

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

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AND EQUALITY UNDER THE TRIBUNALS OF INQUIRY (EVIDENCE) ACT  
1921, ON 17 FEBRUARY 2017

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

HELD IN DUBLIN CASTLE  
ON FRIDAY, 6TH OCTOBER 2017 - DAY 33

33

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

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1 THE HEARING RESUMED, AS FOLLOWS, ON FRIDAY, 6TH OCTOBER  
2 2017 AT 1:00PM:

3  
4 CHAIRMAN: I can only apologise. A meeting that was  
5 supposed to last an hour went on for a great deal 13:04  
6 longer, and there it is, we are here. So we will do  
7 the same way, we will break after two hours and see how  
8 far we've got.

9 MR. MCGUINNESS: Chairman, the witness that I propose  
10 to call now is Chief Superintendent McGinn. 13:04

11  
12 CHIEF SUPERINTENDENT TERRY MCGINN, HAVING BEEN SWORN,  
13 WAS DIRECTLY EXAMINED BY MR. MCGUINNESS:

14  
15 1 Q. MR. MCGUINNESS: Chief Superintendent McGinn, I think 13:04  
16 you have been the chief superintendent for the Donegal  
17 division since 2005?

18 A. That's correct.

19 2 Q. Could I just ask you to outline your experience in An 13:05  
20 Garda Síochána prior to that?

21 A. I joined the organisation in 1982, October 1982. So  
22 I'm coming 35 years now in policing. I started off as  
23 the uniform guard doing patrol work. I then progressed  
24 to the rank of sergeant. I worked in Dublin, Mayo. I  
25 worked in detective branch, plain clothes. I then went 13:05  
26 on to work overseas with the United Nations. I came  
27 back and then I took the role of detective inspector  
28 and I worked within the Garda Bureau of Fraud  
29 Investigation, particularly in the area of organised

1 crime and money laundering. When I got promoted then  
2 to superintendent, which was in 2002, I was attached to  
3 the Donegal division. At that time in the division,  
4 the Morris Tribunal was starting, and I was assigned by  
5 the Garda Commissioner at that time, because I was new 13:06  
6 into the division, to be the liaison officer in the  
7 Morris Tribunal. In 2005 then I got promoted to chief  
8 superintendent and I have held that rank since.

9 3 Q. All right. So you have particular experience of the  
10 way tribunals work? 13:06

11 A. I have.

12 4 Q. And presumably are intimately familiar with the Morris  
13 Tribunal reports?

14 A. Absolutely. And particularly, I took charge of the  
15 division in 2005 in the aftermath of the Morris 13:06  
16 Tribunal, where confidence in policing was very low,  
17 and that I was tasked particularly in trying to build  
18 up public confidence in policing because I had been  
19 through a very turmoil situation within the division.

20 5 Q. Yes. Now, Chief Superintendent Sheridan has told us 13:06  
21 that he took over responsibility for the Donegal  
22 division I think from November 2010 until August 2011.  
23 I think you were not on duty as divisional officer --

24 A. Yes, I was out on maternity leave. And during the  
25 period on a discussion at this particular Tribunal I 13:07  
26 had two periods of maternity leave.

27 6 Q. Yes. So when he took over in February 2012 to November  
28 2012 you were on leave as well at that time?

29 A. I was on leave, yeah, maternity leave.

1 7 Q. And were there other occasions when there was a  
2 superintendent acting up as chief superintendent, or  
3 not?  
4 A. There would be occasions if I was off just for a short  
5 period of time. 13:07  
6 8 Q. Short periods?  
7 A. That I was attending maybe meetings or out on different  
8 investigations, where the Commissioner would appoint  
9 somebody to act up. But if I was away for a long  
10 period of time, they would bring in another chief 13:07  
11 superintendent.  
12 9 Q. Okay. I think most lawyers who have engaged with An  
13 Garda Síochána and engaged in tribunals know obviously  
14 of the structure of the guards and the hierarchy within  
15 the Garda Síochána and the legislation. But in terms 13:07  
16 of being chief superintendent of a division, you would  
17 have, as it were, corporate and personal responsibility  
18 for everything that goes on within the division?  
19 A. That's correct. I'm responsible for leading out on  
20 police operations in the division. I'm responsible for 13:08  
21 security matters attaching to the division. I would  
22 have statutory functions in terms of Section 30  
23 detentions. I give out particular licences. I refuse,  
24 you know, in terms of firearms, you know, I have the  
25 power to refuse firearms. I'm also responsible for the 13:08  
26 conduct of members within the division. I'm  
27 responsible for the financial budget, and all really --  
28 I am the Commissioner's representative in charge of the  
29 division, you know, taking responsibility and leading

1 out.

2 10 Q. And the context will become more relevant and pertinent  
3 when I come to particular views that you came to and  
4 expressed yourself of in correspondence with the  
5 Commissioner's office, but in terms of discipline, 13:09  
6 could you just summarise your role in relation to  
7 matters of discipline. Obviously from the point of  
8 view of the public and the force, an ill-disciplined or  
9 undisciplined guard, apart from minor breaches, ought  
10 to be subject to discipline? 13:09

11 A. Yes.

12 11 Q. Where do you fit into that?

13 A. In terms of the discipline regulations, under the  
14 discipline regulations I can be the appointing officer  
15 for members under my control within the division. 13:09  
16 There are occasions then that it wouldn't be  
17 appropriate that I would conduct the investigation,  
18 because possibly there would be members of similar rank  
19 and that there are times then that I would pass that on  
20 to the commissioner for the appointment outside the 13:09  
21 division. I also deal with -- there are different  
22 types of discipline. In terms of minor discipline,  
23 really, you know, it would only come to my attention if  
24 I needed to invoke what we call a Section 10. And  
25 that's where somebody has -- you know, needs advice, 13:10  
26 they need a caution, and it's in the lower-level scale.  
27 It then progresses up to more serious investigations  
28 where I make an appointment in terms of, if a board of  
29 inquiry needs to be set up, where somebody would have



1 to face dismissal from the organisation in terms of  
2 that. And then that I have responsibilities in terms,  
3 under the Garda Síochána Act --

4 12 Q. Yes. 13:10

5 A. -- you know, where I have to commit certain functions  
6 in relation to that, you know.

7 13 Q. Yeah. We will come to that in due course. So one  
8 could say perhaps in summary that your responsibilities  
9 in relation to discipline often involve, as it were,  
10 kick-starting the process. You don't adjudicate 13:10  
11 yourself in these matters. You might perhaps form a  
12 view that there is sufficient enough material to  
13 warrant either the appointment of somebody or the  
14 commencement of an investigation, is that right?

15 A. Yes, that's correct. Information will come across my 13:10  
16 desk where I would maybe send out to a superintendent  
17 to make further inquiries, or an inspector, preliminary  
18 inquiries to determine whether a discipline  
19 investigation should start. Then maybe members of the  
20 public would call with me, have a meeting where they 13:11  
21 are complaining about conduct of a member of An Garda  
22 Síochána, and that would start a process for me in  
23 terms of that. So it doesn't always normally take the  
24 formal route.

25 14 Q. Yes. 13:11

26 A. You know, that sometimes I would carry out further  
27 inquiries to establish does it warrant --

28 15 Q. Yes.

29 A. -- a criminal investigation, or does it warrant sending

1 a case maybe to the Ombudsman Commission.

2 16 Q. Yes. And we will come to more specific details in  
3 relation to that. But your relationship then with, as  
4 it were, it used to be old B Branch, but it then became  
5 HRM, but Headquarters, in relation to discipline, 13:11  
6 you've no power of suspension of members, it's not  
7 delegated to chief superintendents in divisions, is  
8 that right?

9 A. I have a power -- I have the authority to suspend, but  
10 it's only for three days suspension. 13:11

11 17 Q. Three days, yes.

12 A. And it would be in the case where a member of An Garda  
13 Síochána maybe had to appear in court or that something  
14 would come to my attention that I needed to suspend for  
15 three days. 13:12

16 18 Q. As an emergency?

17 A. As an emergency.

18 19 Q. Yes.

19 A. But after then I need to send it to the Garda  
20 Commissioner, which comes under Internal Affairs, and I 13:12  
21 can make recommendations, but I don't have the  
22 authority to suspend for long periods of time.

23 20 Q. And then just briefly your responsibility in relation  
24 to criminal investigations. First of all, would every  
25 district officer inform you of every criminal 13:12  
26 investigation that has commenced or is going on, or  
27 does your sanction have to be obtained?

28 A. No, no, no, no. They have their own autonomy within  
29 their own rights to carry out investigations, and

1 certain investigations would only come to my attention  
2 if it warranted some input from me. But we would have  
3 regular meetings on a weekly and monthly basis, PALF  
4 meetings, where we discuss serious crime, the progress  
5 of serious crime, and any matters that, you know, need 13:12  
6 maybe follow-on attention for my behalf, or I am  
7 asking, maybe, superintendents as to why, maybe, some  
8 serious crime hasn't been concluded, what's the delay,  
9 what's happening here, we need to progress this to  
10 conclusion. 13:13

11 21 Q. Yes. And obviously you have been almost 12 years in  
12 position now there in Donegal.

13 A. Yes.

14 22 Q. In charge of it. And what's your personal, as it were,  
15 modus operandi for keeping and maintaining control of 13:13  
16 your division and an orderly and disciplined force?

17 A. Well, you know what I mean, in relation to running  
18 Donegal, I have a very good team of police officers who  
19 carry out their duties very well. They work very much  
20 to the values of the organisation. They are very 13:13  
21 professional in their output. They are very skilled.  
22 They have great capacity to respond. And normally when  
23 I delegate work to them, I find that they usually carry  
24 it out to a very good standard. There are occasions  
25 when that doesn't happen and those matters are brought 13:13  
26 to my attention. And there are occasions where, you  
27 know, maybe keeping this case aside, where I had to  
28 deal with domestic violence situations and abuse within  
29 the organisation. I have to deal with situations where

1 members, for example, have difficulties in their  
2 personal life, which causes them to require, you know,  
3 input from me in terms of their welfare, in terms of  
4 they're not carrying out their duties to the standard  
5 and the expectation that's required. There are 13:14  
6 occasions when members maybe would get maybe arrested  
7 for drunken driving, and their case will come up in  
8 court and they come to my desk, to my attention, to  
9 detail. So it is quite ranging, you know, the terms of  
10 maybe responses that I need to put in place. But 13:14  
11 unfortunately, running a police division where there  
12 are 500 personnel at this particular time, you know,  
13 all of the police, you know, and maybe the civilian  
14 staff that work under my control, they do get into  
15 difficulties. 13:15

16 23 Q. Yes.

17 A. No more than any other organisation.

18 24 Q. Yes.

19 A. And it does require that we have to put certain  
20 measures in place. But we are a disciplined 13:15  
21 organisation and we are expected to work within certain  
22 standards, and therefore, when those standards are not  
23 met, well then it's my job then to say, look at, we  
24 need to see what's going on here and bring the  
25 appropriate attention to it. 13:15

26 25 Q. Yes. I mean, obviously in terms of your level of  
27 responsibility, you've got a range of very important  
28 duties and responsibilities and you're expected to  
29 exercise those when required, and often making what

1 must be difficult decisions relating to either persons  
2 the subject matter of investigations or your own  
3 members?

4 A. Yes. And as an organisation we're not immune from some  
5 of our members getting into difficulties, be that 13:15  
6 financial difficulties, getting into difficulties  
7 domestically, you know, getting into difficulties --  
8 you know, and I would like to think that we always act  
9 to a particular standard and, you know, to the values.  
10 But, you know, we're not immune as an organisation from 13:16  
11 these problems and these problems come to my desk.

12 26 Q. Yes. Now, just moving on to Garda Harrison and his  
13 arrival in Donegal. You were obviously on leave at the  
14 time he made any application for transfer and was  
15 transferred, and presumably you have no knowledge or 13:16  
16 weren't consulted about that, is that right?

17 A. No, I was out on maternity leave and wasn't involved.

18 27 Q. And you were back then obviously on duty from some date  
19 at the end of August, was it --

20 A. That's correct, yes. 13:16

21 28 Q. -- 2011. But were you briefed about his arrival or did  
22 you know or hear anything of Garda Harrison at that  
23 point in time?

24 A. No, Chief Superintendent Sheridan would have done a  
25 handover brief with me, and basically the focus on that 13:16  
26 was on policing operations, security operations, how  
27 the budgets were going financially. And he wouldn't be  
28 bringing to attention when everything was going well.  
29 So at that stage there was no need for any issues to be

1 brought to my attention. There were other Garda  
2 members who were having difficulty at that time and he  
3 certainly was bringing my focus and attention and  
4 briefing me in relation to them. But Garda Harrison  
5 wasn't one of them at that time. 13:17

6 29 Q. Obviously, I think you were well aware of the homicide  
7 of Garda McLoughlin and the injury of another member  
8 within the division at the time it occurred?

9 A. Oh, absolutely, yes.

10 30 Q. And were you briefed when you came back that this 13:17  
11 unfortunate problem had arisen when Garda Harrison had  
12 been sent to Buncrana?

13 A. No. By the time I came back, he was stationed in  
14 Donegal Town at that stage, and there was -- there was  
15 no reason, because I felt that the matter had been 13:17  
16 addressed and everybody was happy, so it wasn't on the  
17 radar, it wasn't an issue.

18 31 Q. Yes. But that's what I am trying to get at. Did you  
19 know that it had arisen as an issue?

20 A. No. 13:18

21 32 Q. And had been dealt with?

22 A. No.

23 33 Q. Okay.

24 A. At the time, as I said, I was off on maternity leave,  
25 but I obviously attended, you know, as being the chief 13:18  
26 in division, although on leave, I attended the scene of  
27 the death of Garda Gary McLoughlin, I would have  
28 attended the funeral. I was fully aware of the  
29 investigation going on at the time, and I would have

1 had no information at the time that Garda Harrison was  
2 in any way connected to the McDermott family.

3 34 Q. Yes. Now, the Tribunal has heard obviously that the  
4 HSE came to the Gardaí with an anonymous letter in  
5 February of 2012. Had you left on leave at that time? 13:18

6 A. I was away on maternity leave for that, yes.

7 35 Q. So you had no direct personal knowledge of anything  
8 that had occurred in relation to that?

9 A. Not at that time, no.

10 36 Q. Okay. Perhaps we might just look at one document in 13:18  
11 connection with that. Just bear with me. It was a  
12 statement made by Garda Harrison in relation to the  
13 incident relating to Ms. Simms and her husband at that  
14 point in time. Had you been made aware of that when  
15 you came back on duty? 13:19

16 A. No, no. Between my two maternity leaves, Chairman --  
17 and the only time, actually, I have ever met Garda  
18 Harrison, apart from here at the Tribunal, was between  
19 my two maternity leaves, where he looked for a meeting  
20 with me. It was in November '11. It was an employee 13:19  
21 assistance meeting, which I obviously have a role in  
22 the division to try and assist members where they come  
23 into difficulty in relation to employee assistance.  
24 That was my one and only meeting that I had with a  
25 direct intervention with Garda Harrison. I may have 13:20  
26 seen him at a court case, but I wasn't in discussion  
27 with him or had any meeting with him. But at that  
28 meeting, Brian Tuohy, who is our employee liaison man  
29 in terms of employee assistance, I was in Ballyshannon

1           Garda Station that day and I had a number of Gardaí to  
2           meet, who wanted to have meetings with me in terms of  
3           employee assistance issues, and Garda Harrison was one  
4           of those people who had come to me. And he presented  
5           to me that he was coming from a broken marriage down in 13:20  
6           Westmeath, he was in difficulty financially because  
7           they had invested in property and, no more than a lot  
8           of people in Ireland, it was in negative equity. He  
9           moved up to Donegal to start again and he was under  
10          extreme financial difficulty, and he was looking for my 13:20  
11          advice in terms of how I could assist and help him in  
12          that regard. And as an organisation, An Garda Síochána  
13          are very caring towards our members, and particularly  
14          when they get into difficulties. You know, through our  
15          employee assistance we try and work with them in terms 13:21  
16          of restructuring loans, we have a number of different  
17          budgets that we can try and divert monies from to  
18          assist our members. And, you know, I hear a lot of  
19          talk at the moment about the culture in the  
20          organisation, but this is one of the positive aspects 13:21  
21          of An Garda Síochána's culture, where we're very caring  
22          and we try to look after people, especially when they  
23          come into financial difficulty. And in this particular  
24          case, I was trying to work, Superintendent Jimmy Coen  
25          was present at the meeting, as was Garda Harrison, and 13:21  
26          we were trying to work with Garda Harrison to see how  
27          we could assist him financially to try and make life  
28          easier for him. And one of the requests that Garda  
29          Harrison had, that he wanted to get back to



1 Letterkenny --

2 37 Q. Yes.

3 A. -- because he had -- you know, he was spending a lot of  
4 money on travel expenses, and that if he got back to  
5 Letterkenny, that it would make life easier for him, 13:22  
6 that he wouldn't be incurring those expenses. And I  
7 outlined my reasons why, that, you know, he couldn't  
8 serve in Letterkenny, and that was his connection then  
9 to the McDermott family.

10 38 Q. Yes. 13:22

11 A. And he understood. You know, when that meeting was  
12 over, Garda Harrison clearly understood where I was  
13 coming from, and certainly that it just wasn't going to  
14 happen.

15 39 Q. Okay. 13:22

16 A. It couldn't happen.

17 40 Q. Okay. And was that your first knowledge of and meeting  
18 with Garda Harrison?

19 A. That's my first meeting, and, believe it, my one and  
20 only meeting that I had with Garda Harrison in all of 13:22  
21 this.

22 41 Q. Yes. And I think that was in the autumn of 2011?

23 A. That's correct. And at that time, you know, I was also  
24 trying to offer solutions to him in terms of, you know,  
25 like, if you attain a particular strength in Irish, you 13:22  
26 can get particular postings within the Garda division,  
27 where you can get 7.5%, and I discussed this with Garda  
28 Harrison, and I knew he hadn't got the qualification,  
29 but I was suggesting to him if he could undertake the

1 exams and, you know, that possibly that there was  
2 options there, you know, that would help him, and I  
3 know he discussed with me at that meeting that Marisa  
4 was a teacher, and that I was saying, well, maybe she  
5 can help you, you know, reach the attained level. 13:23

6 42 Q. Yes.

7 A. And I know when Garda Harrison left that meeting, to me  
8 it was a very positive meeting and I think there was no  
9 animosity at the meeting, and I know I commented that I  
10 was impressed by Garda Harrison, you know; it was very 13:23  
11 much, you know what I mean, that he was trying to work  
12 out through his financial situation, he was trying to  
13 work through the work situation, and it was very, very  
14 positive in my mind.

15 43 Q. Yes. Now, I just want to fast-forward to October 2013 13:23  
16 for one purpose, because it's quite clear, it would  
17 seem from the paperwork and the sequence of events,  
18 that certainly by 8th October and 10th October you had  
19 a very different view of Garda Harrison because you had  
20 made -- and I just want you to confirm the sequence, 13:24  
21 obviously commencing at the meeting of the 8th  
22 October --

23 A. Yes.

24 44 Q. -- you wanted to suspend him from duty as a result of  
25 your consideration of the statement made by Marisa 13:24  
26 Simms, is that right?

27 A. Well, I didn't want to suspend him at the meeting of  
28 the 8th. It was as a result -- you see, I called the  
29 meeting of the 8th October. The purpose of that

1 meeting was for me to take a strategic overlook at what  
2 was happening in the division at that time.

3 45 Q. Yes.

4 A. What I had was, I was aware from the 7th October that  
5 there had been threatening phone calls in, threatening 13:24  
6 to kill Garda Harrison. There was two calls.

7 46 Q. Can I just stop you there, because I just want you to  
8 confirm, as it were, in a summary way, your position,  
9 and I hope I don't summarise it unfairly, and then we  
10 will go back and I want to see how you came to these 13:25  
11 various positions. But certainly as of the 8th  
12 October --

13 A. Mm-hmm.

14 47 Q. -- it was clear that you wanted to initiate a criminal  
15 investigation into his conduct, isn't that right -- 13:25

16 A. That's right.

17 48 Q. -- first?

18 A. Yes.

19 49 Q. Secondly, it was clear that you were at the meeting at  
20 which it was decided that a referral would be made to 13:25  
21 the HSE?

22 A. Yes.

23 50 Q. Thirdly, you also decided in relation to Garda Harrison  
24 that the statement relating to his conduct would be  
25 referred to GSOC? 13:25

26 A. Yes.

27 51 Q. Is that correct?

28 A. Yes.

29 52 Q. And fourthly, you made a submission to Internal Affairs

1 within a day or two, recommending that he be suspended  
2 from duty?

3 A. Yes. I had concerns when I read the statement of  
4 Marisa Simms and what contained in that statement. I  
5 had a confidence issue in Garda Harrison's ability to 13:26  
6 carry out his functions as a member of An Garda  
7 Síochána.

8 53 Q. I will give you an opportunity to explain all of the  
9 context of all of these, but I just want to, as it  
10 were, stack up the sequence of -- 13:26

11 A. Events, yeah.

12 54 Q. -- outcomes and events that -- the position that you  
13 had come to at that point in time. And it's very  
14 clear, I think, that you were of the view that he  
15 should be suspended from duty and that -- or that he 13:26  
16 ought not to be serving in the Donegal division?

17 A. Yes.

18 55 Q. You wanted him out of Donegal?

19 A. Yes, I had a confidence issue in his ability to carry  
20 out his functions -- 13:26

21 56 Q. And also in the report --

22 A. -- as a member of An Garda Síochána, yeah.

23 57 Q. Yes. Also in the report, and we will come back to the  
24 detail of that report, and your report of November  
25 2013, it was clear that you regarded him as essentially 13:26  
26 unfit to be a member of An Garda Síochána?

27 A. Yes, I was calling it into question.

28 58 Q. And we will come back to the context of your duty to  
29 come to that view --

1 A. Yes.

2 59 Q. -- in different circumstances, but obviously that  
3 position in relation to Garda Harrison is, as it were,  
4 a complete volte-face from the way you regarded him in  
5 your first meeting that you had with him in relation to 13:27  
6 his transfer or application for transfer back to  
7 Letterkenny?

8 A. Yeah.

9 60 Q. Okay?

10 A. Yes. 13:27

11 61 Q. And what I just want to do now is, I want to proceed  
12 through a few events to get your evidence about how you  
13 viewed a number of different events because we want to  
14 look at each of those decisions and see what fed into  
15 those decisions, and whether some of them are relevant 13:27  
16 or potentially relevant to the HSE referral is of  
17 course a matter for the Chairman, but we want to see  
18 what was behind each decision and the basis for each  
19 decision, you understand that?

20 A. Yes, yes. 13:28

21 62 Q. So you describe in your statement at page 50 the  
22 incident about Garda Harrison in May 2011. Now,  
23 obviously you were off duty at the time. Were you  
24 briefed about that when you came back on duty?

25 A. No. That didn't become relevant at that time. 13:28

26 63 Q. Okay. And Garda Harrison had made a statement, which  
27 is in our books at page 2219, in relation to the  
28 threats that had been made not by him but in relation  
29 to Marisa Simms and their children about the house

1 being burnt out and a bullet in his head, etcetera?

2 A. Mm-hmm.

3 64 Q. And he didn't wish that any investigation commence in  
4 relation to that?

5 A. Mm-hmm.

13:28

6 65 Q. That was Marisa Simms' wish as well. Were you made  
7 aware of that?

8 A. No.

9 66 Q. All right. Okay. Were you made aware on your return  
10 to duty in 2011 of any incident or unlawful, as it  
11 were, improper accessing of Pulse at that time?

13:29

12 A. No.

13 67 Q. Okay.

14 A. The only attention -- yeah.

15 68 Q. Were you made aware of that when you came back in  
16 November 2012?

13:29

17 A. That only came to my attention as the sequence of  
18 events gathered. The one thing that Chief  
19 Superintendent Sheridan did make me aware on my return  
20 after the second maternity leave was the fact that  
21 Garda Harrison had appeared in court in Manorhamilton  
22 and that he had appointed Superintendent Michael Finan  
23 to carry out that investigation.

13:29

24 69 Q. Okay. Just going back to the May incident, because you  
25 do note in your statement that he had taken the  
26 Buncrana patrol car without permission and drove to  
27 Churchill, 61 kilometres away. Now, there's some, I  
28 think, documentary evidence from the sergeant at  
29 Milford to suggest he came in the patrol car, but that

13:29

1 incident, Garda Harrison doesn't appear to have been  
2 disciplined for that in any way?

3 A. That would have come up to Chief Superintendent  
4 Sheridan, it wouldn't have come to my desk. But I  
5 understand he wasn't disciplined and that he had sought 13:30  
6 permission, I understand.

7 70 Q. There's some suggestion --

8 A. There's some suggestion he had sought permission, yeah.

9 71 Q. But did you ever form a view about that, as to whether  
10 he ought to have been disciplined? 13:30

11 A. Well, if somebody has to deal with an emergency  
12 situation and they've no other means of getting to it  
13 and they seek the permission of the sergeant, where I  
14 would have a difficulty with it is if he takes a patrol  
15 car out of the district and leave the district without 13:30  
16 a patrol car, that we can't respond to whatever  
17 patrolling incidents --

18 72 Q. Yes.

19 A. -- I would have a difficulty with that.

20 73 Q. That would create an operational difficulty? 13:30

21 A. Operational decision, and that certainly -- that you  
22 would not take the patrol car away for an hour, and to  
23 leave the area and the policing needs of the area  
24 without a patrol car, I certainly would have a  
25 difficulty, yeah. 13:31

26 74 Q. Yes. Now, the issue of the anonymous letter, the HSE  
27 letter that came to light in 2012, you were on leave,  
28 but were you briefed about that when you came back in  
29 any way?

1 A. No, no.

2 75 Q. Chief Superintendent Sheridan has given evidence, and  
3 we have seen his report, that he had met Garda Harrison  
4 in February 2012 in relation to his accessing Pulse?

5 A. Yes. 13:31

6 76 Q. And he doesn't appear to have been disciplined for  
7 that?

8 A. No.

9 77 Q. Is that something, if you had been chief at the time,  
10 would you have initiated a disciplinary investigation 13:31  
11 at that point in time?

12 A. Well, you have to look at every case and the  
13 circumstances.

14 78 Q. Yeah.

15 A. And, you know, it's -- you cannot access Pulse, even to 13:31  
16 look at your own information, without a lawful or  
17 reasonable reason for doing so. Chief Superintendent  
18 Sheridan obviously felt at that stage that he was going  
19 to give Garda Harrison an opportunity and that was his  
20 decision. And, you know, I'm happy -- you know, he's 13:32  
21 looking at the circumstances around all of that and  
22 he's making his own decisions.

23 79 Q. Yes.

24 A. But I understood that he did caution Garda Harrison,  
25 you know, that he was not to be accessing Pulse, and it 13:32  
26 is the policy within the organisation, you cannot even  
27 go on to Pulse for your own -- to look at information,  
28 even your own information, you're not entitled to look  
29 at your own information, unless you have a lawful



1 reason or a reasonable inquiry for doing so.

2 80 Q. Yes. Garda Harrison I think suggested through his  
3 counsel to Chief Superintendent Sheridan that he had  
4 simply no recollection of the meeting, and Garda  
5 Harrison gave his own evidence, saying that he didn't 13:32  
6 remember it. But it does appear to have been an issue  
7 for you, because when you ultimately appointed Chief  
8 Superintendent Murray, I think you did include the  
9 Pulse investigations as something that you wanted  
10 inquired into vis-à-vis Garda Harrison's behaviour, 13:33  
11 isn't that right?

12 A. But at that stage I became aware then that he had been  
13 accessing Pulse without the proper lawful authority or  
14 excuse --

15 81 Q. Okay. 13:33

16 A. -- for doing so.

17 82 Q. But is that something that you only discovered in  
18 October 2013 then?

19 A. Yes, well I would have been aware of it then from --  
20 when I became involved in these incidents -- 13:33

21 83 Q. Yes.

22 A. -- it would have been brought to my attention then by  
23 Superintendent McGovern that when Brigid McGowan,  
24 Sergeant Brigid McGowan was trying to get an address  
25 for -- Brigid McGowan was trying to get an address for 13:33  
26 HSE, that she noticed that the Pulse had been accessed  
27 a number of times.

28 84 Q. Yes.

29 A. So that would have come to my attention as I became

1 involved in all of the investigation.

2 85 Q. It's not clear to me from the papers how that precisely  
3 would have been brought to your attention. Were you  
4 briefed on that by Sergeant McGowan or someone more  
5 senior? 13:34

6 A. No, no, that would have come from Superintendent  
7 McGovern.

8 86 Q. Superintendent McGovern?

