would emotional abuse be put into that category
15 normally? 15:01

16 A. No. No. Emotional abuse would be a separate category.

17 324 Q. Okay. And there's a heading there: "Is person aware
18 of the referral?" And there seems to be an X ticked in
19 the yes box, is that right?

20 A. Yes. 15:01

21 325 Q. And would that -- who would that relate to, the person
22 being aware? which person does the form relate to?

23 A. It would relate to either the parents of the children,
24 generally. Generally speaking, yes.

25 326 Q. Okay. And it records then the information that was on 15:02
26 the form in handwriting from Superintendent McGovern:
27 "Child present during argument with mother and partner.
28 HSE to contact Gardaí in receipt of notification to
29 confirm contact details."

1 A. Yes.

2 327 Q. "No additional information and referral. Private level
3 1 other."

4 A. Yes.

5 328 Q. Can you just explain that reference? 15:02

6 A. Yes. Our cases are divided into priorities levels 1, 2
7 or 3. It is important to point out, this proforma is
8 usually used for gathering information, the basic
9 information that comes in, in the initial referral. So
10 it probably only includes the information that was 15:02
11 received on the initial Garda notification.
12 Potentially why the "child welfare" box may be ticked
13 on this particular occasion, although I would suspect,
14 is because what was on the Garda notification at that
15 time was the children witnessing an argument between 15:02
16 their parents. Now in terms of the social work
17 assessment of such a comment, that would fit within the
18 category of child welfare, until such time as further
19 information might well change that category. So at
20 this particular point, which is at the very early 15:03
21 stages, priority level 2 would mean that there is a
22 medium priority assigned to this particular case.

23 329 Q. All right. But can I take it or have you any
24 recollection of any having contact with Superintendent
25 McGovern about the referral that he sent you or your 15:03
26 letter back to him?

27 A. No.

28 330 Q. Did you have any discussion with any member of an
29 Gardaí at all?

1 A. No.

2 331 Q. As I understand your previous answers, you had no input
3 into the choice of the social worker?

4 A. No.

5 332 Q. And did you have any contact or discussion with 15:03
6 Ms. McTeague as to how she should do her job?

7 A. No.

8 333 Q. Can I ask you to look at intake record then on page
9 116? Again that's dated, it appears to be dated 16th
10 October, it's given at report number, client number. 15:04
11 Is that in regular form?

12 A. That's in regular form, yes.

13 334 Q. I see. It's got no reference to Garda Harrison at this
14 point in time. It's got Sergeant McGowan's details at
15 part 5 heading "Reporter"? 15:04

16 A. Yes.

17 335 Q. There's, the word "yes" is included there in the bottom
18 right-hand box, "discussed concern with
19 parents/guardian", what's that intended to reflect?

20 A. That's usually intended to reflect whether the referrer 15:05
21 has discussed the particular matter with the persons
22 being referred, usually the parents, yes.

23 336 Q. That is Sergeant McGowan?

24 A. That is Sergeant McGowan, yeah, who would be --

25 337 Q. But how would Ms. McTeague know that or would that be 15:05
26 an assumption?

27 A. No, that must be through discussion. You would have to
28 ask Ms. McTeague that, yes.

29 338 Q. I see. At the top of the next page the question is

1 explicitly asked:
2
3 "Are the child's parents/carers aware that this concern
4 has been reported to the HSE?"
5 15:05
6 And again the word "yes" is put in there.
7 A. Yes.
8 339 Q. Okay. At the bottom of that page, at box 13, it says:
9 "Other checks: This information is recorded in case
10 notes but it may be appropriate to highlight particular 15:06
11 details on this."
12
13 And it says:
14
15 "Sergeant McGowan to discuss case with DSW prior to 15:06
16 proceeding. Strategy meeting to be organised."
17
18 would that be the expectation; that Sergeant McGowan
19 either would or had been in contact?
20 A. Yes. And certainly I would have expected more contact 15:06
21 from the initial notification between the Gardaí and
22 DSW, that is duty social worker, which refers to
23 Ms. McTeague. And you would expect that to happen.
24 340 Q. Okay. would you be expected to have any oversight of
25 how the matter went after? 15:06
26 A. No, not particularly. Yes, that would be the
27 responsibility of the team leader on the particular
28 team.
29 341 Q. Okay. There is a similar form, in terms of an intake

1 record relating to the other Simms child. There's a
2 report of a strategy meeting at page 124.

3 CHAIRMAN: Do we have a date for this one,
4 Mr. McGuinness?

5 MR. MCGUINNESS: It appears to be dated 21st October 15:07
6 2013.

7 342 Q. would that represent a reasonable pace of progress?

8 A. Yes, it would. Yes. Yes, for this particular type of
9 case, yes.

10 343 Q. Okay. And would you regard this as being, therefore, a 15:07
11 case that was open and ongoing and being progressed
12 properly?

13 A. Yes, yes.

14 344 Q. There's a short section (b) there which records 15:07
15 minutes, at number 5 it says:

16
17 "Marisa Simms made statement of complaint to Gardaí
18 detailing incident when child/children were present.
19 Incident was a verbal disagreement between Marisa Simms
20 and current partner. Gardaí aware that Marisa Simms 15:08
21 recently hospitalised. Further investigations to be
22 conducted when Marisa regains health. Social work
23 Department to liaise with Gardaí to ascertain when
24 Ms. Simms in position to progress matter."

25 15:08

26 That is recommendation 1.

27 A. Yes.

28 345 Q. Recommendation 2:
29

1 "Social work Department not to contact Ms. Simms until
2 confirmation from Sergeant McGowan that the matter can
3 be progressed by Social Work Department."
4

5 A. Yes. 15:08

6 346 Q. And the person responsible in the first recommendation
7 is Ms. McTeague and the second one is Brigid McGowan,
8 who is the Garda sergeant?

9 A. Why he.

10 347 Q. Would that be usual to do that? 15:08

11 A. It really depends on the individual circumstances of
12 the case. I presume in this particular case it was the
13 fact that Ms. Simms was ill and was hospitalised and I
14 presume Sergeant McGowan was going to contact the
15 social work service when Ms. Simms would be discharged 15:09
16 from hospital and that would allow the social work to
17 proceed with the investigation.

18 348 Q. Yes?

19 A. I think in cases where there's no apparent immediate
20 protection issues in respect of a child you can be more 15:09
21 flexible in the timeframe for response, yes.

22 349 Q. All right. There's reference obviously to Ms. Simms's
23 statement of complaint to Gardaí detailing incident
24 when child/children were present?

25 A. Yes. 15:09

26 350 Q. Is it common to either seek or obtain a copy of such a
27 statement?

28 A. Yes. The practice at that particular time, from my
29 recollection, was that we didn't ask particularly to

1 see the statements. So we were, we were depending on
2 Gardaí to forward the relevant details pertaining to
3 the statement, yes. Certain cases you might ask to see
4 the statement, depending on a particular case in
5 question, and particularly if there was very serious 15:10
6 child protection issues. Since this particular --
7 since I think the policy changed in Donegal around the
8 year 2014, where, based on experience, we asked to see
9 individual statements just because -- and that was
10 purely based on the fact that when Gardaí read 15:10
11 statements they tend to read them, yes, from a child
12 welfare perspective, but with not necessarily the
13 expertise that a social worker might have in terms of
14 child welfare. So that it would be better if social
15 workers actually read statements, where possible, where 15:10
16 child welfare concerns were being raised in order to
17 come -- I suppose part of their assessment, to make
18 their assessment more robust, yes.

19 351 Q. But it certainly wasn't standard practice to be given
20 it? 15:11

21 A. No, no. No, absolutely not.

22 352 Q. But you would expect some discussion about the key
23 issues, would you?

24 A. Yes, yes. You'd expect -- yes.

25 353 Q. As of this date, it doesn't appear that Garda Harrison 15:11
26 is mentioned in this record of the meeting insofar as
27 it related to him?

28 A. No, I don't see any reference.

29 354 Q. Have you ever had any experience of the Gardaí in

1 Donegal trying to get to somebody by a referral, as it
2 were, to make an inappropriate referral?

3 A. Never, no. I've had no experience. I've had
4 experience of what I would call maybe inappropriate
5 referrals to Tusla, but not so much in trying to get at 15:11
6 any member of their own organisation, yes.

7 355 Q. The recommendation 2 there that we looked at, at page
8 125 --

9 A. Yes.

10 356 Q. -- "social worker not to contact Ms. Simms" - do you 15:12
11 regard that as an instruction from the Gardaí as to
12 what the Social Work Department are to do or not to do?

13 A. No, absolutely not. That's in case -- I would suspect,
14 in case another social worker would actually pick this
15 up or say Ms. McTeague went off sick, that there would 15:12
16 be an awareness that there was further contact expected
17 from the Gardaí in respect of this matter. And that
18 clearly relates to the fact that Ms. Simms was sick and
19 it was not a good time to be going out to meet with her
20 to discuss these concerns. 15:12

21 357 Q. Okay. Well, is there anything inappropriate there that
22 causes you any concern or alarm bells or --

23 A. No. No. Nothing.

24 358 Q. There's an initial assessment form at page 134?

25 A. Yes. 15:13

26 359 Q. You've seen that document, it's dated 28th January?

27 A. Yes.

28 360 Q. And Garda Harrison is mentioned there now for the first
29 time and it's noted in the reason there, the reason for

1 the initial assessment:

2

3 "Notification received from Gardaí indicating blank
4 present during argument between her mother and partner.
5 Marisa made statement of complaint to Gardaí and later 15:13
6 advised she did not wish the matter to be investigated
7 further."

8

9 CHAIRMAN: And what's the date of this particular one,
10 Mr. McGuinness? 15:14

11 MR. MCGUINNESS: This is the 28th January 2014.

12 CHAIRMAN: Right. So this is after the withdrawal in
13 the Garda station.

14 MR. MCGUINNESS: Yes.

15 361 Q. The assessment form has a space for record then, it 15:14
16 appears to be part of the form at part 9 and 10, which
17 is on page 137. Now, there's notes there which relate
18 to a meeting, is that an appropriate as a summary of
19 notes in your view as a principal social worker?

20 A. Yes, that's appropriate, yes. 15:14

21 CHAIRMAN: Are you talking about paragraph 3, is it?

22 MR. MCGUINNESS: No, it's the fourth page of the
23 document, Chairman. At page 137 of our documents.

24 CHAIRMAN: Oh yes, yes, I have noted that already, yes.
25 Thanks. Sorry, what was the point, Mr. McGuinness? 15:15

26 362 Q. MR. MCGUINNESS: I'm just asking is that an appropriate
27 note? Do you see anything there, was anything ever
28 reported to you by any of the personnel in your
29 department that there was any inappropriate pressure or

1 influence --

2 A. No.

3 363 Q. -- brought to bear on any of your employees?

4 A. Never.

5 364 Q. You've heard and seen documented complaint made on 15:15
6 behalf of Garda Harrison and Ms. Simms that
7 notwithstanding this initial assessment and their
8 interview that took place that there was a home visit,
9 could you outline just your experience and knowledge of
10 when or in what circumstances it might be considered 15:16
11 appropriate to view the children in their home context?

12 A. Yes. It was normal practice at the time, and still is,
13 that when you proceed to any initial assessment of a
14 child welfare concern that you would undertake to see
15 the carers and the children. And that is expected in 15:16
16 the completion of any initial assessment. And that's
17 why this would be highly normal in terms of what we're
18 reading here, in terms of the home visit. That's there
19 for a couple of reasons. And that's to make sure that
20 the voice of the child gets heard whenever you're 15:16
21 investigating welfare concerns to make sure that you
22 give children an opportunity; you know, just to make
23 sure that they're okay, you see them interact with
24 their parents, you get them to interact with you, to
25 just make sure everything is fine and normal basically. 15:16

26 365 Q. Okay. And would you expect the social worker to liaise
27 with her supervisor in connection with whether it was
28 necessary or what the conclusion was?

29 A. Yes, it would be good practice for the social worker to

1 liaise with their team leader. But that doesn't mean
2 necessarily it takes place all of the time.

3 366 Q. Yes?

4 A. You might have child welfare cases where you'd expect
5 an experienced duty social worker to get on with their 15:17
6 job without too much, having to go to the supervisor
7 all the time. It depends on the experience of the
8 individual worker.

9 367 Q. Yes. And you see no doubt that the case was closed
10 after the home visit -- 15:17

11 A. Yes.

12 368 Q. -- and after the initial assessment was conducted.
13 There's a case recording summary at the end where
14 Mr. Simms was informed of the outcome as well?

15 A. Yes. 15:17

16 369 Q. Would that be good practice?

