

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

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1921, ON 17 FEBRUARY 2017

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

HELD IN DUBLIN CASTLE  
ON MONDAY, 23RD OCTOBER 2017 - DAY 37

37

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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 ON MONDAY, 23RD DAY OF  
2 OCTOBER, 2017, AS FOLLOWS:

3  
4 MR. MARRINAN: The first witness today, sir, is James  
5 Sheridan, please. His statement is to be found at page 10:05  
6 2568 of the materials.

7  
8 MR. JAMES SHERIDAN, HAVING BEEN SWORN, WAS  
9 DIRECTLY-EXAMINED BY MR. MARRINAN. AS FOLLOWS:

10  
11 1 Q. MR. MARRINAN: Now, Mr. Sheridan, you have already  
12 given evidence in relation to your dealings with Garda  
13 Keith Harrison whilst you were in Donegal?

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

15 2 Q. You are being recalled today to deal specifically with 10:05  
16 a meeting that occurred on 5th November 2013, which was  
17 a regional management meeting and it was held at  
18 Dundalk Garda station?

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

20 3 Q. Do you have any recollection of that meeting? 10:06

21 A. I don't, other than obviously I was at it, and I was  
22 the chief superintendent in Cavan-Monaghan at the time.  
23 I didn't have any jurisdiction or involvement in the  
24 management of Donegal division at that time and it  
25 would be a meeting that would be held on a monthly 10:06  
26 basis.

27 4 Q. If we could have page 2695 on the screen, please. This  
28 is a note, a typed note of the minutes of the meeting.  
29 You'll see there at the top it's headed:

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"Management meeting 2:00pm on 5th November 2013, at Dundalk Garda station".

And then in attendance it has the Assistant Commissioner Kieran Kenny, Chief Superintendent Terry McGinn, Chief Superintendent Jim Sheridan, yourself, Chief Superintendent Pat Magee, Chief Superintendent Michael Clancy, Detective Superintendent John O'Reilly and Superintendent McMahon, who was in charge of roads policing. Is that normal attendance for a divisional meeting? 10:07

A. It would be, yes, Judge, yes.

5 Q. And what matters are normally discussed?

A. There would usually be an agenda, but it would normally be a meeting of crime that -- in relation to crime, traffic, subversives and any other issues that may be relevant at the time. 10:07

6 Q. We see that Sergeant Karen Duffy was also present at the meeting. I think she might have been taking the minutes of the meeting. 10:08

A. Perhaps.

7 Q. And then Mr. Eddie McGoey, who is a crime analyst, I think he just brings statistics to the meeting?

A. That's correct. 10:08

8 Q. That's his sole input, isn't that right?

A. That's correct, yeah. He would be responsible for presenting the crime figures and the data in relation to crime.

1 9 Q. There's a Ms. Sinéad Murphy who is attending at the  
2 meeting and she has a title of HFO of the Northern  
3 Region, what's that?  
4 A. She would be the Higher Executive Officer I think in  
5 the -- she's in the regional office in Sligo anyway. 10:08  
6 10 Q. Now, we can see that a number of matters that were  
7 discussed, which we needn't go into, but relate to  
8 various aspects of crime policing, isn't that right?  
9 A. That's correct, Judge, yes.  
10 11 Q. If we could just go over to page 2696, we have the 10:08  
11 Sligo/Leitrim division, where it's been blacked out --  
12 A. Yes.  
13 12 Q. -- but we can see that there was matters discussed in  
14 relation to that. Then over the page. At 2697, you'll  
15 see the Donegal division. That was no longer your 10:09  
16 bailiwick, isn't that right?  
17 A. That's correct, yes.  
18 13 Q. And Chief Superintendent McGinn was then in charge of  
19 the Donegal division. You see down at the end of that  
20 page, 2697: 10:09  
21  
22 "Chief Superintendent McGinn gave an overview in  
23 relation to the Garda Keith Harrison investigation."  
24  
25 Have you any recollection of that taking place? 10:09  
26 A. No, Judge, I haven't.  
27 14 Q. If we could then go over to the next page, 2698, we see  
28 that there was an update in relation to Cavan and  
29 Monaghan and then below that, in relation to the Louth

1 division, there was also an update.

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

3 15 Q. I think that we can then see that there was an update  
4 given in relation to the traffic division, isn't that  
5 right? 10:10

6 A. That is correct, yes.

7 16 Q. And then over at page 2699 we can see that other  
8 matters concerning budget and finance, major events  
9 that might have taken place within the division  
10 Haddington Road, and recording of incidents on Pulse. 10:10  
11 And then on the sixth page of the note, at 2700, we  
12 have any other business that might have been discussed,  
13 is that right.

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

15 17 Q. Thank you. would you answer any questions please. 10:10  
16

17 MR. JAMES SHERIDAN WAS CROSS-EXAMINED BY MR. HARTY, AS  
18 FOLLOWS:  
19

20 18 Q. MR. HARTY: Chief superintendent, in relation to these 10:10  
21 regional meetings, they take place on a monthly basis;  
22 is that correct?

23 A. Yeah, it would be normally on a monthly basis, yes.

24 19 Q. what do you receive in advance of those meetings?

25 A. There would be an agenda there. Usually an agenda 10:11  
26 comes out from the regional office in relation to what  
27 the topics could be.

28 20 Q. Right. From your division, you would feed into that  
29 agenda before it comes out, is that correct?



1 A. That's correct, yes.

2 21 Q. As a result, the agenda would be broken down into each  
3 division?

4 A. Each chief superintendent would account for his  
5 division. 10:11

6 22 Q. Yes. And that would feed into the meeting. So that  
7 would be something you would prepare at some period in  
8 advance, I take it?

9 A. That's correct, yes.

10 23 Q. And you would send that in with the matters that you 10:11  
11 felt needed to be addressed at a regional level?

12 A. You would normally send in what -- you may not send all  
13 the crime figures, the crime figures would come out  
14 from the analyst. Sometimes you would send in stuff in  
15 advance, sometimes you wouldn't, it would be given 10:11  
16 verbally at the meeting.

17 24 Q. Right.

18 A. You may hand in a report and whatever that you had in  
19 relation to certain matters to the meeting or whatever  
20 like that. 10:12

21 25 Q. And is it a situation whereby the Assistant  
22 Commissioner would correspond with you as to what  
23 issues he wanted you to raise, or he or she, I should  
24 say, wanted you to raise?

25 A. No. 10:12

26 26 Q. No?

27 A. No.

28 27 Q. No. It's something that each head of division would  
29 indicate the matters that they were going to deal with,

1 is that by email or letter?