9 A. Yes.

10 87 Q. Okay. I see. And was that something that was 13:34  
11 discussed, in fact, at the meeting of the 8th October  
12 that was ultimately held?

13 A. If it wasn't discussed at the meeting of the 8th, it  
14 certainly would have been discussed in the days prior  
15 to it. 13:34

16 88 Q. Okay. The issue then relating to Garda Harrison's  
17 conviction in the District Court, we've heard passing  
18 reference to it, but he was disciplined for that, I  
19 think?

20 A. He was, yes. Superintendent Finan, yes. 13:34

21 89 Q. As well as being held criminally responsible?

22 A. Yes.

23 90 Q. And did that change your view of him in any way at that  
24 time? Did you regard that as sufficient unto the law,  
25 as it were? 13:34

26 A. Well, it had been dealt with in accordance with the  
27 law, it had been dealt with under the discipline. But  
28 there was reports coming to me via Superintendent Finan  
29 that was causing a little bit of unease around Donegal

1 Town, that here we had a member of An Garda Síochána  
2 who is required to go out and, you know, the members of  
3 the public obviously are driving without insurance and  
4 tax and that he himself had committed the same  
5 offences, and that it was causing a little bit of 13:35  
6 unease in terms of his ability to carry out his  
7 function. And Superintendent Finan was raising those  
8 issues with me.

9 CHAIRMAN: Mr. McGuinness, if you don't mind, I just  
10 want to go back, because I think, in fact, the meeting 13:35  
11 in relation to Pulse with Chief Superintendent Sheridan  
12 was 24th April 2012, just for fear the transcript might  
13 mislead somebody in the future.

14 MR. MCGUINNESS: Yes. It's referred to in this  
15 witness's statement at the top of page 5 as being 13:35  
16 February 2012.

17 CHAIRMAN: I just went back and that is apparently what  
18 Chief Superintendent Sheridan said.

19 MR. MCGUINNESS: Yes.

20 CHAIRMAN: But it doesn't make a huge difference. 13:35

21 A. No, no.

22 91 Q. MR. MCGUINNESS: That may be the date of the original  
23 report, perhaps?

24 A. Mm-hmm.

25 CHAIRMAN: It could well be that. But he said, I met 13:36  
26 Keith Harrison on 24th April 2012. I will look back at  
27 the transcript. So you were at the insurance.

28 92 Q. MR. MCGUINNESS: Yes. You were obviously back in your  
29 office, as it were, or back on duty from leave as chief

1 at that time?

2 A. Yes.

3 93 Q. In May 2013?

4 A. Yes.

5 94 Q. And was that the first issue then that arose in 13:36  
6 relation to Garda Harrison that portrayed him in a  
7 negative light, to your point of view?

8 A. Yes.

9 95 Q. And had you, in fact, any knowledge of, as it were,  
10 where he had come from or why he had come from Athlone 13:36  
11 or Moate --

12 A. No.

13 96 Q. -- up to Donegal?

14 A. No, no. Only from my meeting with him where he told me  
15 that he had marriage difficulties, the marriage had 13:37  
16 broken down, he had financial difficulties in Westmeath  
17 and that he was in Donegal making a fresh start with  
18 Marisa and that he was in financial difficulty.

19 97 Q. Okay. In any event, when Rita McDermott, Marisa Simms'  
20 mother, reported, in August 2013, an incident in 13:37  
21 relation to Garda Harrison, did you become aware of  
22 that at the time?

23 A. I became aware of that. Superintendent Finan would  
24 have sent me the report, David Durkin's report.

25 98 Q. Yes. 13:37

26 A. I got that sometime, I think the date, sometime around  
27 August.

28 99 Q. Yes. And I'm sure there's nothing in any way sinister  
29 in it; would you expect to get a report relating to

1 some incident which involved a member, is that a usual  
2 course?

3 A. Normally in a case like this, if this was Mr. Joe  
4 Soap --

5 100 Q. Yeah. 13:38

6 A. -- that file wouldn't come near my desk, I'd have no  
7 involvement and it would be dealt with at district  
8 level.

9 101 Q. Yeah.

10 A. But the only reason that it was forwarded to my desk 13:38  
11 was that it was a serving Garda member that was  
12 involved in the incident.

13 102 Q. Yes. And presumably you were happy, were you, that 13:38  
14 Sergeant Durkin had dealt with that professionally,  
15 that he had obviously pointed out that, you know,  
16 anything would have to come from Marisa Simms by way of  
17 a complaint and that he had properly advised her about  
18 the distance and the procedures of the Domestic  
19 Violence Act?

20 A. Yes, from my perusal of the documentation I was 13:38  
21 satisfied that Sergeant Durkin had acted in accordance  
22 with our policy in relation to domestic abuse and I had  
23 no queries in relation to the way he handled the  
24 matter.

25 103 Q. There was a second report then obviously towards the 13:38  
26 latter end of September, 24th September, when Mrs. Rita  
27 McDermott again came in and was advising the sergeant  
28 that she had planned, she - Marisa Simms - had planned  
29 to remove Garda Harrison's belongings and the issue

1 about the wedding first arose. Again, did you receive  
2 that report?

3 A. Yes, I received that report as well. And this is  
4 probably the first flashpoint, that it was highlighting  
5 that an incident was going to occur at the wedding and 13:39  
6 that obviously from my point of view that was in two  
7 different Garda districts and that I wanted to make  
8 sure that the superintendents were advised of what was  
9 happening.

10 104 Q. Okay. It would seem that things became more serious as 13:39  
11 a result then of the report of Paula McDermott on the  
12 30th September when she came in to report to Garda  
13 Mahon the threat that she obviously was conveying that  
14 she had heard from her sister, Marisa?

15 A. That's correct. 13:40

16 105 Q. And the references obviously there to the -- he was  
17 going to burn her and her child and bury her, and  
18 seemed visibly upset?

19 A. Yes. This is the first time now it's coming to my  
20 attention that there's serious threats being made, but 13:40  
21 the fact that there are children, this is the first  
22 mention that is coming to my desk in terms of, you  
23 know, the purpose of the Tribunal here is that there  
24 are children being mentioned.

25 106 Q. Just in terms of, as it were, nipping it in the bud, 13:40  
26 can you recollect did you get the report on that day or  
27 the next day?

28 A. I think it was on the 27th September I had received a  
29 phone call from -- early in the morning from

1 Superintendent McGovern, and he'd be advising me that  
2 was I aware that there were a number of reports  
3 circulating in terms of Garda Keith Harrison and a  
4 potential conflict at a wedding and that there was  
5 issues, serious issues, you know, raising in terms of 13:41  
6 Garda Harrison. At that time I told him that I just  
7 wasn't fully briefed on it but there were a few reports  
8 coming across my desk and if he would allow me an  
9 opportunity to study those reports, that I would refer  
10 back to him. And I know it was later that day, having 13:41  
11 received the reports, that I actually contact  
12 Superintendent McGovern to say that I was going to  
13 appoint Inspector Goretta Sheridan to look at the  
14 different incidents. So I think what I had at that  
15 stage was, I had the two Durkin reports, which included 13:41  
16 the Bogle incident, and I had -- I'm just trying to  
17 think what other reports I had at that stage. I had a  
18 report about the difficulties that were going to happen  
19 at the wedding. So at that stage Paula McDermott  
20 coming into the station hadn't happened at that stage 13:42  
21 where I was going to appoint Goretta Sheridan.

22 107 Q. Now, we've heard from Inspector Sheridan. I think she  
23 was off on leave for the last four or maybe five days  
24 coming up to the end of September --

25 A. Yeah. 13:42

26 108 Q. -- but Superintendent McGovern describes it as  
27 appointing her to do a review of the matter. What were  
28 you intending at that point in time?

29 A. Well, firstly, the reason that I appointed Inspector

1 Goretta Sheridan is that, first, she was new into the  
2 division, she was an inspector, I knew she was very  
3 skillful in this area in terms of her previous  
4 experience of working with victims of domestic  
5 violence, she had worked in relation to a number of 13:42  
6 areas. I also had appointed her as -- in each of the  
7 Garda divisions, we have an inspector who overlooks  
8 domestic violence incidents and how they investigate  
9 it, and she was the one in the Donegal division who was  
10 appointed to do that particular work. And I would have 13:43  
11 known from -- I had never met her prior to her coming  
12 into the division, but I know from my meetings with her  
13 that she was very competent and capable and she was  
14 very skillful in this area and I felt that she was the  
15 best person within the division to carry out these 13:43  
16 investigations.

17 109 Q. Just on a point of procedure there, when you say you  
18 were going to appoint her or you did appoint her, was  
19 there any formal document or any briefing instruction  
20 or anything in the way of paperwork reflecting that or 13:43  
21 would that be common to do that?

22 A. No, no, not at that stage, but I just had told  
23 Superintendent McGovern these were my thoughts and that  
24 I wanted to look at each of the incidents in terms of  
25 our domestic violence policy and to see if there were 13:43  
26 any matters that could be progressed and I was going to  
27 ask Inspector Sheridan to do that on my behalf.

28 110 Q. And you must have been more concerned then when the  
29 report came in from Sergeant Collins about Paula



1 McDermott's next visit, reporting, apparently, that  
2 Marisa had called to the house to collect some clothes,  
3 that Garda Harrison had apparently been quite agitated  
4 and worried about the threats and begged her not to  
5 report them.

13:44

6 A. Yes.

7 111 Q. Did that come to you, that day?

8 A. No. I didn't become aware of that I think it was until  
9 2nd October.

10 112 Q. Okay.

13:44

11 A. I do recall, I think it is the 2nd October, I do recall  
12 coming into the station in Letterkenny coming back from  
13 a meeting and I met Sergeant Collins in the yard at the  
14 back of Letterkenny station and he proceeds to tell me  
15 outside in the yard that day about the visit of Paula

13:44

16 McDermott to the station and to Garda Mahon and he  
17 gives me a brief on what was in that. And he also told  
18 me that he had made contact with Paula McDermott, and  
19 that I would have been aware that Sergeant Collins  
20 would have known the McDermott family from Raphoe

13:45

21 because he had been stationed in Raphoe for a long  
22 time. So I asked Sergeant Collins to come back into  
23 the station with me, it was sometime around four

24 o'clock in the afternoon, and I asked him to come back  
25 in, that I had intended to appoint Inspector Sheridan

13:45

26 but I hadn't seen her over the weekend, that she had  
27 been off and that I went looking for her, and I  
28 actually found her in the station down near the

29 dayroom. And I spoke to the two of them directly and I

1 outlined my concerns of what I was hearing and I did  
2 ask Inspector Sheridan to go out and visit Rita  
3 McDermott, to talk to Rita McDermott and see was she  
4 prepared, you know, as a third party, to make a  
5 statement in the matter. Because I know from our 13:45  
6 domestic violence policy and our cases, there are times  
7 when somebody is a victim of domestic violence in a  
8 very vulnerable position, and even more so for Marisa  
9 McDermott at this stage, because the perpetrator of  
10 this abuse or violence to her is a member of An Garda 13:46  
11 Síochána, so it was going to be very difficult for her  
12 to come into An Garda Síochána and making a statement.  
13 So I was proactive there in asking -- you know, I  
14 wanted Inspector Sheridan to go out and meet Rita  
15 McDermott and see -- and talk to her and see what was 13:46  
16 going on, basically.

17 113 Q. Yes. Just in your answers there, one possible  
18 interpretation is that you had made an assumption  
19 perhaps that there was some domestic violence going on  
20 and that Garda Harrison had, in fact, committed it. 13:46  
21 But, I mean, at best, you had third-hand reports,  
22 fourth-hand reports, perhaps, of some marital  
23 disagreement. What was your intention or was there  
24 some issue about trying to get the goods on what Garda  
25 Harrison was doing to this woman, or what was your 13:47  
26 plan, as it were?

27 A. No, absolutely not. It was coming to my attention that  
28 there had been a number of incidents of domestic  
29 violence, domestic abuse, and that Rita McDermott had

1           tried to contact -- she had contacted the organisation  
2           outlining her concerns. I felt she was a concerned  
3           mother for what was happening and I felt she had a  
4           story to tell and I think it was a story that I needed  
5           to hear, as the chief superintendent.

13:47

6 114 Q.   Yes. You referred there to, as it were, incidents of  
7           domestic violence, but the most that had been referred  
8           to were threats. Now, obviously the most recent ones  
9           were threats to burn?

10          A.   Well, at that stage we had, as you know, the Bogle  
11           incident, and in I think the fresh report we had where  
12           she had been thrown out of the house three times and we  
13           had --

13:47

14 115 Q.   Well, did you take it from the reports of her being  
15           thrown out of the house that there was violence  
16           involved?

13:48

17          A.   Well, you know, I think it's most unusual that a woman  
18           would be thrown out of her house in the middle of the  
19           night in her night clothes, looking for somebody to  
20           come and take her home, I thought that most unusual.  
21           It would signal to me that things weren't well in that  
22           house.

13:48

23 116 Q.   I mean, this issue becomes more relevant in terms of  
24           the evidence of Marisa Simms, because what's evident  
25           from all of these incidents to date is that Marisa  
26           Simms herself never came to the Garda station,  
27           confidentially or otherwise, to complain about anything  
28           that Garda Harrison had done. Would it not have been  
29           either more appropriate either to get Garda Harrison's

13:48

1 superior to speak to him or for someone to approach  
2 Marisa Simms directly to speak to her, not in a Garda  
3 station perhaps but just to sound her out as to what  
4 was going on, before anything further happened, either  
5 between them or to cut across third-party reports  
6 coming in, that you couldn't act upon? 13:49

7 A. Well, if you are a victim of domestic abuse or domestic  
8 violence, it's very difficult to come forward and tell  
9 your story, but it's even more difficult when the  
10 abuser is a member of An Garda Síochána. And from the 13:49  
11 information that I had, I felt that Rita McDermott was  
12 reaching out to the organisation for help, and from the  
13 history, I suppose, of the McDermott family and An  
14 Garda Síochána, we were probably one of the last people  
15 that Rita McDermott needed to go to, but she was 13:49  
16 obviously very concerned, there was a problem, and we  
17 would know from the Bogle incident that, again, they  
18 came to An Garda Síochána and they needed An Garda  
19 Síochána's help. So I was concerned at this stage that  
20 there was a problem and I felt that Marisa herself was 13:50  
21 obviously in a vulnerable position and would find it  
22 probably very difficult to come in, so that's why I  
23 directed or appointed Inspector Sheridan to go out and  
24 try and find out, you know, what's happening here, you  
25 know, to try and find out -- and it wasn't that -- you 13:50  
26 know, I was just working off the information that I  
27 had, and I certainly wasn't targeting Garda Harrison at  
28 that stage.

29 117 Q. Okay. So --

1 A. At any stage.

2 118 Q. Okay. So you're reflecting, as I understand it, what  
3 actually happened, is that your evidence? That you had  
4 the Bogle incident, you had the report on the 24th  
5 August, you had the report on the 24th September and 13:50  
6 you have the report on the 1st October and also on the  
7 2nd October, is that right?

8 A. And I also had the briefing from Sergeant Collins in  
9 relation to Paula McDermott's --

10 119 Q. So you wanted, as it were, direct evidence or 13:51  
11 information from her mother, and presumably you thought  
12 the mother had the low-down, as it were, on what was  
13 happening her daughter?

14 A. I also knew that Sergeant Collins had spoken to Paula  
15 McDermott. 13:51

16 120 Q. Yes.

17 A. And that Paula had indicated that Marisa didn't know  
18 she had been at the Garda station and there was  
19 reluctance to come forward at that stage. But I knew  
20 that Sergeant Collins would have had a good rapport 13:51  
21 with Rita McDermott and I wanted him to accompany  
22 Inspector Sheridan out to speak with her.

23 121 Q. Okay. And did you see a copy of that statement that  
24 day or the next day?

25 A. I didn't see a copy, but I had been informed by 13:52  
26 Inspector Sheridan that Rita McDermott had made a  
27 statement where she outlined serious concerns within  
28 the statement and that there was an indication that  
29 possibly Marisa may make the statement.

1 122 Q. I did, in one of my previous questions some minutes  
2 ago, advert to the possibility of intervening directly  
3 with Garda Harrison at that point in time to find out  
4 what was going on. Did that cross your mind in terms  
5 of a managerial response to something a member under 13:52  
6 your control and direction was doing or not doing?  
7 A. I felt at that stage that I probably had enough  
8 information. I was very -- you know, I wasn't sure, so  
9 I wanted to have the matter investigated to establish  
10 exactly what was happening. 13:52  
11 123 Q. Okay. Did you get any report in relation to what had  
12 happened at the wedding?  
13 A. I would have received a report on -- or I would have  
14 received a report from Superintendent English of the  
15 weekend of the 4th/5th October - he was the 13:53  
16 superintendent on call for the Donegal division at that  
17 time - that there had been an incident at the wedding  
18 and that there had been threatening phone calls made  
19 against -- where Keith Harrison was going to be shot.  
20 124 Q. Okay. We will come back to that in a few minutes, 13:53  
21 because you did become aware, did you, of Sergeant  
22 Gillespie's report when he took a statement from Garda  
23 Harrison about that, did you?  
24 A. Fergus McGroary's report.  
25 125 Q. Is it Sergeant McGroary? 13:53  
26 A. Sergeant McGroary, yes.  
27 126 Q. But had you received any confirmation as to whether  
28 Marisa Simms wanted to make a statement herself?  
29 A. There was an indication to me at that stage that she

1 would make a statement but that she would like to get  
2 the wedding out of the way first.

3 127 Q. Did you see particularly the reference in the  
4 sergeant's report to being concerned about whether, you  
5 know, the Gardaí were being used in relation to the 13:54  
6 wedding to deal with their problems about Garda  
7 Harrison simply not being invited or causing a bit of  
8 trouble?

9 A. At the time that I sent Inspector Sheridan I wasn't  
10 aware at that stage, but I did subsequently see the 13:54  
11 sergeant's report on that regard.  
12 CHAIRMAN: That is Sergeant Collins?

13 A. Collins' report, yes.

14 MR. MCGUINNESS: Yes.

15 A. Yes. 13:54

16 128 Q. But did you become concerned about whether there might  
17 be, as it were, mixed motives for any of the reports  
18 that had been previously made by other members of the  
19 McDermott family?

20 A. No, no. 13:54

21 129 Q. Why was that?

22 A. Because, as I said, that the relationship between An  
23 Garda Síochána and the McDermott family was quite  
24 fractious and that they wouldn't be coming to An Garda  
25 Síochána unless they needed our help. 13:55

26 130 Q. All right. Is that connected with the prosecution of  
27 the son?

28 A. Yes, yes.

29 131 Q. Ms. McDermott's son?

1 A. Yes. And that certainly they would have come to us for  
2 assistance.

3 132 Q. You see, you refer in your statement to Garda Moore  
4 going to the hotel on the 5th October to -- where  
5 you've recorded a memo from Mary O'Donnell? 13:55

6 A. Yes.

7 133 Q. Did you become aware of that at the time?

8 A. No, not until, that would have been probably brought to  
9 my attention over the weekend, 4th/5th. It probably  
10 would be the 7th, when I came back on duty on the 7th 13:55  
11 October.

12 134 Q. Well, just to be clear, what dates were you on duty  
13 over that weekend?

14 A. Well, I wouldn't have been on duty over the weekend.  
15 We would have a superintendent on call for the weekend, 13:55  
16 and that would have been Superintendent English, so he  
17 would have briefed me on the Monday, when I came back  
18 on duty on the 7th.

19 135 Q. So did you go off duty then on the Friday evening?

20 A. I went off duty on the Friday evening. 13:56

21 136 Q. At five o'clock?

22 A. Five o'clock/six o'clock, yeah.

23 137 Q. And had you learned of any arrangement that had been  
24 made in relation to Marisa coming into the station to  
25 make a statement? 13:56

26 A. No.

27 138 Q. So is it your sworn evidence that as of going off duty  
28 on Friday 5th, is it, that you didn't know of --  
29 CHAIRMAN: Friday is the 4th. It would be the same day



1 as the wedding, yes.

2 MR. MCGUINNESS: The 4th.

3 A. Yeah.

4 139 Q. Friday the 4th.

5 A. I don't become aware that Marisa actually has made a 13:56  
6 statement until I come on duty on the 7th.

7 140 Q. But my question is slightly different: Were you aware  
8 on either the 3rd or the 4th, that is the Thursday or  
9 the Friday, that Marisa Simms had apparently indicated  
10 that she would come in and would be prepared to make a 13:56  
11 statement at some stage?

12 A. No, no, I don't believe I did. No.

13 141 Q. So is it the position that you don't think you were  
14 informed by Inspector Sheridan of any arrangement that  
15 had been made? 13:57

16 A. No, absolutely not, no.

17 142 Q. Or any hope of --

18 A. No.

19 143 Q. -- her attendance?

20 A. No. 13:57

21 144 Q. Or any prospect of her attendance?

22 A. No, no.

23 145 Q. Well, I mean, I don't want you to take the word  
24 wrongly, but, I mean, was there a plan or a hope or an  
25 intention on your part to get her in to make a 13:57  
26 statement?

27 A. No, no. I had appointed Inspector Sheridan, who was  
28 very capable and competent. I didn't direct her about  
29 how she went about her work. I was happy that she was

1 doing her investigations. And the only time that she  
2 reported back to me from the time that I spoke to her  
3 in the station was to let me know that Marisa McDermott  
4 [sic] had made a statement and that there was a  
5 possibility, possibly, that Marisa would make one. 13:57

6 146 Q. So, I mean, you certainly discussed with Inspector  
7 Sheridan about the possibility of it happening and you  
8 wanted to know if and when it did happen?

9 A. Well, I knew she would have come back to me if it did  
10 happen, but you know what I mean, that would have been 13:58  
11 understood between us, that if there was a statement  
12 made, that she would let me know.

13 147 Q. Yes. But, I mean, could you have, in the knowledge  
14 that the McDermotts had wanted their reports to be kept  
15 confidential, I mean, would you have said to Inspector 13:58  
16 Sheridan, look, this is very sensitive, you've got to  
17 treat this as very confidential and assure Marisa Simms  
18 that this cooperation or statement would be for my eyes  
19 only?

20 A. Absolutely not, no. 13:58

21 148 Q. Did you say anything to Inspector Sheridan --

22 A. No.

23 149 Q. -- that could have conveyed to her that you were going  
24 to get this statement?

25 A. No, absolutely not. Like, in my mind, Inspector 13:58  
26 Sheridan was a very competent and capable person and  
27 she was skilled in this area of work. I didn't need to  
28 tell her how to go about doing her work. I didn't need  
29 to tell her that you need to get this, as I've heard

1 here, for my eyes only. That never happened, that  
2 conversation never happened.

3 150 Q. Let's just assume for the sake of this question that  
4 Marisa Simms believed that the statement was for your  
5 eyes only, would that affect, in your view, your duty, 13:59  
6 if anything arose out of the statement, that you had a  
7 duty to do something?

8 A. Let's say that Marisa Simms believed that, for whatever  
9 reason --

10 151 Q. Yeah. 13:59

11 A. -- well, I would have to act, obviously, on the  
12 statement. I wasn't going to keep it for myself.

13 152 Q. Yeah.

14 A. I would be duty-bound to deal with that statement.

15 153 Q. I mean, if you got such a statement, you weren't going 13:59  
16 to just put it unread in a file or put it through the  
17 shredder or take it home for bedtime reading. You were  
18 going to take it and peruse it and consider it and act  
19 on it, if action was required --

20 A. Absolutely. 13:59

21 154 Q. -- as a matter of duty?

22 A. Absolutely.

23 155 Q. As a matter of duty, isn't that right?

24 A. Yes.

25 156 Q. So whether this is said or not, it didn't affect your 13:59  
26 duty or your view of your duty?

27 A. No, no, no. I would have been duty-bound to act on  
28 that statement if that came to me.

29 157 Q. Now, you've seen a report that emanated from a visit to

1           Garda Harrison -- or Sergeant Wallace on the 7th?

2           A.    Yes.

3 158 Q.    And there's a number of matters obviously there of  
4           interest. And one of them is a comment which Sergeant  
5           Wallace records as having been made by Garda Harrison   14:00  
6           which he said came from, I think, Marisa Simms, that  
7           you had said that 'no guard in my division is going to  
8           treat a woman like that'.

9           A.    I never said those words.

10 159 Q.   Leaving aside who said them, presumably you wouldn't be   14:00  
11           happy to have any guard in your division treat a woman  
12           like that?

13           A.    Absolutely not.

14 160 Q.   I just raise it in the context of, if that was said by  
15           Marisa Simms to Garda Harrison and having regard to the   14:01  
16           litany of cheating described in Marisa's statement, did  
17           you consider that she might be spinning you a yarn  
18           about what Garda Harrison had done and was exaggerating  
19           it?

20           A.    I had a briefing -- at my meeting of the 8th October, I   14:01  
21           had a briefing from Inspector Sheridan --

22 161 Q.    Yes.

23           A.    -- in relation to the taking of the statement, and  
24           Inspector Sheridan was the one who spent the time with  
25           her, and you always get a sense from somebody when   14:01  
26           you're taking a statement whether the facts are  
27           correct, and I certainly took from the report from  
28           Inspector Sheridan that, you know, that these  
29           complaints had happened and that they had to be

1 investigated.

2 162 Q. Well, having read the statement, had you any unease  
3 about the level and detail of personal material that  
4 had been put in it and recorded by both Sergeant  
5 McGowan and Inspector Sheridan relating to Garda 14:02  
6 Harrison and Marisa Simms?

7 A. Well, in taking this statement, the investigators  
8 obviously put in what they felt was relevant and what  
9 came up at the meeting. My concern, basically, when I  
10 read it, was, this was a member of An Garda Síochána, 14:02  
11 you know, who it was alleged was behaving in a manner  
12 which I wasn't happy with.

13 163 Q. Okay. Well, we will come to the actions that were  
14 taken. But did you consider, in relation to each of  
15 the issues, that you needed to make more or further or 14:02  
16 better inquiries before taking any decisive action  
17 yourself?

18 A. That's why I called the meeting of the 8th October,  
19 because I obviously wanted a strategic overview as to  
20 what was happening, because obviously for that meeting 14:03  
21 I'm wearing a number of hats at this, you know what I  
22 mean? First of all, I had the threats against Garda  
23 Harrison and I have a duty of care to Garda Harrison.  
24 I have a duty to ensure that those matters were  
25 investigated, that proper security arrangements are in 14:03  
26 place. I also have a complaint, a statement of  
27 complaint by Marisa Simms where she outlines a number  
28 of incidents of assault, threats to kill, criminal  
29 damage. I'm going through the statement and I'm

1 highlighting what offences are being committed. I am  
2 concerned when I read about the incident on the 28th  
3 that there are children present. I am also looking  
4 at -- I am getting briefing from all my team, and that  
5 is why I bring my team together, because they're the 14:04  
6 people with the best information. That is why I pull  
7 them all together, to find out, you know, what are our  
8 obligations here? what are we doing? I wanted prompt  
9 action in terms of investigations, in terms of what  
10 needed to be done. So when I received the report from 14:04  
11 Inspector Sheridan, she briefed me, she read out the  
12 statement, we had the statement typed at this stage and  
13 a copy of the statement, and she presented to me that  
14 she was deeply concerned from what she was reading in  
15 the statement and that she felt that Marisa had made 14:04  
16 that statement and that these matters had happened, and  
17 that was the information that I had from her  
18 presentation to me as the person who had taken the  
19 statement.

20 164 Q. well, just relating to the threat to burn, I mean, 14:04  
21 that's a -- I take it you regarded that as an  
22 extraordinarily unusual sort of threat and very  
23 unlikely to be meant or carried out?

24 A. I was deeply concerned when I read about that, because  
25 that happened in a situation where, you know, from the 14:05  
26 evidence -- or from the information that was in the  
27 statement, that, you know, that Garda Harrison was very  
28 drunk at this stage, that he was ranting and shouting,  
29 the children were present, he kept repeating that he

1 was going to burn her and burn her sister -- and I'm  
2 only taking the words, you know what I mean, but that  
3 was being related to me. And I was deeply concerned  
4 that a member of An Garda Síochána would even threaten  
5 to burn somebody, you know, or to -- and children are 14:05  
6 present when this is happening and, you know, I wasn't  
7 best pleased when I was reading what I was reading and  
8 I felt that prompt action had to be taken in relation  
9 to the matter.