17 A. That is good practice, yes. Yes, that is normal
18 practice.

19 CHAIRMAN: Mr. McGuinness, I interrupted you in
20 relation to the file, because I was a little confused 15:17
21 in relation to the dates. I thought that the 7th
22 February 2014 was the office encounter, but this seems
23 to be dated 28th January. It may be that as the file
24 is built up that entries are made into the file.

25 MR. MCGUINNESS: I think I can ask Mr. Hone and the 15:18
26 other witnesses to confirm that.

27 370 Q. There's nothing unusual in the assessment being
28 recorded in the form, although the form has been
29 opened?

1 A. No, there's nothing unusual. And at that particular
2 time as well it was -- what social workers tended to do
3 was move their case notes into this particular part of
4 the form. So you get almost a repeat of what is in the
5 case notes and a description of the home visit. But 15:18
6 that is to help clarify the decision-making in the
7 form. This form helps bring together all the pertinent
8 information --

9 371 Q. Yes?

10 A. -- look, at the particular risks to the child and 15:18
11 analyse the information to make a determination of risk
12 and what we should be doing next.

13 CHAIRMAN: So am I still correct in taking,
14 Mr. McGuinness and Mr. Hone, from the file that the
15 office encounter was the 9th February 2014 and that the 15:19
16 home visit was the 19th February 2014?

17 MR. MCGUINNESS: I think it was the 7th was the --

18 A. Yes. That would need to be clarified with the social
19 worker I think.

20 CHAIRMAN: 7th was the office, was it? 15:19

21 A. I'm not sure, Chairman. You would need to ask --

22 CHAIRMAN: It's just the initial date is maintained
23 notwithstanding information being put in --

24 A. Okay.

25 CHAIRMAN: -- is that the idea? 15:19

26 A. Yes.

27 CHAIRMAN: Is it the idea?

28 A. Yes, I think that's the idea.

29 CHAIRMAN: You paste it in?

1 A. Yes, it's just brought across, yes.

2 372 Q. MR. MCGUINNESS: I think the initial visit was proposed
3 as the 6th at the offices and it was changed to the
4 7th?

5 A. Yes. 15:19

6 373 Q. You mightn't be aware of that?

7 A. I think that's -- yeah.

8 MR. MCGUINNESS: Would you answer any other questions.

9 CHAIRMAN: Mr. McGuinness, sorry, maybe you would
10 correct me then in relation to when things were, 15:19
11 because with so many dates flying around I am just --

12 MR. MCGUINNESS: Yes. The initial letter of invitation
13 to come in for a meeting in the Social work
14 Department --

15 CHAIRMAN: Why the 2nd February. 15:20

16 MR. MCGUINNESS: -- was proposed to be on the 6th
17 February, but it took place on the 7th.

18 CHAIRMAN: Well, that's right. And the letter was sent
19 on the 2nd February, isn't that right?

20 MR. MCGUINNESS: Yes. It's dated 3d in my copy 15:20
21 actually.

22 CHAIRMAN: And the home visit then, was that the 19th
23 February? Am I correct in noting it as that?

24 MR. MCGUINNESS: I think that is correct, Chairman.

25 CHAIRMAN: Yes. 15:20

26 MR. MCGUINNESS: Would you answer any questions anyone
27 else may have, Mr. Hone, thank you.

28 A. Yes.

29

1 MR. HONE WAS CROSS-EXAMINED BY MR. DALY AS FOLLOWS:

2 374 Q. MR. DALY: Mr. Hone, Peter Daly is my name and I appear
3 for Garda Harrison. I just have a couple of short
4 questions for you.

5 A. Yes. 15:20

6 375 Q. Can you help me in relation to what is the management
7 structure at the time? I think, is it right that all
8 matters as referred from Gardaí came through to you, is
9 that right?

10 A. All Garda notifications came through to my office, yes. 15:20

11 376 Q. And was the purpose of that a screening process or was
12 that, was that due to staffing constraints? Or what
13 was the reason that you would make a first decision in
14 relation to all matters that come in?

15 A. It was mainly to ensure that there was one point of 15:21
16 contact for which the Gardaí could actually address
17 their notifications. Because the county would have
18 been divided into four distinct social work patches and
19 social work teams at the time, and each social work
20 team would have its own duty workers on each team. So 15:21
21 Garda notifications would come into one central point.
22 The idea was I would acknowledge those Garda
23 notifications and send them out to the team that were
24 responsible for that particular -- wherever the child's
25 address was basically. 15:21

26 377 Q. Right. So that being that you were the central or the
27 one focal point of contact from the inception of the
28 referral perhaps right until the conclusion of the
29 referral, is that right?

1 A. Just at the inception, yes. I wouldn't be involved
2 through to the conclusion.

3 378 Q. Would you agree with me that -- would it be normal
4 course that you would be kept up-to-date in relation to
5 developments over referrals? Or is that simply once it 15:22
6 comes across your desk that is the end of your
7 involvement?

8 A. That would be the end of my involvement, unless the
9 team leader decided on receipt of the information or at
10 some point during the case that they needed to consult 15:22
11 further or needed to seek advice about how the case
12 should be progressed.

13 379 Q. I think that letter was opened to you at page 115 in
14 relation to you having received the referral?

15 A. Yes. 15:22

16 380 Q. I think the referral is categorised as an emotional
17 abuse referral --

18 A. Yes.

19 381 Q. -- child protection issue, is that right?

20 A. Yes. 15:22

21 382 Q. I think subsequently despite what you say in your
22 letter of the 16th the matter was progressed and it was
23 deemed not to be a child protection issue, is that
24 right?

25 A. That's correct. But I fully expected the matter to be 15:22
26 progressed, yes.

27 383 Q. In your direct evidence you said in relation to, when
28 you look at that referral it would lead you to believe
29 that it indicates that there was perhaps more to this?

1 A. Yes.

2 384 Q. But yet you deemed it sufficient in your letter to
3 state that "I acknowledge receipt of the above
4 notification. However, as there is no evidence of
5 abuse detailed no further action will be taken from 15:23
6 this service until we receive further information."
7 A. Yes. The point was that it was important that whatever
8 other information the Gardaí held that it was actually
9 shared with the Social work Department.

10 385 Q. So is that a criticism that you weren't provided with 15:23
11 enough information by the Gardaí in relation to the
12 referral on the 10th?
13 A. No, it is not a criticism. I would fully expect that
14 there would be further consultation between the Gardaí
15 and the social work office that was dealing with the 15:23
16 particular case.

17 386 Q. I think you said in your direct evidence that is not
18 tantamount to a decision effectively is that the
19 position?
20 A. It's not a decision, no. 15:23

21 387 Q. And if it was the case that there was no further
22 information that in fact would result in a final
23 decision, in that there was no further action?
24 A. Yes, if there was no further information brought
25 forward, yes. 15:23

26 388 Q. So on the basis of that letter when you wrote it, that
27 was in fact the decision, wasn't it?
28 A. No. That wasn't the decision.

29 389 Q. But you had no further information at that stage,

1 Mr. Hone, did you?

2 A. I think what I pointed out earlier was, in brackets on
3 the original notification was the "HSE to contact
4 Gardaí on receipt of the notification", so I would have
5 been very much aware that the Gardaí had further 15:24
6 information on this particular case. But the place to
7 put it was not on the Garda notification form. And I
8 was making sure that the Gardaí knew that whatever
9 further information was there would need to be shared
10 with the Social Work Department. And that was normal 15:24
11 process.

12 390 Q. Who were they to specifically liaise with?

13 A. That would have been -- you will see that it was copied
14 to Bridgeen Smith, the team leader, the particular
15 letter that I sent back to the Gardaí, because she was 15:24
16 the team leader for the area from which the children
17 came from.

18 391 Q. Right. Is there any particular reason why Sergeant
19 Eunan Walsh, of Letterkenny, is that right, as to why
20 they were cc'd? 15:25

21 A. No particular reason. No, no particular reason.

22 392 Q. In relation to, referred to at the documents, the
23 documents referred to at 114, you're not the author of
24 this document, are you?

25 A. No. 15:25

26 393 Q. Do you have any idea as to when it was created?

27 A. I'm not sure if there's a date on it.

28 CHAIRMAN: Wasn't it supposed to be the 21st? Maybe.
29 It's there somewhere, is it?

1 MR. DALY: I think there's a suggestion that it was the
2 16th.

3 CHAIRMAN: Was it?

4 MR. DALY: The same day that Mr. Hone sent his letter.

5 CHAIRMAN: Fine.

15:25

6 394 Q. MR. DALY: Just in looking at that, is this person
7 aware of the referral, you say that's the parents of
8 the subject child, is that right?

9 A. Yes.

10 395 Q. So you're suggesting that --

15:26

11 A. There can be a delay between -- so, what sometimes
12 happens is, communications can be ongoing between the
13 local social work office and the Gardaí in respect of a
14 particular case, because sometimes Garda notifications
15 are delayed or say perhaps I get them and I don't read
16 them until four days after or whatever because I'm out
17 of the office or whatever, then there can be ongoing
18 contact between the Gardaí and the local office without
19 my knowledge.

15:26

20 396 Q. Would you agree with me that as referred to previously
21 with Ms. Coll, it is important that notes and records
22 are kept in relation to that also?

15:26

23 A. Yes, yes.

24 397 Q. In relation to the suggestion that Tusla don't act on
25 direction or otherwise from the Gardaí, isn't that in
26 fact what happened when we look at page 125; that the
27 HSE were told not to contact Ms. Simms despite having
28 received what the Gardaí deemed to be a child
29 protection issue of emotional abuse? So they were in

15:26

1 fact directing the HSE at that time or Tusla.

2 A. No, that's not my interpretation of that. I think the
3 reason that that was being proposed was because concern
4 that Ms. Simms was in hospital and that this wouldn't
5 be the right time to do that and I would point again to 15:27
6 the type of case that this is. If this suggested
7 immediate child protection concerns then this would
8 have been followed up more quickly. This case was
9 already designated priority 2, priority 1 being a child
10 protection case, priority 2 being child welfare. 15:27

11 398 Q. So then you'd expect members of the HSE to perhaps make
12 inquiries with An Garda Síochána if such information
13 wasn't forthcoming in relation to Ms. Simms' health?

14 A. Yes. And it is my understanding that that is what
15 happened in this particular case. 15:28

16 399 Q. Are you aware as to what length of period passed before
17 such inquiries were made?

18 A. Yes, I think it was -- was it into February before --

19 400 Q. From a referral in October --

20 A. Yes. 15:28

21 401 Q. -- 2013?

22 A. Yes. And Ms. McTeague can answer to the delay herself.
23 And my understanding of that was that it was the social
24 work office who contacted the Gardaí to discuss the
25 progress of the case and it was at that point that it 15:28
26 was brought forward by the Social Work Department.

27 402 Q. So despite the fact that it was noted that no further
28 contact was to be forthcoming until Sergeant McGowan
29 authorised it, it was in fact Tusla or the HSE that

1 made contact and not Sergeant McGowan?

2 A. Yes. That needs to be confirmed with Ms. McTeague, but
3 that is my understanding.

4 403 Q. Right. So in effect had Ms. McTeague, or whoever, made
5 the contact, Sergeant McGowan never referred to in 15:28
6 relation to the health or otherwise of Ms. Simms?

7 A. That would have to be discussed with Ms. McTeague, I'm
8 not sure.

9 404 Q. Just in relation to, there's reference to the previous
10 issue of the anonymous letter in January/February 2012, 15:29
11 you're familiar with that?

12 A. Yes.

13 405 Q. I think you refer to all cases, that it's important
14 that in respect of home visits that it's important that
15 the opportunity is given that the social worker would 15:29
16 have an opportunity to examine or inspect or engage
17 with the children in the home, I suppose in their
18 natural habitat, so to speak?

19 A. Yes.

20 406 Q. Are you surprised in that case that there was no home 15:29
21 visit?

22 A. I'm not -- not particularly because of the type of
23 referral that it actually was.

24 407 Q. That was also a child welfare referral, am I correct in
25 that? 15:29

26 A. That's correct.

27 408 Q. And it didn't deem or it wasn't at that stage deemed
28 justified to have a home visit, and it was a welfare
29 issue, but on this occasion it was?