2 A. Well, it would usually be done at the meeting. You  
3 would go through the different crime investigations,  
4 the status of investigations, any other matters that  
5 were there, the budget, whatever, you give an account 10:12  
6 of where the budget was in relation to the given time  
7 and any other matters that were there, you'd give an  
8 account at the meeting.

9 28 Q. So it wouldn't ordinarily deal with individual cases,  
10 would that be correct? 10:13

11 A. Ah, it would be, I would say probably -- it would  
12 happen, because at times there were, say, GSOC  
13 complaints and that, because there were timeframes  
14 there in relation to those, which are something that  
15 would have figured from time to time in meetings in 10:13  
16 relation to timeframes, they need to meet the  
17 timeframes and that type of thing. In that, individual  
18 cases around all that might be discussed in relation to  
19 where they are and trying to get them delivered on  
20 time. 10:13

21 29 Q. So, if you were dealing with a GSOC case, for example,  
22 and you wanted it on the agenda, you would indicate  
23 that to the Assistant Commissioner's office in advance?

24 A. No, not necessarily in advance, it would come under any  
25 business, or whatever, if you wanted to raise any other 10:13  
26 matters when you were there, that was the forum to do  
27 it.

28 30 Q. Okay. Now, I understand from your statement that you  
29 have no recollection, but you had obviously dealings

1 with Garda Harrison previous to this?

2 A. That's correct, yes.

3 31 Q. Do you recall, did you see his name on the agenda  
4 before the meeting?

5 A. No, I have no recollection of that. 10:14

6 32 Q. Can I suggest to you that his name would certainly have  
7 piqued your interest?

8 A. Absolutely not. I had no interest in Garda Harrison.  
9 I had left the division a year before that. As I said  
10 in my previous evidence, I never sought out Garda 10:14  
11 Harrison at any time. Any dealings I had with Garda  
12 Harrison arose out of matters that had occurred, not by  
13 me looking at him, looking for him. I had no interest  
14 in Garda Harrison. I was in Louth division for 30  
15 years. There was presentations in respect of Louth 10:14  
16 division at that meeting. I was in Sligo Leitrim  
17 division for two and a half years, there were issues in  
18 relation to that division. They do not concern me. It  
19 would be inappropriate for me, totally, to involve  
20 myself in those. 10:15

21 33 Q. So, can you explain to me what the purpose was or why  
22 there would be a purpose in raising an individual case  
23 at a general meeting between heads of divisions and  
24 assistant commissioners?

25 A. Well, I don't know, I didn't raise it. And, as I've 10:15  
26 said, you know, there would be matters that would be  
27 raised at the meeting by a Chief when he'd be giving  
28 his presentation in relation to his division, or at the  
29 end of it, under any other business or any of those

1 type of matters.

2 34 Q. But it would be fair to say that from your perspective  
3 what goes on in another division wouldn't pique your  
4 interest, wouldn't grab your attention?

5 A. It was not my concern. 10:15

6 35 Q. And it's a matter that while it might be a relevant  
7 matter for the assistant commissioner, it really was of  
8 no interest to the other --

9 A. That'd be correct, yes.

10 36 Q. Thank you very much. 10:15

11

12 MR. JAMES SHERIDAN WAS CROSS-EXAMINED BY MR. O'HIGGINS,  
13 AS FOLLOWS:

14

15 37 Q. MR. O'HIGGINS: Just one matter arising, if I may, 10:16  
16 Chief Superintendent. Do you have the unredacted  
17 minute there in front of you of the meeting?

18 A. I don't, Judge, no.

19 38 Q. All right. I wonder might that be provided, I wonder, 10:16  
20 to the witness, if possible.

21 MR. HARTY: Sorry, sir, I wasn't provided with a copy  
22 of the unredacted minute.

23 MR. O'HIGGINS: Yes.

24 MR. HARTY: I certainly wouldn't be happy with the  
25 document being given -- an unredacted form being given 10:16  
26 to a witness without me being given it first.

27 MR. O'HIGGINS: I appreciate that.

28 MR. MARRINAN: The document has been redacted for a  
29 reason, sir. There is reference in Chief

1 Superintendent Tony Howard's affidavit that he has  
2 provided to the Tribunal a reference to disciplinary  
3 matters in relation to some other Gardaí, that's  
4 contained in the document, that may be what  
5 Mr. O'Higgins is referring to. 10:17

6 MR. O'HIGGINS: Yes, and there's reference, Chairman,  
7 to other individual cases in the particular minutes.  
8 I think the point won't be lost on you, Chairman,  
9 you'll be in a position to assess the minutes  
10 themselves in their entirety. 10:17

11 CHAIRMAN: Not really, Mr. O'Higgins. I mean I  
12 actually skipped over everything except the reference  
13 to Garda Harrison. I didn't read any of the rest, I  
14 didn't think it was any of my business, to be perfectly  
15 honest. 10:17

16 MR. O'HIGGINS: Yes, I understand. The only relevance  
17 I was going to seek to elicit from the document is that  
18 there appears to be reference to other individual cases  
19 within the minutes, insofar as it being suggested that  
20 reference to Garda Harrison was somehow -- 10:17

21 CHAIRMAN: The minutes go on for about six pages, isn't  
22 that right?

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

24 CHAIRMAN: Yes. And there's loads of stuff about, I  
25 suppose, what you might call ordinary, routine 10:17  
26 management things that come up.

27 MR. O'HIGGINS: There are.

28 CHAIRMAN: So, this is one and I think it occupies all  
29 of one line and a half.

1 MR. O' HIGGINS: In that eventuality, Chairman, I don't  
2 need to ask the witness any questions.

3 39 Q. CHAIRMAN: Yes. I presume the meeting lasted for what,  
4 two or three hours.

5 A. It would usually last two and a half to three hours, 10:18  
6 yes, Judge.

7 40 Q. CHAIRMAN: And you were talking about lots of things.

8 A. Mm-hmm.

9 41 Q. CHAIRMAN: But this particular thing you just don't  
10 recall. If Mr. O'Higgins was to ask you about another 10:18  
11 individual case, unless you were personally dealing  
12 with it, would you remember it.

13 A. I wouldn't recall it, Judge, no.

14 CHAIRMAN: Was that all you wanted to bring out?

15 MR. O' HIGGINS: Yes. 10:18

16 CHAIRMAN: All right. Thank you.

17 MR. MARRINAN: Thank you.

18

19 THE WITNESS THEN WITHDREW

20 10:18

21 MR. MARRINAN: Sir, there was another attendee at the  
22 meeting, Mr. Edward McGoey, who is a crime analyst, and  
23 you, sir, expressed some interest in relation to  
24 whether or not he had something to contribute. His  
25 statement is to be found at page 2571 and the relevant 10:18  
26 portion of it is that he has no recollection of Garda  
27 Keith Harrison being mentioned at the meeting and no  
28 contemporaneous notes of the meeting and since he had  
29 no independent recollection of the meeting at all, we

1 didn't see it necessary to bring him.