10 165 Q. Yes. But you must have picked up from the statement 14:05  
11 itself that Marisa Simms had, you know, a couple of  
12 pages after describing this, that she had given an  
13 explanation or she recounted an explanation that Garda  
14 Harrison had given about this issue in her own  
15 statement, did you pick up on that? 14:06

16 A. Well, I picked up that this was -- all concerned that  
17 Garda Harrison hadn't been invited to the wedding and  
18 that he was drinking all that day, and that there was a  
19 level of -- it was like a tipping point, a flashpoint,  
20 in relation to this, and she was explaining. But I 14:06  
21 felt that from the presentation by Inspector Sheridan  
22 and reading the statement, that there were a number of  
23 matters that, from my point of view, I had to ensure  
24 that there was proper investigation into.

25 166 Q. Yes. You see, that is what I am concerned about, to 14:06  
26 discover, what did you think was the proper level of  
27 investigation at that point, and I want to draw your  
28 attention to what Sergeant Wallace had also reported on  
29 the 7th when he went out --

1 A. Yes.

2 167 Q. -- to give the crime prevention advice. Because he had  
3 recounted, had he not, that Garda Harrison had  
4 explained to him in some way, that he had recorded  
5 obviously, that Marisa Simms had misunderstood what he 14:07  
6 had said about this burning issue. So you had it, as  
7 it were, from two sources: the person allegedly  
8 threatened, where she clarified that Garda Harrison had  
9 said this himself in a statement, and you had Sergeant  
10 wallace's account. So would it not have been -- would 14:07  
11 that then not have been the obvious time to get Garda  
12 Harrison in and say, look, what is this central issue  
13 about on this threat to burn?

14 A. well, I knew at that meeting from the presentation by  
15 Inspector Sheridan that Ms. Simms had undertaken to 14:07  
16 take her phone in the next day, or that day I think,  
17 was to come in that day and it needed to be dumped, and  
18 that I wasn't aware at that stage that -- my  
19 understanding from that meeting was that Marisa was  
20 with her family over in west Donegal, and she had the 14:08  
21 support of her family, and that Garda Harrison wasn't  
22 aware that she had made the statement. Because in  
23 domestic violence situations, and I'm aware of this  
24 from my experience in dealing with it, that is the most  
25 dangerous time for a victim, is when they report it. 14:08  
26 And that I didn't know at that stage whether Marisa was  
27 in contact with Garda Keith Harrison, but it was a  
28 very -- at that time, it was a very dangerous situation  
29 for Ms. Simms at that time.



1 168 Q. Just going back to what you, I suggest, probably could  
2 have known. The sergeant had reported that Garda  
3 Harrison had reportedly begged her not to go in to  
4 report the threats. She had come in and reported the  
5 threats, she had explained how Garda Harrison had 14:08  
6 explained the threats, you had Sergeant Wallace in his  
7 report giving an explanation from Garda Harrison about  
8 what the threats meant. What I am asking is, was it  
9 considered, and if not, why not, going out to Garda  
10 Harrison at that point in time and discovering, look, 14:09  
11 what is this central issue about, threatening to burn  
12 her? Because did you take it as a threat to burn her,  
13 literally?

14 A. Oh, I took it as a threat, a serious threat, and that I  
15 wanted it to be criminally investigated. 14:09

16 169 Q. But even more importantly, if it was a threat,  
17 shouldn't you have arrested Garda Harrison, if not  
18 then, I mean pretty immediately, to deal with this?

19 A. Yes, there was sufficient information within the  
20 statement to have reasonable cause to arrest Garda 14:09  
21 Harrison, in the statement. But because it's a member  
22 of An Garda Síochána, this was a different situation  
23 where the reports came. The members -- it wouldn't  
24 actually be on my desk anyway, but there would be  
25 reasonable cause to arrest obviously in the minds. But 14:10  
26 because this is a serving member of An Garda Síochána,  
27 I am obliged to report it to GSOC, under, you know, the  
28 Oireachtas and under the Garda Síochána Act. And when  
29 I say I, the Garda Commissioner, it's the conduct of a

1 member, serious allegations against a member of An  
2 Garda Síochána that needs to be reported to the  
3 independent -- they're the independent investigators to  
4 investigate members of An Garda Síochána.

5 170 Q. We know that doesn't prevent you from exercising your 14:10  
6 powers as members of An Garda Síochána, it doesn't  
7 freeze or stay the operation of any Garda powers merely  
8 because something might be or is referred to GSOC,  
9 isn't that correct?

10 A. That's correct. 14:10

11 171 Q. It makes it perhaps more imperative that you do it to  
12 preserve the evidence or gather more evidence, is that  
13 right?

14 A. Absolutely. And apart from that, it's the  
15 independence, it's the independence of the 14:10  
16 investigation.

17 172 Q. Yes. Well, just going back to the issue I raised,  
18 because you did refer in your answer some few minutes  
19 ago to the phones coming in and being dumped?

20 A. Yes. 14:11

21 173 Q. But you knew that was going to happen at 2:00pm on the  
22 8th, isn't that right?

23 A. That's correct.

24 174 Q. And that was an issue discussed at the meeting, isn't  
25 that correct? 14:11

26 A. That's correct, yes.

27 175 Q. And we've seen the record of the phone messages between  
28 Inspector Sheridan and Marisa Simms that morning at  
29 page 1588. There is a record of at least four phone

1 calls between half ten and sort of twenty to twelve.  
2 Were those arrangements being made in your presence at  
3 the meeting --

4 A. No.

5 176 Q. -- on the 8th? 14:11

6 A. No.

7 177 Q. There does seem to have been some phone calls between  
8 Inspector Sheridan and Marisa Simms on the morning of  
9 the 8th, isn't that right?

10 A. That's right. 14:11

11 178 Q. And is there any reason why when -- why you didn't wait  
12 until you got the phone before taking any of the  
13 actions?

14 A. No, there were serious allegations and I wanted prompt  
15 action. 14:12

16 179 Q. Well, you see, you got the phone, and if I understand  
17 matters, the contents of the phone were dumped, and  
18 never examined until when?

19 A. Just prior to this Tribunal hearing.

20 180 Q. So the urgent criminal investigation, on one view -- 14:12

21 A. Sorry, it was dumped but it was never analysed.

22 181 Q. Yes.

23 A. Sorry for correcting you there.

24 182 Q. Yes. So, I mean, the upshot of it, as I understand it,  
25 correct me if I am wrong, is that the text that we've 14:12  
26 seen and have been circulated, weren't considered or  
27 weren't known to the Gardaí at the time?

28 A. No.

29 183 Q. So what was the purpose of getting the phone in then?

1 A. I do understand when Inspector Sheridan was taking the  
2 statement, that she -- that Ms. Simms had shown  
3 Inspector Sheridan some messages that she received.

4 184 Q. Yes.

5 A. And that she -- you know, that there was information -- 14:12

6 185 Q. Yes.

7 A. -- and evidence on the phone that would be of  
8 assistance to a criminal investigation.

9 186 Q. Yes. It doesn't appear from the record of the  
10 statement, as it were, that the texts which are, as it 14:13  
11 were, reprimanding Garda Harrison for making these  
12 threats, were shown to the Gardaí at the time?

13 A. No, at the meeting of the 8th we didn't have possession  
14 of those.

15 187 Q. No, no, weren't shown to the Gardaí at the time of the 14:13  
16 taking of the statement from Ms. Simms?

17 A. Okay.

18 188 Q. Isn't that right?

19 A. My understanding is that there was some references  
20 to -- there was a video, or something, shown that day. 14:13

21 189 Q. There's some reference to texts, but are you not clear  
22 that the threatening text which Marisa Simms is  
23 upbraiding Garda Harrison about, they weren't shown to  
24 Inspector Sheridan and Sergeant McGowan on the 9th when  
25 the statement -- 14:13

26 A. No, no, I don't believe so, no.

27 190 Q. Are you surprised to know that, having regard to the  
28 content of the texts?

29 A. I suppose I don't know what happened during the course

1 of the interview or what it became, but I didn't know  
2 about these text messages and the content until this  
3 Tribunal so --

4 191 Q. Okay. But leaving aside whether you could have gone to  
5 Garda Harrison to clarify the nature of the threats, 14:14  
6 would it not have been desirable to go back to Marisa  
7 Simms, having got the contents of her phone and having  
8 learned of Garda Harrison's explanation to Sergeant  
9 Wallace, and say, look, did he really say this and were  
10 you really in fear of being burned, because it's such 14:14  
11 an improbable thing, would you not agree?

12 A. No, from the meeting of the 8th and particularly my  
13 discussions with Superintendent McGovern and Inspector  
14 Sheridan, at that stage we were going towards a 102  
15 referral for independent investigation. 14:14

16 192 Q. So it was going to go GSOC, obviously?

17 A. I wanted it to go to GSOC, yes.

18 193 Q. Now, I think it's clear, and I don't know whether you  
19 made inquiry of Inspector Sheridan at the meeting but  
20 that is why I am asking you, did you ask Inspector 14:15  
21 Sheridan whether she had discussed whether Marisa Simms  
22 wished the matter to be considered by GSOC?

23 A. I didn't discuss that with Inspector Sheridan and I  
24 didn't have -- but the fact that Marisa Simms had made  
25 a statement of complaint to Inspector Sheridan, I knew 14:15  
26 that obviously the matter had to be criminally  
27 investigated.

28 194 Q. Yes. Now, obviously there is a difference between the  
29 types of investigation that can happen, but the issue

1 of going to GSOC, it would appear, and correct me if I  
2 am wrong, that there is no evidence that it was  
3 discussed with Marisa Simms on the night that her  
4 statement was taken, do you agree with that?

5 A. I agree, yes. But I do -- sorry --

14:15

6 195 Q. You also knew that Marisa Simms was coming in with her  
7 phone?

8 A. Yes. I did understand from Inspector Sheridan that  
9 Marisa Simms knew that her complaints were going to be  
10 criminally investigated.

14:16

11 196 Q. Yes. But it doesn't follow necessarily that she must  
12 have known it could be referred or would be referred to  
13 GSOC, would you agree with that?

14 A. Yes.

15 197 Q. But here you are at the meeting, you know she's coming  
16 in to bring her phone in to be dumped, you are  
17 apparently having a debate about what section it might  
18 be referred under?

14:16

19 A. Yes.

20 198 Q. And did it not occur to anyone to say, look, let's ask  
21 Marisa Simms when she comes in is she happy for the  
22 complaint to go to GSOC?

14:16

23 A. I don't think that was discussed at the meeting.

24 199 Q. All right. Well, was there reference to a section 83  
25 or section 85 during the course of the discussion?

14:16

26 A. There was. There was an in-depth discussion mainly  
27 between myself and Superintendent McGovern.

28 200 Q. But, I mean, was there explicit consideration given to  
29 this problem saying, look, we don't, in fact, have a

1 complaint from someone who wants to refer their  
2 complaint to GSOC or someone who has consented to it?

3 A. What we had was a person who had made a complaint to  
4 have the matter criminally investigated, and, you know,  
5 the obligations under An Garda Síochána, because he's a 14:17  
6 member of An Garda Síochána, then it must be referred  
7 to GSOC and we have to consider that. And if we don't  
8 refer it, we also have to say why we don't refer it to  
9 GSOC. Because they are -- they are purposefully set up  
10 for that purpose, to investigate complaints against 14:17  
11 members of An Garda Síochána.

12 201 Q. But did you discuss whether section 102 was appropriate  
13 or not at that meeting?

14 A. Yes. We had a very, very in-depth debate between  
15 myself and Superintendent McGovern in relation to that. 14:17

16 202 Q. Well, now, we have seen obviously Inspector Sheridan's  
17 note, she has got the word "may", which obviously  
18 appears in the section. Was it your view that you  
19 could properly refer it within section 102 if the  
20 threatened action may have resulted in it, even though 14:18  
21 it didn't result?

22 A. Yeah, that was my view.

23 203 Q. Okay. And was it related also to psychological harm in  
24 fact having been caused?

25 A. Yes, that was my view at the time. 14:18

26 204 Q. So were they two different rationales, in your view,  
27 for referring it under 102?

28 A. Well, you know, we all -- we looked at the options  
29 available to us. It was my view at that meeting that

1 it should be investigated by GSOC. Certainly we looked  
2 at the different sections over and back. We did -- you  
3 know, Superintendent McGovern would be more familiar  
4 with doing 102 referrals because the Act actually -- he  
5 is the person delegated under the Act, the Commissioner 14:18  
6 delegates her function or his function under the Act in  
7 that regard. So Superintendent McGovern and myself had  
8 a very deep discussion, we were aware of the other  
9 sections under the Act and we were looking at the  
10 definition of harm and we had looked at the definition 14:19  
11 of harm, so we did give it a lot of in-depth  
12 discussion, and at the conclusion of that,  
13 Superintendent McGovern agreed then that he was going  
14 to do the 102 referral.

15 205 Q. But would you not agree with me that it's all very well 14:19  
16 to have the view that, well, look, this behaviour  
17 should get reported to GSOC, but you must, you must  
18 avail of one of the legal means of referring it and  
19 this referral under 102 effectively went up in smoke?

20 A. Yeah, well, you see, we did do a lot of debate on it. 14:19  
21 Maybe we got the section wrong.

22 206 Q. Okay.

23 A. It was based on a discussion that we had, that we felt,  
24 but whether we should go under 102 or 85 it was the  
25 same, at the end of the day it was the same process, it 14:20  
26 was going to An Garda Síochána. But it was based on  
27 the information and the concerns that we had at the  
28 time that -- and maybe we got the section wrong, but it  
29 was made in good faith at the time with the information



1 that we had available. I agreed, I felt at the time it  
2 was the right way to go. Maybe other people don't, but  
3 there's legal interpretation. But at the time it was  
4 done for the right reasons.

5 207 Q. Okay. Can I examine the proposition from the other 14:20  
6 point of view of the section? I mean, not raising the  
7 issue with Marisa Simms either when the statement is  
8 taken and not raising it when she came in at two  
9 o'clock or when she came to collect her phone the next  
10 day on the 9th, it could be suggested by some who think 14:20  
11 this way, that in fact you wanted to surreptitiously  
12 refer it to GSOC to make trouble for Garda Harrison,  
13 without the complainant knowing about it, because you  
14 hadn't told Marisa Simms about it.

15 A. No, absolutely not. That never happened. My sole 14:21  
16 reason was that I was seriously concerned with what --  
17 you know, the actions that were in that statement, the  
18 information that I had. And I really was pushing  
19 for -- I wanted to have it done by independent  
20 investigation. And at that time I was considering, 14:21  
21 because of our relationship with the McDermott family I  
22 wanted the appearance that there was no conflict of  
23 interest, or any perception that there was a conflict  
24 of interest between, you know, both organisations. We  
25 did, we were aware of what the legal interpretation was 14:21  
26 of 102, we were aware of the options, but they both  
27 ended up with GSOC who then had to do a determination  
28 whether they are going to do a criminal investigation  
29 and if not they need to come back and tell us they're

1 not doing it. You know what I mean. But that was the  
2 rationale that I was thinking about; was, I wanted this  
3 independently investigated. And maybe I got the  
4 section wrong, maybe, but that's why GSOC are there;  
5 when you have serious allegations against a member of  
6 An Garda Síochána they are the independent body under  
7 Statute to do these investigations.

14:22

8 208 Q. But mustn't you have known that for them to consider it  
9 under section 85 it requires a complaint made by a  
10 person who intends to make a complaint under section  
11 83, in other words, that the person who makes the  
12 complaint to GSOC?

14:22

13 A. We had considered that but we felt it wasn't relevant  
14 at this stage. This wasn't like a member of the coming  
15 to the station, you know, making a complaint about, as  
16 we talked here earlier about neighbours or -- we felt  
17 this was the appropriate way to go at the time.

14:22

18 209 Q. Okay. But I mean that option would go up in smoke and  
19 did go up in smoke when Marisa Simms made it clear that  
20 she wasn't consenting to this complaint being  
21 considered by GSOC?

14:23

22 A. Yeah, that's some time afterwards.

23 210 Q. Okay. But it would appear from your, from your report  
24 that you wrote on the 10th that you possibly  
25 contemplated that, because at the end of -- at the  
26 bottom of page 1651 we don't need to open it, but it  
27 just says:

14:23

28  
29 "I have no doubt that in the event that Garda Harrison

1 discovers that Ms. Simms made a statement of complaint  
2 he will lean on her, putting pressure on her to  
3 withdraw the statement."  
4

5 A. Yes.

14:23

6 211 Q. Was that your view then on the 8th in fact?

7 A. Absolutely, yes.

8 212 Q. So you thought, certainly on the 8th, that, all things  
9 being equal, and this is in view of Garda Harrison's  
10 concerns that threats not be reported, that he might  
11 lean on her to withdraw that?

14:23

12 A. This is my experience of dealing with domestic violence  
13 and domestic abuse situations and within An Garda  
14 Síochána our own organisation, that once the complaint  
15 is made and the abuser is aware that the complaint is  
16 made there is pressure to withdraw the statement. And  
17 in most cases that we deal with, within two or three  
18 days of the person making the complaint the complaint  
19 is usually withdrawn.

14:23

20 213 Q. Well, I'm just wondering, could this be part of the  
21 rationale for either not discussing GSOC with Ms. Simms  
22 on the night of the taking of the statement or not  
23 telling her on the afternoon of the 8th that in fact we  
24 have decided to refer your complaint to GSOC? I mean  
25 that could easily have been done?

14:24

26 A. Yes, it could have -- she could have been advised that  
27 GSOC was an option. But she did know that the matter  
28 was going to be criminally investigated, either by An  
29 Garda Síochána or by GSOC. I don't know if she knew by

14:24

1 GSOC, but she certainly knew it was going to be  
2 criminally investigated.

3 214 Q. And you certainly foresaw what would and in fact did  
4 occur as far as you were concerned, is that right?

5 A. And that is from experience of dealing with domestic 14:24  
6 violence and abuse, and a similar case that I had  
7 within the Donegal division where a partner had made a  
8 complaint against a member of An Garda Síochána where  
9 there was serious assaults taking place, within three  
10 days his statement was withdrawn and three months later 14:25  
11 then -- and I know that we can't compare this, but this  
12 is my past experience within the division from dealing  
13 with cases of domestic violence, and that I had this  
14 information in my mind at the time that within a number  
15 of days, normally it's usually that the statement is 14:25  
16 withdrawn very quickly, when the abuser or the  
17 perpetrator becomes aware that a statement has been  
18 made.

19 215 Q. Well, can I ask you about the discussion at this  
20 meeting on the 8th concerning the HSE referrals which 14:25  
21 the Tribunal is most directly with?

22 A. Yes.

23 216 Q. What discussion was there about that?

24 A. Just very little. I was just ensuring that it was  
25 done, you know what I mean. That as far as I'd be 14:25  
26 concerned that would be a matter for Superintendent  
27 McGovern and I just was confirming that HSE referrals  
28 were being made.

29 217 Q. Well, did you give any direction in that regard or did

1 you just consider it was his decision or did you know  
2 whether any previous decision had been made by anyone  
3 that it should go?  
4 A. No, just from my strategic oversight in relation to it,  
5 I just said are the HSE referrals being made and 14:26  
6 Superintendent McGovern told me they were. That he was  
7 going to make them.  
8 218 Q. And was there discussion as to whether it came within  
9 the guidelines and was envisaged by what was in the  
10 statement? 14:26  
11 A. No, that never came up for discussion. It was just  
12 that it was a matter that they were going to be made.  
13 219 Q. Okay. So there was no consideration as to whether  
14 there had been emotional abuse or there were child  
15 protections issues as such, or child welfare issues? 14:26  
16 A. No, no. It was just a matter that I was inquiring if  
17 they had been made or were they going to be made and  
18 Superintendent McGovern said yes, I'm doing it.  
19 220 Q. Just to follow on through this point: Did you in fact  
20 have any function in relation to that issue? 14:27  
21 A. No.  
22 221 Q. And were you kept, as it were, up-to-date about what  
23 was happening vis-à-vis the referral at any stage?  
24 A. No. I just understood from the conclusion of the  
25 meeting that Superintendent McGovern was going to be 14:27  
26 making the referrals.  
27 CHAIRMAN: Was it Sheridan or McGovern?  
28 A. McGovern.  
29 CHAIRMAN: You said Sheridan.

1 A. McGovern, excuse me.

2 222 Q. MR. MCGUINNESS: Were you copied with any of the  
3 correspondence that came back to Superintendent  
4 McGovern or that he issued to Sergeant McGowan?

5 A. No. 14:27

6 223 Q. Were you consulted in any way about it?

7 A. No.

8 224 Q. Any response?

9 A. No.

10 225 Q. Okay. At the end of the day, as chief superintendent 14:27  
11 in the division, were you disappointed to learn that  
12 none of the details in any real substance perhaps got  
13 to the HSE?

14 A. I only became aware at this Tribunal that those matters  
15 were discussed and I understood that, and again it's 14:28  
16 just from what I hear here, that it was relayed.

17 226 Q. Yes. Now it is a matter obviously for the Chairman, I  
18 don't want to be unfair to Sergeant McGowan, Sergeant  
19 McGowan has given her evidence in that regard --

20 A. Yes. 14:28

21 227 Q. -- but in terms of there being, as it were, a  
22 definitive document that went, would you have expected  
23 a definitive extract or précis or document?

24 A. No, you see, I suppose with An Garda Síochána and the  
25 HSE, or Tusla as it is now, we both have separate 14:28  
26 functions in terms of criminal investigations. And I  
27 am aware from my strategic meetings which I would have  
28 regularly with Tusla and HSE, there's always, let's  
29 say, it's not a conflict but it is a judgment call in

1 relation to how much information we provide. Because  
2 on the one hand we are doing criminal investigation and  
3 therefore we're gathering evidence for that purpose,  
4 Tusla have a different function in terms of child  
5 protection, child welfare so they need to carry out 14:29  
6 their business, but we are always concerned that when  
7 we get to the suspect that he's not familiar with all  
8 the incidents, that the story is ready. So there's  
9 always that judgment about how much information but  
10 there is procedures within the system that -- and I 14:29  
11 have dealt with it in other cases, not this particular  
12 case, where Garda members are involved as well, but  
13 where Tusla would write to the superintendent and ask  
14 to have sight of the statements and we provide that  
15 opportunity for Tusla to come and read the statements 14:29  
16 and then they can take whatever notes they want to take  
17 from it. And we have done that. We do that. You  
18 know, that is part of our business.

19 CHAIRMAN: Yes, but as I understand it, it was  
20 different then, it was much rarer than any such thing 14:29  
21 would happen.

22 A. Yeah. Well, normally it would come at the -- whatever,  
23 the strategy meeting, Judge, that they would exchange  
24 information.

25 CHAIRMAN: Yes, but not so much a précis. 14:30

26 A. No.

27 CHAIRMAN: I understand what are you saying.

28 A. But there is always the facility that if Tusla or any  
29 other agency want more information or the sharing of

1 information that they can apply to the local  
2 superintendent and say look it, we don't have enough  
3 information here we need more or whatever and that  
4 opportunity is there.

5 228 Q. MR. MCGUINNESS: In relation to the meeting, do you 14:30  
6 consider yourself as having either directed or jointly  
7 authorised the making of the referrals?

8 A. No, no, no. No, no, I was just -- from my strategic  
9 overview I just wanted to ensure that it was happening.  
10 That, you know, we were duty bound to do it and I was 14:30  
11 just asking the question and Superintendent McGovern  
12 assured me that he was doing it.

13 229 Q. Now, in relation to the criminal investigation there's  
14 obviously issues being explored, whether it was  
15 necessary, whether it actually happened, the pace it 14:31  
16 happened at, whether it was stayed as a result of the  
17 GSOC referral, and ultimately what happened it, but did  
18 you formally have to or did you actually appoint  
19 Inspector Sheridan to conduct a criminal investigation?

20 A. No. I was waiting -- when you make a 102 referral to 14:31  
21 GSOC, I was waiting for them to refer back in to the  
22 organisation to say they were admitting the complaint  
23 as a criminal investigation. And at that stage my only  
24 direction to Inspector Sheridan at that meeting was to  
25 collect whatever evidence that she could awaiting 14:31  
26 GSOC's response so that they could take over the  
27 investigation.

28 230 Q. Well, you see you do refer at page 12 of your  
29 statement, page 59 of the book of documents, that



1 Inspector Sheridan discontinued criminal investigation  
2 into alleged criminal behaviour by Garda Harrison. The  
3 matter having been previously referred to GSOC.

4 A. Yes.

5 231 Q. But had you not started this criminal investigation? 14:32

6 A. Well, the criminal investigation would start once the  
7 statement was made.

8 232 Q. You see, that's what I want to explore to you. When  
9 did it start? Is it on the making of the statement?

10 A. I would say once the statement is made that is the 14:32  
11 start of the process.

12 233 Q. But does the person who -- no matter how senior they  
13 are, do they become the investigating officer as a  
14 matter of --

15 A. No, no, the person would be Inspector Sheridan who is 14:32  
16 taking the statement.

17 234 Q. Yes?

18 A. Unless I make a formal appointment of a senior -- there  
19 are certain crimes that I have the authority to make  
20 appointments of senior investigating officers. For 14:32  
21 example, if it's a murder investigation within my area  
22 of responsibility I can make an appointment of a senior  
23 investigating officer to take charge of that  
24 investigation.

25 235 Q. But did you expect the investigation to be stayed 14:32  
26 because of the referral to GSOC?

27 A. No, no. My understanding was that GSOC had taken the  
28 investigation, they then would decide to admit it in or  
29 not. It's a referral at that stage and they would then

1 have to carry out inquiries under section 91 of the Act  
2 to determine whether they are going to take it in as an  
3 admissible complaint. And what happens then is that  
4 they come back to the organisation and say that they  
5 are now conducting an investigation under a number of 14:33  
6 different sections, but in this particular case it  
7 would be a criminal investigation, which is section 98  
8 of the Act. So they would inform the Garda  
9 Commissioner and me and Garda Harrison in due course  
10 that they are now taking on a criminal investigation. 14:33  
11 236 Q. What I am grasping towards is: What was to happen, if  
12 anything, between 8th October when the matter was  
13 referred to GSOC and any ultimate decision that GSOC  
14 might come to, to either take it or reject it?  
15 A. Inspector Sheridan was to collect whatever evidence 14:34  
16 that she could collect for GSOC, and, you know, to  
17 collect that evidence and have it available.  
18 237 Q. Well, were you supervising that in any way?  
19 A. No, no, no. Inspector Sheridan.  
20 238 Q. Did you get any reports back from her as to what was 14:34  
21 occurring or had occurred in that regard?  
22 A. No. The only thing that I knew there was, that Marisa  
23 had presented herself at the station on the afternoon  
24 of the 8th and had handed over her telephones.  
25 239 Q. Insofar as the threat to Ms. Simms is concerned, 14:34  
26 obviously you've heard the focus on whether and what  
27 steps were taken in relation to the threats to kill --  
28 A. Yes.  
29 240 Q. -- Ms. Simms as it were, burn and bury her?

1 A. I would have known from the meeting of the 8th that  
2 Inspector Sheridan had given her mobile telephone  
3 number to Inspector Sheridan [sic], she had that. I  
4 would also have been aware that, you know, civil  
5 remedies, you know, in relation to barring orders, 14:35  
6 protection orders, that was all explained to her. Also  
7 that she had the support of her family and she was  
8 happy, she was happy, you know, to leave the station  
9 and go back to the family. But critically I suppose  
10 she had Inspector Sheridan's number and that there was 14:35  
11 a good rapport between the two of them, that she would  
12 have contacted Inspector Sheridan if she needed her.

13 241 Q. There does seem to be a suggestion that Ms. Simms may  
14 have misrepresented to Garda Harrison that she got a  
15 safety order, and would the guards, and in particular 14:35  
16 your concern for Ms. Simms, would you not have been  
17 concerned to try and definitively discover whether a  
18 safety order had been obtained?

19 A. That would be a matter for Ms. Simms to go to the  
20 courts to get it. And I knew that Inspector Sheridan 14:35  
21 and herself were in contact with each other, so that  
22 would have been left to the Inspector Sheridan to deal  
23 with.

24 242 Q. But would you not want to know as the senior Garda in  
25 charge of the division whether a safety order existed 14:36  
26 or not to help protect Ms. Simms?

27 A. Only if it came to my attention that Marisa Simms, you  
28 know, was under further threat. But I was happy from  
29 Inspector Sheridan, because I knew Inspector Sheridan

1 was concerned, but I was happy that she had the support  
2 of her family, she had advised her what to do and that  
3 Ms. Simms was happy leaving the Garda station and she  
4 felt comfortable coming back to the Garda station. And  
5 I was also aware at that stage of obviously the threats 14:36  
6 to deal against Garda Harrison and that Paul Wallace  
7 obviously had been out giving his crime prevention  
8 advice. And on the Monday the 7th I sent out a  
9 direction in relation to the security arrangements, the  
10 continuation of patrols that would continue in around 14:37  
11 the Simms' home, the family, you know where they were  
12 living, you know as a couple, Keith Harrison. So I  
13 suppose I was aware of all of that happening.