1 A. My understanding of that is that it was a referral to
2 do with the father of the children needing support
3 because he was struggling with the care of the
4 children. There was no real concerns that the children
5 were suffering in any way because of that, but it would 15:30
6 be a family support matter.
7 MR. DALY: Thank you, Mr. Hone.
8 A. Thank you.
9
10 MR. HONE WAS CROSS-EXAMINED BY MR. HARTNETT AS FOLLOWS: 15:30
11 409 Q. MR. HARTNETT: Yes, if I could ask you some very brief
12 questions.
13 A. Yes.
14 410 Q. You refer to the three different types of priority --
15 A. Yes. 15:30
16 411 Q. -- 1, 2 and 3. What is the 3?
17 A. 3 would be a family support, low level family support,
18 where maybe parents might be struggling with the care
19 of the children, or they might be going through -- you
20 know, they might need just help with the general 15:30
21 day-to-day care of their children, yes.
22 412 Q. So 3 is of lesser importance?
23 A. Of lesser importance.
24 413 Q. So 1 is the most important, is that right?
25 A. Yes. 15:30
26 414 Q. What would that mean?
27 A. That would be children where there would be immediate
28 child protection concerns.
29 415 Q. When you say immediate, are you talking about on the

1 spot, that day?

2 A. Yes, yes. It's generally where you receive a referral
3 and you know that there's an immediate risk to those
4 children that you actually need to address
5 straightaway. 15:31

6 416 Q. And 2 you described as medium priority?

7 A. That's correct.

8 417 Q. And what would that meantime wise?

9 A. Yes, that would be generally where there's some welfare
10 concerns expressed by the referrer in respect of the 15:31
11 children that require looking at, but there is nothing
12 to suggest in the information that there is immediate
13 risk to the children.

14 418 Q. But it is a matter of priority of some type?

15 A. It is a matter of priority, yes. 15:31

16 419 Q. Now having been marked down as 2, which is medium
17 priority --

18 A. Yes.

19 420 Q. -- what would be the usual time for intervention or
20 addressing that priority? 15:31

21 A. That depends generally on the circumstances of the
22 particular case in question.

23 421 Q. I see. But the obligation is on the social worker,
24 isn't that correct?

25 A. Absolutely. 15:32

26 422 Q. So the social worker would be expected to, if you like,
27 review the files and review the question of priority
28 and what the situation was?

29 A. Yes, that's correct. And it would be done in a context

1 of the other priorities that exist within the social
2 work team at that particular point in time, yes.

3 423 Q. But if there was a direction or an advice on the file
4 that the matter was not to be progressed until, if you
5 like, a garda had indicated certain things, would that 15:32
6 not be taking away from the obligation that's on the
7 social worker?

8 A. Absolutely not. The obligation remains on the social
9 worker and on social work to actually look at the
10 referral and assess the risk. 15:32

11 424 Q. Yes. But say the confirmation from the Gardaí didn't
12 come for 12 months what would the situation be?

13 A. There is a system within social work teams to -
14 currently - look at all open cases, to keep an eye on
15 them, to prioritise them and to make sure that they're 15:33
16 followed up. And risk is managed within the social
17 work team looking across cases. I'm not aware of any
18 circumstance where on the back of any advice that
19 social workers would wait a year to respond to a
20 particular case. That would be a dereliction of our 15:33
21 duties.

22 425 Q. But what about six months, would that be a dereliction?

23 A. I would again say that that would be too long. That
24 would be too long.

25 426 Q. What about five months? 15:33

26 A. Again I would go back to, you have to look at cases in
27 terms of the priority that they present, yes. You
28 cannot just say just because something is priority 2
29 there's a particular timeframe within which it should

1 be looked at. In terms of the risk to all children the
2 most -- the more timely you can get to that risk the
3 better, regardless of priority. So the social work
4 would constantly try to prioritise all cases in terms
5 of risk and make sure they get a response. 15:34

6 427 Q. I thought you had agreed 12 months or six months would
7 be too long?

8 A. That is pushing the boundaries, absolutely.

9 428 Q. Now I am asking you about five months.

10 A. Again I think I've answered that in terms of giving -- 15:34
11 it depends on the particular case.

12 429 Q. If six months is too long, and you can comment on that,
13 what do you say in relation to five months?

14 A. As I just said in terms of, it depends on the type of
15 case it is, yes. 15:34

16 430 Q. But not in relation to six months?

17 A. I think you're beginning to get too long at that, yeah.

18 431 Q. I see. Would that be a general cultural view within
19 the social services then, that once six months
20 arrives -- 15:35

21 A. I think the general --

22 432 Q. -- if I can just finish.

23 A. I think the general view --

24 433 Q. If I can just finish.

25 A. Yes. 15:35

26 434 Q. Would that be the cultural view, that six months is, if
27 you like, the cut off point?

28 A. No. I think the cultural view is, we try to respond in
29 as timely a manner as we possibly can for any child who

1 is at risk.

2 435 Q. I see. So what system would be there to, if you like,
3 oversee the confirmation by Sergeant McGowan? Say no
4 confirmation came in, what is the system of overseeing
5 this? 15:35

6 A. That remains an open case on the duty intake system,
7 and the way that that is looked at; the particular
8 intake worker, the duty intake worker, will know that
9 that case is there, the cases will be reviewed by the
10 intake worker and also in consultation with their team 15:35
11 leader, so that they are constantly discussed. That is
12 the oversight.

13 436 Q. So, are you saying that this case would have been
14 constantly discussed between the making of this form
15 and the 14 -- and the date in February? 15:36

16 A. Yes, I can't comment on how many times it was
17 discussed. I think that is a question for
18 Ms. McTeague.

19 437 Q. If it was discussed would you expect there to be a
20 notation of that discussion? 15:36

21 A. Yes, I would expect there to be --

22 438 Q. You would expect there to be a notation of that
23 discussion?

24 A. Yes, I would expect that, yes.

25 439 Q. So we have established that it would be discussed and 15:36
26 it would be noted?

27 A. It could be discussed, but you could also have a worker
28 that said that this case in terms of priority can
29 actually wait. So it may not get discussed.

1 440 Q. I had understood you to say a moment ago, to say these
2 would be discussed over that period of time?
3 A. Yes, I think I will correct myself: It could be
4 discussed because it depends on the nature of the risk
5 of the case in question, yes. 15:36
6 441 Q. So you have changed it from would to could. And if it
7 was discussed it would be noted?
8 A. Yes, there should be a note, yes.
9 442 Q. And if there wasn't a note?
10 A. If there wasn't a note, well, it doesn't mean the 15:37
11 discussion hasn't taken place but I suggest that case
12 needs -- or that particular question needs to be put to
13 Ms. McTeague.
14 443 Q. I see. Now your understanding is that this delay, this
15 direction in relation to Sergeant McGowan, was because 15:37
16 Mrs. Simms was in hospital?
17 A. I'm not sure if I accepted this was a direction.
18 444 Q. I will withdraw the word.
19 A. Yes.
20 445 Q. What word would you use? 15:37
21 A. I think this was an agreed action that was on a
22 strategy meeting form that would have been discussed
23 between the social worker in question and An Garda
24 Síochána and there would be a reason for that, and I
25 guess in this particular circumstance it's to do with 15:37
26 Ms. Simms' illness.
27 446 Q. And what is the date of that document on which that
28 agreed strategy was noted, can you help me with that?
29 A. I'd have to check that document again.

1 447 Q. My fault I'm afraid, I didn't take a note of it as we
2 went through.

3 A. Okay.

4 448 Q. My friends for the Tribunal may be able to help?

5 A. Yes. 15:38

6 MR. McDERMOTT: I think it's 21st October 2013.

7 449 Q. MR. HARTNETT: I see. And so, that note would have
8 been based on a conversation between Sergeant McGowan
9 and the social worker?

10 A. That'd be a strategy meeting. And generally the team 15:38
11 leader would be present at those meetings.

12 450 Q. Well, she wasn't in hospital at that time.

13 CHAIRMAN: The dates when Ms. Simms was in hospital
14 seem to be 8th, 9th, 10th, 11th. Or maybe, 9th, 10th,
15 11th, 12th. Something like that. I have had various 15:38
16 dates.

17 MR. HARTNETT: Yes, that appears to be the case. She
18 was in hospital for four days from approximately the
19 8th October.

20 A. Yes. 15:39

21 451 Q. So at this time, the time of the compilation of this
22 form, she was not in hospital. Does that strike you as
23 curious?

24 A. I think perhaps the question would be need to be put to
25 the people who attended that particular meeting as to 15:39
26 why that agreement had been reached at that particular
27 time, to be fair. It wouldn't be appropriate for me to
28 comment on that.

29 452 Q. Well, just overall, as an experienced leader within the

1 service, what do you think of that situation; that
2 there's number 2 priority and there is an agreed
3 strategy not to address the matter until Ms. Simms is
4 released from hospital, but she was already released
5 from hospital for at least a week or two weeks at this 15:39
6 stage? what is your overall view for that?

7 A. I would guess that there would be good reason between
8 the Gardaí and social work why that particular
9 recommendation was made in that particular strategy
10 meeting. And that would need to be checked out with 15:40
11 the people who attended the meeting.

12 453 Q. No, but the fact that she wasn't in hospital, does that
13 strike you as curious?

14 A. Yes. Or she could have been recovering, or maybe there
15 was another reason that I'm not aware of. 15:40

16 454 Q. Well, the recovering wasn't mentioned to date.

17 MR. McDERMOTT: Chairman, I wonder could intervene,
18 just note that in the strategy meeting document
19 referred to in October 2013 the decision, at least as
20 recorded, is: 15:40

21
22 "Gardaí aware Marisa Simms recently hospitalised.
23 Further investigations would be conducted when Marisa
24 regains health."

25 15:40
26 So for what it is worth, the agreement, as recorded
27 anyway, isn't an agreement dependent on somebody being
28 released from hospital, if that is the appropriate
29 word, but it appears to be an agreement that things can

1 be done when someone regains health. So perhaps the
2 question could be put in the terms in which the
3 agreement was recorded, unless Mr. Hartnett wishes, as
4 he is free, to suggest a different agreement to the one
5 that was recorded. 15:41

6 CHAIRMAN: Mr. McDermott, what is the page number
7 please where that is recorded? That is the strategy
8 meeting of the 21st October.

9 MR. MCDERMOTT: It's page 124 of my booklet.

10 CHAIRMAN: Yes. 15:41

11 MR. MCDERMOTT: It may appear in different places.
12 Page 124. If you scroll down to the very bottom of 124
13 to section 5 and you will see the last sentence there
14 appears to be the one recording the agreement. Again
15 bearing in mind we've yet to hear from the witnesses 15:41
16 present who presumably can give their own information,
17 but that is certainly what appears to be recorded.

18 CHAIRMAN: Yes. That is what I noted. It's not
19 anything different to what we have had.

20 455 Q. MR. HARTNETT: I have been deftly interrupted by 15:42
21 Mr. McDermott, I will go back to what I was asking you:
22 would you expect to see somewhere communications in
23 relation to the regaining of health by Ms. Simms or her
24 release from hospital, whichever?

25 A. I think as manager of the service what I would expect 15:42
26 to see is the service picking this up and dealing with
27 it and looking into the child welfare concern.

28 456 Q. I see.

29 A. Which is exactly what happened in this particular case.

1 457 Q. After four and a half months?
2 A. Yes, it's still -- it happened. And I think --
3 458 Q. Of course it happened.
4 A. Yes.
5 459 Q. But I am just asking you -- 15:42
6 A. Yes.
7 460 Q. -- would delays of that type be usual?
8 A. Unfortunately delays like that can happen and again it
9 refers back to my earlier point in terms of what other
10 pressures are going on within the particular social 15:42
11 work team at that stage and what other priorities have
12 to be dealt with by the team at that stage.
13 461 Q. Would it be usual?
14 A. Yes, I think that that type of delay is not unusual.
15 462 Q. I see. 15:43
16 A. Yes.
17 463 Q. So it is usual?
18 A. It happens, it happens.
19 464 Q. Well, is it usual or not? You say it's not unusual, is
20 it usual? 15:43
21 A. I think in terms of, if you look at what we prioritise
22 in terms of social work intervention we try to make
23 sure that all cases where there are immediate child
24 protection concerns are dealt with that. So if there
25 are a lot of them that means low priority cases can 15:43
26 wait longer, and that's to do with the resources
27 available to the department.
28 465 Q. Are you saying these delays are usual? Are they usual?
29 A. They happen. They happen, yes.

1 466 Q. Yes.

2 A. Yes.

3 467 Q. A lot of things happen, and they can happen once, they
4 can happen a hundred times --

5 A. Yes. 15:43

6 468 Q. -- are they usual?

7 A. Yes, this happens more than once. Yes, absolutely.

8 469 Q. This has happened more than once?