2 MS. LEADER: The next witness, sir, is Superintendent  
3 Eugene McGovern and his statement is at page 2572 of  
4 volume 8 of the materials.

5  
6 SUPERINTENDENT EUGENE MCGOVERN, HAVING BEEN SWORN, WAS  
7 DIRECTLY-EXAMINED BY MS. LEADER AS FOLLOWS:

10:19

8  
9 42 Q. MS. LEADER: Superintendent McGovern, thank you for  
10 coming back. I think in your statement, which you  
11 prepared in relation to this topic, you became aware  
12 that Mr. Gerry Hone of the HSE was going to attend a  
13 meeting on 29th November 2013 with Gardaí?

10:20

14 A. That would be correct, Chairman.

15 43 Q. Yes. I think that meeting was a Donegal divisional  
16 management meeting, is that correct?

10:20

17 A. That would be correct.

18 44 Q. Superintendent McGovern, if you could just explain to  
19 me what a divisional management meeting is and what  
20 topics are generally discussed at such meetings?

10:20

21 A. The purposes of the divisional management meeting is  
22 basically to review all aspects of policing for all the  
23 districts and after that then other matters in the day  
24 under any other business may well be discussed or if  
25 anyone wants something put in the agenda in relation to  
26 a particular aspect of the district, then that would be  
27 put on the agenda and it's discussed after the fact.

10:20

28 45 Q. I think you've set out in your statement that you  
29 became aware of the possible attendance of Mr. Hone at

1 that meeting on the 29th November, on 19th November  
2 2013?

3 A. Yes. Originally we were put on notice that Mr. Hone  
4 may well be in attendance at that particular meeting  
5 but it hadn't been confirmed at that particular date. 10:21

6 46 Q. Okay. You exhibit to your statement an email that you  
7 got from Mr. John Mulroe, is that correct?

8 A. That would be correct.

9 47 Q. That's at page 2579 of the materials, which will come  
10 up in front of you. Mr. Mulroe was informing you that 10:21  
11 there was to be a divisional management accountability  
12 meeting taking place at Letterkenny Garda station at  
13 11:00am on Friday, 29th November 2013. And the email  
14 went on to outline the agenda in relation to the  
15 meeting. And at the very bottom of that email, it's 10:22  
16 set out that:

17

18 "There may also be a presentation by Mr. Gerry Hone  
19 regarding HSE referrals. I'm awaiting confirmation of  
20 his availability to attend and you will be advised in 10:22  
21 due course."

22

23 A. That would be correct, yes.

24 48 Q. Did you speak to Gerry Hone prior to the meeting on  
25 foot of that email in relation to his presence at the 10:22  
26 meeting?

27 A. No, I didn't speak to Mr. Hone.

28 49 Q. Okay. Then, on 26th November 2013, you received an  
29 email from Chief Superintendent McGinn, indicating to



1 you that the divisional accountability meeting would  
2 commence at 10:00am and that a seminar would take place  
3 with Mr. Gerry hone of the HSE?

4 A. Yes, that's correct.

5 50 Q. That email appears at page 2583 of the materials, which 10:23  
6 should just come up in front of you. Chief  
7 Superintendent McGinn sends you; Inspector Harrison,  
8 Michael Harrison; Superintendent Archbold;  
9 Superintendent Finan, an email in relation to the  
10 divisional accountability meeting on 26th November 10:23  
11 2013, and she informs you that the:  
12  
13 "Meeting with followed with seminar by Mr. Gerry hone  
14 HSE..."  
15 10:23

16 And thereafter there would be a presentation made by  
17 one of the other superintendents in the Garda Síochána;  
18 is that correct?

19 A. That's correct, Chairman.

20 51 Q. Now, you attended at that meeting; is that correct? 10:24

21 A. I attended the meeting, Chairman, yes.

22 52 Q. You have looked at the minutes of the meeting which  
23 were prepared by one of the other attendees, I think it  
24 was one of the sergeants is that correct?

25 A. Yes, Sergeant Peter Duffy, the Divisional Clerk, 10:24  
26 prepared the minutes of the meeting, Chairman.

27 53 Q. They appear at page 2592 of the materials, just at the  
28 very bottom of the page I think. It's under number 10  
29 "any other business", it says:

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"HSE referrals: Gerry Hone from the HSE gave a presentation at the management meeting in Letterkenny recently. There is insufficient --"

10:25

I think that may be a briefing document that you prepared afterwards, is that right?

A. Yes. I think what has been put in, Mr. Chairman, is not in fact the minutes of the actual divisional meeting. They are actually my own meetings from a follow up meeting from the divisional conference, yes.

10:25

54 Q. Sorry, superintendent?

A. Yeah.

55 Q. I think it might be page 2587. You will see the attendees at the meeting on the 29th November are Chief Superintendent McGinn; yourself; Superintendent Finan; Superintendent Archbold; Inspector Harrison; and sergeant Duffy, is that correct?

10:25

A. That would be correct, Chairman.

56 Q. Sergeant Duffy prepared the minutes, is that correct?

10:25

A. That's correct.

57 Q. Did you prepare any minutes in relation to the meeting?

A. I would have prepared minutes myself in that there, but I no longer have them, Chairman.

58 Q. When you say you no longer have them, could you explain to the Tribunal what enquiries you carried out or what searches you carried out in order to ascertain whether or not you still have those minutes?

10:26

A. I searched all available files and documents that I

1 have, Chairman, in relation to it, and I'm not able to  
2 locate the actual minutes of that particular meeting.

3 59 Q. You referred to your search in your statement as a  
4 comprehensive search, is that correct?

5 A. That would be correct. I do have the actual folder 10:26  
6 from the divisional management meeting available but  
7 the minutes are not in it. But I would be happy that I  
8 had the meeting because the briefing document I would  
9 have done on the 6th December reflect that I would have  
10 briefed people in my own district off notes that I 10:26  
11 would have taken at the actual divisional meeting.

12 60 Q. So, if we go through the minutes as prepared by  
13 Sergeant Duffy. He sets out as follows:

14  
15 "Big increase in Garda notification/referrals to HSE. 10:26  
16 HSE sought Pulse printouts with referrals, but there  
17 are data protection.