14 243 Q. Could I ask you to look at Garda Harrison's statement  
15 in relation to the threats? 14:37

16 A. Yes.

17 244 Q. Page 1956.

18 A. Is it coming up?

19 245 Q. It should come up on the screen there. And the second  
20 page of that document. This had been taken on the 5th 14:37  
21 October by Sergeant McGroary?

22 A. Could you tell me what folder is it?

23 246 Q. Just while we are waiting for that to come up, this had  
24 been taken on the 5th October by Sergeant McGroary?

25 A. Sorry, could you tell me what folder is it. 14:38

26 247 Q. I am sorry, it's in number 6.

27 A. I see it yes, on the screen.

28 248 Q. Do you see it that, it commences at 1956 and goes on to  
29 1957. And Garda Harrison is relating the fact that

1 Rita McDermott had been selected to go on to winning  
2 Streak and some phone calls had been made apparently by  
3 Martin McDermott from prison in relation to the matter  
4 and Garda Harrison is recounting there where he rang  
5 Portlaoise station, he rang the midlands prison, and it 14:39  
6 was under -- he was saying that it appears that the  
7 phone was found in prison and that as a result of that  
8 his release date had been put back from March 2014 to  
9 March or to April 2015. were you aware of that?

10 A. Yes. 14:39

11 249 Q. And he seems to, certainly at the bottom of the page,  
12 accept that these threats were serious and were perhaps  
13 coming from Martin McDermott or people associated with  
14 him, was that your understanding?

15 A. Yes. I would have received a report in from the 14:39

16 superintendent on call, Superintendent English, and in  
17 his report he tells me that Garda Harrison, when  
18 interviewed by Fergus McGroary at the time, he  
19 identified his domestic situation with Marisa as being  
20 one of the reasons for the threat and that he 14:40  
21 nominates -- this is after the second phone call, that  
22 he actually nominates Martin McDermott as the person  
23 who would be of interest who is capable of carrying out  
24 these threats. And I would have been aware of that at  
25 the meeting of the 8th and that was one of the jobs 14:40  
26 that I assigned to Inspector Sheridan, was to find out  
27 if Martin McDermott had a phone in prison.

28 250 Q. Yes. And I think did Inspector Sheridan report back to  
29 you on any action that she had taken?

1 A. She did. I think she sent me a text, that a phone had  
2 been found in prison.

3 251 Q. Now, I think you were in contact with Mr. Wright of  
4 GSOC on the 8th in relation to this matter --

5 A. No. 14:41

6 252 Q. -- is that right?

7 A. No. I never spoke to Mr. Wright.

8 253 Q. But you forwarded the email or you emailed the  
9 statements --

10 A. Yes. 14:41

11 254 Q. -- on to him, is that correct?

12 A. Yes. That was the two statements, both of Rita  
13 McDermott and Marisa McDermott's statement, yes.

14 255 Q. And I think you also perhaps received a query from  
15 Superintendent McLoughlin about the appropriateness of 14:41  
16 the section, isn't that correct?

17 A. That's right. Yeah. Superintendent McLoughlin -- or  
18 Chief Superintendent Tony McLoughlin he contacted me to  
19 tell me that he had received communication from Darren  
20 Wright that we were making the referral under the wrong 14:41  
21 section, and that possibly 102 wasn't the correct  
22 section and that we should be making it under 88.

23 256 Q. Did you consider at that stage, look, we have Marisa  
24 Simms' phone, she's coming back in fact on the 9th to  
25 pick up her phone, let's discuss that issue with her 14:42  
26 now and see is she happy to send the complaint on to  
27 GSOC?

28 A. No. I didn't consider that at the time.

29 257 Q. Is there any reason?

1 A. No, no. I just -- you know, I suppose first and  
2 foremost in my mind I wanted it to be investigated by  
3 GSOC as, you know, I suppose as an independent  
4 investigation. And the fact that I was aware that the  
5 threatening phone calls had been made to Garda Harrison 14:42  
6 and he himself had nominated his domestic situation  
7 with Marisa as being the reason for these and that he  
8 wanted -- Martin McDermott's name would have come up as  
9 the person capable of carrying out these. So, you  
10 know, I was of the mindset at the time, you know, that 14:42  
11 these matters should be investigated by GSOC. And  
12 under 102 I suppose we're not obliged to go back and  
13 talk to the person who made the complaint, but it was  
14 agreed I suppose at the meeting this is the route we  
15 were taking. And by the time Chief Superintendent 14:43  
16 McLoughlin had been in touch with me and had referred  
17 back, the 102 had already been made at that stage. But  
18 I suppose I was the one in the driving seat and I was  
19 the one making the decisions in consultation with my  
20 team and I felt it was the right thing to do. 14:43  
21 258 Q. Okay. But did you raise the issue for discussion with  
22 anyone else as to whether, look, we might have got  
23 section 102 wrong, they are querying whether it should  
24 be going the complaint route, the complaint from a  
25 member of the public, and let's try and convert it into 14:43  
26 one that they have to deal with, by getting Marisa  
27 Simms' consent?  
28 A. No, because the sections, it's irrelevant if it's 102  
29 or 85, the process is the same. We are obliged to

1 refer it to GSOC. The outcome is the same in terms of  
2 what way we go. But I suppose it's in terms of the  
3 seriousness of the complaint that we opted for the 102.

4 259 Q. Well, I wonder is the outcome the same dependent on  
5 which way you go, because we know at the end of the day 14:44  
6 they didn't in fact exercise their powers to conduct an  
7 investigation into the matter, because they were unable  
8 to get, as it were, the proper strategy kick starter to  
9 enable them to do it; that is the consent of the  
10 complainant, isn't that right? 14:44

11 A. No. I understand that once the 102 referral is made,  
12 which is the sole determination of the Garda  
13 Commissioner, they then are obliged to determine --  
14 it's only a referral at that stage, they are then  
15 obliged under section 91 of the Act to carry out 14:44  
16 inquiries to establish what type of an investigation  
17 they are going to conduct, be it a section 98, and  
18 they've a suite of menus where they can refer back into  
19 the Garda Commissioner under section 94/95 of the Act,  
20 where they actually can then send it back to the Garda 14:45  
21 Commissioner to say look it, we're not doing this  
22 investigation, we're referring it back to you for  
23 investigation. And we're obliged by Statute to send it  
24 to them, you know what I mean. And I suppose at the  
25 time -- you know, you can get hung up on statutes, but 14:45  
26 I felt at the time it was the right thing to do. And  
27 then that GSOC then would come back to us or go back to  
28 the Garda Commissioner to say look it, I have carried  
29 out my inquiries under section 91 of the Act, we now,



1 as an organisation, are going to take on this as a  
2 criminal investigation, and they never came back to us  
3 in terms of it one way or the other to say whether they  
4 were taking it on or not. So I was always of the  
5 understanding that they were working within the 91 14:45  
6 section of the Act, where they are carrying out their  
7 inquiries, they're establishing, you know, what they're  
8 going to do. And that was my view in relation to it.  
9 And I was all the time asking Superintendent McGovern,  
10 have we any feedback from GSOC in relation to what's 14:46  
11 happening with the referral?

12 260 Q. Yes. But I mean I'm sure you didn't mean to say that  
13 they never came back to you. They did come back to you  
14 to tell you that they weren't going to progress it --

15 A. No, no. 14:46

16 261 Q. -- isn't that right? By November.

17 A. Oh, by November.

18 262 Q. Yes.

19 A. But that was after me prompting, asking Superintendent  
20 McGovern what's happening here? Are they taking it on? 14:46  
21 And eventually by 1st November I think Superintendent  
22 McGovern rings Darren Wright to inquire if they had  
23 taken it on.

24 263 Q. Yeah. Now I know you didn't get formal notification  
25 perhaps until in January the next year, but you were 14:46  
26 informed by Superintendent McGovern that GSOC were not  
27 doing the referral, is that right?

28 A. That's correct. Some time in around 6th November they  
29 were saying that they weren't --

1 264 Q. And did you know of the reason for that?

2 A. Yeah. I understood that GSOC had been in contact with  
3 Marisa Simms and Ms. Simms had indicated that she would  
4 not cooperate with the GSOC investigation.

5 265 Q. And did you know in fact definitively that Marisa Simms 14:47  
6 had got back together with Garda Harrison and they  
7 seemed to be at least trying to patch it up or if not  
8 actually patching it up?

9 A. Yes. My belief is there was reports coming in that  
10 they were both in contact, or they were together or -- 14:47  
11 you know what I mean. I can't remember precisely when  
12 I knew or how I knew it.

13 266 Q. Okay. But I mean the upshot of it is this: The GSOC  
14 option had gone up in smoke, is the way I'm describing  
15 it, did that take the wind out of your sails for 14:47  
16 actually pursuing the criminal investigation? Because  
17 you knew Marisa in all likelihood wasn't going to be  
18 cooperating perhaps.

19 A. No, but I am still obliged to have the matter  
20 investigated, irrelevant of what the attitude of 14:48  
21 Ms. Simms -- who obviously is the critical witness in  
22 this case. But there was a public wrong done here.  
23 And that I am still obliged to put the allegations  
24 to -- I, when I say I, An Garda Síochána are still  
25 obliged to put the allegations to Garda Keith Harrison, 14:48  
26 note his reply and send a file to DPP.

27 267 Q. Well, I mean, I did refer earlier to your report of the  
28 10th October to Internal Affairs where you had foreseen  
29 perhaps the withdrawing of the statement, but perhaps

1 we could look at the entirety of the report. It  
2 commences at -- it's in a number of places, but it  
3 commences at 1649. Just before I commence asking you  
4 some questions about that, when exactly had you taken  
5 the decision to seek the suspension of Garda Harrison 14:49  
6 from duty?

7 A. I think it was at the conclusion of the meeting of the  
8 8th I was coming to the view of what I was hearing,  
9 that I didn't have any confidence in Garda Harrison's  
10 ability to carry out his functions as a member of An 14:49  
11 Garda Síochána, and I felt that at that stage I was  
12 going to look for a suspension.

13 268 Q. Okay. Was that discussed amongst the participants at  
14 the meeting?

15 A. No. No. No. I was of the view myself, I possibly 14:49  
16 would have talked to Superintendent McGovern about it,  
17 but it wasn't discussed in the meeting with all of the  
18 other participants that I am going to look for  
19 suspension.

20 269 Q. Okay. But there's been some focus on, as it were, the 14:49  
21 high level nature of the meeting and the number of  
22 personnel who attended, including Garda Campbell.

23 A. Yes.

24 270 Q. I mean, he's much more than a divisional clerk, he's  
25 got significant experience in internal affairs and 14:49  
26 disciplinary matters, isn't that right?

27 A. He's the person in my office that deals with all  
28 administration in terms of anything to do with Garda  
29 complaints, complaints from the public against guards,

1 discipline, that's his role in my office. It's an  
2 administration role, but the responsibility is still my  
3 responsibility.

4 271 Q. Yes. But you had the foresight to bring him to the  
5 meeting --

14:50

6 A. Yes.

7 272 Q. -- why was that?

8 A. It was during the meeting as we were going through the  
9 statement and we were looking at the allegations I sent  
10 for him, because in my own mind I was coming to the  
11 knowledge that there was serious allegation here and  
12 that he, in his role, would be dealing with a lot of  
13 the administration side of this on my behalf.

14:50

14 273 Q. well, did you expect him to take notes at the meeting?

15 A. No, he wasn't there as a notetaker. He was there in  
16 terms of whatever would emerge from the meeting in  
17 terms of any discipline or reports or from that  
18 perspective.

14:50

19 274 Q. Did he contribute to the meeting or discuss issues with  
20 you?

14:51

21 A. No, no. He was there taking notes in terms of what  
22 type of offences were committed and where it would fall  
23 under, but he wasn't an active participant, no.

24 275 Q. That is what I am asking about: was he taking notes as  
25 to the type of offences, the issues of discipline?

14:51

26 A. He was going through -- my understanding and memory of  
27 it, he was going through the statement marking whether  
28 this is an offence under section 5 of the Non-Fatal  
29 Offences Act or was it section 2 or -- as the statement

1 was being read he was marking possible offences.

2 276 Q. But had you told him to come there because, look, I'm  
3 going to be sending a memo to HQ tomorrow dealing with  
4 all of these issues?

5 A. Yes. I would obviously have been informing the Garda 14:51  
6 Commissioner, yes, and that he would be assisting me in  
7 that regard, yes.

8 277 Q. Yes, but did you explicitly have Garda Campbell there  
9 to take note of these matters because he was intending  
10 to write a memo in a day or two? 14:51

11 A. No. I wanted him to be there to be familiar with my  
12 thought process in terms of what offences I was looking  
13 at, what action I was taking, he would obviously be  
14 dealing with any correspondence coming back into the  
15 organisation in terms of 102, but he would be doing all 14:52  
16 that under my direction and control, he would have had  
17 absolutely no active part in the decision-making.

18 278 Q. Okay. But he was to listen, is that it --

19 A. He was listening --

20 279 Q. -- to your thinking? 14:52

21 A. -- taking notes, looking at my thoughts. He would be  
22 assisting me afterwards in compiling reports and the  
23 administration aspect of it.

24 280 Q. But were you discussing the disciplinary aspect at the  
25 meeting or the suspension or the -- 14:52

26 A. No, no, that wasn't discussed at that meeting, no.

27 281 Q. So, what was he there to listen to? It's just, I'm not  
28 quite clear about it.

29 A. Because a lot of paperwork was involved in relation to

1 ourselves and GSOC in terms of notifications, whether  
2 it went down as a 102 referral GSOC, they would be  
3 requiring certain information and that is the channel  
4 that it would come in. It comes into the Garda  
5 Commissioner, Garda headquarters and eventually comes  
6 down to Internal Affairs and comes to me.

14:52

7 282 Q. But would he be responsible for drafting the Annex 1  
8 section 102 referral forms?

9 A. No, no, no, that was Superintendent McGovern.

10 283 Q. So he had nothing to do with GSOC then?

14:53

11 A. No, no, but he would be dealing with the follow-up  
12 administration, the reports coming in, or if  
13 notifications had to go out or if they required any  
14 further information, he would be dealing with that  
15 administration side of it. But obviously under my  
16 direction.

14:53

17 284 Q. Now looking at this memo then, it's lengthy, I don't  
18 intend to go through all of it, but the section  
19 paragraph says:

20  
21 "The purpose of this report is to provide as much  
22 information as possible to Assistant Commissioner Human  
23 Recourse Management to assist in determining whether to  
24 suspend Garda Harrison from duty pending the outcome of  
25 an investigation into the allegation made against Garda  
26 Harrison by Marisa Simms and the alleged threat against  
27 Garda Harrison."

14:53

14:53

28  
29 Now is this a usual form of report and is it a

1 necessary function to send these reports when this  
2 becomes an issue?

3 A. Yes. Obviously I would be informing the Garda  
4 Commissioner. And I had received a report from Chief  
5 Superintendent McLoughlin the day before asking me 14:54  
6 about the 102 referral and also asking me if I would  
7 form my views in terms of suspension or not.

8 285 Q. Yes. And I think you correctly state that he asks you  
9 to address a number of these issues --

10 A. Yes. 14:54

11 286 Q. -- that are addressed in this?

12 A. Yes. And these issues that are addressed, these would  
13 be standard.

14 287 Q. Yes.

15 A. You know, in terms of when we're looking at -- 14:54

16 288 Q. I mean, you're not making up the headings?

17 A. No, no, no, no, no.

18 289 Q. This is what HQ requires you elaborate --

19 A. It's a template.

20 290 Q. -- elaborate on? 14:54

21 A. Yes, elaborate on it, it's a template.

22 291 Q. But had he asked you to elaborate on that because he  
23 knew that you wanted to have Garda Harrison suspended?

24 A. He would have -- myself and Chief McLoughlin had a  
25 conversation the day before, but it was mainly around 14:54  
26 the 102 referral and the particular offences, and I'm  
27 not sure if, when I spoke to Chief Superintendent  
28 McLoughlin, you know, that I mentioned the suspension  
29 or not. But it was foremost in my mind that I would be

1 recommending -- so even if his request hadn't come in I  
2 would have been sending it up.

3 292 Q. Okay. I suppose just on a side note, you did note his  
4 name on your diary for the 8th October and I understand  
5 your evidence, certainly from your statement, is that 14:55  
6 you do believe that you spoke to him after the meeting?  
7 A. Yes. And I would have spoken to him, he would have  
8 made contact with me after the 102 referral was made.  
9 Chief McLoughlin contacted me wondering why -- you  
10 know, was it the right section, the 102 referral or the 14:55  
11 85, and I spoke --

12 293 Q. I think you exchanged emails on that day?  
13 A. We did, we exchanged emails. But we also -- I would  
14 have briefed him on, we went down the 102 referral  
15 route and the sections I talked about the different -- 14:55  
16 my diary note, you can see my diary note, yeah.

17 294 Q. But was it you or he introduced the idea in any of  
18 these conversations about the status of Garda Harrison  
19 pending all of these inquiries or referrals or --  
20 A. I'm not sure whether he raised it but I certainly would 14:56  
21 have raised it, that I had concerns.

22 295 Q. I mean, just to be clear to try and either link or  
23 disjoint one thing from another, it isn't necessarily  
24 the case, is it, that someone would be suspended  
25 because there's a HSE referral? 14:56  
26 A. Oh absolutely not. No.

27 296 Q. If there's a suspicion perhaps of a criminal  
28 involvement in some matter, harassment or threats or  
29 some course of conduct that is criminal, would it



1 follow that a member's suspension would be considered  
2 at least?

3 A. It depends on the nature of the criminal conduct.

4 297 Q. I mean, is there anything unusual in considering  
5 suspension, suppose this allegation or these 14:56  
6 allegations were made against any member of the Gardaí,  
7 would you still be considering suspension, whether it  
8 is Keith Harrison or not?

9 A. Oh absolutely, yes.

10 298 Q. So it's got nothing to do with him -- 14:57

11 A. No, no, no, no.

12 299 Q. -- it's got to do with the conduct?

13 A. It's to do with the conduct.

14 300 Q. The conduct alleged?

15 A. The criminal conduct that is alleged. 14:57

16 301 Q. And then the different interests that are identified by  
17 HQ in their letter --

18 A. In their assessment, yes.

19 302 Q. -- in their assessment?

20 A. Yes. 14:57

21 303 Q. And you're required to address each of these?

22 A. Yes.

23 304 Q. And you did so in the report?

24 A. Exactly. And I wouldn't have the authority to suspend,  
25 it would be a matter for the Garda Commissioner. 14:57

26 305 Q. It is part of your duty --

27 A. It is part of my duty obviously to inform and advise.

28 306 Q. So the first one you say "Interested Parties" and you  
29 identify Garda Harrison there and Ms. Simms on the

1 first page?

2 A. Yes.

3 307 Q. And then going on to the second page, you refer to the  
4 report from Ms. Rita McDermott there?

5 A. Yes. 14:57

6 308 Q. You refer to the threats --

7 A. Yes.

8 309 Q. -- that were made against Garda Harrison. And I have  
9 referred you to Garda Harrison's statement there,  
10 because it would appear he was taking them seriously 14:58  
11 and was identifying the person from whom the threats  
12 might have come?

13 A. Absolutely. And he was also identifying that he was  
14 relating it to his domestic situation with Ms. Simms.

15 310 Q. Okay. You refer to the complaint of Marisa Simms at 14:58  
16 the bottom and then the section 102 referral?

17 A. Yes.

18 311 Q. You don't seem to include here at this point in time  
19 that a question mark, little or large, had been put  
20 over the appropriateness of 102, but it's addressed to 14:58  
21 Chief McLoughlin who had himself raised a concern, I  
22 suppose you'd expected that he would consider that?

23 A. I felt that he understood from the previous  
24 correspondence and he was of the knowledge that we had  
25 made the 102 referral. 14:58

26 312 Q. Okay. You recommend his suspension from duty in  
27 accordance with the discipline regulations at the top  
28 of page 3 then, isn't that right?

29 A. That's correct.

1 313 Q. You're required to and you articulate a number of  
2 considerations there. The strength of the evidence, is  
3 that right?

4 A. Yes.

5 314 Q. The seriousness of the allegations?

14:59

6 A. Yes.

7 315 Q. The risk to members of the public?

8 A. Yes.

9 316 Q. And the risk to colleagues, you didn't think there was  
10 any risk to colleagues?

14:59

11 A. No.

12 317 Q. Point 5:

13

14 "The potential to pervert the course of justice."

15

14:59

16 You say that:

17

18 "Marisa Simms had alleged Garda Harrison misrepresented  
19 his position within An Garda Síochána in order to check  
20 up on her while she was away for a weekend. Ms. Simms  
21 also alleges in her statement Garda Harrison referred  
22 to a previous occasion."

14:59

23

24 which is described there.

25

14:59

26 "-- Garda Harrison discovered that Ms. Simms made a  
27 statement of complaint, lean on her, putting pressure  
28 on her to withdraw her statement."

29 A. Yes.

1 318 Q. "6. Options or alternatives.  
2 Garda Harrison can no longer serve in the Donegal  
3 division for the following reasons."

4  
5 And you articulate a number of bullet-points there 15:00  
6 relating to the matter. That was your belief, at the  
7 time, is that right?

8 A. Yes.

9 319 Q. Okay. You're required then to address a number of  
10 secondary considerations. 15:00

11  
12 "Likely outcome: I do not wish to preempt any decision  
13 made in the disciplinary or GSOC investigation."

14  
15 Can I just ask you about that? What did you see as 15:00  
16 your function here in making this and then in saying  
17 that? You just didn't want to express a view as to  
18 what had happened or --

19 A. Well, I didn't know what the outcome of the  
20 investigation was going to be or any disciplinary 15:00  
21 matter. So the investigation may have come with a  
22 different conclusion. I didn't want to preempt. My  
23 difficulty -- or not difficulty, my situation, my  
24 confidence is in his ability to carry out his functions  
25 as a member of An Garda Síochána, it's not linked to 15:01  
26 any criminal or disciplinary -- it's a separate, it's  
27 not -- it's not a matter of sanction that I'm putting  
28 him in, it's a confidence issue.

29 320 Q. Okay. Number 2, there's an estimate of time, you make

1 the comment there you're not in a position to determine  
2 when it will conclude. Number 3, relevant complaint  
3 history, you refer to the District Court matter, which,  
4 was that then pending at that point in time?  
5 A. Yes. 15:01  
6 321 Q. You're refer to the section 98 investigation and you  
7 say:  
8  
9 "The investigation relates to a complaint made by --"  
10 15:01  
11 Somebody. And is that correct now, was that not a  
12 section 102 referral rather than a complaint?  
13 A. I understand this is the Broderick case that is under  
14 current --  
15 322 Q. That is a different issue, is it? 15:01  
16 A. Yes. It was in relation to where there was a previous  
17 102 referral where Garda Harrison was involved in a  
18 road traffic accident with a Mr. Broderick.  
19 323 Q. Okay.  
20 A. And that was still ongoing I think at that stage. 15:01  
21 324 Q. Okay.  
22 CHAIRMAN: Is he still alive?  
23 A. I'm in the sure, Judge. I don't know.  
24 CHAIRMAN: He broke his neck.  
25 A. He broke his neck in the accident. 15:02  
26 CHAIRMAN: I mean, there was a catastrophic outcome.  
27 A. It was because of the serious injuries that was --  
28 MR. MCGUINNESS: I am just wondering is that accurate.  
29 CHAIRMAN: well, I mean, it was always impossible to

1 say what the cause of that accident was, I mean that  
2 was the plain reality of it.

3 MR. HARTY: Sorry, sir, I can assist in relation to  
4 that. The other gentleman in the accident - who GSOC  
5 investigated and found that it was his driving, it 15:02  
6 certainly wasn't Garda Harrison's driving that was  
7 responsible for the accident - he did pass away last  
8 year but unrelated to the incident in question.

9 CHAIRMAN: I know, but he certainly wasn't well in  
10 consequence of the accident, that is putting it mildly. 15:02

11 MR. HARTY: Yes.

12 CHAIRMAN: And I am certainly not in a position even,  
13 if it were relevant, to say who caused the accident.  
14 That's it.

15 MR. HARTY: Well, GSOC -- 15:02

16 CHAIRMAN: Therefore the presumption of innocence  
17 applies. I actually read the entire file, Mr. Harty,  
18 believe me.

19 325 Q. MR. MCGUINNESS: I am just querying whether that  
20 sentence is correct, that it relates to complainant? 15:03  
21 Was it not an automatic referral under 102 which  
22 Inspector Sheridan had been dealing with?

23 A. Yeah, I think initially -- if my memory serves me, I  
24 think initially it was a road traffic accident that the  
25 Gardaí responded to, and then because the injuries were 15:03  
26 more serious and that then it went as a 102 referral.

27 CHAIRMAN: Isn't it better to pass on from it? It has  
28 been mentioned three or four times, but I made my  
29 attitude perfectly clear from the start; no one could

1 say who caused the accident, therefore the presumption  
2 of innocence is in favour of Garda Harrison, therefore  
3 it wasn't his fault. It's as simple as that.

4 326 Q. MR. MCGUINNESS: Okay. It goes on then, you address a  
5 number of issues: "4. Current performance. 5.  
6 Impact on police public relations." You say:

15:03

7  
8 "I would not have confidence in the member's continued  
9 deployment in regular policing duties given the nature  
10 of the complaints made against him.

15:03

11  
12 6. Impact of service morale: His behaviour is not  
13 compatible with the values and principles of the  
14 organisation."

15 15:03

16 At number 7 you make some observations relating to  
17 anger management. You make reference to Sergeant  
18 wallace's report. You make reference to his previous  
19 engagement with Garda Tuohy. And under "Other Matters"  
20 you say:

15:04

21  
22 "A HSE referral has been made."

23  
24 And you give no further details of that. You say:

25 15:04

26 "The complaint of Marisa Simms hasn't been inputted on  
27 Pulse --"

28  
29 For the reason given. You say:

1  
2  
3  
4  
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29

"Marisa Simms was advised by Inspector Goretta Sheridan to obtain a safety order in the District Court and indicated she would contact her solicitor with a view to doing so."

15:04

In conclusion, by way of summary, you say:

"Garda Harrison and Marisa Simms began their relationship in February 2011. Garda Harrison transferred to the Donegal division in March 2011. The couple resided together with Marisa's two children on a semi regular basis since March/April 2011. Marisa Simms' statement of complaint details a series of incidents in which Garda Harrison displayed obsessive, threatening, intimidating and abusive behaviour throughout their relationship. His obsessive behaviour is mirrored in the number of times Garda Harrison accessed Pulse to check on Marisa Simms and her children during the course of their relationship. Garda Harrison is also alleged to have misrepresented his position with An Garda Síochána to obtain details on Marisa Simms while she was away with friends for a weekend. An alternative to suspension would be to transfer Garda Harrison to another division."

15:04

15:05

15:05

15:05

And you sent that report in and I think the Chairman has already seen the response that came back, it was not acceding to your request for a suspension or a



1 transfer to another division.

2 CHAIRMAN: That's 1714, is it?

3 MR. MCGUINNESS: Yes, 1714.

4 327 Q. And it was headquarters that decided on keeping him on  
5 indoor duties? 15:05

6 A. That's correct, yes.

7 328 Q. And I suppose that would be preferable to a suspension  
8 or a transfer away from somewhere he wanted, is that  
9 how you viewed it?

10 A. That was the decision of headquarters and I accepted 15:06  
11 their decision.

12 329 Q. And put it this way: It's not a disciplinary matter  
13 obviously, but do you think headquarters had regard to  
14 the issue of threats in that regard? Or do you know?

15 A. I don't know. 15:06

16 330 Q. Right. You didn't discuss it with superintendent  
17 McLoughlin?

18 A. No, I accepted the decision of headquarters.

19 331 Q. Okay. Looking at that, the second paragraph of 1714,  
20 where Superintendent McLoughlin says: 15:06  
21  
22 "From the details contained in the correspondence  
23 received at this office to daylight it is unclear why  
24 the matter was deemed suitable for referral to the  
25 Garda Síochána Ombudsman Commission pursuant to 15:07  
26 provisions of section 102 Garda Síochána Act as  
27 amended. I'm therefore to seek a review on those of  
28 the district officer in that regard."  
29

1 And I think you got Superintendent McGovern to address  
2 that and then you addressed that yourself.

3 A. Yes, yes.

4 332 Q. Is there anything further that you want to say about  
5 the rationale for the referral? 15:07

6 A. No. I think I've explained it a number of times. That  
7 was my decision at the time. I felt it was the right  
8 thing to do. Maybe I got the section wrong, but one  
9 way or the other it had to be referred to GSOC, and we  
10 were obliged under the Act to do that. And GSOC, I 15:07  
11 understood were still going, they were doing a section  
12 98 investigation.