9 A. Yes.

10 470 Q. Does that make it usual? 15:43

11 A. In terms of usual you would have to know the particular
12 team, the particular circumstances they were in at that
13 time, the other pressures that the team were actually
14 dealing with and whether it was usual at that time for
15 cases like this to get this type of delay. And that 15:44

16 relates back to that point in time. So it's impossible
17 to say generally if that is a usual thing. I think you
18 need to ask the team leader and the intake worker on
19 the particular team dealing with the work pressures at
20 that particular time. 15:44

21 471 Q. Would you expect to see somewhere noted whether there
22 had been inquiries or communications in relation to
23 Marisa Simms being in hospital or her state of health?

24 A. I think what reassures me about this is that the social
25 workers actually picked this up and moved it forward 15:44

26 and that the matter was actually dealt with in an
27 appropriate manner.

28 472 Q. Did you say at one stage that you would have expected
29 more contact between the Gardaí and the DSW?

1 A. I don't think so.

2 473 Q. I had taken a note of that and I don't have the
3 exact --

4 CHAIRMAN: I don't actually think he did, Mr. Hartnett.

5 MR. HARTNETT: I may be mistaken, I can check the note 15:45
6 later. Thank you.

7

8 MR. HONE WAS CROSS-EXAMINED BY MR. DIGNAM AS FOLLOWS:

9 474 Q. MR. DIGNAM: Mr. Hone, my name is Conor Dignam, I
10 appear on behalf of An Garda Síochána. I just wanted 15:45
11 to ask you two quick questions, Mr. Hone. The first
12 is, it may be of some assistance to the Tribunal, you
13 were asked in relation to the date of the initial
14 assessment record form, and it's on page 134 in respect
15 of one of the children. You'll recall this is the form 15:45
16 that is dated at the top the 28th January 2014.

17 A. Yes.

18 475 Q. You will remember the Chairman is asking you how is it
19 that there are things in that form which clearly
20 postdate 28th January, so for example the conversation 15:45
21 that happened at the meeting in the office on the 7th
22 February?

23 A. Yes. This is to do with the fact that that is -- the
24 28th January refers to when the initial assessment
25 commenced. So, that is when the social worker would 15:45
26 have begun their assessment. And that is why, the
27 assessment can take a period of time between it starts
28 and it ends and so a lot can happen obviously between
29 the start and end of the assessment, and that is why

1 you get things post, post the date.

2 476 Q. Yes. I think you said that social workers import
3 essentially their case notes or their working notes
4 into this form?

5 A. Yes. 15:46

6 477 Q. And it's essentially an ongoing process --

7 A. Yes.

8 478 Q. -- isn't that right? Then if one looks at the bottom
9 of the form, on page 138 in this example, you see at
10 paragraph 16 the date assessment ended and at paragraph 15:46
11 17 you have managers sign off or approved?

12 A. Yes.

13 479 Q. In this case you have Ms. McTeague signing off on the
14 24th February 2014 --

15 A. Yes. 15:46

16 480 Q. -- and Bridgeen Smith, I presume, on the 26th February
17 2014?

18 A. Yes. And that's normal in terms of it marks the day
19 that the social worker completed the assessment and
20 then it gets signed off by the team leader, yes. 15:46

21 481 Q. In relation then, we've heard evidence from Ms. Coll
22 about formal and informal contacts between Tusla and An
23 Garda Síochána in performing their respective duty, is
24 it -- to borrow or to paraphrase Mr. Hartnett, is it
25 unusual for there to be discussion or information given 15:47
26 by, for example, An Garda Síochána about a particular
27 circumstances of a family which may inform Tusla's
28 decision as to when they should speak to that family?

29 A. No, it's not unusual. The whole idea of a strategy

1 meeting is that you actually -- it's to work together
2 to decide how best to intervene in a particular case,
3 and the whole thrust of Children First is about that;
4 it's about collaborative working, taking into account
5 the sensitivities of the family you have in front of 15:47
6 you at any given time. And it's also in recognition of
7 the fact as well that you need to set out in the
8 strategy meeting what's being decided. Because there's
9 basically two agendas a lot of the time; there's an
10 agenda around child welfare and often there's also an 15:48
11 agenda around criminal investigation, you need to
12 balance both of those whilst ensuring that the welfare
13 of the child is paramount in the process.

14 482 Q. Yes. And if we take the facts of this case, does it
15 strike you as unusual that Sergeant McGowan or indeed 15:48
16 any member of An Garda Síochána would say to Tusla, by
17 the way, the mother was recently in hospital or is in
18 hospital or was recently in hospital, you might want to
19 give it some time before you speak to her, because
20 she's not well, for example? 15:48

21 A. No, I thoroughly expect that to happen.

22 MR. DIGNAM: Thank you Mr. Hone.

23

24 MR. MCGUINNESS: Thank you Mr. Hone.

25 15:48

26 MR. HONE WAS QUESTION BY THE CHAIRMAN.

27 483 Q. CHAIRMAN: Yes. I just wanted to ask you two things,
28 Mr. Hone, please. Mr. McGuinness did indeed touch on
29 it, but you will recall the questions that I asked of

1 Úna coll in relation to whether it is heard of or even
2 possible that Gardaí should interfere and, well, use
3 social workers for inappropriate ends, even if in a
4 very mild way, such as suggesting that they need to
5 visit a family to check out children, I'm wondering 15:49
6 does that ever happen? Have you ever heard of it?

7 A. No, I have never heard of that happening. I would be
8 extremely concerned if it was happening. We have our
9 duties as a social work service, our statutory duties
10 around child welfare, we have to follow those statutory 15:49
11 duties. That's our role, our responsibility. And
12 that's separate to the Gardaí. And so, we have to make
13 sure we fulfil our obligations. I would never have
14 experienced an outside agency trying to direct us to do
15 something. They might disagree with the way we're 15:49
16 doing things at times or they might disagree with
17 timeframes or whatever, but we make our own decisions
18 on our cases.

19 484 Q. CHAIRMAN: No, I take it the maintenance of a file is
20 very important to -- 15:50

21 A. Yes.

22 485 Q. CHAIRMAN: -- the review of any decision in the
23 aftermath should any question arise. And was there a
24 proper file kept here?

25 A. I think in terms of a file here that actually 15:50
26 highlights what the initial concern was, in terms of
27 what happened when the children were visited, what
28 happened in terms of the discussions with the parents,
29 was the risk analysed in terms of the potential risk to

1 the children in terms of information given, was that
2 analysed and was a proper conclusion reached, I think a
3 proper -- the file that exists in this case gives that
4 process and that's, we call that our business process,
5 in terms of, has it followed -- are the main pillars of 15:50
6 the decision-making evidenced on the file and the main
7 decision points evidenced on the file? So from that
8 file can you read this was the referral, this was the
9 investigation, this was the risk that was identified,
10 this is the evidence, on what it's based and this is 15:51
11 the final decision, this is a proper file.

12 486 Q. CHAIRMAN: Is there anything in that file that is
13 indicating to you any suspicion of a hint of a cause
14 for concern?

15 A. Nothing whatsoever. Nothing. 15:51

16 487 Q. CHAIRMAN: And the last matter is this: After the home
17 visit on the 9th February it is said that, you know,
18 there was some embarrassment and that there wasn't
19 going to be -- I'm sorry after the office meeting on
20 the 9th February there was expressed to be a view that, 15:51
21 look, we probably won't need to do a home visit and
22 that somehow it has come out in some shape or form, but
23 it is completely unclear to me as to where that is, by
24 secondhand evidence which has now been withdrawn, that
25 the Gardaí somehow made the home visit materialise 15:51
26 later on in February, is there anything to suggest any
27 such process from anything you know, from anything you
28 read in the file?

29 A. Nothing. Nothing.

1 488 Q. CHAIRMAN: Have you ever heard of anything like that
2 happening; that the Gardaí are able to manipulate Tusla
3 in any such way?
4 A. Absolutely not. And if I thought that was happening I
5 would bring it up with the Gardaí and with the superior 15:52
6 of whatever guard was trying to do that, because that
7 is highly inappropriate.

8 489 Q. CHAIRMAN: And you think there's not a sniff of that
9 here? Are you sure about that now?
10 A. Yes, I'm certain. I can't see anything like that here 15:52
11 at all.
12 CHAIRMAN: Okay, thank you.

13 A. Yes.
14
15 THE WITNESS THEN WITHDREW 15:52
16
17 CHAIRMAN: Do you want to take a break for ten minutes?
18
19 THE HEARING ADJOURNED BRIEFLY AND THEN RESUMED
20 AS FOLLOWS: 15:52
21
22 MR. MCGUINNESS: Chairman, the next witness is
23 Ms. Donna McTeague.
24
25 MS. DONNA MCTEAGUE, HAVING BEEN SWORN, WAS DIRECTLY 16:04
26 EXAMINED BY MR. MCGUINNESS:

27 490 Q. MR. MCGUINNESS: I hope I am pronouncing your name
28 correctly, Ms. McTeague?
29 A. Yes.

1 491 Q. I think you are a senior social worker practitioner?
2 A. I am currently, yes.

3 492 Q. And I think you qualified with a BA in Applied Social
4 Studies in Social Care, you've done an intermediate
5 programme in Family Therapy and Systemic Practice from 16:05
6 Queen's?
7 A. That's correct.

8 493 Q. You have got a qualification as an International
9 [inaudible] for School Age Assessments?
10 A. That's correct. 16:05

11 494 Q. And you have a BA Hons in Social work from the
12 University of Ulster in Derry?
13 A. That's correct.

14 495 Q. And I think you worked as a HSE social care worker from
15 2001 to 2009 in a children's residential setting? 16:05
16 A. Yes.

17 496 Q. You then secured employment as a social worker within
18 the Leaving and Aftercare Service in Northern Ireland,
19 and you commenced a social work post in Donegal in
20 September 2010 in the Children and Family Social 16:06
21 Services?
22 A. That's correct.

23 497 Q. And in 2013 you were a duty social worker on the west
24 Central social work Team based in Letterkenny?
25 A. That's correct. 16:06

26 498 Q. I think you became aware of the referral in this case
27 in a meeting with Sergeant Brigid McGowan. The meeting
28 was, I think, scheduled to deal with another matter but
29 you learned informally, as it were, of the referral on

1 9th of October, is that correct?

2 A. That's correct.

3 499 Q. And can you recollect what she advised you at that
4 point in time?

5 A. Sergeant McGowan advised me that she had forwarded a 16:06
6 notification in respect of the Simms children. I
7 hadn't yet at that stage received the paper
8 notification. She advised that there had been a
9 disagreement, an argument between Ms. Simms and her
10 current partner, alcohol had been involved and there 16:07
11 was physical contact between the couple and that the
12 children had witnessed this.

13 500 Q. Okay. And did she give you details of the physical
14 contact or of anything that was said?

15 A. She just advised that he had held her wrist -- Marisa's 16:07
16 partner had held her wrist. I didn't go into any
17 further detail, we were leaving the meeting at the
18 time, it was an informal conversation, I hadn't
19 received the paperwork, there was no further
20 discussion. 16:07

21 501 Q. Okay. I think did you subsequently become aware of the
22 receipt of the referrals and did you receive a copy of
23 them yourself?

24 A. Yes, I did, yes.

25 502 Q. The documents that we were looking at with Mr. Hone at 16:07
26 page 113 and 114, did you create those?

27 A. Yes. Those particular documents are called proformas,
28 those are the documents that we use to -- as a duty
29 social worker I fill those in and they are given to our

1 administrator, she uses that information then to
2 generate a referral on our RAISE system, which is the
3 computerised system for recording in the Social work
4 Department in Donegal.

5 503 Q. Okay. And did you become aware and receive the letter 16:08
6 that Mr. Hone had written back to Superintendent
7 McGovern?

8 A. Yes, I did.

9 504 Q. And what is your evidence in relation to that? Does 16:08
10 that represent a threshold not being reached or a
11 decision to close the case or is it simply a prompt to
12 everyone to get on with it?

13 A. The information in the Garda notification, if you were
14 to look at it in isolation certainly does not meet the
15 threshold for a social work assessment. What Mr. Hone 16:08

16 did, as he explained, there is one central point of
17 contact for all Garda notifications, given for child
18 protection teams in the county. His response to the
19 original notification is an appropriate one; he is
20 asking for additional information to be shared. In 16:08

21 order for that file then to be generated on our system
22 I need to get a copy of that as a duty worker in order
23 to create the proforma as you see on page 113, to
24 generate that file. I was -- as I have explained, I
25 was in receipt of additional information, verbally from 16:09
26 Sergeant McGowan, in advance of me receiving the
27 paperwork and the notification from Gerry Hone's
28 office.