18  
19 29 referrals this year which required clarification.  
20 Information on the referral can be scant. Not many 10:27  
21 referrals in relation to elder abuse, but should be  
22 referred to Fiona McManus.

23  
24 Liaison between HSE and Garda Liaisons is very good on  
25 the ground. New systems starting in 2014 in HSE where 10:27  
26 intakes will be centralised. MH new FOIs will have  
27 major impact in all that data, including soft  
28 information can be disclosed."  
29

1 MH, do you think that's a reference to Inspector  
2 Harrison4?

3 A. That would be correct, Chairman, yes.

4 61 Q. "Case conference now to be held for each referral. If 10:27  
5 there is enough information on the referral allows for  
6 more informed HSE decision. MF suggested that the  
7 referral form could be improved so that more  
8 information would be included in the referral. Where a  
9 referral is received, the parents must be informed of 10:28  
10 the existence of the referral. JH, still a nine to  
11 five service."  
12  
13

14 Do you know what the reference to JH is there?

15 A. GH, I would say that was GH, Gerry Hone possibly, yes. 10:28

16 62 Q. GH.

17 A. Yes.

18 63 Q. Thank you.

19

20 "...still a nine to five service. Costings have been 10:28  
21 sought for the provisions of out of hours service, but  
22 it is still in the ether."  
23

24 A. That would be correct, yes.

25 64 Q. Now, from your recollection, is that an accurate 10:28  
26 account of what Mr. Hone spoke about at the meeting and  
27 what was spoken about with him?

28 A. Yes, to my recollection, Chairman, that would be a  
29 reasonable recollection of what occurred at the

1 meeting.

2 65 Q. Okay. Did Mr. Hone attend for the whole of the meeting  
3 or did he attend for some of the meeting only?

4 A. No, he only attended for a very short period of time,  
5 in relation to his own aspect of it. As the minutes 10:29  
6 reflect, there were other speakers, there was other  
7 business discussed and he just took a very small part  
8 in the actual divisional management meeting.

9 66 Q. Okay. Now, during his presence at the meeting, were  
10 the referrals in relation to the Simms children ever 10:29  
11 discussed?

12 A. No, Chairman, they never came up for discussion at that  
13 meeting.

14 67 Q. Okay. Insofar as they were fairly proximate in time to  
15 that meeting, Mr. Hone himself had raised a query in 10:29  
16 relation to those referrals, are you satisfied that  
17 they weren't discussed in any way?

18 A. Yes, Chairman, I can say a hundred percent they were  
19 never discussed at that particular meeting.

20 68 Q. Okay. Was any particular referral discussed at that 10:29  
21 meeting?

22 A. No, Chairman, no individual case was discussed, and  
23 wouldn't be at this particular type of a meeting, it  
24 wouldn't have been prudent to discuss any particular  
25 individual case. 10:30

26 69 Q. Okay. Now, following on that meeting, you had a series  
27 of meetings where you referred to in your statement,  
28 superintendent, where what Mr. Hone had discussed  
29 during the meeting on the 29th November was further

1 discussed and shared with other people in your  
2 district, is that correct?

3 A. That would be correct, Chairman.

4 70 Q. Okay. Now, I think the first of those meetings was on  
5 6th December 2013, and that was a district management 10:30  
6 meeting at Buncrana Garda station?

7 A. That's correct, Chairman.

8 71 Q. I think that you refer to your journal entry in  
9 relation to that meeting, that such a meeting had taken  
10 place and who was present at it, is that correct? 10:30

11 A. That's correct, Mr. Chairman, I have an entry for 6th  
12 December 2013 for a management meeting at 10:30am.

13 72 Q. That's at page 2589 of the materials.

14 A. That's correct, Mr. Chairman. That's the entry I made.

15 73 Q. Yes. 10:31

16 CHAIRMAN: what does it say actually?

17 A. It says:

18

19 "Management meeting present. Gardaí Sweeney, Ward,  
20 Lamb, Conroy and Detective Sergeant Egan". 10:31

21

22 74 Q. MS. LEADER: Now, I think there is a briefing document  
23 from that accountability meeting created and the  
24 relevant part of that is what I referred to already in  
25 error, at page 2592 of the materials. It's at the end 10:31  
26 of the page.

27

28 "HSE referrals. Gerry Hone from the HSE gave a  
29 presentation at the management meeting in Letterkenny

1 recently. There is insufficient information being  
2 supplied by members on the notification forms. There  
3 is no reason why a précis cannot be given. No headed  
4 paper reports to be given. The HSE asked for Pulse  
5 related incidents but these are not to be supplied." 10:32

6  
7 Now, what was the purpose of sharing that with the  
8 meeting? It may be obvious, but just explain it to us.

9 A. They were basically the issues that were raised by  
10 Mr. Hone in relation to streamlining and improving the 10:32  
11 efficiency of the actual HSE referrals to Tusla. I  
12 brought it to the attention of people who attended at  
13 the management meeting. Those management meetings also  
14 would be typed up and circulated to everybody within  
15 the district. That subsequently took place on 10th 10:32  
16 December 2013. As I said, it was just recording any  
17 other business, there would have been a substantial  
18 agenda, there was nine other items on the actual agenda  
19 that particular day, it was just one aspect of the  
20 actual meeting. 10:33

21 75 Q. CHAIRMAN: Sorry for interrupting, Ms. Leader. Was  
22 this the thing that was discussed at some length; what  
23 information should be on the form, should there be  
24 access to statements, etcetera, etcetera, was it that  
25 kind of area? 10:33

26 A. It was. It was basically in relation to the shortfalls  
27 that had been identified to us and the remedial action  
28 that they thought would have been appropriate to  
29 actually appropriate the efficiency of the actual --

1 76 Q. CHAIRMAN: But did it focus on any particular case?

2 A. No. No, no, this was just -- this was general in  
3 relation to HSE referrals across the Buncrana Garda  
4 district at that particular time.

5 77 Q. CHAIRMAN: Yes. 10:33

6 A. There is another follow up document that will also  
7 reflect on a similar type instruction that went out to  
8 everybody in the actual district.

9 78 Q. MS. LEADER: Okay. That document also appears as an  
10 appendix to your statement, where Detective Sergeant 10:33  
11 Egan sends a circular to the superintendent at Buncrana  
12 in relation to the notifications, is that correct?  
13 That appears at page 2596 of the materials.

14 A. Yes, that's correct, Mr. Chairman. Detective Sergeant 10:34  
15 Egan would have been the Buncrana District Liaison  
16 Manager with the HSE and Tusla at that particular time,  
17 he still actually is.