13 333 Q. Okay. Your diary note that we have seen refers to  
14 Assistant Commissioner Kenny?

15 A. Yes. 15:07

16 334 Q. I want to get your evidence on this point. Was he  
17 consulted at any stage prior to the meeting of the 8th  
18 October by you?

19 A. No. But he would have been aware from Superintendent  
20 English's report in relation to the threats. I would 15:08  
21 note that that would have been sent to him.

22 335 Q. Yes?

23 A. To his office. So I presume that he would have read  
24 those reports.

25 336 Q. Okay. So he was cc'd on the report relating to the 15:08  
26 threats of the 4th and the 5th?

27 A. Exactly, yes.

28 337 Q. But you didn't have any discussion with him, did you --

29 A. No.

1 338 Q. -- on any of the issues discussed --  
2 A. No.  
3 339 Q. -- before they were discussed --  
4 A. No.  
5 340 Q. -- or while the meeting was going on? 15:08  
6 A. Absolutely not, no.  
7 CHAIRMAN: By threats you mean threats to Garda  
8 Harrison?  
9 A. The threats against Garda Harrison on the 4th and 5th,  
10 Judge. 15:08  
11 341 Q. MR. MCGUINNESS: Not Marisa Simms' issue?  
12 A. No, no.  
13 342 Q. So did Assistant Commissioner Kenny have any input into  
14 any of the decisions that were at the meeting --  
15 A. No. 15:08  
16 343 Q. -- or discussed at the meeting?  
17 A. No.  
18 CHAIRMAN: And he wasn't, for instance, on speaker  
19 phone or anything like that?  
20 A. Absolutely not, no. I was just reporting to him as my 15:09  
21 line manager, keeping him in the loop as to what was  
22 happening. I felt he should know about it.  
23 344 Q. MR. MCGUINNESS: Now in terms of what stage the  
24 criminal investigation was at after GSOC --  
25 CHAIRMAN: Should we break now, Mr. McGuinness. I'm 15:09  
26 sure you're nearly finished, but it is two hours ten  
27 minutes. So we will break for ten minutes.  
28  
29

1                   THE HEARING ADJOURNED BRIEFLY AND THEN RESUMED

2                   AS FOLLOWS:

3 345 Q. MR. MCGUINNESS: Chief Superintendent McGinn, I was  
4 asking you what the status then was of the criminal  
5 investigation after you learned of the GSOC outcome? 15:23

6 A. At that stage then I made an application to the  
7 assistant commissioner northern region, AC Kenny, I  
8 wanted the appointment of somebody from outside the  
9 division to carry out the criminal investigation.

10 346 Q. And I am just not clear as to why it was necessary to 15:23  
11 do that?

12 A. I suppose it goes back to the history of An Garda  
13 Síochána in Donegal, in relation to I suppose after the  
14 Morris Tribunal there was a lack of confidence in  
15 policing and that there was an attitude that we didn't 15:23  
16 want to do our own, that we didn't want to investigate  
17 our own people and that I wanted it to be an  
18 independent investigation so that it was very clear and  
19 transparent.

20 347 Q. Yes. You made a four-page written application dated 15:24  
21 12th November, and that is at page 1590 of the  
22 documents. And you recite much of the information that  
23 was in your previous application to have Garda Harrison  
24 suspended, isn't that right?

25 A. Yes, that's correct. I do correct one mistake, that -- 15:24  
26 well, it wasn't a mistake at the time, but I think in  
27 my report of the 10th to Internal Affairs I state that  
28 Garda Harrison represented himself as a member of An  
29 Garda Síochána at the Westport incident, because that

1 was the information I had at the time.

2 348 Q. Yes.

3 A. But I think by the time it comes to this report, I am  
4 aware now that he didn't represent himself as a member  
5 of An Garda Síochána, I correct it in this report. 15:24

6 349 Q. Yes. You ultimately conclude on page 1593, just the  
7 last sentence of the second-last paragraph you say:  
8  
9 "The alleged behaviour is criminal and is not  
10 compatible with his role as a member of An Garda 15:25  
11 Síochána. I previously sought to have Garda Harrison  
12 suspended from duty as I have concerns over his  
13 continued employment. I attach a copy of Chief  
14 Superintendent Internal Affairs report on the matter at  
15 appendix H. Nonetheless I continue have severe 15:25  
16 reservations as to Garda Harrison's continued  
17 employment as a member of An Garda Síochána and I  
18 respectfully request that this investigation is given  
19 priority."

20 A. That's correct. 15:25

21 350 Q. I mean, that is a very clear expression of your view at  
22 that time obviously of Garda Harrison, having regard to  
23 the content of the statement. But he hadn't, in fact,  
24 been interviewed at that point in time, isn't that  
25 correct? 15:26

26 A. That's correct, Judge, yes.

27 351 Q. And would it not have been appropriate, having regard  
28 to all of the previous steps, such as they were, that  
29 had been taken in relation to the investigation, to

1 have in fact interviewed him, whether under caution or  
2 arrest, before deciding this, because you had had, had  
3 you not, an active criminal investigation in mind and  
4 previously in progress in relation to his alleged  
5 behaviour?

15:26

6 A. Well, I had appointed Inspector Sheridan to carry it  
7 out, but the fact that I made the 102 referral, I  
8 understood in my mind that they were conducting the  
9 investigation. When it became apparent that they  
10 weren't doing the investigation I still was of the view  
11 that I wanted it done independently of the division. 15:26  
12 Yes, certainly, there was -- you know, in the mind of  
13 the investigator, you know, there was -- obviously I  
14 wouldn't be able to tell them whether there was  
15 reasonable cause to suspect, but that would be a matter 15:26  
16 for the investigator. But I could have appointed  
17 somebody within the division but I felt I wanted it to  
18 be done outside and that's outside the division, I  
19 wanted it to be independent and I felt that, I was  
20 asking the Commissioner to appoint somebody to assist 15:27  
21 me in that regard.

22 352 Q. Was that to be fair to him, because you yourself  
23 perhaps felt that you had too prejudiced a view to  
24 appoint someone, that it might be tainted if it  
25 appointed them is that it? 15:27

26 A. Yes, I wanted it to be done independently.

27 353 Q. Okay. But what about going to Ms. Simms, because at  
28 this point in time it's now -- the person regarded as  
29 the victim and under threat, did you know whether she

1 was back living with Garda Harrison at this point in  
2 time, 12th November?

3 A. What date was that?

4 354 Q. 12th November.

5 A. I think I was, yeah, I think there was information that 15:27  
6 she was back.

7 355 Q. Okay. But in circumstances where you had categorised  
8 the threat to burn as a threat to kill --

9 A. Yes.

10 356 Q. -- along with the other catalogue of behaviour that you 15:28  
11 regarded as very serious, why did nobody go back to her  
12 at that point in time? Because here was her complaint,  
13 unwithdrawn, as it were, as far as a criminal  
14 investigation is concerned, and were you not concerned  
15 for her position at that point in time? 15:28

16 A. At that time we didn't, I think -- at that time, I  
17 don't think Inspector Sheridan had been speaking with  
18 Ms. Simms, but I think my knowledge at that time that  
19 was she didn't want GSOC to carry out the  
20 investigation. I obviously still had the criminal 15:28  
21 investigation. You know, it had to be dealt with.  
22 There were very serious allegations that were made  
23 against Garda Harrison and I took them seriously and I  
24 wanted them investigated. At that stage, we didn't go  
25 back to inform Ms. Simms that it was being -- because I 15:29  
26 wanted it to be done quickly, promptly, I wanted the AC  
27 to appoint a superintendent for me to do that  
28 investigation.

29 357 Q. Well, it didn't appear, therefore, that you had lost

1 heart in the ability to have an investigation. You are  
2 saying you wanted one, you were looking for an outside  
3 impartial investigator, but were you not concerned that  
4 Ms. Simms' conduct in refusing to consent to the GSOC  
5 one, meant that it was curtains for any possible  
6 criminal investigation or --

15:29

7 A. No, it wasn't curtains. I didn't know the  
8 circumstances in which she didn't wish to cooperate.  
9 And in these serious investigations, although Ms. Simms  
10 is a critical witness and her views certainly matter,  
11 but it's a moral wrong that has been done and there is  
12 an obligation on An Garda Síochána to ensure that it's  
13 properly investigated and a file sent to the DPP. So  
14 irrelevant of whether Ms. Simms cooperated or she was a  
15 hostile witness, there was still an obligation on the  
16 An Garda Síochána to have the matters investigated.

15:29

15:30

17 358 Q. Well, you see, as I understand it from this date, 12th  
18 of November, you didn't get anyone appointed until I  
19 think early January, and then it wasn't someone who was  
20 impartial and independent.

15:30

21 A. Yes. Initially when it came back it was suggested by  
22 or recommended by the assistant commissioner I appoint  
23 Superintendent McGovern. I was of the view myself that  
24 this wasn't suitable, but the assistant commissioner  
25 appointed him, insisted that I appointed him and I  
26 appointed him and then it came back from Internal  
27 Affairs that he obviously wasn't independent, that --

15:30

28 359 Q. Okay. Was it you who procured the appointment then of  
29 Superintendent Murray as a result of communications --



1 A. No. I went back to the assistant commissioner and I  
2 asked that he would make the appointment for me. Like,  
3 I won't have the authority or the autonomy over other  
4 superintendents, so you know what I mean, I was asking  
5 him to nominate somebody for me to do the 15:31  
6 investigation.

7 360 Q. Okay. But did you know that in fact Ms. Simms had  
8 withdrawn her statement of complaint at that point in  
9 time?

10 A. I understood that Ms. Simms had withdrawn, yes, I was 15:31  
11 aware from Inspector Sheridan.

12 361 Q. Well, we know that that investigation never, in fact,  
13 got completed. Did it get started as far as you were  
14 concerned or did you have any role in supervising that?

15 A. No, no, once I made the appointment -- I was the 15:31  
16 appointing officer, once I made the appointment and  
17 provided Superintendent Murray with the necessary  
18 materials to conduct her investigation, both criminal  
19 and discipline, then she would revert back to me with a  
20 file. Obviously the criminal matters would go to the 15:31  
21 DPP, the discipline matters would come back to me as  
22 the appointing officer. I then become the deciding  
23 officer on the outcome of what the investigation --

24 362 Q. I am just concerned to separate the different strands  
25 of action. 15:32

26 A. Yes.

27 363 Q. And obviously the Tribunal is concerned with the  
28 propriety of the HSE referral. Were you motivated in  
29 any way in your dealings with Garda Harrison by any

1           malign intent or --

2       A.   Absolutely not. You know, I had no reason. I had been  
3       dealing with -- and if I can call them whistleblowers.  
4       I had been dealing with whistleblowers in this  
5       organisation since 2002. And I know it's very           15:32  
6       difficult for a person to become a whistleblower in an  
7       organisation like An Garda Síochána, and I have always  
8       supported them in the role and provided clear pathways,  
9       that they can come forward and tell their story in an  
10      environment where they feel protected. And there is no   15:32  
11     way that I would in any way malign Garda Harrison for  
12     what he describes, that he is a whistleblower. I  
13     certainly would not have done it. My past history  
14     would show that I have dealt with whistleblowers in  
15     this organisation and I have always dealt with them in   15:33  
16     a professional manner and I certainly in no way would  
17     malign in any way Garda Harrison.

18   364   Q.   I think it subsequently emerged that he made a  
19       protected disclosure in May of 2014, after the events  
20       we are talking about --                                   15:33

21           CHAIRMAN: Yes, it was. It was the 15th of May. It  
22       was a good bit later indeed.

23       A.   It was a good bit later, Judge, yes.

24   365   Q.   MR. MCGUINNESS: But when you were dealing with, and  
25       making the decision to try and continue with the           15:33  
26       criminal investigation, was that in any way linked to  
27       the HSE referral or what was your knowledge of the  
28       state of the HSE referral at that point in time?

29       A.   I wasn't involved in any way with the HSE referral at

1 any stage. My sole focus was in relation to ensuring  
2 that there was an investigation of the criminal conduct  
3 and that it was done in an impartial, independent way.  
4 I had absolutely no dealing with the HSE or any  
5 matters concerning it.

15:34

6 366 Q. Did you have any contact with Sergeant McGowan in the  
7 period between January and February of 2014 in relation  
8 to the HSE referral?

9 A. No.

10 367 Q. Did you discuss whether the withdrawal of the statement  
11 had any consequences for the HSE referral or have any  
12 concern as to what the HSE might do as a result of  
13 that?

15:34

14 A. No, no, once the matter was referred to the HSE, that  
15 was their business.

15:34

16 MR. MCGUINNESS: Would you answer any questions anyone  
17 else may have for you? Thank you.

18 CHAIRMAN: Maybe I could just stop this with a view to  
19 organise -- and I am not saying anyone is going to take  
20 a long time. I am just trying to organise Monday and  
21 where we stand, because we can't sit until 11:00. I  
22 hope it is going to be 11:00. You will be what,  
23 Mr. Harty?

15:34

24 MR. HARTY: I will be in excess of two hours.

25 CHAIRMAN: All right. And then, Mr. Barnes?

15:34

26 MR. BARNES: Sir, I will be less -- I will take less  
27 time than that, I would have thought.

28 CHAIRMAN: Perhaps half an hour.

29 MR. BARNES: Hopefully less than an hour. Half an hour

1 perhaps.

2 CHAIRMAN: Yes. Perhaps half an hour. And then,  
3 Mr. McDermott, you've no questions?

4 MR. MCDERMOTT: I don't anticipate any questions.

5 CHAIRMAN: Yes. And Mr. Dockery or Mr. Ó Braonáin? 15:35

6 MR. DOCKERY: Sir, if I do have any questions I expect  
7 they will be very short. I don't expect to spend any  
8 time.

9 CHAIRMAN: And Mr. Ó Braonáin? It's just a question of  
10 sweeping up, I suppose, if there's anything left out. 15:35

11 MR. POWER: Yes, Chair.

12 CHAIRMAN: Sorry, Mr. Power. I beg your pardon.

13 MR. POWER: Not at all, Chairman.

14 CHAIRMAN: I am sorry, I seem to be always -- it's  
15 something to do with the fact that there is a thing 15:35  
16 behind you.

17 MR. POWER: Not at all. I would expect we will have a  
18 few questions but I can't imagine that being very long,  
19 but that is conditional on the cross-examination.

20 CHAIRMAN: All right. 15:35

21 MR. DIGNAM: At this point, Chairman, I don't  
22 anticipate having any questions, subject to what  
23 Mr. Harty.

24 CHAIRMAN: All right. So, we are in a position to take  
25 other witnesses then Monday afternoon, from the look of 15:35  
26 it. That is great. So there you are, thanks chief  
27 superintendent.

28 MR. POWER: I wonder just before Mr. Harty commences  
29 his cross-examination, if I may inquire as to whether

1           Garda Harrison is making allegations as regards Chief  
2           Superintendent McGinn in terms of the terms of  
3           reference, that is to say whether the allegation is  
4           being made that somehow she did intervene with Tusla  
5           and the HSE at that time or what the nature of any           15:36  
6           allegations may be as against Chief Superintendent  
7           McGinn? I am not trying to close down any questions, I  
8           am not trying to suggest questions shouldn't be asked,  
9           I am just wondering in advance what the tenor of the  
10          allegations against the chief superintendant will be.           15:36  
11         CHAIRMAN: All right. Mr. Power, I regard your  
12          intervention as entirely reasonable, but there's just  
13          two things. First of all, this is not a case where  
14          there are Pleadings where someone says the following  
15          happened, someone denies the following happened, I am           15:36  
16          actually supposed to be inquiring, if you like, into a  
17          broad event and therefore I am entitled to reach any  
18          view whether it actually is put to somebody or not,  
19          provided of course it's sensible and it's backed up by  
20          evidence or it is an inference that can be raised as a           15:37  
21          probability. Secondly, while I have been banging on  
22          about the rule in Browne v. Dunn, tiresomely perhaps by  
23          times but I think it's necessary, and McDonagh v.  
24          Sunday Newspapers, I have also said, and it has to be  
25          correct, that the time at which a particular allegation           15:37  
26          is put is a matter for counsel and in the context of  
27          the questions they ask is a preliminary. So I  
28          certainly wouldn't be asking Mr. Harty or indeed  
29          anybody else are they going to put a particular

1 allegation because it's up to them to do it in the  
2 context provided they are aware, and I am sure everyone  
3 is aware, that in the event that there is an  
4 allegation, that their client wants to make it has to  
5 be put, whether it's regarded by counsel as sensible or 15:37  
6 not, as honest or not, and I am not referring to this  
7 case, it is just a general duty, but it has to come  
8 from counsel. So I am going to leave it to good sense.  
9

10 CHIEF SUPERINTENDANT MCGINN WAS CROSS-EXAMINED BY 15:38

11 MR. HARTY:

12 MR. HARTY: Thank you, sir.

13 368 Q. Chief superintendent, you have been here for the last  
14 two-and-a-half weeks, so there is probably no need for  
15 me to introduce myself at this stage. You weren't 15:38  
16 present or you weren't -- you were on leave at the time  
17 that Garda Harrison arrived in Donegal, isn't that  
18 correct?

19 A. Yes.

20 369 Q. In relation to his move from Athlone, the Tribunal has 15:38  
21 already heard evidence that he was simply rejected out  
22 of hand by a number of other divisions, and you are  
23 aware of that?

24 A. I saw that, yes, evidence here, yes.

25 370 Q. And I have to put it to you that that is unusual, that 15:38  
26 at a time of reduced manpower in the force, which  
27 manpower in the force was very reduced I take it in  
28 2011, that any division would reject a member. They  
29 are being offered a man.

1 A. Yeah --

2 371 Q. Ordinarily, you would expect that you would grab him  
3 with both open arms.

4 A. We all like to get manpower and certainly we would  
5 accept, yes, absolutely. 15:39

6 372 Q. Yes. So this was an unusual situation. At the time of  
7 the application for the transfer, whereby the Athlone  
8 Moate division was happy to release Garda Harrison, and  
9 there is no issue in relation to that for this  
10 Tribunal, but when he was offered to a number of other 15:39  
11 divisions he was rejected out of hand.

12 A. I can see that from the correspondence, yes.

13 373 Q. Yes. And you will accept that there is something  
14 unusual about that, particularly in circumstances where  
15 every division in the country was undermanned in 2011? 15:40

16 A. Yes.

17 374 Q. I think you would say every division in the country  
18 remains undermanned in terms of what you have available  
19 to you and your resources being spread?

20 A. Absolutely, yes. 15:40

21 375 Q. There was a complete recruitment --

22 A. There was embargo all over the Civil Service.

23 376 Q. I think from 2008?

24 A. I think from about 2007/2008.

25 377 Q. And you literally were getting nobody? 15:40

26 A. There was no recruitment right across the public  
27 service so, you know, every man counted.

28 378 Q. Yes. You weren't present when the transfer -- and, can  
29 I take it from your evidence that you were -- I am

1           aware that you were out on maternity leave.

2           A.    Yes.

3 379 Q.    Did you do the sensible thing and leave everything  
4           behind when --

5           A.    Yes, I think I did, having young children was busy in   15:40  
6           itself, you know.

7 380 Q.    Yes.  So you weren't being troubled by the office?

8           A.    No.  The only thing that I came back for at that time  
9           was Gary McLoughlin's death.

10 381 Q.   well, I think at that time it would have been the trial   15:41  
11           of Martin McDermott that you would have come back for.

12           A.    Come back for, yes.

13 382 Q.    In that the death had happened at least --

14           A.    The death had happened prior, yeah.

15 383 Q.    The actual accident or the collision - I won't use the   15:41  
16           word accident - took place and the driving of Martin  
17           McDermott took place almost two years previously.

18           A.    That's right, yeah.  Sorry, I was out sick at that  
19           time.  I had broken my leg at that stage.

20 384 Q.    So that is why you came back at the time?                   15:41

21           A.    At the time, yeah, because I was out, I had broken my  
22           leg, sorry, at that stage, yes.

23 385 Q.    You arrived at the scene of the crime with a broken leg  
24           and you came back for the trial?

25           A.    And I didn't give evidence at the trial.                   15:41

26 386 Q.    No, but you came back to observe the trial, I take it.

27           A.    No, I didn't, no.  Sorry, I was getting confused  
28           earlier.  It was actually, I came back the time he died  
29           and the funeral and all of that areas, but I was out --



1 that time I had fallen and I had broken my leg and I  
2 was out sick at that stage. No, I hadn't come back at  
3 all for the trial, no. I wasn't involved in the trial  
4 in any way.

5 387 Q. No. You were very much away from the desk. 15:42

6 A. Yes.

7 388 Q. And away from the office. And when you say that Garda  
8 Harrison first came to your attention was at that Garda  
9 welfare meeting, is that how you described it?

10 A. That's right, yeah. I think it was in November 2011. 15:42  
11 It was between the two maternity breaks.

12 389 Q. Right. And at that, it was discussed, Garda Harrison  
13 indicated that his financial situation would be  
14 improved and assisted if he didn't have to engage in a  
15 long commute every day, isn't that correct? 15:42

16 A. Well, he presented to me that he was in financial  
17 difficulties and myself and the employee assistance  
18 man, Mr. Tuohy, or Garda Tuohy, we were trying to see  
19 how we could assist him and make it better for him.

20 390 Q. And he had already, in fact, made an application to 15:43  
21 transfer to Letterkenny?

22 A. He had, that's correct.

23 391 Q. And Superintendent Coen in his correspondence in  
24 relation to the matter indicated that Chief  
25 Superintendent Sheridan had firm views in relation to 15:43  
26 the matter and that he didn't recommend that a transfer  
27 take place at that stage?

28 A. That's correct.

29 392 Q. He says nothing more in his correspondence and in

1 relation to his statement to the Tribunal, he was of  
2 the view that you are a woman who knows your own mind  
3 and well capable to make your own decisions.

4 A. So they say.

5 393 Q. And that you were not somebody who it would be 15:43  
6 necessary to tell you what decision to make in relation  
7 to anything.

8 A. Sometimes they tell me the lady is not for turning.

9 394 Q. All right. well, the meeting that you would have had  
10 with Garda Harrison was a meeting, I take it, in which 15:44  
11 you were fully briefed with documentation in relation  
12 to him?

13 A. The employee assistance meeting?

14 395 Q. Yes.

15 A. Yes, yes. 15:44

16 396 Q. And at that stage you would have had -- this took place  
17 in Ballyshannon, is that right?

18 A. Ballyshannon Garda Station, yes.

19 397 Q. which is where his extensive personnel file was kept?

20 A. His personnel file would be there, yeah, with the 15:44  
21 district officer, yes.

22 398 Q. A file which is described as extensive in  
23 correspondence.

24 A. well, you know what I mean, like, personnel files are  
25 quite, by the nature of the information that is kept on 15:44  
26 them.

27 399 Q. And I take it at that stage you would have been aware  
28 in relation to the transfer from Buncrana?

29 A. I would have been aware that he had had transfer down,

1 but my understanding -- and I am not sure if it was  
2 spoken at the meeting, but I was of the understanding  
3 that Garda Harrison was happy with the transfer to  
4 Donegal Town. Like, it wasn't on my radar or issue  
5 that he wasn't anything but happy.

15:45

6 400 Q. But at the meeting, and what -- I am not concerned at  
7 this time with dealing with your understanding and how  
8 you felt that meeting went. I am just more interested  
9 to know what you knew at that meeting?

10 A. What I knew at that meeting, that Garda Harrison had  
11 presented that he had -- you know, he had major  
12 financial difficulties, he had transferred from  
13 Athlone, that his marriage had broken down, they were  
14 trying to sell the house or the property that they had  
15 lived in, there was negative equity, there was a big  
16 loans and that he had the commute to -- he had a  
17 commute -- sorry, excuse me.

15:45

18 CHAIRMAN: I am not sure that it's necessary to go into  
19 that detail. It's not a criticism, chief  
20 superintendent, but, well, for a start, I think a lot  
21 of people at that time would have had problems.

15:45

15:46

22 A. Oh, yes, similar, it was the same.

23 CHAIRMAN: No, no, I understand. The other thing is, I  
24 think anyone who has a divorce also has a financial  
25 problem.

15:46

26 A. Yes.

27 CHAIRMAN: So, it makes sense.

28 A. Yeah, but that was the purpose of the meeting, that is  
29 why the meeting was called; because of his financial

1 difficulties.

2 401 Q. MR. HARTY: And I think at that stage there's no  
3 evidence from Garda Harrison, either in his statement  
4 or elsewhere, that he represented to you that he had  
5 difficulties with the station. What I am asking you is 15:46  
6 that, what did you know about Garda Harrison at that  
7 meeting?

8 A. In what sense, please?

9 402 Q. Before he sat into the meeting, before he came in, you  
10 determined at that meeting that it would not be 15:46  
11 possible for Garda Harrison to move to Letterkenny?

12 A. That's right, yes.

13 403 Q. And why did you come to that determination?

14 A. Because Garda Harrison was residing with Marisa Simms  
15 at the time and because Marisa Simms, a member of her 15:47  
16 family was involved in criminal activity, I felt that  
17 it would be difficult for Garda Harrison to carry out  
18 his duties in Letterkenny and that -- he was looking at  
19 transferring to Letterkenny, and I was of the view that  
20 it wasn't suitable and that it -- you know, that I 15:47  
21 wasn't going to recommend it.

22 404 Q. When did you learn about Garda Harrison's connection  
23 with Marisa Simms?

24 A. I can't honestly say. I don't know if it came up at  
25 the meeting or I knew before the meeting, whether the 15:47  
26 employee assistant man told me. I can't really put a  
27 date on it, but I knew that he was residing with Marisa  
28 Simms. I can't -- you know, I can't put it into a time  
29 that I knew but it did become the focus of the meeting,

1 that, you know, I couldn't -- I wasn't going to permit  
2 the transfer because of his relationship with  
3 Ms. Simms.

4 405 Q. And that was because of the criminal actions of Martin  
5 McDermott?

15:48

6 A. Yes.

7 406 Q. But Martin McDermott, we are all very clear, from May  
8 of 2011, was to be resident certainly, as far as I am  
9 aware there is no long-term prison in Donegal, and we  
10 knew that Martin McDermott was to be -- was at that  
11 stage incarcerated and was serving his sentence of  
12 eight years, I think was the sentence, I am not sure  
13 whether it was a full eight year sentence but he had  
14 received an eight-year prison sentence in May of that  
15 year?

15:48

16 A. Yes.

17 407 Q. So he wasn't living in Letterkenny?

18 A. No, he was in prison.

19 408 Q. Yes.

20 A. Yes.

15:48

21 409 Q. But it was because of Marisa Simms' connection to  
22 Martin McDermott that Keith Harrison would not be  
23 permitted to serve in Letterkenny?

24 A. In the Letterkenny district, yeah, that's correct.

25 Because of Martin McDermott's association with criminal  
26 activity and his associates, the people who he conducts  
27 crime with all reside and conduct their business in the  
28 Letterkenny district close to the border, so I wasn't  
29 going to give the code exemption.

15:49

1 410 Q. But there is no code exemption in respect of somebody's  
2 relation's associates.

3 A. No, it's in relation to whether the person is involved  
4 in the -- any family member, it's quite clear -- the  
5 code is quite clear in relation to it, if they are 15:49  
6 involved in any way in criminal activity. And that  
7 doesn't only go for Garda Harrison's case. For  
8 example, if a member of An Garda Síochána's family  
9 members own a public house and licences.

10 411 Q. Yes, I am aware of restrictions in the code. 15:50  
11 A. Yes.

12 412 Q. There's no restriction in the code in respect of  
13 somebody having a family member who has been convicted  
14 and is imprisoned elsewhere, does not reside in the  
15 district. The difficulty is, the code is limited to 15:50  
16 family members running businesses in the district,  
17 isn't that correct?

18 A. No, there are a number of options.

19 413 Q. Perhaps we could pull up regulation 8 -- the code.  
20 A. 8.3, isn't it? 15:50

21 414 Q. Yes, 8.3.  
22 A. And in it there's circular 159 I think of 10. Because  
23 Garda Harrison cites that in some of his  
24 correspondence, he wants to swap with somebody in  
25 Dungloe and he himself highlights that he doesn't have 15:50  
26 any issues under those regulations.

27 415 Q. Yes, but regulation 8.3 doesn't mention --  
28 A. No, 8.3 is the exemption which I can recommend. I  
29 don't actually give the exemption, it's Headquarters,

1 but I can recommend whether he gets the exemption under  
2 that.