29 505 Q. Okay. Now, you referred to creating the intake records

1 on RAISE, and could you just identify those at page 116
2 and 117 onwards? I think was there a form created by
3 you on the 16th in relation to each of the children?
4 A. Yes. It's important to understand that when you
5 generate a file on our computer system, RAISE, in order 16:09
6 for that file to become active you need to generate an
7 intake document. That intake document I received the
8 paperwork on 16th from Gerry Hone's office, I created
9 the proforma on 16th and I opened that intake doc on
10 the 16th. That would be the normal practice for any 16:10
11 duty worker.

12 506 Q. At the bottom of that page, it is noted that, the
13 question "Discussed concern with parents/guardians?"
14 and there is "yes" typed in there?

15 A. Yes. 16:10

16 507 Q. Is that ticked or does that need to be ticked or does
17 that reflect any actual consultation?

18 A. Yes. Basically, I filled in that particular --
19 anything in that document I completed it. The reason
20 that that is ticked is yes, or yes is written in that 16:10
21 box, is on receipt of the information from Sergeant
22 McGowan informally, I was aware that Ms. Simms had made
23 a statement of complaint to the Gardaí and given that
24 there was an account that the children had witnessed
25 something untoward, I assumed, and that is an 16:10
26 assumption, that the Gardaí would have informed
27 Ms. Simms that a referral would be forwarded to me, to
28 the Social Work Department. So that "yes" is in there
29 because I was aware that Ms. Simms had already been in

1 contact with the Gardaí and for no other reason.

2 508 Q. On page 117 at the bottom, at part 13, it's recorded:
3 "Sergeant McGowan to discuss case with DSW prior to
4 proceeding. Strategy meeting to be organised."
5 And does that represent some agreement on your part 16:11
6 with Sergeant McGowan or just a simply an expectation?

7 A. That, basically on the basis of the conversation I had
8 with Sergeant McGowan on 9th we agreed the information
9 she shared with me met the threshold for social work
10 assessment. And "strategy meeting to be organised", 16:11
11 that is in there because it was organised and I just
12 needed -- I had it in the diary for 21st of October, my
13 team leader was on leave at that stage and I just
14 needed to confirm that to be finalised, so that is why
15 it is "to be organised" as opposed to has been 16:11
16 organised.

17 509 Q. At the bottom of page 118, this appears to be a record
18 of "action agreed", at part 18 there, and appears to be
19 signed off by yourself on 17th and your team leader
20 giving approval on 18th, is that correct? 16:12

21 A. That's correct.

22 510 Q. Okay. And on what basis would your team leader sign
23 off then? would she consider this document and the
24 referral? Or did you discuss the matter?

25 A. Yes, basically for all intake documents, it's the 16:12
26 responsibility of the team leader is to -- it's for
27 quality assurance, so it's to make sure that she is
28 agreeing. By signing that off she is agreeing that
29 this is what we are doing. In all intake documents,

1 all initial assessments, that is the role of the team
2 leader; it's for governance and oversight, and it's a
3 line management responsibility and it's one that is
4 very important in terms of the governance of all cases.

5 511 Q. Okay. Now, you did have a strategy meeting on 21st 16:12
6 October, is that correct?

7 A. That's correct.

8 512 Q. And where was that held?

9 A. It was held in our offices in Letterkenny.

10 513 Q. And who was present for that? 16:12

11 A. My team leader, Bridgeen Smith, Sergeant McGowan and
12 myself.

13 514 Q. Okay. Now, did you take any notes of it yourself?

14 A. The notes that are recorded are mine.

15 515 Q. And were they handwritten notes originally or not? 16:13

16 A. They are on, that document that you have, that you see
17 there, the strategy meeting document, that is generated
18 on RAISE, the computer system. I printed that out for
19 the meeting, I write on it at the meeting and it's
20 shredded directly after, once the information is put on 16:13
21 to the system.

22 516 Q. Could I just ask you about page 169 of the documents?
23 These are extracts from the case recording summary and
24 I will come to different dates in due course, but this
25 records, it seems to record the meeting on 21st of 16:13
26 October, and it says: "Notes: Strategy meeting held
27 with Goretti Simms. See minutes. D McTeague."

28 A. Yes.

29 517 Q. Now, just going back to page 124 and 125, just trying

1 to confirm with you, are they the minutes of the
2 meeting --

3 A. Yes.

4 518 Q. -- at the bottom of page 124?

5 A. Yes, they are. 16:14

6 519 Q. Nothing beyond that?

7 A. Nothing beyond that, no.

8 520 Q. And then the two recommendations that we have seen --

9 A. That's correct.

10 521 Q. -- is that right? well, were you made aware of a 16:14
11 threat to burn Marisa Simms on that date or a threat to
12 bury her and her sister Paula --

13 A. No.

14 522 Q. -- or a threat to do anything to the children?

15 A. I was made aware that there had been an argument 16:14
16 between, at this stage I knew it was Garda Harrison and
17 Ms. Simms, that Mr. Harrison had been under the
18 influence of alcohol, that Ms. Simms had removed the
19 children from the house because of the argument. I was
20 informed that he had been threatening and that 16:15
21 Ms. Simms had described the argument as a total rant.
22 I was informed that one of the children -- or both of
23 the children actually, the information I had at the
24 outset, had witnessed the argument but one of the
25 children had come in from the car and saw Ms. Simms and 16:15
26 saw her being upset. That was the information that I
27 had had.

28 523 Q. okay. Is there any reason why that couldn't be
29 recorded or isn't recorded?

1 A. The reason it isn't recorded is because at the time I
2 was the only duty social worker on the team. I was
3 dealing with high priority level 1 child protection
4 cases, I was minuting this meeting, I had enough
5 information that I knew it met the threshold. I just 16:15
6 wanted to be clear that we were going to agree a
7 strategy for moving forward. I didn't record the
8 detail that I am sharing with you there now, but I had
9 that information at the time. If I didn't have that
10 information, the case would not have met the threshold 16:16
11 for initial assessment and the case would not have
12 proceeded, nor would it have been approved by my line
13 manager to proceed.

14 524 Q. Okay. I just --

15 CHAIRMAN: So it seems, I am sorry if I could summarise 16:16
16 so that I know: we have some kind of a physical
17 encounter, holding by the wrist, you have alcohol
18 involved, you have a total rant --

19 A. Yes.

20 CHAIRMAN: -- you have in addition, the fact that the 16:16
21 children witnessed it or that at least one child had
22 come out of a car and witnessed it, and the detail
23 there seems to be uncertain, but what is missing is any
24 threat to burn and bury, you didn't -- did that come --
25 is this something that came new when the Tribunal came 16:16
26 along?

27 A. Yes.

28 CHAIRMAN: Yes. All right.

29 525 Q. MR. MCGUINNESS: You did, I think, include in your

1 description of what you were told a reference to a
2 threat, is that right?

3 A. Say that again, sorry.

4 526 Q. You did include in your answer to me, I thought, a
5 reference to a threat as you were describing the
6 events, is that correct?

16:16

7 A. No, I didn't at that stage. I can clarify and explain.
8 I am jumping a little bit ahead here but just so you
9 can understand, Chairman. On the morning of the 7th of

10 February, I contacted Sergeant McGowan because I had
11 asked in my telephone conversation with her on, I think
12 it was the 28th of January -- 27th of January, yes, I

16:17

13 asked, and my case notes confirm this, I asked for a
14 copy of Ms. Simms' statement that related to the
15 incident where the children witnessed the argument

16:17

16 between herself and Garda Harrison. I didn't have that
17 information, I didn't receive it before my meeting on
18 the 7th with Garda Harrison and Ms. Simms. So on the

19 morning of that meeting, in order to ensure I had the
20 fullness of information and that I could put that to
21 Ms. Simms and Garda Harrison, I contacted Sergeant

16:17

22 McGowan and that was when she mentioned the threat to
23 have the children removed from her. That was, at that
24 stage that was where the threat had come in. And I was

25 aware of that in advance of my meeting with Garda
26 Harrison and Ms. Simms.

16:18

27 CHAIRMAN: What kind of a threat were you thinking that
28 it was?

29 A. She said a threat, what he had said was that he

1 threatened she wouldn't have the children and the
2 children wouldn't be with here, and that is recorded in
3 my note. And that is actually a verbatim account of
4 that conversation, because I typed as I was on the
5 phone.

16:18

6 527 Q. MR. MCGUINNESS: We will come to that in a few minutes.
7 Just sticking at page 125, where the two
8 recommendations are made there, at the bottom of 124 it
9 said: "Gardaí aware that Marisa Simms recently
10 hospitalised and further investigations be conducted
11 when Marisa regains health."

16:18

12 A. Yes.

13 528 Q. Now, did you understand then that she was in hospital
14 or had been in hospital or were you not clear as to
15 whether she was in or out?

16:18

16 A. I didn't inquire whether she was in or out. I knew she
17 had been, I am not sure if I was clear whether she was
18 in hospital or out of hospital. But Sergeant McGowan's
19 position was that Ms. Simms had been unwell and she
20 wanted to afford her a period of time to regain health.
21 It was out of concern.

16:19

22 529 Q. Okay. The recommendation 1 and 2 then on page 125,
23 where you have recorded there what the Social work
24 Department is to do or not to do, was that a joint
25 decision or is that the way you phrased it? Or, were
26 you taking direction from the Gardaí in relation to the
27 second issue?

16:19

28 A. No, that was a joint decision. It was a discussion
29 that all three of us present had and it was in

1 agreement as how to move forward.

2 530 Q. Okay. Just going back to the case recording summary
3 notes, at page 168 it appears to note a telephone call
4 to Sergeant McGowan, was that correct? If one goes
5 down to the bottom of that page -- 16:20

6 A. Yes.

7 531 Q. -- can you see that on screen?

8 A. Yes, I can, yes.

9 532 Q. Is that a record of your call to Sergeant McGowan?
10 A. Yes, it is. 16:20

11 533 Q. Okay. And had she been in any contact with you since
12 the strategy meeting?

13 A. Yes. I am aware that Sergeant McGowan had made
14 attempts to contact me, I wasn't available and I had
15 made attempts to contact her, but we missed one another 16:20
16 prior to that. That was the first time I actually
17 spoke to her about this case.

18 534 Q. Okay.

19 CHAIRMAN: And the date of that, Mr. McGuinness, is?
20 MR. MCGUINNESS: This is the 27th of January 2014. 16:20

21 535 Q. Is that correct?
22 A. Correct, yes.

23 CHAIRMAN: Yes. So, it is the first time you actually
24 spoke in detail about the case, is it?

25 A. It's the first time we spoke in detail about the case 16:20
26 since the strategy meeting on 21st October, yes.

27 536 Q. MR. MCGUINNESS: what you have recorded there is:
28 "TC --" that is telephone call "-- to Sergeant McGowan.
29 Purpose of call to ascertain current status regarding

1 Garda investigation so as to allow Social Welfare
2 Department to proceed with investigation."

3
4 Now, can I just stop you there? Did you think or were
5 you led to believe there was a Garda investigation 16:21
6 still going on or --

7 A. I had no further contact with Sergeant McGowan from the
8 time of the meeting on 21st of October, but that
9 sentence is written in that regard because time had
10 passed, I was aware that Ms. Simms had made a statement 16:21
11 of complaint in relation to Garda Harrison, I wanted to
12 ascertain was there any further information that I
13 needed to be aware of to inform my assessment, and that
14 that was the purpose of that sentence and the purpose
15 of my call ultimately. 16:21

16 537 Q. Okay. It says: "Sergeant McGowan was advised that
17 Marisa Simms made a second statement to the Gardaí in
18 past fortnight, advising that while the content of
19 original statement was completely true she did not want
20 the matter investigated by Gardaí. She is withdrawing 16:21
21 her complaint. Ms. Simms is back in a relationship
22 with Mr. Keith Harrison, the person against who
23 original complaint was made. DSW advised that in order
24 to make progress report from Gardaí on specific
25 information in original complaint will be required by 16:22
26 SWD so as to progress SW investigation.

27
28 Outcome: Sergeant McGowan to forward report to DSW as
29 soon as possible."

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Now, was there any information conveyed to you beyond that which you had originally been told of, either initially in October or at the strategy meeting?

A. Not at that time. There's actually a number of other outcomes of that meeting, they are not listed on that page, but -- or of that phone call, sorry. The purpose of that request that I had made was, given that I was aware now on the 27th of January that Ms. Simms had withdrawn her statement of complaint but was saying that what she had originally said was true, it was important, in order for me to be able to do that assessment properly with her, that I had a sense of the language that she used to describe what had happened, and that was the purpose of making the request for the report from Sergeant McGowan.