18 79 Q. He sets out in a letter, which is date stamped 9th  
19 January 2014:

20 10:34  
21 "Re: Notifications to Child and Family Agency,  
22 formerly HSE notifications".

23

24 Sets out:

25

26 "With reference to the above subject, as of 1st January 10:34  
27 2014 all referral forms in relation to child protection  
28 concerns should be addressed to Mr. Gerry Hone."  
29



1 And it sets out his address there. And then it sets  
2 out that:

3  
4 "The Child and Family Agency is a separate body and no  
5 longer an arm of the HSE." 10:35

6  
7 There is some reference to the premises that they're  
8 using at that time. And then, Sergeant Egan says:

9  
10 "At the start of the new year I would propose that a 10:35  
11 common approach form be adopted in regard to the  
12 completion of referral forms and follow up on same."

13  
14 He says he has:

15 10:35  
16 " -- noted there are five common issues that are  
17 causing confusion to members completing same."

18  
19 The first of those issues is reference number. The  
20 second of the issues is the designated officer and the 10:35  
21 third of the issues, which is at page 2597 of the  
22 materials:

23  
24 "The section for additional information which is the  
25 basis on which the referral is made needs more detail 10:35  
26 in some forms. This may require the member attaching a  
27 report on the back. I am in possession of a template  
28 version of the form and this can be typed on."  
29

1 Is that correct?

2 A. That's correct, Mr. Chairman.

3 80 Q. Is that a reference to the material which should be  
4 contained in a referral form and, if necessary, a  
5 further précis to be attached to the actual referral 10:36  
6 form?

7 A. Yes. It's reflecting on the existing form that was  
8 presently being used and a few issues that were raising  
9 concern with Tusla in relation to information provided  
10 and also in relation to the management of forms at 10:36  
11 local level. I suppose Detective Sergeant Egan was  
12 just identifying issues that he felt if they were  
13 corrected would improve the actual efficiency of the  
14 actual referrals, and I suppose he's reflecting on the  
15 fact on the day that there was a new centralised intake 10:36  
16 service coming into place in relation to Tusla.

17 81 Q. Okay.

18 A. That was basically what the purpose of the actual  
19 document was. As a consequence, I would have  
20 circulated that document to everybody within the 10:36  
21 district, but Detective Sergeant Egan also provided a  
22 template that could be actually typed upon, a document  
23 that could be completed and forwarded on-line, so that  
24 document was actually forwarded to everybody within the  
25 district as well. 10:37

26 82 Q. Yes, okay. Before I just go to your document  
27 circulating this letter from Detective Sergeant Egan,  
28 it then provided that the designated officer, who was  
29 the superintendent, sign all referrals and that

1 referrals shouldn't be directly referred to Tusla, that  
2 it should be referred to the district officer. Then,  
3 at the very last paragraph, it sets out:

4  
5 "The majority of referrals rarely go to case conferences and are closed at an early stage. This  
6 method of recording will provide a uniformity of action  
7 in tracking and assisting with children with multiple  
8 referrals."

10:37

10  
11 Is that correct?

10:37

12 A. That's correct, yes.

13 83 Q. Now, I think you in turn sent that out to each Sergeant  
14 in Charge in the Buncrana district, the Detective  
15 Sergeant in Charge of the Buncrana district and the  
16 Traffic Sergeant, and that was sent out to those people  
17 on 21st January 2014?

10:38

18 A. That's correct, yes.

19 84 Q. That is at page 2599 of the materials. You set out:

20  
21 "With reference to the above, the attached report  
22 submitted by D/Sergeant Egan is forwarded for your  
23 attention please. You should brief all personnel in  
24 respect of the most common issues as identified and  
25 ensure that they have been addressed prior to the  
26 submission of any referral for onward transmission to  
27 Mr. Hone. An email version of the designated form  
28 which can be typed on is being made available to all  
29 stations. In the main, it is essential that a short

10:38

10:38

1           précis of the facts of each case are provided to the  
2           HSE to assist with their evaluations."

3

4           Is that correct?

5           A.    That's correct.

10:39

6   85   Q.    Did you see it as the most important thing coming out  
7           of the meeting and the circular prepared by Sergeant  
8           Egan that more information be contained in referrals?

9           A.    It certainly was one of the issues on the day that was  
10           causing concern for Tusla in relation to the referrals  
11           and as had been discussed on the 29th November with  
12           Mr. Hone.

10:39

13   86   Q.    When I say did you see it, you say:

14

15            "In the main it is essential that a short précis of the  
16           facts of each case are provided to the HSE".

10:39

17

18           A.    Yeah. It was deemed important on the day that a précis  
19           of the facts be provided.

20   87   Q.    Okay. I think Sergeant Egan's report was also emailed  
21           to all the members in the Buncrana Garda district on  
22           22nd January 2014. That email appears at page 2601 of  
23           the materials.

10:39

24           A.    That's correct, yes.

25   88   Q.    If you identify that.

10:40

26           A.    The scanned form that could be typed on was  
27           subsequently forwarded to everybody within the  
28           district.

29   89   Q.    Okay. I think attached to that scanned form was a

1 standard notification form, that standard notification  
2 form appears at page 2605 of the materials.

3 CHAIRMAN: Nobody actually, I suppose, wrote out, if  
4 you like, a template or anything like that, to say,  
5 look, this is the kind of information that they need? 10:40

6 MS. LEADER: It doesn't appear so. Maybe the  
7 superintendent --

8 CHAIRMAN: what I am kind of thinking about is like a  
9 model answer type of thing.

10 A. No. The form that is there is the designated form 10:40  
11 under the Children First regulations. It is somewhat  
12 self explanatory but unfortunately sometimes you don't  
13 always get the form completed to the standard that you  
14 would require, so sometimes it requires to be  
15 explained, Mr. Chairman. 10:41

16 90 Q. MS. LEADER: Now, I think you held a further management  
17 meeting on 17th February 2014, is that correct,  
18 superintendent?

19 A. That's correct, Mr. Chairman.

20 91 Q. I think there is an entry in your officers journal to 10:41  
21 that effect at page 2607 of the materials, which should  
22 come up in front of you. It's just at the very end of  
23 the page. It would appear that there was a management  
24 meeting at 2:00pm on that day, and Inspector Murphy,  
25 Sergeant Breslin -- maybe if you could read your 10:41  
26 writing?

27 A. Sorry, yes. Inspector Murphy, Sergeant Devlin,  
28 Sergeant Conroy, Garda Coyne and Garda McDaid.

29 92 Q. I think during the course of that meeting, you made a

1 reference to HSE referrals and the requirement to  
2 provide a précis of the subject matter of the referral,  
3 is that correct?