3 CHAIRMAN: Yes. Is this on the system?

4 MR. HARTY: It is on the system, I am just getting the  
5 page reference. Apologies. 15:51

6 CHAIRMAN: You quote it I think in your statement at  
7 some point.

8 A. Yes, it's in my statement.

9 MR. HARTY: Yes. It's also indexed in the --

10 CHAIRMAN: I am just wondering have we got a copy of 15:51  
11 it?

12 MR. HARTY: 1280.

13 CHAIRMAN: We have a copy of that.

14 416 Q. MR. HARTY: Yes. So, this is, 8.1 deals with the  
15 authority to direct transfers and undoubtedly that is a 15:51  
16 matter which you were able to do within your division,  
17 and if we go down, continue on down, please.

18 CHAIRMAN: I think it's 8.3 you were referring to?

19 MR. HARTY: 8.3, yes.

20 CHAIRMAN: So it's down a wee bit. 15:51

21 417 Q. MR. HARTY: And what it says is, 8.3:  
22  
23 "Members prohibited from serving in certain stations:  
24 A member will not be permitted to serve in any station  
25 which is in 32 kilometres --" 15:52  
26

27 Now I accept that was updated by a circular -

28 A. Yes.

29 418 Q. -- to 50 or 60, I think there's a variety of different

1 figures put into it.  
2  
3 "-- is within 32 kilometres of any place where the  
4 member or the member's spouse has relatives permanently  
5 residing, the member's spouse, partner or other family 15:52  
6 members or relatives are engaged in any business  
7 requiring a licence certificate, the grant of which by  
8 a court or other otherwise may be opposed by An Garda  
9 Síochána. The member will not be permitted to serve at  
10 any station which lies within 32 kilometres of any 15:52  
11 place where the member or the member's spouse/partner  
12 or other family member is a proprietor of any business  
13 which is conducted from a shop."  
14  
15 They are the restrictions. 15:52  
16 A. Mm-hmm.  
17 419 Q. And Martin McDermott wasn't residing in Letterkenny?  
18 A. He was in prison at that time, yes, when the  
19 application was made.  
20 420 Q. And in your statement which you gave to the Tribunal in 15:52  
21 relation to it, you indicated the regulation 8.3 was  
22 the reason why he was transferred out of Buncrana.  
23 CHAIRMAN: No, I thought it was the opposite, I thought  
24 she said he shouldn't have gone to Buncrana because --  
25 421 Q. MR. HARTY: Sorry, he shouldn't have gone to Buncrana 15:53  
26 because of regulation 8.3, isn't that correct?  
27 A. Yes, yes.  
28 422 Q. And yet Martin McDermott never resided in Buncrana,  
29 isn't that correct?



1 A. I had no knowledge now whether he ever lived there, I  
2 don't know.

3 423 Q. Well, you see --

4 A. I don't know, but I know that he lived in Derry, which  
5 is next door to Buncrana and I know he lived in 15:53  
6 Strabane, so he had resided in Derry for a while, so at  
7 the time -- I am not 100 percent, but I know he  
8 conducts his business between Derry and Strabane.

9 424 Q. The situation was that you were asked, like everybody  
10 called upon by this Tribunal, to give a statement of 15:53  
11 evidence in relation to relevant matters, and you  
12 recall the Chair's bilingual call to us to assist with  
13 the Tribunal?

14 A. That's correct. And I gave my statement I think in  
15 March '17, yes. 15:54

16 425 Q. Yes. And you appreciate how important your statement  
17 is?

18 A. Absolutely, yes.

19 426 Q. You are the chief superintendent in the Donegal  
20 division? 15:54

21 A. Yes.

22 427 Q. And you appreciate, I think, that in terms of an  
23 initial reading of what is to come before this  
24 Tribunal, it is one of the first things anyone who is  
25 coming to this Tribunal will look at, what you say 15:54  
26 happened?

27 A. Well, I was invited, like every other citizen of the  
28 State, if they had any information, to assist the  
29 Tribunal. And I was aware of a number of incidents

1           which I thought were of relevance to the terms of  
2           reference and, you know what I mean, I provided a  
3           statement in that regard.

4 428 Q.    And you were aware of a number of things that you did  
5           as well in relation to that, isn't that correct? 15:55

6           A.    Yes.

7 429 Q.    Discussions you have had, meetings you had in relation  
8           to it?

9           A.    Yes.

10 430 Q.    And in relation to -- 15:55

11          A.    In relation, sorry, to the terms of reference?

12 431 Q.    In relation to the terms of reference.

13          A.    Oh, yes.

14 432 Q.    Yes. And in relation to the -- how the treatment --  
15          the statement of Marisa Simms was taken and how the 15:55  
16          statement of Marisa Simms was then the subject of a  
17          referral or formed the basis of a referral to Tusla,  
18          that was the relevant matters, wasn't it?

19          A.    Yes. Well, I provided what information that I provided  
20          in the statement -- 15:55

21 433 Q.    I am asking you --

22          A.    -- on the understanding if, and I have it in the  
23          statement, that if the Chairperson wished to come back  
24          and clarify matters with me or further information that  
25          I was willing to do that. 15:56

26 434 Q.    But wasn't it your obligation to give that further  
27          information at the start?

28          A.    At the start I was just laying out what information  
29          that I had and I think I put a line in it that if any

1 matters wished to be clarified further that the -- that  
2 the Chairperson would come back to me and provide  
3 further detail.

4 CHAIRMAN: Mr. Harty, I wonder could I intervene. It's  
5 just to try and clarify. I appreciate that the 15:56  
6 attitude taken by Garda Harrison in the witness-box was  
7 that he felt that what his partner's brother did was  
8 nothing to do with him, and secondly, that he thought  
9 that perhaps it wasn't ideal that he should go to  
10 Buncrana, but are we now concentrating on was there a 15:56  
11 refusal to transfer to Letterkenny, which was about six  
12 months after the transfer to Donegal Town, on a basis  
13 that wasn't in accordance with the Code, is that  
14 what --

15 MR. HARTY: That this -- 15:57

16 CHAIRMAN: In other words, that there was an animus  
17 there which is manifested by the refusal to --

18 MR. HARTY: Yes.

19 CHAIRMAN: That is fine, if that is what it's about.

20 MR. HARTY: But what I am dealing with right now in 15:57  
21 fact is something perhaps more fundamental to how the  
22 Tribunal has been able to carry out its function.

23 435 Q. Isn't it important, when giving information to the  
24 Tribunal, that you try to be as accurate and truthful  
25 in relation to the matters which are relevant to the 15:57  
26 Tribunal, as possible?

27 A. Absolutely, yes.

28 436 Q. So in relation to your background information that you  
29 gave, you say in respect -- and if I go to page 49,

1 second-last paragraph of that page, please:

2  
3 "On the 15th March, at a time when Martin McDermott was  
4 in custody awaiting trial, Garda Keith Harrison  
5 transferred from Moate to Buncrana at his own request." 15:58

6  
7 And that is accurate, in that Garda Harrison did  
8 request a transfer, he didn't request Buncrana but I  
9 don't think there is any issue there.

10  
11 "On arrival at Buncrana Garda Harrison was attached to  
12 Unit C, which is the same unit on which the late Garda  
13 Gary McLoughlin had been a member. Garda management in  
14 Donegal were unaware of the connection between Garda  
15 Harrison and Marisa Simms prior to his transfer to 15:58  
16 Donegal."

17  
18 Yet again that is all accurate.

19  
20 "Garda Harrison did not offer this information to Garda 15:58  
21 management notwithstanding a requirement under the  
22 Garda Code to notify any family connections or  
23 relationships which might mean that a garda should not  
24 serve in a particular district or station."

25  
26 That simply isn't an accurate representation of what  
27 regulation 8.3 or 4 says. It doesn't go that far. It  
28 says that you may not serve in a particular station on  
29 the basis of family residing or operating a business

1           within a certain distance from that station. And do  
2           you appreciate that?

3           A.    You see, the obligation in that regard in relation to  
4           Garda Harrison was to apply for an exemption under 8.3,  
5           to allow him to serve in Buncrana. 15:59

6 437 Q.    He wasn't required to because there was no family  
7           living there?

8           A.    But he was with Ms. Simms at that time, I understand.

9 438 Q.    No.

10          A.    So when he came on transfer he wasn't? Is that -- 15:59

11 439 Q.    Sorry, what I am asking you is: The regulation says  
12           that you may -- He was dating Ms. Simms. He wasn't  
13           living with her. She was not at that stage his  
14           partner. And when you baldly suggest to the Tribunal  
15           that he did -- the manner in getting a transfer to 15:59  
16           Buncrana was somehow knowingly ignoring the  
17           regulations, do you accept that that is an unfair  
18           picture to present of what occurred?

19          A.    My understanding is that Garda Harrison was fully aware  
20           of his obligations to notify and my understanding is 16:00  
21           that he spoke to both Marisa and his father and both  
22           persons highlighted to him that it wasn't good.

23 440 Q.    Okay, sorry. Sorry, chief superintendent. The  
24           regulation doesn't say what you say it says.

25          A.    Garda Harrison at that stage was making an application 16:00  
26           in some of the paperwork that he wants to come to  
27           Donegal division and he actually highlights himself  
28           that he is fully aware of his obligations under 8.3, he  
29           wants to make --

1 441 Q. 8.3 does not say, there is nothing in 8.3 which says  
2 that Garda Harrison could not serve in Buncrana Garda  
3 Harrison. That is the point.  
4 A. The point is that if he wants to serve in a station  
5 where he has family connections or relationships, he 16:01  
6 must apply to the local chief superintendent for an  
7 exemption to serve in that area.  
8 442 Q. Did you get assistance in drafting this statement?  
9 A. No.  
10 443 Q. No. Did you read regulation 8.3 before you drafted 16:01  
11 this statement?  
12 A. No. But I deal with 8.3 all the time in my role as the  
13 chief superintendent.  
14 444 Q. Can I tell you that 8.3 isn't something that you can  
15 add words into or take words out of. 16:01  
16 A. No, but in my role as chief superintendent there are  
17 occasions when members of An Garda Síochána require to  
18 be posted in areas where they would have family  
19 connections or there would be licensing issues or  
20 reasons why they can't serve there, and they make 16:01  
21 application to me under 8.3 of the Act if they can  
22 serve, and then I make a recommendation under 8.3 to  
23 the Garda Commissioner, yes, I don't have any issues  
24 with this person serving.  
25 445 Q. The point I'm pointing to you, chief superintendent, is 16:02  
26 that when you put this into your statement, if you deal  
27 with 8.3 all the time, you must have known that there  
28 was no objection to Garda Harrison in respect of 8.3.  
29 It was raised with him that it would not work, it was

1 raised with him that it was insensitive of him to go in  
2 there, it was raised with him that there would be  
3 problems on the ground and certainly Chief  
4 Superintendent Sheridan never relied on regulation 8.3  
5 to ask Garda Harrison -- to inform Garda Harrison that 16:02  
6 he had to leave Buncrana. And he is very clear in his  
7 evidence on that.

8 A. But Garda Harrison is also aware in correspondence when  
9 he is applying to come into Dungloe Garda station,  
10 where he has to do a swap with somebody who wants to go 16:02  
11 to the westmeath division, that he doesn't have any  
12 difficulties under 8.3 and 1 --

13 446 Q. I am not saying there's any difficulties.

14 A. No, but he knows, Garda Harrison fully knows that he  
15 cannot serve in an area which is going to cause -- 16:03

16 447 Q. Sorry, chief superintendent, you run a division of An  
17 Garda Síochána.

18 A. That's correct, yes.

19 448 Q. Can I put it to you that one of the first things you  
20 should be aware of is the meaning of the provisions of 16:03  
21 the Garda Code.

22 A. It's a very big document, but the ones I am using  
23 regularly, which I am dealing with this regularly,  
24 where people serve, I feel that I have a good knowledge  
25 of it. 16:03

26 449 Q. And in this instance, nobody raised 8.3 of the Garda  
27 Code in respect of Garda Harrison being in Buncrana?

28 A. If my understanding is correct, and as you rightly say  
29 it was Jim Sheridan, chief superintendent, who was

1 dealing with the matter, my understanding of events was  
2 that nobody realised at that time that Garda Harrison  
3 was in a relationship with Ms. Simms.

4 CHAIRMAN: They were together in a house on the 23rd of  
5 May 2011, and again I don't want to drag him into it 16:04  
6 but the husband did come out and there were words  
7 exchanged and the detail which is uncertain is best  
8 left uncertain.

9 MR. HARTY: They were in a relationship at that time,  
10 that is undoubtedly the case, but they weren't -- it 16:04  
11 wasn't a settled relationship. That is not the point.  
12 The point is that nobody at the time thought this was  
13 because of regulation 8.3.

14 CHAIRMAN: But sorry, okay, no, I understand. So you  
15 are saying that it was contrived -- 16:04

16 MR. HARTY: Well, what I am asking is why -- I am not  
17 saying it is contrived.

18 CHAIRMAN: No, no, Mr. Harty, I am not saying it's  
19 contrived. I am just wondering, so I mean, they were  
20 living together at least that night. 16:04

21 MR. HARTY: You are entitled to live with your partner  
22 in -- a garda is entitled to live with their partner  
23 within 32 kilometres of the station of which they  
24 serve. There is no question of the Code preventing  
25 somebody from residing with their partner. The Code is 16:05  
26 very clear. It is that it is within certain distance  
27 of their family or their partner's family residing  
28 within certain distance of a Garda station or operating  
29 a business within a certain distance of the Garda



1 station, of that particular Garda station. And in this  
2 instance nobody suggested that Garda Harrison had any  
3 family within the prescribed distance, nor that Marisa  
4 Simms had any family residing within the prescribed  
5 distance.

16:05

6 CHAIRMAN: That is fine. If you want to make the  
7 point, that is grand. But I mean we going over  
8 something, he said it wasn't ideal himself. I mean,  
9 that may be regarded as a minor concession, but I don't  
10 know. Mr. Harty, please, my interrupting is perhaps  
11 not going to help.

16:05

12 MR. HARTY: I will put it to clearly to the chief  
13 superintendent.

14 450 Q. You should not have put that into your statement to  
15 this Tribunal because you had no basis for making that  
16 assertion and you had no basis for thinking that it had  
17 any factual implications on this case. You should not  
18 have referenced that Garda Harrison had done this in  
19 breach of regulation 8.3 of the code. Do you accept  
20 that?

16:06

16:06

21 A. No.

22 451 Q. No. Even though Chief Superintendent Sheridan, who was  
23 the person who made that decision, did not rely on 8.3  
24 of the Code, do you accept that?

25 A. I heard Chief Superintendent Sheridan's evidence, yes.

16:06

26 452 Q. And there is no question, there is no evidence before  
27 here to suggest that it was in breach of regulation --  
28 the move to Buncrana was in breach of regulation 8.3.  
29 Nobody has called any evidence to suggest that it was

1 in fact in breach of regulation 8.3.

2 A. I think the best thing that should have happened in  
3 this case is that when Garda Harrison transferred into  
4 Buncrana and he became aware of the situation he found  
5 himself in, that at that stage he should have 16:07  
6 immediately brought it to the attention of Chief  
7 Sheridan and arrangements could have been made within a  
8 division to transfer him elsewhere.

9 453 Q. And the answer is that Garda Harrison has accepted that  
10 that would have been the better thing to do. 16:07

11 A. Yes.

12 454 Q. But the point is that the best thing, the quality of  
13 judgement in relation to a situation which arises, is  
14 one thing to say about a garda, it's another thing to  
15 say about a garda that he breached, knowingly breached 16:07  
16 the Garda Code. Do you accept that he didn't knowingly  
17 breach the Garda Code?

18 A. I think my understanding is that when Garda Harrison  
19 came into the division, he was to transfer to -- he was  
20 fully aware of the Code. But to be fair to Garda 16:08  
21 Harrison, when he came into Donegal he didn't know  
22 where he was going to be posted.

23 455 Q. And do you accept that he didn't breach the Garda Code?

24 A. He was in a relationship -- I didn't know where he was  
25 living. No, I can accept that, he didn't know where he 16:08  
26 was going and --

27 456 Q. And you can accept that he didn't think he was  
28 breaching the Garda Code, nor did Chief Superintendent  
29 Sheridan believe he was breaching the Garda Code, do

1           you accept that?

2           A.    Yes.

3 457    Q.    So why did you put it into your statement?

4           A.    Well, I will just read out the section please.  What I

5           said was: 16:08

6

7           "Garda Harrison did not offer this information to Garda

8           management in Donegal, notwithstanding a requirement

9           under the Garda Code to notify any family connections

10          or relationships which means that a garda should not 16:09

11          serve in a particular district or station."

12 458    Q.    And he didn't breach it.

13          A.    Well, if we are talking about distance, I think there

14          was an onus on Garda Harrison to notify Garda

15          management of his relationship with Ms. Simms. 16:09

16 459    Q.    All right.  And you still believe that that has a

17          proper place in your statement before this Tribunal?

18          A.    Yeah, I feel that I am offering -- you know, that I

19          think if the matter had have been, maybe things would

20          have been a lot different. 16:09

21 460    Q.    In any event, you then rely on the same proposition in

22          respect of the request for a transfer to Letterkenny in

23          November of that year, yet again it is somehow that the

24          Garda Code meant that Keith Harrison could not reside

25          in Letterkenny because Martin McDermott had criminal 16:09

26          associates there?

27          A.    Because that was the home place of the McDermott family

28          in Raphoe.  Martin McDermott commits -- he is a

29          criminal, he commits criminal activity and I had to

1 make a decision that I wasn't going to allow the  
2 transfer, that I didn't want to compromise Garda  
3 Harrison or the people that he was working with.

4 461 Q. But in any event, you were intimately aware at this  
5 stage of Garda Harrison's relationship with Marisa 16:10  
6 Simms and the incident in Buncrana?

7 A. Yes, I am aware, yes.

8 462 Q. You were intimately aware at that time?

9 A. I know at the meeting in November, yes.

10 463 Q. In November. And you can't recall how you were made 16:10  
11 aware of it?

12 A. No.

13 464 Q. Now, there was some discussion between Garda Tina  
14 Fowley and the Tribunal as to the word I chose that she  
15 accepted, but it was well-known in Letterkenny Garda 16:10  
16 Station that the incident had occurred in Buncrana in  
17 respect of Garda Harrison, isn't that correct?

18 A. I heard Garda Fowley's evidence, yes.

19 CHAIRMAN: Maybe you would help me with the date. I  
20 have put down, just I am always doing chronologies as I 16:11  
21 go along and I have put that down that it was in June  
22 2012 that there was a move in with Garda Keith  
23 Harrison, but I may be wrong. I got that from  
24 somewhere.

25 MR. HARTY: A move? 16:11

26 CHAIRMAN: In other words, they were living together,  
27 if you like --- -

28 MR. HARTY: Yes.

29 CHAIRMAN: In the same house.

1 MR. HARTY: That is when the --

2 CHAIRMAN: With luggage --

3 MR. HARTY: No, sorry, June 2012 was around the time  
4 where the proposed move in, it was the incident which  
5 related to the exam papers, and that the proposed move 16:11  
6 in had been June 2012, as a result of matters which  
7 weren't gone into in detail Ms. Simms decided not to  
8 move in on that date and in fact the move in formally  
9 was towards the end of that year,, I think Ms. Simms  
10 got her own house in October of 2012 and therefore was 16:12  
11 no longer living with either Garda Harrison or  
12 Mr. Simms at that stage on a permanent basis and then  
13 it was February 2013 when she moved in permanently with  
14 Garda Harrison.

15 CHAIRMAN: All right. well, I am going to find it hard 16:12  
16 to follow this, but I do understand that. I am not  
17 sure why we are going back in relation to this thing  
18 about the unfortunate Garda McLoughlin. Appreciating  
19 the wording that is there. I note as well that 8.4  
20 says "the details of the applicant's relatives and 16:12  
21 those of the member's spouse or partner, but up to and  
22 not including the relationship of second cousin, shall  
23 be included in the columns provided." I mean, I really  
24 am not sure why we are going over this. It may be that  
25 you want to say look, there was no reason why you 16:12  
26 couldn't go to Letterkenny, but -- the other thing I am  
27 puzzled about is the extent to which a superintendent  
28 has discretion about a matter, not everything I suppose  
29 can be written down.

1 MR. HARTY: I think chief superintendents have absolute  
2 discretion in relation to people moving to stations,  
3 they can make the determination. They are best placed  
4 to make a determination as to whether or not the  
5 domestic family situation in respect of a guard -- 16:13  
6 CHAIRMAN: All right. But your allegation is that when  
7 we come to the 12th -- no, no, just hang on a minute --  
8 that when we come to November 2011, the transfer to  
9 Letterkenny and the chat therefore in Ballyshannon  
10 Garda Station, that the refusal to transfer to 16:13  
11 Letterkenny Garda Station was not made by Chief  
12 Superintendent McGinn in good faith, meaning for the  
13 purpose of Garda operations.  
14 MR. HARTY: No, it's not an allegation. I simply  
15 wanted to know the reason for it. And Chief 16:13  
16 Superintendent McGinn has been very clear on it; the  
17 reason for it was because Garda Harrison was in a  
18 relationship with Marisa Simms, whose brother was  
19 Martin McDermott, who had been involved in the death of  
20 Garda Gary McLoughlin. And that is the reason that she 16:14  
21 has given and I wanted to clarify that in relation to  
22 it. It was a matter which was raised.  
23 CHAIRMAN: No, I appreciate that, Mr. Harty, but she  
24 said more than that. She said, look, Martin McDermott  
25 was a criminal, I haven't got in or asked for a record 16:14  
26 and that he and his associates, this is the Garda  
27 district in which they operate. So I mean, there it  
28 is. If you want to challenge that, that's fine. But  
29 that seems to be the evidence.

1 MR. HARTY: I am not -- I am trying to deal with the  
2 witness in relation to her evidence that she has given  
3 in chief, and also with her witness statement that she  
4 gave to the Tribunal.

5 CHAIRMAN: No, that is absolutely fine, Mr. Harty. 16:14  
6 It's just, that is what I understand at the moment.

7 MR. HARTY: That is what she has said, yes, in relation  
8 to it.

9 465 Q. If we come on then to your witness statement when you  
10 dealt with the issue in Buncrana, and at page 50. 16:14

11  
12 "On 23rd May Garda Harrison was on duty in Buncrana  
13 when he asked Sergeant Siobhán Monaghan to be permitted  
14 to finish work early in order to go home because he  
15 said his wife was having some difficulties. He then 16:15  
16 took the Buncrana patrol car without permission."

17  
18 Now that simply isn't true. He didn't take it without  
19 permission.

20 A. My understanding is that he did. He asked -- my 16:15  
21 understanding is, he asked Sergeant Monaghan if he  
22 could go home, that his wife was having difficulties.  
23 Her understanding was --

24 466 Q. Sorry, she hasn't given evidence and he has given  
25 evidence in relation to it. 16:15

26 A. Yes. But I know what -- my information is that she  
27 understood he was going home in his own car, that he  
28 wasn't taking the Garda patrol car out of the district.

29 467 Q. What relevance did any of this have to the term of

1 reference?

2 A. No, I am only -- the reason that is outlined is because  
3 of the threats and it's the lead-up.

4 468 Q. It's a lead-up to what?

5 A. I think at this stage it's the lead-up to the threats 16:16  
6 and the anonymous letter and I am just giving a  
7 chronological of events that happened leading up to the  
8 HSE referral.

9 469 Q. And funny enough, you don't mention what you did.

10 A. On the 23rd May? 16:16

11 470 Q. No, the meeting of November 2011, you leave that out.

12 A. I didn't see that it had any reference to -- I know  
13 that Garda Harrison mentioned it in his statement  
14 and --

15 471 Q. But why did you leave it out of your statement? 16:16

16 A. I felt it was outside the terms of reference, frankly,  
17 and that if there was information required in it -- at  
18 this time that I made this statement I didn't have  
19 Garda Harrison's statement.

20 472 Q. No. 16:16

21 A. I made this early in March 2017. At that stage I  
22 wouldn't have had Garda Harrison's statement.

23 473 Q. Yes. And Garda Harrison's transfer from Buncrana,  
24 certainly is peripheral to the terms of reference, at  
25 best, isn't that correct? 16:17

26 A. Yeah, but it's --

27 474 Q. Why was that put in?

28 A. It's putting it into context. I was contextualising,  
29 you know, what was happening in the division at the



1 time.

2 475 Q. But why couldn't you, for example, point out the things  
3 that you did, which was had a meeting in November 2011  
4 with Garda Harrison, which was directly related to the  
5 matters that you are relating about Martin McDermott, 16:17  
6 directly related, because your decision was premised on  
7 the relationship between Garda Harrison, Marisa Simms  
8 and Marisa Simms's relationship to Martin McDermott, so  
9 why didn't you put that into the statement?

10 A. At the time I was making the statement I didn't see it 16:17  
11 as a matter that needed to be included, but I certainly  
12 am happy to clarify when I saw it in Garda Harrison's  
13 statement.

14 476 Q. But when did you see Garda Harrison's statement?

15 A. When I came to the Tribunal. 16:17

16 477 Q. Just when you came to the Tribunal?

17 A. Yes.

18 478 Q. That was the first time you saw it?

19 A. Yes.

20 479 Q. The Tribunal didn't provide it to you the same time 16:18  
21 they provided statements to everyone else?

22 A. No. Because I had already provided a statement, you  
23 see, at early course.

24 480 Q. The Tribunal --

25 A. I had provided my statement in March of 2017. 16:18

26 481 Q. This Tribunal went to some effort to make sure that all  
27 of the parties who had representation got all of the  
28 papers insofar as they could be seen to be relevant at  
29 the time, in August, some long number of weeks before

1 the Tribunal took place. In fact, it was six weeks  
2 before the Tribunal was due to start.

3 A. Yeah. Whatever at that time, when I got the papers,  
4 but I had already made my statement in March 2017.

5 482 Q. And you didn't look at Garda Harrison's statement until 16:18  
6 the Tribunal started hearing?

7 A. Oh, I was obviously going through the papers and all of  
8 that and I just saw in Garda Harrison's statement my  
9 name was mentioned once for that meeting and he had it  
10 down for September. 16:18

11 483 Q. You telling this Tribunal that the first time you read  
12 Garda Harrison's statement was when this Tribunal  
13 started sitting in relation to this module?

14 CHAIRMAN: Mr. Harty, I actually don't mind whether  
15 people read the stuff or not. I mean, the obligation 16:19  
16 is to distribute it and then that is it. They can do  
17 whatever they want. But you were at the issue in  
18 relation to the -- sorry --

19 MR. HARTY: I am asking why an issue wasn't put down in  
20 Chief Superintendent McGinn's statement, because that 16:19  
21 is a statement of the evidence you intend to give to  
22 the Tribunal, isn't that correct?

23 A. If the Tribunal -- when I made this in March 2011, if  
24 it was the case that the Tribunal were going to call me  
25 as a witness, you know, this would form part of the 16:19  
26 basis. And I was working off the premise if they  
27 wanted further information from me they would come and  
28 possibly when I did get to read Garda Harrison's, when  
29 I was mentioned once in his statement for that meeting

1           which he had down for September, I should have maybe  
2           put in a few lines.

3 484 Q.    You were at the meeting where it was determined that a  
4           reference to Tusla would be made, and you are seriously  
5           telling us that you weren't certain you were going to   16:20  
6           be called as a witness?

7           A.    Well, I understand that the reference to the Tusla,  
8           that was made -- I was at that meeting on 8th, it had  
9           already been decided that it was going to happen. I  
10          was just, my oversight capacity in ensuring that it was   16:20  
11          happened, that it did happen.

12 485 Q.    When was that decision made?

13          A.    I understand from the evidence here today that --

14 486 Q.    No, I am not asking about the evidence here today,  
15           because you have carefully given us a statement with   16:20  
16           very little of your own opinion and sat here for  
17           two-and-a-half weeks and listened to everyone's  
18           evidence. I would like you to tell me not from the  
19           evidence you have heard, but from your own  
20           recollection, when it was decided to make a reference   16:20  
21           to Tusla, by whom and when did you learn that?

22          A.    I learned at the meeting of the 8th that Superintendent  
23           McGovern was going to attend to it.

24 487 Q.    So you attended a meeting without the knowledge that a  
25           reference of Tusla was going to be made and it was in   16:21  
26           the course of that meeting that you were informed of  
27           it?

28          A.    As we were going through the statement, the first time  
29           that I seen the statement of Marisa Simms was at that

1 meeting and as we were going through it I asked  
2 Superintendent McGovern has the referral been made to  
3 HSE and he said that he was doing -- he was looking  
4 after that.

5 488 Q. Okay. And funny enough, he doesn't quite give that 16:21  
6 evidence in relation to it. He said he was directed,  
7 it was one of the jobs he was to do after the meeting.