538 Q. You don't seem to record there that you advised Sergeant McGowan that you would be sending an appointment letter, but was that discussed with Sergeant McGowan?

A. It is actually recorded there, it's just not on the sheet that you have. But that particular case note, there's three outcomes from that meeting, the second outcome is: "Duty social worker to send invite to Ms. Simms and Mr. Harrison in the first instance and invite meeting to be sent to Mr. Andrew Simms following receipt of report from Gardaí so as to ensure accurate information is shared."

1 Nobody directed me to do that. That was my own
2 decision.

3 543 Q. Okay. But can I ask you this question: Did you
4 specifically and explicitly ask Sergeant McGowan for a
5 copy of the statement of complaint? 16:25

6 A. I asked her for the details of -- a report on the
7 details of what Ms. Simms had said about the incident
8 which the children witnessed. I didn't ask her for the
9 entire statement.

10 544 Q. Okay. But was it common in your experience for a 16:25
11 statement of complaint either to be furnished to you,
12 whether on request or otherwise, or for it to be
13 withheld from you or not provided in some way?

14 A. At the time, at the time of this referral back in 16:25
15 2013/2014, as Mr. Hone outlined, we would have sought
16 information from the Gardaí bearably about the content
17 of statements. What is important in terms of that is
18 that it's not common or uncommon, it depends on any
19 social worker. If I asked for information, I always
20 got it. If they asked for information from me in 16:26
21 relation to a case, they would have got it. That is --
22 the essence of being able to undertake child welfare
23 and child protection assessments is, clear
24 communication and collaborative work, and in particular
25 with our Garda liaison sergeant, and that is the 16:26
26 relationship that we would have had had at that time.

27 545 Q. Okay. Now, this note lists as one of the outcomes, the
28 first one:

29 "Sergeant McGowan to forward report to DSW."

1 operation?

2 A. I would have -- yes, if that was the case, I would have
3 had, yes, but I think it's important to say that the
4 information that was made available to me at the time
5 was made available with regard to the incident that 16:27
6 Ms. Simms described that the children were party to.
7 Had I have had sight of or was I aware of the
8 additional information that I have since become aware
9 of in Ms. Simms' statement, my assessment of the
10 referral would have been different and undertaken in a 16:28
11 different manner.

12 550 Q. Okay.

13 A. So if it was --

14 CHAIRMAN: Yes. And again forgive me for just trying
15 to understand this as I go along because it's 16:28
16 difficult, but you seem to be saying that if you knew
17 it was as serious as the statement that was read out
18 here in the Tribunal, you would have done a lot more in
19 terms of assessing the family, assessing the carers,
20 that is to say the mother and the mother's new partner? 16:28

21 A. Yes, I would have.

22 CHAIRMAN: So you -- what you got was, it seemed to
23 you, less serious by some few degrees than what has
24 actually emerged since, now that you have actually seen
25 the statement and read the statement? 16:28

26 A. Yes.

27 CHAIRMAN: I see. Okay.

28 551 Q. MR. MCGUINNESS: We do see from this case recording
29 summary on page 168, at the top of it, just further up

1 on that page, that it records, as it were, the actual
2 date:

3
4 "3rd February 2014. Standard appointment letter sent.
5 See attachments." 16:29

6
7 And that is your name there. And I think the standard
8 letter is there. Would there have been a different
9 letter written then if you had known of the full
10 contents, as it were, of the statement of complaint? 16:29

11 A. The letter would have been the same. I suppose it's
12 really important that when -- as a duty social worker,
13 I always remember that the first contact that a family
14 has with a Social Work Department is generally with me.
15 So that written correspondence needs to be clear in 16:29
16 what I am offering in terms of, I want to meet with you
17 either at home or in the office. But it also, it can't
18 be laden down with any additional information because
19 it's important that it's tempered and that you are not
20 raising anxiety for anybody in receipt of those 16:29
21 letters, so that is a standard letter that we would
22 have used and that I used in the Social Work Department
23 at that time.

24 552 Q. But would you have sent the letter to -- it's at page
25 147 there. Sorry, that is the later letter. But the 16:30
26 earlier letter to Ms. Simms that you did send out,
27 would that have been an invitation to both Ms. Simms
28 and Garda Harrison to meet jointly with you?

29 A. Had I have been aware of all of the information, no, it

1 would have been an invitation to Ms. Simms in the first
2 instance. On the basis of the information that I had,
3 the purpose of inviting them both to the meeting
4 together was to get an essence of how they interacted
5 together, was Mr. Harrison in any way controlling of 16:30
6 the conversation, so I am looking to assess the dynamic
7 between them both, if I felt at that meeting that --
8 553 Q. But looking at that letter of the 3rd February at page
9 144, it seems to be only addressed to Ms. Simms?
10 A. Yes. 16:31
11 554 Q. Did you intend to invite or did you invite Garda
12 Harrison to attend that meeting?
13 A. You will see in the third paragraph it said:
14
15 "I would be grateful if you could ask your partner to 16:31
16 attend with you so as to explore the referral
17 information in detail."
18
19 I did intend for Mr. Harrison to attend. The reason
20 the letter is addressed to Ms. Simms only is because 16:31
21 Ms. Simms is the children's mother, and Garda Harrison
22 is the children's -- he was in a relationship with
23 Ms. Simms at the time. It would not have been
24 appropriate for me to address him in the -- addressing
25 the letter to him. 16:31
26 555 Q. That is what I am wondering, you did not write
27 separately to him?
28 A. No, I did not.
29 556 Q. And you didn't communicate with him directly in any way

1 as a lead-up to or in advance of the meeting that
2 actually took place?

3 A. No, I didn't.

4 557 Q. Right. But in any event, in advance of that, you had a
5 telephone call, or did you, with Sergeant McGowan on 16:31
6 the 7th of February? If we look at page 167. Do you
7 see the note of the summary at the bottom of that page?

8 A. Yes.

9 558 Q. It's not clear from the time given -- just slightly up
10 there -- 7th February, it seems to be 000. Do you have 16:32
11 any recollection whether that -- this phone call was
12 before the meeting or after the meeting?

13 A. Yes, this phone call was before the meeting. My
14 previous contact with Sergeant McGowan had been on the
15 27th of January where I asked her for the report or the 16:32
16 details of what Ms. Simms had said. I hadn't received
17 that in advance of my appointment with Ms. Simms and
18 Garda Harrison, so that phone call was before the
19 meeting in order to ascertain details of the original
20 complaint made by Ms. Simms. 16:32

21 559 Q. Yes. You have recorded there:
22
23 "Sergeant McGowan advised that the original account
24 outlined how Keith had been drinking at home and had
25 made threatening and abusive comments to Marisa in 16:33
26 front of [blank]."
27
28 Was that one child or two children, as far as you can
29 recollect?

1 A. Initially, at the strategy meeting, it was -- I thought
2 it was two children, but it was one child there.

3 560 Q. Okay. "Marisa also said in her original statement that
4 Keith had held her wrist and it was sore and threatened
5 than he would ensure she did not have the children. 16:33
6 Marisa described Keith's behaviour as a total rant.
7 She was upset and the children saw her upset. [Blank]
8 had come in from the car and observed some of the
9 arguments."
10

11 Now, this is the first time at which the HSE, as it
12 was, and you had recorded threatening and abusive
13 comments, and it seems to be, as it were, disjunctive
14 to or not related to the threats that she wouldn't have
15 the children. To the best of your recollection, was 16:33
16 there ever a threat to burn or bury mentioned in this
17 phone call?

18 A. No.

19 561 Q. Are you sure about that in your recollection?

20 A. Yes, I am sure about that in my recollection. 16:34
21 CHAIRMAN: Forgive me. I am finding it difficult to
22 actually place the time of the phone call vis-á-vis the
23 time of the encounter in the office.
24 MR. MCGUINNESS: Well, it's the same day.
25 CHAIRMAN: Yes. 16:34

26 562 Q. MR. MCGUINNESS: And I think Ms. McTeague is very clear
27 that the purpose of this phone call was to get more
28 information in advance of the meeting, is that correct?
29 A. That's correct.

1 563 Q. So then this added to the information that you had in
2 the course of the meeting?
3 A. That's correct.
4 CHAIRMAN: Well, what it didn't add was burn and bury?
5 A. No, it did not. 16:34
6 CHAIRMAN: All right. What it did seem to add was a
7 total rant, is that right?
8 564 Q. MR. MCGUINNESS: Well, it adds in this reference to
9 threatening and abusive comments as well?
10 A. Yes. 16:34
11 565 Q. All right.
12 CHAIRMAN: Yes. I am sorry, I am just finding it hard
13 to follow and it is important, but it's not your fault,
14 it's mine. But so this phone call must have been in
15 the morning? 16:35
16 566 Q. MR. MCGUINNESS: What time had you scheduled the
17 meeting for?
18 A. 10:30, from memory. I would need to check back on the
19 letter, but it was in the morning before the meeting.
20 567 Q. Yes. And I think the meeting took place and it was 16:35
21 attended by Ms. Naomi Wallace as well as a notetaker?
22 A. That's correct.
23 568 Q. Now, at page 145 we have a typed version of her notes.
24 Did you check those as to their accuracy yourself?
25 A. Yes, I did. 16:35
26 569 Q. And I think these are the notes that are effectively
27 inserted into the record on the assessment form, is
28 that correct?
29 A. That's correct.

1 570 Q. Perhaps we'd maybe turn to the assessment record. It's
2 at page 137. And I think there were identical ones
3 completed in respect of each of the two children, is
4 that correct?

5 A. That's correct.

16:36

6 571 Q. And just to be clear, the portion at the top of this
7 page relates to the home visit, is that correct, in the
8 box, the first box?

9 A. Yes, it is, yes.

10 572 Q. Okay. So the portion at number 10, "Parent View", in
11 the box below that heading, came from the meeting on
12 the 7th?

16:36

13 A. That's correct, yes.

14 573 Q. So perhaps we'd just go through it there. It says:

15

16:36

16 "Donna explained her role to the couple and explained
17 how she received the referral."

18

19 And did you say anything more than that or what did you
20 describe your role as?

16:36

21 A. At the outset, Chairman, of every meeting that I have
22 with families who have contact with me for the first
23 time, it's really important that I explain to them the
24 category of the referral for which I am working. So I
25 explained the difference between a child welfare and a
26 child protection referral and explained that the
27 referral in relation to the children was a child
28 welfare referral. I advised that I received the
29 referral information from Sergeant McGowan.

16:37

1 574 Q. Okay. Now, to be clear, apart from the letter that you
2 had sent Ms. Simms and that no letter to Garda Harrison
3 directly, had you provided them with anything in terms
4 of any documentation or the copy of the original
5 referral?

16:37

6 A. No, I did not.

7 575 Q. Okay. And is that standard practice?

8 A. Yes, if Ms. Simms, Mr. Simms or indeed Garda Harrison,
9 as part of the assessment, wished to seek a copy of
10 them, all they had to do was ask, or alternatively, on
11 closure of the case, as outlined in the closure letter,
12 they could make an application under FOI or Data
13 Protection.

16:37

14 576 Q. It continues then: "Donna clarified with the couple
15 the basis of the referral and asked if what mum had
16 reported to the Gardaí was the truth."

16:38

17
18 Now, if I could just stop there. I suppose you clearly
19 hadn't got a copy of the statement or the retraction of
20 it?

16:38

21 A. That's correct.

22 577 Q. Right. Did you tell them whether you had the statement
23 or was there any discussion as to whether you had the
24 statement or not?

25 A. No, I put to them the information that I had about what
26 I knew. The information that I had received from
27 Sergeant McGowan, I put that to them, that there had
28 been an argument and exactly what I am after
29 explaining.

16:38

1 578 Q. Okay. But are you clear and are you certain in your
2 own mind that you "asked if what mum had reported to
3 the Gardaí was the truth," you asked that directly in
4 those --

5 A. Yes, yes, I did. 16:38

6 579 Q. And I suppose they didn't know that you didn't have the
7 statement?

8 A. They didn't. But just, I need to preface this with,
9 the beginning of that sentence says "Donna clarified
10 with the couple the basis of the referral". That is a 16:39
11 summary of me putting to them here is what I know. I
12 know that there had been an argument, alcohol was
13 involved, he had grabbed her wrist, that was put to
14 them, and then I asked mum -- before I spoke to Garda
15 Harrison, I asked mum is the information that you 16:39
16 shared the truth? And I wasn't -- it could have been
17 interpreted did I mean the entire statement, but
18 specifically I had put what I knew to them.

19 580 Q. Yes.

20 A. And asked was it the truth. 16:39

21 581 Q. Yes.