4 A. That would be correct, Mr. Chairman.

5 93 Q. You have exhibited to your statement the weekly 10:42  
6 performance accountability meeting at page 2609. Is  
7 that a plan of the meeting or a note of the meeting,  
8 superintendent?

9 A. Again, it's just one small aspect of what was discussed  
10 at the actual district management meeting. Again, 10:42  
11 there would be a fixed agenda on that particular day.  
12 Again, there would be ten items on the agenda and I  
13 suppose the matter in relation to HSE referrals was a  
14 side issue to the actual other ten issues that were  
15 discussed. There would be standard issues that would 10:42  
16 be discussed at every management meeting.

17 94 Q. So, at page 2609 of the materials, it's noted that:

18  
19 "HSE referrals: A précis of evidence required in all  
20 cases and not on headed paper. All HSE referrals are 10:43  
21 to be accompanied by a précis."

22  
23 And there's also notes of that meeting prepared by  
24 Garda Conroy, at page 2611.

25 A. That's correct, Mr. Chairman. 10:43

26 95 Q. Yes. It mirrors what's in the typed notes, is that  
27 correct?

28 A. It does, indeed, Mr. Chairman, yes.

29 96 Q. CHAIRMAN: would it be fair to regard this as entirely

1 administrative stuff as opposed to anything to do with  
2 any particular case?

3 A. Oh, it would be administrative, Mr. Chairman. The  
4 situation sometimes arises that people don't always  
5 comply with whatever instructions may well issue. Some 10:43  
6 people don't always get it right. So, this was an  
7 opportunity to just remind them of the requirements on  
8 the day, to include the précis, that it shouldn't be on  
9 headed paper. It's just a reminder. Management  
10 meetings are such that we sometimes continuously repeat 10:44  
11 things or bring things to people's attention to make  
12 sure that we get them right, Mr. Chairman.

13 97 Q. MS. LEADER: In any of the meetings after the meeting  
14 you had where Gerry Hone was present, were the Simms  
15 referrals discussed? 10:44

16 A. They wouldn't have been, Mr. Chairman, at these  
17 particular meetings, this was now the Buncrana district  
18 and it would have been totally irrelevant to that  
19 particular district. Anyway, individual cases of that  
20 nature wouldn't be us asked at the management meetings 10:44  
21 anyway.

22 98 Q. Just for the sake of completeness, superintendent, were  
23 they referred to as an example of a referral which  
24 contained insufficient information in any way?

25 A. No, Mr. Chairman, No. 10:44

26 99 Q. Okay.

27 CHAIRMAN: I mean, I'm taking from that, that what I  
28 have heard in relation to this, was a kind of a more  
29 widespread thing and you were constantly getting

1 letters from the HSE saying, well, you haven't given us  
2 enough information so we're closing the file, in which  
3 case you gave the information. So now you're setting  
4 up a system whereby you're saying, we will give you the  
5 information at the start and maybe it's necessary for 10:45  
6 you to look at a file, but we are giving you a lot more  
7 than we gave you before. Was that the whole object of  
8 this?

9 A. Yeah, probably wouldn't be getting letters from Tusla  
10 or the HSE on ongoing basis but our liaison managers 10:45  
11 would have constant contact with the social workers on  
12 the ground and the actual intake officers and as a  
13 result they would be bringing these particular issues  
14 to their attention and the District Liaison Manager  
15 would be bringing them back to my attention, so we were 10:45  
16 trying to streamline them at district level.

17 100 Q. CHAIRMAN: So that basically you wouldn't be having all  
18 this bother. But I mean apart from getting the job  
19 done properly, I mean it's annoying to have to deal  
20 with correspondence of that kind. 10:45

21 A. Well, as I say, we wouldn't really be getting  
22 significant correspondence in relation to them, they  
23 would be matters that would come up at strategy  
24 meetings.

25 101 Q. CHAIRMAN: Yes. 10:46

26 A. It would be brought to the attention of the actual  
27 district liaison sergeant on this particular case that  
28 there was insufficient information for them to make a  
29 decision.



1 CHAIRMAN: Okay, yes.

2 102 Q. MS. LEADER: Now, I think you refer to another note  
3 which you discovered when you were reviewing matters in  
4 relation to a management meeting on 10th October 2015,  
5 which deals with threats made to Garda Harrison, is 10:46  
6 that correct?

7 A. That would be correct, Mr. Chairman.

8 MS. LEADER: If would you answer any questions anybody  
9 else might have for you?

10 A. Thank you. 10:46

11

12 SUPERINTENDENT EUGENE McGOVERN WAS CROSS-EXAMINED BY  
13 MR. HARTY, AS FOLLOWS:

14

15 103 Q. MR. HARTY: Superintendent, firstly, just in relation 10:46  
16 to the matters that you brought before the Tribunal and  
17 you completed your statement and looked through your  
18 notes. In relation to the preparation of your  
19 statement and in relation to the documents search, how  
20 did that come about? Who requested that you do a 10:46  
21 search for relevant material and what did they ask for?

22 A. At what --

23 104 Q. In relation to this inquiry, this Tribunal.

24 A. I suppose we were asked to do a search in relation to  
25 district and divisional management meeting notes that 10:47  
26 may well have some reference.

27 105 Q. I am talking about your initial statement rather than  
28 the later search.

29 A. My initial statement? Searches to be conducted in

1 relation to anything that would relate in any way to  
2 Keith Harrison or Marisa Simms, a word check or word  
3 search on those particular names. I suppose the  
4 minutes that subsequently came up in Milford and that  
5 there had no names mentioned in that particular minute, 10:47  
6 so unfortunately they didn't come up as a result of  
7 that particular search.

8 106 Q. You wouldn't have been doing the search in Milford in  
9 any event, you weren't in Milford district at the time?

10 A. No, but I would have searched my own data and my own 10:47  
11 emails etcetera in relation to it. But, no, I didn't  
12 do the actual specific search in the Milford Garda  
13 district, no.

14 107 Q. In fact, it would appear that there has never been a  
15 search made of the district shared drive in Milford? 10:48

16 A. I don't actually know where the minutes of those -- I  
17 think the minutes of those meetings came up as a result  
18 of a search just specifically in relation to management  
19 meetings that were held, not off a shared drive, but  
20 off management meeting notes or management meeting data 10:48  
21 that was stored as a result of accountability or  
22 management meetings that were held.

23 108 Q. Yeah.

24 A. There was a specific search done at the time in the  
25 Milford Garda district, I'm aware, in relation to the 10:48  
26 names Harrison and Simms and disclosures were made in  
27 relation to that particular material.