8 A. I wouldn't have been directing Superintendent McGovern  
9 to do that. That was a management decision for him.

10 As superintendent, that is his job. He fully 16:21  
11 understood that was his job. I didn't tell him to do  
12 it. He understood it was doing -- I was just checking  
13 in my capacity as oversight, has it been done.

14 489 Q. Anyway, we will come back. You are telling us that you 16:22  
15 were not certain you were going to be called as a  
16 witness in respect of this, that is why you didn't give  
17 any detail in your statement as to what you did or did  
18 not do?

19 A. When I submitted this statement in March 2017 it was in  
20 response to the Chairman's request that anybody that 16:22  
21 would have any information, to send it in. It was in  
22 that context that I prepared this statement; to  
23 contextualise what I knew as the chief superintendent  
24 in Donegal, matters that I thought would have reference  
25 to this. 16:22

26 490 Q. What steps did you take to put together that précis?

27 A. What do you mean?

28 491 Q. What steps did you take?

29 A. Well, I was aware of all these matters, you know,

1 because I was already in the High Court in relation to  
2 other matters concerning -- so I was fully aware of all  
3 these when we were in the High Court. And the judicial  
4 review.

5 492 Q. To check the accuracy of what you were saying, if you 16:22  
6 were representing an official story from the Donegal  
7 division, what steps did you take to ensure that what  
8 you were representing was accurate?

9 A. I was happy that my statement I was making was accurate  
10 and that if there was matters needed to be clarified or 16:23  
11 further explored on that, that the Chairperson would  
12 have asked me to submit a further statement.

13 493 Q. Would it not have been perfectly straightforward to  
14 contact Chief Superintendent Sheridan to ask him  
15 whether or not there was any reliance on regulation 8.3 16:23  
16 or 8.4 of the code?

17 A. That was a matter for obviously the Chairperson and the  
18 Tribunal and they would do their own inquiries. I  
19 wasn't conducting inquiries on behalf of the Tribunal.  
20 I was just providing what information I had to 16:23  
21 contextualise and put it into context what was  
22 happening in Donegal.

23 494 Q. Yes. And the way you paint the picture is quite  
24 important, isn't it?

25 A. To me, I was contextualising for the Chairperson in his 16:23  
26 request that we provide information. It was in that  
27 context I was doing it, on the understanding that he or  
28 some of his investigators would be back to me -- or  
29 that he would request further information if he needed

1 it.

2 495 Q. And that's why there's no reference in this statement  
3 as to what you did at various different times. You  
4 were saying that if the Tribunal wanted to know what  
5 you actually did they should have come and asked you? 16:24

6 A. Well, I felt if the Chairman needed more information  
7 that he would come -- and I was happy to provide it.  
8 CHAIRMAN: Well, we have been over that a lot. And I  
9 mean the plain reality is that Chief Superintendent  
10 McGinn was practically first off the blocks in terms of 16:24  
11 providing a statement. So I mean, if there is  
12 something that you say is evidence of a different  
13 mindset, an inappropriate mindset, I mean I am  
14 perfectly happy that you draw attention to that. We  
15 have section 8.3 of the Garda Code and section 8.4 of 16:24  
16 the Garda Code, which seems to place an obligation on  
17 people to make a disclosure as to what problems there  
18 may be in a district if they were to serve in it.  
19 MR. HARTY: No, it's a very express, sir; it's a  
20 disclosure as to relations. 16:25

21 CHAIRMAN: Yes. No, I understand. I understand. But  
22 sometimes there's a spirit to things as well, I mean, I  
23 don't know if we are still saying that perhaps Garda  
24 Harrison should have served in the same division, in  
25 the same district, in the same station, on the same 16:25  
26 unit, as the people who were actually preparing  
27 criminal trial of manslaughter in relation to someone  
28 who was his partner or proposed partner. I don't know  
29 if we are still saying that.

1 MR. HARTY: No, but someone who was his proposed  
2 partner's brother. And perhaps I could clarify that.

3 496 Q. An Garda Síochána is a disciplined force, isn't that  
4 correct?

5 A. Yes. 16:25

6 497 Q. And a disciplined force operates on the basis of fact,  
7 that the people at the top give orders and the people  
8 beneath them follow them?

9 A. Yes, and we are also a caring organisation.

10 498 Q. I am just asking the questions, please. Isn't that 16:25  
11 correct?

12 A. Yes.

13 499 Q. Isn't that the definition of a disciplined force?

14 A. Yes, but we are also an organisation -- no, I think  
15 it's important to explain this, Mr. Harty. We are also 16:25  
16 an organisation that is very caring and we want people  
17 to be happy in their work in the organisation, where  
18 they can work effectively without comprising themselves  
19 or their colleagues and that is what we want. Because  
20 when people are happy in their work they work well. 16:26

21 500 Q. And on this particular instance in respect of this the  
22 reason why Garda Harrison was asked to move was because  
23 the people in the unit said they would no longer work  
24 with Garda Harrison, isn't that correct?

25 A. I understand they have given that reason. 16:26

26 501 Q. Yes.

27 A. And I think it's understandable.

28 502 Q. I appreciate that. But in a disciplined force is  
29 mutiny to be met with by somebody saying you have to

1 move?

2 A. This is not about mutiny. This is about having an  
3 effective working team where people can carry out their  
4 work in An Garda Síochána in an effective manner. When  
5 you work in An Garda Síochána you work with a partner, 16:26  
6 you are out 24 hours -- 24/7, you could be out in a car  
7 at night, where you are depending on the person sitting  
8 beside you, that you feel that you have confidence in  
9 them and trust, and that you both can work effectively  
10 together. So it's important that those relationships 16:27  
11 are developed and that you have those relationships.

12 503 Q. Do you think it's right for members in Buncrana to say  
13 they would not work with Garda Keith Harrison?

14 A. I think that the members of An Garda Síochána were  
15 expressing the feelings that they had, they had a 16:27  
16 difficulty.

17 504 Q. Do you think it was right?

18 A. Yeah, I do think it was right.

19 505 Q. Do you think it was acceptable that members in Buncrana  
20 said they would not work with somebody? 16:27

21 A. Because of --

22 506 Q. No, no, is it acceptable for members of An Garda  
23 Síochána to tell senior management that they will not  
24 work with somebody?

25 A. It depends on the circumstances which they don't want 16:27  
26 to work with, yes.

27 507 Q. So in your disciplined force it is acceptable for that  
28 to happen?

29 A. Yes, in the circumstances of a particular case, if a



1 person cannot work with somebody for some particular  
2 reason I think it's important that management know that  
3 because when you go out to work in An Garda Síochána  
4 you are depending on the person who is working beside  
5 you, that you can work effectively with them and that 16:27  
6 you can trust them and that you both can work together  
7 as a team. This is all about --

8 508 Q. Had Garda Harrison done anything to any member of that  
9 unit?

10 A. Well, the unit, my understanding of that -- I wasn't, 16:28  
11 as you are aware, working at the time, but there was a  
12 lot of hurt and bad feeling and that people found it  
13 very difficult to work --

14 509 Q. And had Garda Harrison done anything to them?

15 A. No. But the fact that he hadn't told them that he was 16:28  
16 in the relationship with Ms. McDermott and that hurt  
17 them. And I think --

18 510 Q. And do you accept that it would be reasonable on one  
19 reading of it, and I accept there is an alternative and  
20 a difficulty for management in relation to it and I 16:28  
21 don't doubt that in relation to it, of the situation  
22 that arose on the ground, but it is perfectly  
23 acceptable as well to say that requiring Garda Harrison  
24 to move in relation to it was effectively laying all  
25 the solution on Garda Harrison's shoulders, isn't that 16:28  
26 correct?

27 A. My understanding from what I know about it -- and you  
28 rightly say I only know it from being here, but my  
29 understanding was when it came to light Garda Harrison

1           himself was happy to work with whatever solution that  
2           Chief Superintendent Sheridan put in place.

3 511 Q.   And yet nine months later you are still relying on the  
4           same thing to say that he can't work in Letterkenny?

5           A.   My difficulty in relation to his working in Letterkenny 16:29  
6           is to do with Martin McDermott, who I have clearly said  
7           is a criminal and his associates and they conduct their  
8           business, Letterkenny district is a border district and  
9           a lot of his criminal activities take place -- okay, he  
10          was in prison, he wasn't going to be in prison forever. 16:29

11 512 Q.   You remark at how you were impressed you were with  
12          Garda Harrison in November and the calibre of a Garda  
13          that he was?

14          A.   At the conclusion of the meeting I thought that Garda  
15          Harrison was a nice man. 16:29

16 513 Q.   And are you saying that somehow he would be affected by  
17          the criminal associates of his then-girlfriend's  
18          incarcerated brother?

19          A.   You see, it's not all about Garda Harrison. It's about  
20          the people he works with as well. You see, I have a 16:30  
21          duty in relation to policing operations in the division  
22          and the reputation of An Garda Síochána. I didn't want  
23          to place Garda Harrison or any of his colleagues in a  
24          compromising situation where if they did come across  
25          some of his associates they had to make decisions. And 16:30  
26          it wasn't -- it was my -- it was in my mind at the time  
27          that I was not prepared to compromise policing  
28          operations by transferring him into the Letterkenny  
29          district as requested by him. And they are decisions

1           that I have to make as a chief superintendent.

2 514 Q.    And who would have been compromised?

3           A.    Well, for example, and this is purely hypothetical, if  
4           Garda Harrison was out on duty in Letterkenny with  
5           another Garda member and they stop an associate of           16:30  
6           Martin McDermott and decisions had to be made, I have  
7           to be satisfied in my mind that nobody is compromised  
8           in that situation.

9 515 Q.    Are you telling this Tribunal that Garda Harrison had  
10           associations with or even knew the associates of Martin   16:31  
11           McDermott?

12           A.    I am not saying that he did or he didn't, but I have to  
13           make decisions in terms of where people can serve and  
14           where I can give the best service to the people, and I  
15           have to make those decisions and I didn't want to put       16:31  
16           Garda Harrison in a compromising situation or any other  
17           member of An Garda Síochána in a compromising  
18           situation. And I wasn't prepared to do that and I  
19           didn't do that.

20 516 Q.    Would the station party in Letterkenny have had a           16:31  
21           difficulty serving with Garda Harrison?

22           A.    I don't know, I didn't discuss it.

23 517 Q.    The situation that then follows: Garda Harrison  
24           remained in Donegal Town, and on 9th February the next  
25           thing that you contain in your statement, you say, is       16:32  
26           part of the background to the reference, you bring up  
27           the matter of the anonymous letter --

28           A.    Mm-hmm.

29 518 Q.    -- isn't that correct?

1 A. Yes.

2 519 Q. And that's where it was first brought to the attention  
3 of the Tribunal, isn't that correct?

4 A. Can we bring it up, please, on the screen?

5 520 Q. I don't need to open it just yet. 16:32

6 A. Okay.

7 CHAIRMAN: Is that your own statement you are talking  
8 about?

9 MR. HARTY: The statement, yes. Sorry, I have no  
10 difficulty with the statement being opened. It's page 16:32  
11 51.

12 CHAIRMAN: You can take it out if you want to.

13 521 Q. MR. HARTY: Now, when did you see that anonymous  
14 letter?

15 CHAIRMAN: That is in volume 1, chief superintendent, 16:32  
16 if you want a copy of that.

17 522 Q. MR. HARTY: When did you first see the anonymous  
18 letter?

19 A. I would say that in preparation for my statement.

20 523 Q. In preparation for your statement? 16:33

21 A. Yeah.

22 524 Q. That is the first time you ever saw the anonymous  
23 letter?

24 A. Yeah, that is my recollection, yes. I am just trying  
25 to remember did it come up in the High Court. 16:33

26 525 Q. No. Certainly Garda Harrison had never seen it before  
27 this Tribunal, but I am asking you when you saw it  
28 first?

29 A. My understanding is in preparation for the Tribunal.

1 CHAIRMAN: So people didn't come to you, in other  
2 words, and ask you about the anonymous letter? And I  
3 have dated it 9th of February 2012 for some reason,  
4 but --

5 526 Q. MR. HARTY: So you heard no reference in relation to it 16:33  
6 before that?

7 A. Before here?

8 527 Q. Yes --

9 A. Yeah.

10 528 Q. No, no, sorry, you had heard no reference to it before 16:33  
11 the preparation for the Tribunal?

12 A. I am really trying to think. I don't think so, no.

13 529 Q. You knew nothing about it? Where did you find it?

14 A. I went looking for it when I was preparing this.

15 530 Q. You went looking for it? 16:34

16 A. It was in my -- the chief superintendent's office,  
17 yeah.

18 531 Q. It was in the chief superintendent's office?

19 A. Yeah.

20 532 Q. On what file? 16:34

21 A. When matters like this happen, they come in all the  
22 time as reported in, and I think Superintendent  
23 McGovern would have sent it in at the time.

24 533 Q. And what file was it on?

25 A. You see, there's no individual file, what happens is 16:34  
26 that correspondence comes in, in particular -- relating  
27 to particular events as opposed to on a Garda Harrison  
28 personal file.

29 534 Q. But there cannot be a file, a separate file, for every

1 event that has ever occurred in the Donegal division in  
2 the chief superintendent's office?

3 A. Oh, not every one would be in the chief  
4 superintendent's office, no. Not every --

5 535 Q. So what file was this on? 16:34

6 A. It wasn't on any file. It was correspondence that had  
7 come in from Superintendent McGovern.

8 536 Q. Can you help me. And perhaps Garda Karl Campbell --

9 A. I am trying to, and I think, and if my memory serves me  
10 correct it was to do with getting an address. 16:35

11 537 Q. I am not asking the circumstances, I am actually just  
12 asking you a matter of paperwork.

13 A. Yes, when I was preparing this --

14 538 Q. And you are telling me that somehow there is an unfiled  
15 volume of documentation in your office, in the chief 16:35  
16 superintendent's office?

17 A. In my own particular office, no. In the divisional  
18 office, yes.

19 539 Q. Oh, in the divisional office. So there is an unfiled  
20 volume of documentation -- pages, paper, I presume, 16:35  
21 loose, some of it stapled together, some of it not, and  
22 that in this vast amorphous file of paper in the  
23 divisional office you simply reached in and pulled out  
24 this anonymous letter, is that what you are saying?

25 A. No, I didn't say that. 16:35

26 540 Q. Okay. Well, the first thing you said was it was in the  
27 chief superintendent's office, now you are saying it's  
28 in the divisional office.

29 A. No, I am not saying that. I am saying that it would

1 have come in, Superintendent McGovern would have sent  
2 it in, but I think what happened here is when I was  
3 preparing this, I asked Superintendent McGovern to send  
4 me in a copy from Milford station, so I didn't put my  
5 hand in and take it out of a bundle of papers. I asked 16:36  
6 Superintendent McGovern to give it to me.

7 541 Q. Can I see a copy of that correspondence? We will be  
8 back on Monday, so it would be useful if I can have a  
9 copy of that correspondence, superintendant.

10 A. That was sent in to me at the time. Okay. 16:36

11 542 Q. Yes, that would be very useful. And you say that you  
12 had --

13 CHAIRMAN: Well I mean, Mr. Harty, I am just wondering,  
14 what issue is there about the anonymous letter?

15 MR. HARTY: There's an awful lot of issues about the 16:36  
16 statement of evidence and the state of knowledge in  
17 respect of Chief Superintendent McGinn.

18 CHAIRMAN: No, I appreciate that. Mr. Harty, I am not  
19 trying to rile you, please believe me. There was an  
20 anonymous letter, I mean, I don't know who wrote it, 16:36  
21 but it's someone with an education. It was there, the  
22 Gardaí had it, they took a copy of it. You challenged  
23 Sergeant McGowan as to why she took a copy, okay, you  
24 have challenged Sergeant McGowan on that. But the  
25 relevance of it is, that there was a HSE intervention 16:37  
26 at that stage, a social worker did speak to Marisa  
27 Simms and her husband and there was some crime  
28 prevention advice, I think, but the HSE determined at  
29 that point that there was no -- no, there wasn't crime

1 prevention advice, but the HSE determined at that point  
2 this was a question of family support and the family  
3 was doing okay.

4 MR. HARTY: It was an inappropriate referral, in fact  
5 was the determination by the HSE at the time. 16:37

6 CHAIRMAN: I know, but nobody is saying it was a Garda  
7 who wrote the anonymous letter.

8 MR. HARTY: I am asking why this letter was being sent  
9 around from one superintendent's office to another in  
10 respect of Garda Keith Harrison. 16:37

11 CHAIRMAN: But it is part of the background.

12 MR. HARTY: It is a letter which was not requested --  
13 not volunteered, which was taken by a sergeant, it was  
14 then sent by the sergeant to a superintendent, who then  
15 sent it to the chief superintendent's office and it 16:37  
16 would now appear that the chief superintendent says  
17 that she didn't have it in her office under any  
18 particular file and she had to contact Milford Garda  
19 Station in order to get it. And in respect of --

20 CHAIRMAN: Well, the statement is a kind of 16:38  
21 chronological series of events as to what had happened  
22 in relation to all of this. And I mean there it is and  
23 that is how it's presented. But it's not presented in  
24 any mean way and I am certainly not taking it up in any  
25 mean or negative way against Garda Harrison. 16:38

26 MR. HARTY: In terms of Chief Superintendent McGinn's  
27 state of knowledge about Garda Harrison and Marisa  
28 Simms at the time of the referral meeting on the 8th of  
29 October is directly relevant and that is why I am



1 surprised that, as far as Chief Superintendent McGinn  
2 is now telling me, her evidence is that she never saw  
3 that anonymous letter before preparation for this  
4 Tribunal.

5 CHAIRMAN: well, I presume if she was doing her job and 16:38  
6 the Tribunal had asked for information she would gather  
7 together and ask people look, what information have we  
8 got in the whole of this thing. So at the moment I am  
9 finding it hard to think that it is in any way odd or  
10 outside, I suppose, a diligent gathering together of 16:39  
11 documents.

12 MR. HARTY: well --

13 CHAIRMAN: But you are entitled to proceed if you wish,  
14 but I can't see it as being presented in her statement  
15 as being sinister, it's part of the background. And 16:39  
16 the fact that she gets a copy of it in order to assist  
17 the Tribunal is welcome, actually.

18 MR. HARTY: No, I appreciate -- I didn't ask her about  
19 when she got the copy that she presented, I am asking  
20 her when she first learned of it. 16:39

21 CHAIRMAN: Let's suppose we didn't have it I mean that  
22 would be big trouble I suppose.

23 MR. MCGUINNESS: Chairman, it may be helpful to point  
24 out that Superintendent McGovern in his statement makes  
25 it clear on page 6, and I think he gave this in his 16:39  
26 evidence, that on 3rd April 2012 he notified chief  
27 superintendent Letterkenny accordingly with a copy of  
28 Sergeant McGowan's report and that is appendix 25 --

29 MR. HARTY: And that included the letter.

1 MR. MCGUINNESS: -- of his statement. So obviously  
2 from the point of view of Chief Superintendent McGinn  
3 this was a period when she was on leave, as I  
4 understand it, at this point in time. Whether it came  
5 to the office then or not -- 16:40

6 CHAIRMAN: No, I understood it was passed around and  
7 there was questions asked about that.

8 MR. MCGUINNESS: It doesn't seem to be an issue.

9 CHAIRMAN: But Chief Superintendent McGinn was having  
10 children and was on maternity leave from time to time. 16:40  
11 So it was passed to the chief superintendent, it had to  
12 be with the chief superintendent. I would be upset if  
13 he didn't get it.

14 MR. HARTY: It is stunning in relation to the history  
15 between An Garda Síochána and Garda Keith Harrison over 16:40  
16 the last two years that this letter, which is raised to  
17 the Tribunal's attention by Chief Superintendent  
18 McGinn, apparently first came to her attention in March  
19 of this year, and is that your evidence?

20 A. When I was preparing the background of the information. 16:40

21 543 Q. That is when it first came to your attention?

22 A. Yes.

23 544 Q. And I have asked you how you even knew to go looking  
24 for it?

25 A. Because I was making inquiries in order to assist the 16:41  
26 Tribunal, to try and gather what information that we  
27 had, as an organisation. It was in an effort to  
28 assist.

29 545 Q. And then you go on and you recite the meeting between

1 Sergeant McGowan and Una Coll, isn't that correct?

2 A. Yes.

3 546 Q. And you recite in it that:

4

5 "Sergeant Brigid McGowan is currently securing all 16:41  
6 relevant documents and is in the process of preparing a  
7 detailed statement in relation to this matter and the  
8 contacts referred to below, which will be furnished to  
9 the Tribunal shortly." [As read]

10 16:41

11 So I take it you were in consultation with Sergeant  
12 McGowan when you put together this statement.

13 A. I asked her -- I actually asked her would she gather up  
14 all the materials to assist.

15 547 Q. And did you know anything about this incident at the 16:41  
16 relevant times?

17 A. When this was happening?

18 548 Q. No, at the times that you were dealing with the  
19 statement of Marisa Simms?

20 A. No, the detail, no. I didn't know about it, no. 16:42

21 549 Q. You didn't know anything?

22 A. No.

23 550 Q. The various matters are dealt with now which -- in your  
24 statement, but none of them bear any particular  
25 relevance to what go on until we come to April 2013? 16:42

26 A. What page, please?

27 551 Q. That is at page 52 of your statement -- or page 5 of  
28 the statement, page 52 of the book.

29 A. Yes.

1 552 Q. And you recite there that "At 2:30am on 1st April 2013  
2 William Bogle --" and you recite a narrative of what  
3 took place on that incident, isn't that correct?

4 A. Yes.

5 553 Q. When did you learn about that incident?

16:43

6 A. Again, when in preparation -- in preparation for the  
7 Tribunal, gathering all incidents within the division.

8 554 Q. And you hadn't learned of it before then?

9 A. I was aware of it from the report, reports that came in  
10 in relation to, sometime in August, was it August,  
11 before the anonymous letter, I became aware of it at  
12 that time. That information would have come to my  
13 office, yeah.

16:43

14 555 Q. And did you carry out a Pulse check in relation to that  
15 incident?

16:43

16 A. Did I carry out a Pulse incident? If I didn't, I don't  
17 think -- I would have asked one of my staff maybe if I  
18 needed to do it. I don't think -- I am not sure to be  
19 honest, I don't know.

20 556 Q. And if you had carried out a Pulse check you would have  
21 realised that there is a list of people named in  
22 relation to it, isn't that correct, which I presume is  
23 perhaps how you got the various names for the Tribunal?

16:43

24 CHAIRMAN: No, but we have to be fair to the chief  
25 superintendent. I mean, the call was that people  
26 should actually gather together what they knew. So it  
27 has to be to the credit of a witness that the witness  
28 gathers together what they know and actually puts it in  
29 some kind of order.

16:44

1 MR. HARTY: I am very anxious to work out precisely  
2 what Chief Superintendent McGinn knew in October of  
3 2013.

4 CHAIRMAN: All right.

5 MR. HARTY: That is where this questioning is all  
6 going.

16:44

7 CHAIRMAN: All right. That is fine. So she didn't  
8 know about the anonymous letter and that came up during  
9 the Tribunal. That is fine. That makes it clear,  
10 Mr. Harty, thanks.

16:44

11 A. I knew -- what did I know prior to 2013, is it?  
12 October 2013?

13 557 Q. MR. HARTY: And I don't want a list. It's easier if I  
14 go through things in accordance with the way they are  
15 put in your statement because it makes it easier for me  
16 and I think for you to be precise in relation to it.  
17 You knew about the Bogle incident in August of 2013 --

16:44

18 A. Yes.

19 558 Q. -- as far as you recall?

20 A. Yes.

16:45

21 559 Q. And you knew that there was -- would you have known or  
22 did you know that there was a Pulse incident recorded  
23 in relation to it? As far as I recall the statement  
24 recites that there is a Pulse incident --

25 A. Yes.

16:45

26 560 Q. -- as far as I recall and I could be wrong.

27 A. Yes, I understand Garda Oates, yes, created --

28 CHAIRMAN: That the is 1st April 2013.

29 MR. HARTY: Yes.

1 CHAIRMAN: You said August.

2 561 Q. MR. HARTY: Apologies. Sorry, in August 2013 when you  
3 learned of the 1st April incident?

4 A. Yes, I learned of it in August.

5 562 Q. You didn't learn of it in April, isn't that correct? 16:45

6 A. No.

7 563 Q. And just to be clear, I understood your evidence to be  
8 that you had not heard of it before the incident but in  
9 fact it was a Letterkenny matter, did you learn of it  
10 before that date? 16:45

11 A. No.

12 564 Q. No.

13 A. I learned about it in August when --

14 565 Q. In the statement?

15 A. Yes, and when Sergeant Durkin brought it to my 16:45  
16 attention.

17 566 Q. And in that statement, or in that Pulse entry, there is  
18 reference to a variety of different people. We know  
19 that to be the case. And had you looked at the Pulse  
20 entry at the time I presume -- in fact, I know that it 16:46  
21 was not altered from its date of entry to now?

22 A. I have no knowledge on that.

23 567 Q. But the list of witnesses in relation to it were  
24 entered on to it, people who were relevant, isn't that  
25 correct? 16:46

26 A. More than likely, yes, that normally happens, yes.

27 568 Q. And Jim Quinn's name was on it, isn't that correct?

28 A. Yes.

29 569 Q. So by the time of August 2013 in respect of what we

1 will call the April or the Bogle incident, you knew the  
2 names of everybody who was involved, those who had  
3 witnessed it, those who were present, who had reported  
4 it, everybody -- and those Gardaí who had investigated  
5 it? 16:47

6 A. Yes, and I think my state of knowledge was from the  
7 Garda reports as opposed to going into the Pulse.

8 570 Q. Okay. But what I want to find out from you, when you  
9 are sent these Garda reports in August, Jim Quinn -- do  
10 you know Mr. Quinn? 16:47

11 A. I just met him here.

12 571 Q. Just met him here?

13 A. Yes, yeah.

14 572 Q. He strikes me as a gentleman who certainly has worked  
15 with the Gardaí, his evidence is he has worked with the 16:47  
16 Gardaí in various different stations in respect of  
17 suicide prevention and counselling and that sort of  
18 thing?

19 A. Yes, I understand that is the position, yes.

20 573 Q. Who did you send or suggest that they go speak to 16:47  
21 Mr. Quinn about that incident?

22 A. No, I wasn't -- this didn't come to my desk at all.

23 574 Q. But it did. No, no, but it came to your attention in  
24 August 2013?

25 A. Yes, and that I was happy in August 2013 -- it came to 16:48  
26 my attention, no, in September, I think.

27 575 Q. Okay. Sorry, September.

28 A. September.

29 576 Q. That is probably the latter report.

1 A. It's in and around -- sometime in and around September  
2 27th. So I didn't -- I wasn't doing the investigation  
3 or that didn't fall to me.

4 577 Q. Who was doing the investigation?

5 A. I understand it was Sergeant Aidan Doherty. 16:48

6 578 Q. Sorry, no, that was the investigation at the time.

7 A. Sorry, at the time yes, yes.

8 579 Q. Did you contact Sergeant Aidan Doherty in relation to  
9 that?

10 A. At what time? 16:48

11 580 Q. In September 2013.

12 A. No.

13 581 Q. When you learned of it?

14 A. No.

15 582 Q. You didn't? 16:48

16 A. No.

17 583 Q. I do recall that he gave evidence and I do recall that  
18 he gave a station history. Is he still stationed in  
19 Letterkenny?

20 A. He is, yes. 16:48

21 584 Q. So from the entire period of time after he took, dealt  
22 with this situation, to today, he has been working in  
23 the same building as you in Letterkenny?

24 A. Yes. But I think it's important that I let the  
25 Tribunal know, Judge, that in May of this year I had to 16:49  
26 go into hospital for hip replacement surgery due to my  
27 injury in 2009 when I broke my leg and I haven't been  
28 in the workplace. I am still on sick leave since May  
29 of that year. So from the time I made this statement



1 to the Tribunal, I didn't meet with any -- with Aidan  
2 Doherty, as you know, described, because I was in  
3 hospital and I am recovering from -- so therefore I  
4 didn't carry out any investigations or inquiries.

5 585 Q. Chief superintendent, firstly, you have my sympathy 16:49  
6 undoubtedly, it was a trying time in relation to that,  
7 and especially with your children who were quite young.

8 A. Yeah, thank you for that, it was, yes.

9 586 Q. But in fact I am not worried about the contact you had 16:49  
10 with Sergeant Doherty this year, I am concerned about  
11 the contacts you might have had or I am interested in  
12 the contact you might have had with Sergeant Doherty in  
13 September of 2013.