22 CHAIRMAN: I am sorry for interrupting, but can I ask
23 just two questions there. Did you also say, well, this
24 was described to me as you went on a total rant in
25 consequence of, well, too much alcohol and rage? 16:39

26 A. Yes, there had been an argument, that was a rant. I
27 used the language that I had had in the phone call in
28 the morning.

29 CHAIRMAN: Yes. And then threatening and abusive

1 comments was what Sergeant McGowan had told you that
2 morning, apparently?

3 A. Yes.

4 CHAIRMAN: I am just wondering about this, and one
5 would tend to wonder, you know, there is various kinds 16:40
6 of threats, like I will send a solicitor's letter, you
7 might say that is grade 1 of 100, and grade 100 might
8 be, I am going to actually kill you, burn your body and
9 bury it, so that would be close to the top of 100.

10 A. Yes. 16:40

11 CHAIRMAN: I would wonder as to, would one not raise a
12 query when told something like that, well, what was the
13 nature of the threat? Because, as I say, a threat can
14 be something from very mild to something extremely
15 alarming. 16:40

16 A. Yes. In the conversation with Sergeant McGowan, as
17 indicated in my notes, the threat was that he would
18 have the children removed from Ms. Simms. That was the
19 information that I had.

20 582 Q. MR. MCGUINNESS: But can I ask you this, Ms. McTeague: 16:40
21 when you are clarifying the basis of the referral, did
22 you put the information that you had received that
23 morning to Garda Harrison and Ms. Simms?

24 A. Yes.

25 583 Q. And specifically that he had made threatening and 16:40
26 abusive remarks to her, did you include that?

27 A. I included that there had been a disagreement, there
28 was threatening and abusive shouting and roaring. It
29 was very much being very, I suppose, mindful of the

1 fact that I have a couple sitting in front of me
2 meeting a social worker for the first time, so I am not
3 quoting Sergeant McGowan verbatim. I am helping them
4 to feel at ease but making sure that they are clear on
5 the information that I have. 16:41

6 584 Q. But you have the record of your phone call, you had
7 made it that morning?

8 A. Yes.

9 585 Q. And in the first couple of sentences it refers to
10 threatening and abusive comments, and I am trying to be 16:41
11 certain about whether you are clear that you would have
12 used that phrase to Garda Harrison and Ms. Simms in
13 clarifying the basis of the referral when you did that?

14 A. It is my recollection that what I put to them was the
15 information that I had had, that the threat was in 16:41
16 relation to him ensuring that she didn't have the
17 children. I can't swear that I used the word "abusive
18 comments", but I certainly know I put that threat to
19 them.

20 586 Q. Okay. 16:42

21 A. So whether I used "abusive comments" or not, I don't
22 know. I described it as a rant and exactly that, but I
23 won't swear otherwise.

24 587 Q. Well, just in terms of your practice and given that you
25 had recorded Sergeant McGowan, is it likely that you 16:42
26 put the whole or the substance of what Sergeant McGowan
27 had told you to them?

28 A. Yes.

29 588 Q. As the basis of the referral?

1 A. Yes, it is.

2 589 Q. Okay. Then, it's recorded:

3

4 "Mum verified that the incident did happen and that
5 only one of the children had witnessed it, that she has 16:42
6 put them in the car, however [blank] had got back out
7 and had gone into the house."

8

9 And you are clear that that is what was said by
10 Ms. Simms and not suggested by you, that one of the 16:42
11 children had witnessed the incident?

12 A. That's correct.

13 590 Q. In that fashion.

14

15 "Keith began to claim that prior to this reported 16:42
16 incident they had lost a baby, an ectopic pregnancy,
17 admitted that he did not deal with the loss very well
18 and began to drink. At this point Keith began to get
19 tearful and Marisa began to cry."

20

21 And then you record that:

22

23 "Marisa explained it had been very difficult for them
24 at the time. Her sister was getting married and had
25 not invited Keith. They did not approve of the 16:43
26 pregnancy as both had been married previously. Keith
27 explained it was his fault, he explained that they had
28 made plans for the baby, calling it baby Harrison, when
29 they lost the baby. No support here as all his friends

1 and family were in Galway so he leaned on drink. Donna
2 again clarified with Marisa that she had made the
3 statement to the Gardaí."

4
5 And that seems to reflect, or does it, a very direct 16:43
6 question to Marisa from you that she had made the
7 statement to the Gardaí, is that right?

8 A. Yes.

9 591 Q. She said -- you've recorded there:

10
11 "Marisa explained that she did not initially go to the 16:43
12 Gardaí, that they had phoned her to make the statement.
13 She further explained that it was her sister that
14 reported it to the Gardaí. Keith again admitted to the
15 incident being his fault and not Marisa's, that he had 16:43
16 attended counselling in St. Eunan's Court addiction
17 service, doing five to six sessions, and was
18 discharged. He said that he found it beneficial and he
19 was able to see things he could change. Donna
20 explained to the couple she would have to inform the 16:44
21 children's father. The couple agreed and understood
22 this had to happen. Donna also explained that she may
23 have to visit and speak to the children. Both agreed
24 to this and Marisa said 'you are more than welcome to
25 come'."

26
27 Is that right?

28 A. That's correct.

29 592 Q. Okay. And in your statement you say -- when you refer

1 to this visit, you say:
2
3 "I explained that I may need to meet with both
4 children."
5 16:44
6 And you then say in your statement:
7
8 "Ms. Simms and Mr. Harrison both agreed."
9
10 Do you recall Guard Harrison agreeing, in fact, at the 16:44
11 time?
12 A. Yes, I do.
13 593 Q. And the comment then that is made by Marisa?
14 A. Yes.
15 594 Q. Only by Marisa, is that right? 16:44
16 A. Yes.
17 595 Q. Okay. Did you convey to them essentially that, in
18 fact, the assessment was the end of it really, that
19 there wouldn't be, in all likelihood, any need to
20 attend? 16:45
21 A. No, I did not.
22 596 Q. Is there anything that you would like to add to your
23 account of the assessment as it was conducted on the
24 7th of February?
25 A. Yes. On the basis, Chairman, of the information that I 16:45
26 had available to me at that time, that I have explained
27 today, Garda Harrison and Ms. Simms gave a very
28 detailed account of what was going on in the context of
29 their lives at that time. They described the loss of a

1 baby, a lack of acceptance within their extended
2 family, not being invited to a wedding, and the
3 consequences of a lack of support for Garda Harrison in
4 having used alcohol to help him to manage that. Given
5 the information that I had at the time that I completed 16:46
6 this assessment, I felt that both Garda Harrison and
7 Ms. Simms demonstrated insight and understanding into
8 the situation that they were facing at the time.
9 Ms. Simms had acted protectively on the night in
10 question by leaving the house and taking her children 16:46
11 with her. Garda Harrison had subsequently attended for
12 addiction services for counselling, and I took that
13 information at face value. I felt it demonstrated an
14 understanding and an acknowledgement also by Garda
15 Harrison that it was his fault. And twice during that 16:46
16 meeting Garda Harrison indicated 'this is my fault,
17 it's not Marisa's, I am responsible', and this was the
18 explanation that he gave. On the basis of what I knew
19 at that time, it was my view that there were not any
20 ongoing child welfare or child protection concerns. 16:46
21 But important and equally as important in why I
22 suggested at that meeting that I would meet with the
23 children, was because in order to inform and conclude
24 any well-balanced initial assessment, it is important
25 that I see the children with their parents or with 16:47
26 their mum and her partner or whatever. And it is my
27 view today, on the basis of the information that I now
28 am aware of since this Tribunal has started, that had I
29 been aware of that information at the outset or indeed

1 a substantive additional amount of information from
2 Ms. Simms' statement, I would have met with her on her
3 own in the first instance, I would have talked with her
4 about that, I would have explored supports that may be
5 available to her. I would have met with Garda Harrison 16:47
6 on his own, I would have put the information to him.
7 In addition to that, I have also learned since the
8 Tribunal has started that there was a threat to kill
9 Mr. Harrison. If we had have known that at the time of
10 this initial assessment, those children would not have 16:47
11 been in the house where Garda Harrison was. There
12 could have been a threat to their lives. We were
13 unaware of that. That would have meant that my
14 assessment would have been a very different assessment.
15 But on the basis of what I have, I feel that it was a 16:48
16 thorough, well-informed and balanced assessment of the
17 children's needs at that time, and it was a child
18 welfare referral on the basis of what I knew.

19 597 Q. Now, just looking at the case recording summary
20 relating to that at page 165, towards the bottom of 16:48
21 that page it's recorded there:

22
23 "Donna explained to the couple she would have to
24 inform, also explained that she may have to visit and
25 speak to the children. Both agreed to this and Marisa 16:48
26 said 'you are more than welcome to come'."

27
28 And it's recorded then:
29

1 "Donna explained the next step in the process and took
2 Marisa's number."
3 A. Yes.
4 598 Q. So can you just recollect what you would have explained
5 there? 16:48
6 A. I explained that I would need to meet with the
7 children, I've taken her number obviously to make
8 arrangements for that visit to take place, that I would
9 complete the paperwork, so I explained how the
10 paperwork works, it's an initial assessment, that it 16:49
11 wouldn't be going any further, in my view, on the basis
12 of the information that I had had, and it would include
13 obviously any additional information that arose in the
14 course of my visit to the children.
15 599 Q. Okay. But was the next step in the process not 16:49
16 consulting with your line manager, as it were?
17 A. Yes, certainly all cases are discussed with my line
18 manager, but in this instance I was satisfied that my
19 assessment was the correct one. It would just have
20 been a matter of informing Ms. Smith that this is the 16:49
21 information I had gathered, this was my assessed view
22 and this is how I felt we needed to proceed. Yes, I am
23 sure I may, maybe, have mentioned, look at, I will talk
24 to my team leader. I may have done that. That would
25 be normal practice and nothing out of the ordinary in 16:49
26 that.
27 600 Q. This isn't a criticism, but that last sentence we have
28 been looking at there doesn't make its way into the
29 assessment report, "Donna explained the next step and

1 took Marisa's number", but that is what you did anyway,
2 is that right?

3 A. Yes, that is the notes as taken by Ms. Wallace, so yes,
4 I did.

5 CHAIRMAN: What you seem to be saying is, there would 16:50
6 be no reason for you to get her number unless you were
7 going to organise a home visit?

8 A. Yes.

9 601 Q. MR. MCGUINNESS: The analysis that follows on page 165
10 onto page 166, which is obviously from Ms. Wallace's 16:50
11 notes, that is included in the summary of the initial
12 assessment. But was that put in then at the time, was
13 that analysis done at the time?

14 A. Yes. So at the time Ms. Wallace recorded, took a note
15 of the meeting, Ms. Wallace emailed that note to me. 16:50
16 So I have recorded at the bottom of page 166 that the
17 notes are recorded by Naomi Wallace and analysis
18 completed by DSW, which was me at the time. So that
19 all went onto our computer system at the one time. It
20 wasn't recorded later; it was done at the time. So 16:50
21 notes were recorded by Naomi, I did the analysis and
22 all of that was inputted on our system together.

23 602 Q. Okay. So if one is looking at page 137 then, after
24 number 10 it goes on to number 11 "Analysis/Summary of
25 initial assessment," that was inputted on the day, with 16:51
26 the exception of the last sentence in that, is that
27 right? It might be easier if we just look at the last
28 sentence. It says:

29

1 "Number IA not completed. Decision not to proceed to
2 IA was made following closure of intake document.
3 IA" -- is it -- "document used to record action taken."
4 Is that just a note that's on the form, or is that
5 something inputted? 16:51

6 A. I need to look at it on the hard doc copy, if that is
7 okay.

8 CHAIRMAN: Yes. Well, your question is, was it put on
9 that day or was it put on subsequent to the home visit?

10 MR. MCGUINNESS: Yes. Or is it just part of the form. 16:51

11 CHAIRMAN: There is lots of stuff obviously put on this
12 as the date is the 27th of October. I mean, it's put
13 on -- seems to be put on at a later date.

14 A. Yes. What that means is, that IA is an initial
15 assessment, so you will see if you go to the beginning 16:52
16 of that document, none of that document is inputted,
17 there is no information in terms of child development,
18 parent capacity, all of that is not included. So that
19 reference, I put that in at the time of completing the
20 document. So basically I was the only duty social 16:52
21 worker on the team at the time and we were using our
22 intake documents to record salient issues in a case.
23 We weren't going through all of the smaller documents,
24 the smaller sections in child welfare cases. That is
25 an explanation as to why that other section is not 16:52
26 filled in.