28 109 Q. Well, in fact, the affidavit of Mr. Howard, the Garda  
29 liaison, says that the shared drive in use at the time,

1           namely Letterkenny, Ballyshannon and Buncrana have also  
2           been searched for relevant material, but Milford in  
3           fact wasn't searched?

4           A.    I can't answer that question, Mr. Chairman. I know as  
5           a result of today's appearance, yes, there was a search 10:48  
6           carried out of those particular drives for any  
7           additional data --

8   110   Q.    Yes, I appreciate that a search was done in relation to  
9           divisional. Now, what you refer to as a weekly  
10          performance accountability meeting, is that a PALF 10:49  
11          meeting?

12          A.    Yes. It's what is called PALF now. It wouldn't have  
13          been PALF at that time but there were divisional  
14          accountability meetings and that there. During my time  
15          in the Milford district, and I still do it, I hold two 10:49  
16          per week.

17   111   Q.    Two per week?

18          A.    Yes.

19   112   Q.    Okay?

20          A.    One on a Monday and one on a Friday, subject to 10:49  
21          availability. Sometimes it's not always possible but I  
22          generally hold two per week.

23   113   Q.    In relation to those meetings, can you tell me, how  
24          long do these meetings ordinarily take?

25          A.    With the new PALF system they take hours, yes. At that 10:49  
26          particular time probably maybe an hour and a half to  
27          two hours.

28   114   Q.    Okay. what takes place at those meetings?

29          A.    Basically I have designated headings and matters

1 relating to whatever district you're in are discussed  
2 under those particular headings and people that are at  
3 the meeting feed into those particular headings or if  
4 there's issues or concern in relation to those  
5 particular headings, then they're brought to their 10:50  
6 attention and there's somebody there to record the  
7 minutes of the meeting and they are generally  
8 circulated to everybody within the district or people  
9 who aren't actually there.

10 115 Q. Can you tell me what the headings are? 10:50

11 A. Yeah, I have no difficulties. The ten headings that I  
12 would used at that particular time. The first heading:  
13 Crime trends and figures; the second one traffic  
14 figures and fixed charge penalty system returns; the  
15 third one was firearms, progress of renewal process, 10:50  
16 warrants, number outstanding, attempts to execute  
17 etcetera; five was subversive related incidents,  
18 intelligence recordings; six was public order related  
19 incidents; seven community engagement, community alert,  
20 neighbourhood watch, visits to the elderly, etcetera; 10:50  
21 eight was ethnic and cultural diversity; nine was  
22 health and safety issues; and ten was any other  
23 business.

24 116 Q. Sorry, what was eight, I didn't hear you there, sorry?

25 A. Eight was ethnic and cultural diversity. 10:51

26 117 Q. What about being updated on the progress of  
27 investigations and those matters, where does that come  
28 into those headings as such?

29 A. At that particular time, generally progress in relation

1 to particular investigations, if there was significant  
2 investigation it may well be discussed if the relevant  
3 person was there, but if they weren't there it wouldn't  
4 be discussed, but generally done by way of  
5 correspondence, okay. At this moment in time it's done 10:51  
6 as a result of PALF review and that there, and I do it  
7 after the management meeting with the people on the day  
8 with relevant investigations. So, people's  
9 investigations are not discussed really in the open  
10 meetings. 10:51

11 118 Q. I understand. Now, when you were informed that Gerry  
12 Hone was to give a presentation to the division, what  
13 issues did you want to raise with him?

14 A. I didn't have any issues to raise with Mr. Hone. If  
15 you look at the minutes of the management meeting, 10:52  
16 there's nothing recorded against me in relation to any  
17 issues that I raised with Mr. Hone in relation to what  
18 presentation he made or issues on the day that he would  
19 have brought to the actual meeting.

20 119 Q. But would there not have been matters in terms of your 10:52  
21 own dealings with Mr. Hone that you might have liked to  
22 have raised?

23 A. No. Well, I wouldn't have had any direct contact with  
24 Mr. Hone. The process of management of Tusla and HSE  
25 at district level generally is through the district 10:52  
26 liaison managers, it probably would have been discussed  
27 at length earlier on at the Tribunal, and if any issues  
28 of concern or any significant issue of concern -- it  
29 may well be even that I would find it necessary to

1 contact Mr. Hone, but I never have found it necessary  
2 to contact Mr. Hone on the day to discuss any  
3 particular case or issue with him.

4 120 Q. But Mr. Hone had contacted you in relation to the Simms  
5 referral. 10:53

6 A. Well, Mr. Hone wrote a standard letter to me in  
7 relation to the Simms referral and that would be a  
8 standard letter that we would receive on a quite an  
9 ongoing basis. As I explained, it was a standard  
10 letter and -- 10:53

11 121 Q. Can I stop you there? You said that you weren't  
12 receiving letters in your evidence when led by the  
13 Tribunal, you said you weren't receiving letters  
14 rejecting referrals on an ongoing basis?

15 A. No, that isn't what I said. I said I wasn't receiving 10:53  
16 letters from Tusla or HSE or Mr. Hone identifying  
17 issues of concern that they had in relation to the  
18 management of referrals at district level.

19 122 Q. Well, you had, because you'd received a letter from  
20 Mr. Hone saying insufficient information and they were 10:53  
21 closing the file. So, that's suggesting that the  
22 nature of the referral and on the information given  
23 that the file would be closed because of the  
24 information that was given?

25 A. I think I've explained previously that that letter that 10:54  
26 was written on the 16th October didn't arrive until the  
27 22nd October and there already had been strategy  
28 meeting held on the 21st October, so there already had  
29 been a strategy meeting held and the information on the

1 day that was identified, and that is generic document,  
2 the information that was required had been previously  
3 supplied.

4 123 Q. Page 769, please.

5  
6 "I acknowledge of the above notification. However, as  
7 there is no evidence of abuse detailed, no further  
8 action will be taken from this service."  
9

10 Now, was that a commonplace letter or an unusual  
11 letter? 10:54

12 A. No, not an unusual letter. I mean it would be unusual  
13 to receive letters of that particular nature.  
14 Sometimes on the day that the information, whatever  
15 information is supplied on the actual document, they 10:55  
16 decided on the day to close their file and that  
17 certainly on the day would be the case. It wouldn't be  
18 unusual. It wouldn't have been unusual.

19 124 Q. It wouldn't be unusual.