14 A. I am sorry, I misunderstood. I thought you meant when  
15 I was preparing -- excuse me now -- and I understood 16:50  
16 from the question that you thought it was when I was  
17 preparing a statement, so I do apologise for giving you  
18 my history in relation to that. Back at this time, no,  
19 I didn't speak to Sergeant Aidan Doherty about this  
20 incident. 16:50

21 587 Q. You see, this was one of the incidents that made it  
22 clear to you, your evidence to the Tribunal was that  
23 this was one of the incidents that made it clear to you  
24 that something had to be done in respect of the  
25 domestic situation between Garda Keith Harrison and 16:50  
26 Marisa Simms?

27 A. Yes, this is when I speak with Superintendent McGovern  
28 on the 27th and I tell him there are a number of  
29 reports that -- that I needed to compile them and read

1           them and decide what needs to be done.

2 588 Q.     Sergeant Doherty was working in the same building as  
3           you?

4           A.     Yes.

5 589 Q.     You do appreciate that you could speak to him? 16:50

6           A.     Oh, absolutely, yes, at any time.

7 590 Q.     He was working in the same building as Inspector  
8           Sheridan?

9           A.     Yes.

10 591 Q.    You do appreciate that she could speak to him? 16:51

11          A.    And I don't know whether she did or not. I don't know.

12 592 Q.    She didn't.

13          A.    She didn't, okay.

14 593 Q.    You see, the point about it is, is that you are all  
15          relying on this incident as a reason why this is so 16:51  
16          serious, but the man who was on the ground, who dealt  
17          with this incident, nobody spoke to him?

18          A.    Yeah, but I could see from his report that, on the  
19          night, he spoke to Marisa to satisfy himself that she  
20          was okay and that he did, I think, from my memory, ask 16:51  
21          her if she wanted to come in and make a statement, that  
22          he would be prepared, and she undertook to come back  
23          the next day.

24 594 Q.    And he could have -- you could have sat him down - in  
25          fact, I am sure it's something that can be dealt with 16:51  
26          in a corridor, as you are passing - 'Sergeant Doherty,  
27          what was that incident on the night of the 30th  
28          March/1st April? It doesn't seem to have amounted to  
29          much. Something funny happened. What was your sense

1 of the thing? Did you speak to that guy, Jim Quinn?'

2 A. No, I didn't inquire into that at all.

3 595 Q. No.

4 A. But I don't think at that stage it was my job to

5 inquire into it. 16:52

6 596 Q. Whose job was it?

7 A. At that stage, what was happening was that Sergeant

8 Doherty had dealt with the incident, he had signed off

9 on it. As I was preparing this information of the

10 incidents, it was one of the incidents that came to my 16:52

11 attention, that I sent the reports out to

12 Superintendent McGovern because it's building a

13 picture.

14 597 Q. Mm-hmm.

15 A. But I didn't carry out any active investigation or 16:52

16 speak to Sergeant Doherty, no.

17 598 Q. Or direct anybody else to speak?

18 A. Or Jim Quinn, no.

19 599 Q. And you didn't direct anybody to speak to him either?

20 A. No. 16:53

21 600 Q. But this is one of the incidents that it was most

22 important that made the meeting of the 8th October

23 necessary?

24 A. The only persons that I spoke to were Sergeant Collins

25 and Inspector Goretta Sheridan, and I asked Goretta 16:53

26 Sheridan to look at all of these incidents and review

27 them and meet with, so I detailed her -- I didn't tell

28 her to go -- how about going about her business. I

29 just detailed her to take over the investigations into

1           them.

2 601 Q.   And when did you have that conversation with inspector  
3           Inspector Sheridan?

4           A.   I had it on the afternoon of the 2nd October.

5 602 Q.   The afternoon of the 2nd October? 16:53

6           A.   Yes.

7 603 Q.   How can you be so precise in relation to that?

8           A.   Because I remember I was coming in the yard from a  
9           meeting around 4:00 in the afternoon when I met  
10          Sergeant Collins and Sergeant Collins briefed me in the 16:53  
11          backyard of Letterkenny Garda Station and I had it in  
12          my mind -- when he told me what had happened, I had it  
13          in my mind from the previous Thursday/Friday the 27th  
14          that I was going to appoint Inspector Sheridan, and I  
15          said to him that I had it that I was going to appoint 16:54  
16          her and I was on my way to look for her.

17 604 Q.   What did you provide Inspector Sheridan with?

18          A.   I went with Sergeant Collins into the station. I  
19          think, if my memory serves me correctly, I met her in  
20          the dayroom and I just briefly told her that I was 16:54  
21          concerned and that I was asking her to go out and speak  
22          with Rita McDermott. I didn't give her any  
23          information.

24 605 Q.   You didn't give her any information?

25          A.   No, only that I was deeply concerned and I wanted her 16:54  
26          specifically -- at that stage, Jim Collins had briefed  
27          me on what happened with Paula McDermott and so I -- I  
28          think I would have asked her did she know about Paula  
29          McDermott being in the station the day before and that

1           there was -- but I had no paperwork with me because I  
2           was coming from another meeting and I didn't give her  
3           any paperwork or anything. I just said, look at --  
4 606 Q.     When did you give her the reports?  
5           A.     I don't think I ever gave them to her. 16:55  
6 607 Q.     You never gave her the other reports?  
7           A.     No, I don't think I did. I am open to correction on  
8           that.  
9 608 Q.     Well, I might be astounded that that is your evidence,  
10           but are you saying that various reports were given to 16:55  
11           you in relation to an investigation which was being led  
12           by Inspector Sheridan, as to statements which were made  
13           by people unofficially in respect of which she is  
14           carrying out, you say, a criminal investigation, but  
15           you never gave her the reports that you had? 16:56  
16           A.     I didn't give her any reports that day. I just  
17           provided her with whatever information I had, but she  
18           would have had access to them --  
19 609 Q.     But how could you have provided her with information  
20           that you had without giving her the actual reports? 16:56  
21           What information did you have? What did you tell her?  
22           CHAIRMAN: She was just telling you that and you  
23           actually cut her off.  
24 610 Q.     MR. HARTY: What did you tell her?  
25           A.     I told her that a number of reports had come to my 16:56  
26           attention, that Rita McDermott had contacted Donegal  
27           Garda Station on a number of occasions and spoke to  
28           Sergeant Durkin, that there was a forthcoming wedding  
29           coming up where it was highlighted that there may be an

1 incident at the wedding. I told her -- she was aware  
2 of --

3 611 Q. What incident did you tell her was going to happen at  
4 the wedding?

5 A. I didn't know. All I knew that, from the report 16:56  
6 that came up from Sergeant Durkin via Superintendent  
7 Finan, that Rita had highlighted to Sergeant Durkin  
8 that the wedding was coming up and that the -- there  
9 was going to be an incident at the wedding and that  
10 Marisa wanted to put Garda Harrison out of the house 16:57  
11 and they were waiting until when he came back to work.

12 612 Q. And had you noted this down anywhere?

13 A. No, no. I met her in the corridor, but I was fully  
14 aware of it because I had dealt with it on the previous  
15 Friday, whatever day the 27th was, I dealt with it on 16:57  
16 that.

17 613 Q. And you are fully aware you could remember precisely  
18 what the superintendent had given you, you could report  
19 precisely what sergeant had taken the statement, you  
20 could remember all of that? 16:57

21 A. Only from the reason was because, on the morning of the  
22 27th, Superintendent McGovern telephoned me to --  
23 wondering did I know what was happening and that he was  
24 concerned about the forthcoming wedding. I told him  
25 that he needed to give me an opportunity to brief 16:57  
26 myself on the reports. I understand then -- he rang me  
27 back sometime before lunch, and I still hadn't -- but I  
28 undertook to ring him back in the afternoon and send  
29 him a copy.

1 614 Q. Do you have your notes of those -- your diary entries  
2 in respect of those phone calls?  
3 A. I don't, no.  
4 615 Q. You didn't keep a diary entry?  
5 A. No. 16:58  
6 616 Q. Did you send an email to anybody to do anything?  
7 A. I would have sent the emails -- I would have sent  
8 the -- or my office, I probably would have asked my  
9 office staff to send out the reports to Superintendent  
10 McGovern. 16:58  
11 617 Q. You asked your office staff to send out the things?  
12 Did you --  
13 CHAIRMAN: She didn't actually say yes. She said 'I  
14 probably would have'.  
15 A. Yes. 16:58  
16 CHAIRMAN: She had also said earlier on that she would  
17 have had access to the reports; in other words, she  
18 would have only to ask.  
19 A. And I was aware, Chairman, from the Friday that I had  
20 those reports because myself and Superintendent 16:58  
21 McGovern didn't have the --  
22 618 Q. I am asking you, I am saying that you were able to give  
23 a remarkable amount of detail to Inspector Sheridan  
24 in -- was it the common room? I can't remember what  
25 you referred to it, but the room in Letterkenny Garda 16:58  
26 Station where you had the discussion --  
27 A. Yes.  
28 619 Q. -- with Inspector Sheridan?  
29 A. Yes, because I was after dealing with, on the previous

1 Friday, with superintendent, and actually it was my  
2 intention that evening to appoint -- or to appoint  
3 Inspector Goretta Sheridan, but she wasn't in the  
4 building, she was off for a few days, and my next time  
5 of meeting her was on the 2nd October with Sergeant 16:59  
6 Collins.

7 620 Q. And what I am asking you is, did you note any of this  
8 down anywhere?

9 A. No.

10 621 Q. Did you forward the reports that you received to anyone 16:59  
11 in your office?

12 A. I forwarded the reports -- when the reports would come  
13 into my office, so they would be in my office, so I  
14 asked that they would be sent out to Superintendent  
15 McGovern. Now, who in my office, but I can check who 16:59  
16 sent them out. I would have a record of who sent out  
17 the reports.

18 622 Q. And did you have any notes in your diary to remind you  
19 to appoint Inspector Sheridan to carry out his  
20 investigation? 16:59

21 A. No, no --

22 623 Q. Or review, I should say.

23 A. Yes, I wanted her to look at it and follow up in terms  
24 of -- no, because I had dealt with it on the phone with  
25 Superintendent McGovern on whatever date the 27th, I am 17:00  
26 not sure if it was the Thursday or Friday.

27 624 Q. You see, on the 27th there was no suggestion -- there  
28 was the mention of two or three incidents where no one  
29 had actually alleged an assault, there was no mention



1 of any threats at that stage, so what merited the  
2 appointment of an inspector at that stage?

3 A. What happened was, the reports had come in to me.  
4 Superintendent McGovern had rang me because he was  
5 concerned about the forthcoming wedding, that there 17:00  
6 would be an incident, and he was wondering what my  
7 knowledge of that -- was I aware, as the chief  
8 superintendent, of these issues. And I had told him,  
9 look at, will you give me an opportunity to look at the  
10 reports. 17:01

11 625 Q. And what then led to the necessity for a review of the  
12 reports by Inspector Sheridan?

13 A. Because in the reports, there was evidence that third  
14 party -- third-party people had been concerned about  
15 domestic issues that were going on in the Harrison 17:01  
16 household, and I am aware from the domestic violence  
17 policy that there are times then that we can take  
18 reports from third parties, and I just wanted Inspector  
19 Sheridan to look at them to see were we complying with  
20 the domestic violence policy, just have a look at them 17:01  
21 and come back to me and tell me, you know --

22 626 Q. So that was it?

23 A. That was my conversation. I was having this  
24 conversation now with Superintendent McGovern.

25 627 Q. Yes. 17:01

26 A. And it was my intention to get Goretta Sheridan to  
27 review all these to see had we complied with the  
28 policy, were there any matters that I needed to further  
29 act on.

1 628 Q. To make sure you were complying with the policy?  
2 A. With the policy. And to ensure that they were acted  
3 on, that these reports were acted on.

4 629 Q. They were both -- they were all made on the basis of  
5 the fact that no one was to do anything? 17:02  
6 A. Sorry?

7 630 Q. These visits to the Garda station were all made by  
8 people expressly saying, 'I don't really want you to do  
9 anything, I don't want anyone to know I was here'?  
10 A. That's correct, yes, a lot of them were, apart from the 17:02  
11 Bogle incident.

12 631 Q. And therefore, why didn't you check in to the Bogle  
13 incident at that stage?  
14 A. At that stage, my intention was to ask -- I wasn't  
15 doing the review myself; I was appointing Inspector 17:02  
16 Sheridan to do it.

17 632 Q. And you would have hoped that Inspector Sheridan would  
18 have looked into it?  
19 A. As part of her work, yes.

20 633 Q. She never did. 17:02  
21 A. Okay.

22 634 Q. Never made any inquiries in relation to it, it would  
23 appear, from her own evidence.  
24 A. Okay.

25 635 Q. Never spoke to Sergeant Doherty in relation to it, 17:02  
26 Garda Oates, Garda Waters, Garda Hynes, Garda Keith  
27 Harrison, Marisa Simms, William Bogle, Kerry Bogle, or  
28 Jim Quinn. The only person she spoke to at all in  
29 relation to it was in taking the statement from Rita

1 McDermott, and as far as I know -- as far as I  
2 recollect, it doesn't feature -- what occurred,  
3 actually occurred on the night, doesn't feature in Rita  
4 McDermott's statement in relation to that issue, but I  
5 could be wrong on that. But she never spoke to the  
6 other witnesses. 17:03

7 CHAIRMAN: On which night was that, Mr. Harty?

8 MR. HARTY: This is the night of the 30th March/1st  
9 April. It is dealt with in Rita McDermott's statement,  
10 you never spoke to the other witnesses. 17:03

11 CHAIRMAN: There's the 1st April, 21st August and by  
12 now we would have 28th September. I mean, which one  
13 are you --

14 MR. HARTY: I am pointing out that on the 1st of April  
15 incident, which Chief Superintendent McGinn would have  
16 expected Inspector Goretta Sheridan to review, there is  
17 no evidence that she reviewed it at all. 17:03

18 CHAIRMAN: All right. Okay.

19 A. I think what happened was, I appointed her on 2nd of  
20 October, and by that stage events had overtaken, you  
21 know, her review, because the incident of the 28th  
22 September had happened and obviously matters were more  
23 serious at that stage. 17:04

24 CHAIRMAN: You didn't know anything about the 28th of  
25 September, or am I wrong? 17:04

26 A. No, I didn't know at that stage.

27 CHAIRMAN: Because Rita McDermott had been on the phone  
28 to Sergeant Durkin, I think, on 1st of October, but I  
29 don't know whether that was reported to you?

1 A. That would have come in afterwards, Judge. But at the  
2 time when I am asking Inspector Sheridan, it's 27th  
3 September is when I decide that I am going to ask her  
4 to review all these incidents and look at them and see.  
5 MR. POWER: I don't mean to interrupt, Chairman, but 17:04  
6 the April Bogle incident is recounted in the statement  
7 of Marisa Simms of the 6th October 2013. There are a  
8 number of pages on it from around page 11 thereafter.  
9 I just want to interject. I am sorry for interjecting.  
10 CHAIRMAN: I think, Mr. Power, that the reference was 17:04  
11 as to whether Rita McDermott's statement had contained  
12 a reference to that, and I can't say just straight  
13 away. There isn't a problem, Mr. Harty.

14 636 Q. MR. HARTY: The situation is, just so we are clear on  
15 this, Superintendent McGovern's evidence differs from 17:05  
16 yours in relation to that meeting on the 27th of  
17 September 2013 where it was that you undertook to  
18 supply him with the reports?

19 A. That's correct, yes. I think that is my evidence, too.

20 637 Q. No, what I understood you said was that he had related 17:05  
21 that he had -- he had somehow supplied the reports to  
22 you, but, in fact, it was you --

23 A. No, no, it was the other way around. I actually was  
24 supplying him and I actually sent them out to him.

25 638 Q. And when did you read the various reports, the 21st 17:05  
26 August 2013, when did you read that?

27 A. I pulled them all together on the 27th, between the  
28 early morning conversation with Superintendent McGovern  
29 and the afternoon conversation.

1 639 Q. How did you pull them together?  
2 A. I asked my staff, 'would you pull these reports out for  
3 me, any reports concerning' --  
4 640 Q. And was that done by way of a note or an email?  
5 A. No, I would pick up the phone and I would ring either 17:06  
6 Sergeant Duffy or one of my staff and say, 'look at,  
7 will you pull out any reports for me, gather them  
8 together for me'.  
9 641 Q. And this was on the basis of a call -- this was because  
10 you had received the report of the 27th September -- 17:06  
11 or the 24th September -- I will get the --  
12 A. No, I had received some of the reports in.  
13 642 Q. Which report had you received by the time you made this  
14 decision?  
15 A. I understood I had received Sergeant Durkin's report 17:06  
16 via Superintendent Finan. I also had -- what other  
17 reports had I? I think I had about three or four that  
18 I would have sent out to Superintendent McGovern. I  
19 would know from my -- can I just check -- I think I  
20 must have requested Garda Campbell in my office to get 17:07  
21 the existing reports. I had Sergeant Durkin's report,  
22 Superintendent Finan's, Sergeant Doherty's, Inspector  
23 Kelly and --  
24 643 Q. Can I ask what you are reading from?  
25 A. I am reading just from a time-line I prepared myself 17:07  
26 from my own emails.  
27 644 Q. You see, I am not sure I have seen all those emails.  
28 MR. MCGUINNESS: Just for Mr. Harty's benefit, they are  
29 in the papers served from page 308 to 321.

1 CHAIRMAN: Yes, there is piles of emails. I didn't  
2 think there was anything in them apart from people just  
3 exchanging information, et cetera.

4 645 Q. MR. HARTY: In relation to -- there is also a  
5 reference -- what you sent on to Superintendent 17:08  
6 McGovern was the report of the 1st April, 21st April  
7 and 24th September, and they also include reports from  
8 Sergeant Aidan Doherty of April and September --

9 A. Mm-hmm.

10 646 Q. -- reports of Superintendent Finan of August, two 17:08  
11 reports from Sergeant Durkin then of Donegal Town  
12 station dated 28th of August, and that is the incorrect  
13 date report from Sergeant Durkin, I think, because it  
14 should have been dated September instead of August?

15 A. Yes. 17:09

16 647 Q. And reports from Superintendent Kelly?

17 A. That's right. I think when I got some reports in from  
18 Superintendent Finan I sent them out to Letterkenny  
19 district to see was there any other incidents that I  
20 should have been aware of, and I think that's when I 17:09  
21 got Sergeant Doherty's report in.

22 648 Q. He also received a report dated 5th September 2013 from  
23 you.

24 A. Is this the one I sent out to -- I sent out to  
25 Inspector Kelly, yeah, I sent out some reports to find 17:09  
26 out from Inspector Kelly was there any other incidents.

27 649 Q. Right. After one report of one incident, that is all  
28 you knew about at the time, wasn't it, one -- the  
29 statement from Rita McDermott?

1 A. When I sent out -- just let me check. Could you bear  
2 with me for a second, please. It was on the 5th, yeah,  
3 that I sent out to superintendent Letterkenny with  
4 Inspector Kelly looking for any details of any  
5 incidents involving Garda Harrison attaching or 17:10  
6 referencing reports of Sergeant Durkin, Superintendent  
7 Finan, and it's really the call -- the first call that  
8 came in from Rita McDermott. So I send that out to  
9 David Kelly asking him -- he is the inspector acting  
10 for the superintendent, just asking him if there is any 17:10  
11 reports from his end or does he know anything about  
12 them.

13 650 Q. And that is dated the 5th of September?

14 A. The 5th of September, yes.

15 651 Q. And -- 17:10

16 A. It's on page 1663 of the materials.

17 652 Q. So you spoke to Inspector Sheridan and Sergeant Collins  
18 on 2nd October?

19 A. That's correct, yes.

20 653 Q. You recounted orally the entire background to Inspector 17:10  
21 Sheridan at that stage?

22 A. I gave her a brief, you know what I mean, I didn't go  
23 into specifics because I wouldn't have had it on the  
24 top of my head, as you rightly -- but I gave her an  
25 idea of what I had discussed with Superintendent 17:11  
26 McGovern on the 27th, because it was my intention  
27 actually to appoint her that evening, but she wasn't in  
28 the building and she wasn't there and I didn't -- you  
29 know.

1 654 Q. And you didn't furnish her with the reports; she could  
2 have gotten them herself, isn't that correct?  
3 A. She would have had access to some of those reports.  
4 655 Q. She wouldn't have access to all of them, though? They  
5 were confidential. They weren't, I presume, lying 17:11  
6 around Letterkenny Garda Station?  
7 A. No, but she would have the means of accessing them.  
8 656 Q. Would she?  
9 A. Yes, she would, because I would have sent out a copy to  
10 Inspector Kelly of Rita McDermott's first report, 17:11  
11 asking, you know -- referencing them and asking was  
12 there any incidents.  
13 657 Q. But she wouldn't know to go and ask Inspector Kelly for  
14 them?  
15 A. No, not when I was talking to her on the 2nd, no, but 17:11  
16 as her investigation progressed, you know, if it had  
17 taken the turn that I had anticipated at the time, that  
18 she would review all these incidents, she would  
19 obviously have gone and gathered the materials.  
20 658 Q. But you had all the materials gathered together? 17:12  
21 A. I had, but my intention, obviously, as I said, was to  
22 appoint her on the 27th, but unfortunately  
23 circumstances overtook that, and events, and I meet her  
24 downstairs on the 2nd of October and with Sergeant  
25 Collins and I want them to go out at that stage and 17:12  
26 meet Rita McDermott to see what is happening.  
27 659 Q. And what you then did -- when did you next speak to  
28 Inspector Sheridan?  
29 A. My next meeting -- I think it's the evening of the 2nd.



1 660 Q. How do you know that?  
2 A. Because I am looking at here what -- I have it here in  
3 my -- just bear with me for a second until I see.  
4 661 Q. What are you reading from? It might assist.  
5 A. It's just my time-line of my emails and -- I just want 17:13  
6 to see --  
7 CHAIRMAN: Mr. Harty, they are all in the materials.  
8 But I am beginning to wonder --  
9 MR. HARTY: Oh, it's the time-line that she is reading  
10 from. I am just trying to work out -- 17:13  
11 CHAIRMAN: I have got one too.  
12 MR. HARTY: I appreciate that. And I wouldn't presume  
13 to ask the Tribunal to give evidence.  
14 CHAIRMAN: Behold, everything that happened.  
15 662 Q. MR. HARTY: When did you next speak to Inspector 17:14  
16 Sheridan?  
17 A. I think it must have been late when she came back after  
18 taking the statement from Rita McDermott. She must  
19 have told me she had taken a statement from Rita  
20 McDermott, because I have down that she makes a 17:14  
21 statement and that I know that she has made a  
22 statement.  
23 663 Q. Okay.  
24 CHAIRMAN: Mr. Harty, what is this directed to? I  
25 mean, is it to say that it was an incompetent 17:14  
26 investigation? Is it to say that it was a malicious  
27 investigation? Is it to say that --  
28 MR. HARTY: It's to investigate precisely what Chief  
29 Superintendent McGinn's state of knowledge was at all

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times.

CHAIRMAN: And how would that help me? I mean, it's clear she has a very good memory, but how would it help me to know what she knows?

MR. HARTY: Because she makes all the decisions.

17:14

CHAIRMAN: Sure, but I mean, I am presuming that as the chief superintendent, if other people are doing their job they are bringing the information to her as it occurs or very shortly afterwards, in the event that it's important. The reason this is important, as I understand the evidence, is because it's not just an it's a domestic violence situation which wouldn't be thought to be one, which wouldn't be brought to her attention normally if it was somebody in Gortahork or whatever, not to in any way denigrate domestic violence or any woman's experience of it, but it is because the person involved is a garda, and therefore she has to take an interest. But if that is her duty I am just tending to wonder where is the point, where are we going with this?

17:15

17:15

17:15

MR. HARTY: I haven't suggested, and I am not at this point in my questioning suggesting that anything has been done wrong by Chief Superintendent McGinn, I am simply trying to work out what was done by Chief Superintendent McGinn and what was known by her at various stages.

17:15

CHAIRMAN: But isn't that all in the emails, or most of it?

MR. HARTY: No. Chief Superintendent McGinn sends

1 very few emails. A lot of emails that are sent are by  
2 Garda Karl Campbell, but in terms of what the chief  
3 superintendent did or did not discuss with people can't  
4 be present in emails and that is what I want to  
5 uncover.

17:16

6 CHAIRMAN: All right. As I see it, things must be  
7 as follows: The allegation made by your client in the  
8 letter to Minister Zappone is that a statement was  
9 coerced out of Marisa Simms, so what has to be relevant  
10 in relation to this witness is, did she somehow set up  
11 the coercion of a statement from Marisa Simms?

17:16

12 MR. HARTY: That was precisely the line of questioning  
13 that I was going to when I was asking about the  
14 conversation between this witness and Inspector  
15 Sheridan.

17:16

16 CHAIRMAN: I was just gathering my thoughts and trying  
17 to take a breath there, Mr. Harty. So, in other words,  
18 did she ask Inspector Sheridan to get a statement in  
19 any improper fashion? Was she aware that the statement  
20 was in any way infirm? And if she was aware that the  
21 statement was in any way infirm in consequence of what  
22 she was told, would she not have held back referring it  
23 to the HSE? I presume those are the three main  
24 questions certainly in my mind in relation to this.  
25 So, there it is.

17:16

17:17

26 MR. HARTY: And they are not questions I can  
27 realistically put directly to a witness in  
28 cross-examination.

29 CHAIRMAN: No, no, I appreciate that. I appreciate

1 that. I don't know if we are coming there.

2 MR. HARTY: We were precisely there, in that we were  
3 dealing with a conversation at precisely that point of  
4 time where the statement of the 8th of October, after  
5 the taking of the statement of Rita McDermott, and this 17:17  
6 was the conversation that we were dealing with. I  
7 wonder in the circumstances if we might consider now a  
8 good time to break in relation to the matter. It's 25  
9 past 5.

10 CHAIRMAN: Yes. Certainly. How long do you think you 17:17  
11 will?

12 MR. HARTY: I will be another hour-and-a-half.

13 CHAIRMAN: All right. That is great. And I will try  
14 and sit at 11:00 if possible. I am sorry for delaying  
15 everybody today, I know how frustrating that is for 17:17  
16 everybody but I can't help it sometimes.

17 MR. MCGUINNESS: Chairman, it may be of assistance if I  
18 say that we are hoping to take also the evidence Garda  
19 Campbell whom we have asked to be here again on Monday,  
20 and then Mr. Johnan Groenewald from GSOC following the 17:18  
21 conclusion of Chief Superintendent McGinn's evidence.

22 CHAIRMAN: Yes. And where would we go on Tuesday,  
23 Mr. McGuinness?

24 MR. MCGUINNESS: Well, we are intending to have  
25 Superintendent Murray, Mr. Darren Wright, Sergeant 17:18  
26 McGroary, Inspector O'Donnell, Sergeant Wallace and  
27 Superintendent Finan.

28 CHAIRMAN: And would that finish things?

29 MR. MCGUINNESS: I think that should, subject to any

1 issue about recalling anyone else. That should  
2 conclude it.

3 CHAIRMAN: I don't see there is any reason. I had  
4 thought at one point in relation to recalling --

5 MR. MCGUINNESS: Sergeant McGowan?

17:18

6 CHAIRMAN: Yes, Sergeant McGowan. But the plain  
7 reality is all of the references that were made prior  
8 to the phone call from Inspector Sheridan are in fact  
9 in other people's statements, she wasn't asked about  
10 it. So I mean, if people feel they need to ask her  
11 about it, but it's not as if anything isn't there. It  
12 is there in the materials.

17:19

13 MR. MCGUINNESS: Perhaps I might canvass with the  
14 representatives if they think there is any need.

15 CHAIRMAN: Yes. Well, I don't want to call people back  
16 unnecessarily. So, are we in a position to finish next  
17 week?

17:19

18 MR. MCGUINNESS: I think so, Chairman. With this  
19 schedule we might finish the evidence on Tuesday.

20 CHAIRMAN: Do you feel you need a day then or if we  
21 finish in the morning? Mr. Harty, I am offering it to  
22 you, if you want it.

17:19

23 MR. HARTY: I don't believe I will need that length of  
24 time.

25 CHAIRMAN: Yes. Well, we have the entire weekend,  
26 after all. But in the event that it's needed I am  
27 happy to do that. I would appreciate then if people  
28 would tell me on Monday the length of any oral  
29 submissions they wish to make, and it should be borne

17:19

1 in mind I have been sitting here and listening to all  
2 of this stuff, writing everything down,  
3 cross-referencing documents, referencing a chronology.  
4 It may be that people would say such-and-such is  
5 important, such-and-such is not important, that would 17:19  
6 perhaps help; what the issue is, I say it's the  
7 following, that might help. But giving me a recitation  
8 of emails, for instance, isn't going to help at all,  
9 except to drive me into an early grave. So, maybe that  
10 is a desirable thing. we will take the weekend off in 17:20  
11 anticipation.

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