27 603 Q. MR. MCGUINNESS: And that was done on the same day
28 then, was it?

29 A. That was done on the day that I completed the initial

1 assessment, which is whatever date is at the bottom -
2 the 24th February.

3 604 Q. Okay. So that is when that is put in, on the 24th?
4 A. Yes.

5 605 Q. That is then following the visit to the house? 16:52
6 A. Yes.

7 606 Q. On the 19th?
8 A. Yes. All of that document would have been populated
9 after I would have opened the document. So you will
10 see the date that you referred to Mr. Gerry Hone in his 16:53
11 evidence, that date is the date that I opened that
12 document on our system. It means nothing; it's just
13 the date that it's opened on the system. Any of the
14 recording in that document, you can populate it and
15 update it as you go along. It's not something that you 16:53
16 have to do it a one-off event.

17 607 Q. Okay. Now, after the meeting had concluded on the 7th,
18 did you consult with Ms. Smith?
19 A. I did, yes.

20 608 Q. Okay. And can you give us an account of those 16:53
21 discussions?
22 A. I advised Ms. Smith that I had met with the couple, the
23 information that I had gathered from them, and that it
24 was my view at that point that I didn't feel there were
25 any ongoing child welfare or child protection concerns, 16:53
26 and that following a follow-up visit to see the
27 children, I believed the case could close. Ms. Smith
28 concurred with that on the basis of the information I
29 gave her.

1 609 Q. Okay. You see, I just want to be clear as to, in the
2 light of the analysis and the satisfactory meeting that
3 you had, and I take it you did regard the meeting with
4 Garda Harrison and Ms. Simms as satisfactory?

5 A. Yes, I did.

16:54

6 610 Q. They didn't appear to be concealing anything about
7 whether -- anything had happened or there was no
8 dispute raised about the statement to the Gardaí?

9 A. No.

10 611 Q. Or the contents of anything?

16:54

11 A. No.

12 612 Q. But was it necessary then to have the home visit?

13 A. Yes, it was.

14 613 Q. Even in the light of the limited circumstances you
15 knew?

16:54

16 A. Yes, it was.

17 614 Q. Okay.

18 A. And the reason for that, Chairman, is because during
19 that meeting with Garda Harrison and Marisa Simms,
20 Garda Harrison admitted that the incident that was
21 reported in to us in the Social Work Department had
22 occurred. There was no denial of it. There was an
23 explanation for what had happened in the context.
24 Therefore, it wasn't a speculation that the event
25 happened. I had confirmation that it did. Therefore,
26 it was important for me to observe the relationship
27 between the children, their mum and Garda Harrison.
28 And that was the purpose of the visit.

16:54

16:55

29 615 Q. Okay. Now, did you consult with any member of the

1 Gardaí before making that decision?

2 A. I did not.

3 616 Q. Did you consult or suggest any consultation that
4 Ms. Smith might have with any member of the Gardaí?

5 A. Definitely not. 16:55

6 617 Q. And when did your consultation with Ms. Smith take
7 place following the meeting of the 7th?

8 A. I can't give you an exact date, Judge. I would have
9 dipped in and out with Ms. Smith on a regular basis. I
10 was dealing with 25 to 30 referrals on a constant 16:55
11 basis, so I would have just been giving her, I suppose,
12 the headlines; look at, I am not concerned here, I
13 think they have given an explanation, here is what I am
14 planning to do, are you okay with that? And yes, that
15 was the agreement. So I have no date for that 16:56
16 meeting -- or that discussion, rather.

17 618 Q. Now, I may be wrong in suggesting this, but following
18 the meeting of the 7th, I don't see any note or minute
19 of any meeting recording the basis upon which the home
20 visit was to take place, is that correct? 16:56

21 A. That's correct.

22 619 Q. Okay. Is that common practice or usual?

23 A. Absolutely. I wouldn't -- I wouldn't record why I am
24 going to do a visit. I will record in the record of
25 the visit why I did the visit, which is what I did in 16:56
26 this case.

27 620 Q. Okay. So you don't record, as a matter of practice,
28 with your team leader, look, we are going to do a home
29 visit, this is when I am planning it, this is why I am

1 planning it, and record any discussion about it or any
2 actual decision approving it?

3 A. No, that wouldn't be normal practice. And the reason
4 for that is, when you are working in a busy social work
5 environment, they are just conversations that you are 16:57
6 having. I had made the decision this is what I needed
7 to do, so my record of the visit will indicate why I am
8 there, the decision to be there and the outcome of that
9 visit. If we recorded every conversation that we had
10 like that, I would spend all my time on a computer and 16:57
11 no time with families.

12 CHAIRMAN: You are saying this was a normal work chat?

13 A. Absolutely, yes.

14 621 Q. MR. MCGUINNESS: You do record the outcome then, is
15 that right, at page 149 in the case recording summary, 16:57
16 at the bottom of page 149?

17 A. Yes.

18 622 Q. And that is the commencement of that, the home visit?

19 A. Yes, that is the recording of the visit, so I am
20 indicating why I am there, the purpose of the visit, I 16:57
21 am indicating what happened at the visit and the
22 outcome of the visit.

23 623 Q. And that goes on from page 149 on to page 150, is that
24 correct?

25 A. That's correct. 16:58

26 CHAIRMAN: And again, the date of the home visit is not
27 necessarily the date here -- well, it is -- the actual
28 date is the 19th February, it is in fact the same date,
29 it's not just you are populating a document following

1 on opening a document on a particular date, that is the
2 date?

3 A. That is the date. The actual date is the date that I
4 recorded, yes.

5 624 Q. MR. MCGUINNESS: And you have an "NB" there in the 16:58
6 middle of page 150 where you say:

7
8 "It is important to note that given the nature of the
9 referral, discussion with Sergeant McGowan and meeting
10 with Keith and Marisa in SWD earlier in the month, DSW 16:58
11 made a decision not in either of the children's best
12 interests to bring up the issue in the family home
13 which led to the referral of the SWD."

14
15 And I take it the reference to discussion with Sergeant 16:54
16 McGowan is the earlier discussion and no later
17 discussion?

18 A. That's correct.

19 CHAIRMAN: In other words, you didn't say to the
20 children, I believe your mummy and daddy had a row, 16:59
21 what was the nature of it, or any such clumsy action
22 like that?

23 A. I did not, no.

24 CHAIRMAN: No.

25 625 Q. MR. MCGUINNESS: On page 151, there is a note there of 16:59
26 the telephone call to Marisa Simms to arrange the home
27 visit for the 19th, at 3:45.

28 A. Yes.

29 626 Q. And that appears to be on the 14th, if one goes back to

1 page 150, is that the date of the actual call?

2 A. It is, yes.

3 627 Q. Or the inputting of it, is that right?

4 A. It's the date of the call. I called her on 14th to
5 make arrangements for the visit on the 19th. 16:59

6 628 Q. So, had you phoned her on the night of the 7th or the
7 night of the 8th --

8 A. I did not.

9 629 Q. -- to discuss any meeting? No. On your arrival at the
10 house, was there any reference to explaining why you 16:59
11 were coming or what you were doing or acting under
12 instructions of anyone?

13 A. No.

14 CHAIRMAN: Mr. McGuinness, it may suffice at this stage
15 to put particular allegation, the status of which 17:00
16 frankly I am completely puzzled as to what it is at
17 this stage.

18 630 Q. MR. MCGUINNESS: Yes. You have seen the statements of
19 evidence made by Ms. Simms and Mr. Harrison. Did you
20 say at any stage that you had been contacted by the 17:00
21 Gardaí to come out and do this visit?

22 A. I absolutely did not.

23 631 Q. Okay. Were the Gardaí instrumental in any way in
24 either prompting you to write the letter of the 3rd
25 requiring them or inviting them in for a meeting? 17:01

26 A. Absolutely not.

27 632 Q. Okay. Did you discuss or take direction from the
28 Gardaí in relation to any step as to how you would
29 conduct your assessment or did you report on it

1 afterwards in any form or fashion to the guards?

2 A. I did not.

3 633 Q. Did you make the Gardaí aware at any stage of your
4 intention to conduct a home visit?

5 A. I did not.

17:01

6 634 Q. Okay. Would it be practice to do so in any respect?

7 A. No. Once we have received the notification from the
8 Gardaí it's our job to complete an assessment of the
9 welfare needs of children or the child protection needs
10 of children. I wouldn't be informing the Gardaí of
11 meetings, home visits or otherwise.

17:01

12 635 Q. Did you convey in any way that you were, as it were,
13 duty-bound to do the home visit, that you had no choice
14 in the matter, that you were, as it were, acting
15 against your own professional judgment in the matter
16 but acting under instructions?

17:02

17 A. No, I did not. And that, I think Chairman has -- it's
18 one of the things in this case that I find upsetting,
19 because I didn't expression confusion at any stage from
20 the outset of this case in my contact with Garda
21 Harrison or Ms. Simms. I didn't express bemusement,
22 confusion or otherwise. I didn't indicate that my team
23 leader was instructed by anybody. And I think the
24 evidence that has been given is about how upsetting my
25 visit had been to them; it was my view that that was a
26 very courteous, professional engagement. The children
27 were not distressed or upset in any way. I was
28 introduced this to them as mammy's friend. And after
29 that meeting I very clearly informed them that my

17:02

17:02

1 assessment would be completed. But the evidence
2 presented is that that experience of me visiting their
3 home was distressing and distressful for them. That is
4 not the case. That was not the experience I feel that
5 was had or had at the time, but it is the information 17:03
6 that has been reported and I think that is very unfair.
7 It's my professional reputation, I have to engage with
8 families, I am now the team leader for the duty team in
9 Donegal, my name goes on the end of letters, it goes to
10 families and that is the message that is out there; 17:03
11 that their experience of dealing with me caused them a
12 great deal of upset and distress. That was not the
13 experience at the time, it wasn't the message I got
14 from them and it certainly wasn't the feeling I had
15 from the children. And that is, I suppose, the 17:03
16 difficult part of that.

17 636 Q. Did you convey in any way or make reference to any
18 relationship that you or your team leader had with any
19 member of An Garda Síochána or in particular Sergeant
20 McGowan? 17:03

21 A. I did not.

22 637 Q. Do you know of any basis for that assertion as far as
23 you are concerned?

24 A. I do not. I have -- I meet with the Gardaí regularly,
25 we meet with the Children First liaison officers 17:03
26 regularly. I am sure Garda Harrison is aware of that
27 in the course of his role as a Garda. I never made
28 reference to any relationship one way or another with
29 regard -- in respect of Sergeant McGowan or anyone else

1 in the Gardaí.

2 MR. MCGUINNESS: Ms. McTeague, would you answer any
3 questions anyone may have?

4 CHAIRMAN: Yes. It may be an appropriate place to
5 break now, Mr. McGuinness. Just a couple of matters. 17:04
6 I would like oral submissions at the end, and it may be
7 that people will choose not to make oral submissions
8 and simply leave the assessment of fact as it is,
9 because it is questions of fact. It used to be a
10 tradition that people would not make submissions of 17:04
11 fact, for instance, in the Special Criminal, but they
12 are more than welcome to make submissions of fact, if
13 they wish. But what seems to me that is necessary now
14 more than anything is that people should actually make
15 clear what exactly the case is that they are making, as 17:04
16 opposed to referencing a case that perhaps might have
17 been on certain documents at the start. And with that
18 in mind, I hope if we finish the evidence by Wednesday
19 or Thursday that we can have the oral submissions
20 straight away, and they can be as long or short as 17:05
21 people want.

22 MR. HARTY: In that regard, Chair, I might ask that
23 perhaps some brief period of time can be put to go --

24 CHAIRMAN: No, I am not --

25 MR. HARTY: By that, I mean a day. 17:05

26 CHAIRMAN: Look, Mr. Harty, this is a very, very
27 straightforward case, and in the ordinary and normal
28 way of people doing a very straightforward case is that
29 people actually make submissions when they come to the

1 end. It can be worked on now with a view to what case
2 is being put forward, but I actually need to know from
3 each party - it's the same thing that I have been
4 seeking right from the very, very start - what case is
5 being made against whom in this particular section of 17:05
6 the Tribunal's work. And I don't want to adjourn to
7 next week to do that. I really want to know that now.
8 Surely I have at least some authority in that regard,
9 some responsibility to make appropriate decisions. I
10 will of course listen to anything you want to say about 17:06
11 that tomorrow, but for the moment that is my feeling.
12 So, tomorrow at 10:00.

13
14 THE HEARING WAS THEN ADJOURNED TO TUESDAY, 2ND OCTOBER
15 2017 AT 10:00AM

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