20 A. No. In relation to every referral that we make to the 10:55  
21 HSE or Tusla, they acknowledge receipt of the referral  
22 in some form or fashion and it's referred back to the  
23 district liaison manager, referred back to the  
24 investigating guard and any issues that arise in  
25 relation to it are managed at that particular level. 10:55

26 125 Q. After your discussion with Sergeant McGowan, she had  
27 confirmed to you that they had confirmed that they had  
28 closed the case on the matter. That's what you say in  
29 your statement.

1 A. No, I explained that line in my statement. That line  
2 referred to what my understanding was at the time that  
3 I made my statement, that the matter had been closed,  
4 had been finalised.

5 126 Q. How did you become aware that the HSE had confirmed to 10:56  
6 Sergeant McGowan that they had closed their case on the  
7 matter?

8 A. Well, all I can say, Mr. Chairman, is I would have been  
9 aware at the time that I made my statement that the  
10 matter had been closed. 10:56

11 127 Q. But you were aware that they had confirmed it to  
12 Sergeant McGowan?

13 A. Well --

14 128 Q. How did you become aware that they had confirmed it to  
15 Sergeant McGowan? 10:56

16 A. All I can say, Mr. Chairman, is that at some stage  
17 Sergeant McGowan would have made me aware that the  
18 matter was now finalised.

19 129 Q. How could that have happened? You weren't working in  
20 the same district as Sergeant McGowan? 10:56

21 A. The fact that I wouldn't have been working in the same  
22 district wouldn't mean I wouldn't have had some contact  
23 with Sergeant McGowan at some stage in relation to it.  
24 I was aware anyway, Mr. Chairman, that's all I can say.

25 130 Q. Superintendent McGovern, you can't just say that? 10:56

26 A. Well, I have said it, I have said it in my statement  
27 and I confirm that is the situation.

28 131 Q. Sergeant McGowan told you at some stage that the HSE  
29 had closed their case on the matter, when did that



1           happen?

2           A.    I cannot say, Mr. Chairman, I don't have a date for  
3           that.

4  132  Q.    why did that happen?

5           A.    why did which happen? 10:57

6  133  Q.    why did Sergeant McGowan tell that you the HSE had  
7           closed their case on the matter? It was no longer  
8           relevant to you, you weren't working the district.

9           A.    I can't really answer that question, Mr. Chairman, it's  
10          just I was aware of the fact on the day the matter was 10:57  
11          closed.

12  134  Q.    No, you were aware that Sergeant McGowan had been  
13          informed by the HSE that they had closed their case on  
14          the matter?

15          A.    I was aware at the time that I made my statement that 10:57  
16          the matter was finalised, it was closed.

17  135  Q.    No. You were aware at the time you made your  
18          statement, superintendent, that the HSE had informed  
19          Sergeant McGowan, that's a particular, precise detail.  
20          I want to know when you became aware that the HSE 10:57  
21          informed Sergeant McGowan that they had closed their  
22          case on the matter?

23          A.    I can't help the Tribunal any further, Mr. Chairman, I  
24          don't know when that date actually was.

25  136  Q.    Did you not take a note of it? 10:57

26          A.    No, I don't have a specific note of it.

27  137  Q.    All right. The situation is that at some stage you  
28          were informed by Sergeant McGowan that the HSE had  
29          closed their case on the matter and you don't know when

1           that was?

2           A.    That's correct, Mr. Chairman.

3 138 Q.    But you do recall it happening. Do you know whether it  
4           was by way of phone conversation?

5           A.    I can't add any more specifics to it, Mr. Chairman. 10:58

6 139 Q.    Do you know whether it took place at a face-to-face  
7           meeting?

8           A.    I can't, I can't say, Mr. Chairman.

9 140 Q.    Do you recall what she said?

10          A.    No, Mr. Chairman. 10:58

11 141 Q.    Do you recall whether she said that it was closed  
12          because there was no evidence of abuse?

13          A.    No, Mr. Chairman.

14 142 Q.    Do you recall whether she said it was closed because it  
15          was never a child protection matter in the first place? 10:58

16          A.    No, Mr. Chairman.

17 143 Q.    You see, I have to put it to you what comes from your  
18          statement and from the order of your statement, is that  
19          on 24th October 2013, as far as you're aware the matter  
20          had been closed? 10:59

21          A.    No. As far as I was aware on the 24th October a  
22          strategy meet had gone been held with Sergeant McGowan  
23          and the HSE in relation to the matter and the matter  
24          was not closed at that particular time.

25 144 Q.    But you already knew that on the 24th October, so why 10:59  
26          did you write a letter at page 768 saying:

27

28                 "Li aise wi th Bri dgeen Smi th relevant to thi s referral  
29                 and certi fy the fol lowi ng di scussi on on the matter wi th

1 full disclosure of the facts to the HSE that no further  
2 HSE intervention will now take place."  
3  
4 If you already knew that they had a strategy meeting on  
5 the 21st, why did you write the letter on the 24th? 10:59  
6 A. That was forwarding all the correspondence that I  
7 received to Sergeant McGowan to confirm in relation to  
8 what the up-to-date situation was on the actual case.  
9 145 Q. You left Milford the next day, isn't that correct?  
10 A. I did, indeed, yes. 11:00  
11 146 Q. You then attended divisional accountability meetings as  
12 well, isn't that correct?  
13 A. Yes, if I was available I attended all the divisional  
14 accountability meetings, yes.  
15 147 Q. And in divisional accountability meetings, I take it, 11:00  
16 disciplinary matters would be dealt with?  
17 A. Not in general terms, Mr. Chairman, no. It wasn't a  
18 forum for discussing disciplinary matters.  
19 148 Q. Serious investigations?  
20 A. Yes, serious investigations. 11:00  
21 149 Q. Death threats would come within the realm of serious  
22 investigations?  
23 A. They certainly would, yes.  
24 150 Q. We have, as yet, seen no divisional accountability  
25 meetings. They take place on a weekly basis, is that 11:00  
26 correct?  
27 A. No, they take place approximately on a monthly basis.  
28 151 Q. In relation to those meetings, at what stage was it  
29 discussed at those meetings that there was difficulties

1 with HSE referrals?

2 A. I don't recall it actually being discussed at a  
3 previous divisional accountability meeting. Mr. Hone  
4 was invited by Chief Superintendent McGinn to the  
5 management meeting of the 29th November or he was -- 11:01  
6 whatever interaction took place between both agencies,  
7 Mr. Hone -- we were notified that Mr. Hone was going to  
8 be in attendance at that particular meeting, and he did  
9 attend and he did speak to us in relation to the whole  
10 aspect of HSE referrals and issues of concerns that he 11:01  
11 did have, or new developments were taking place as well  
12 in relation to the change over from HSE to Tusla.

13 152 Q. If you just excuse me one moment, I just received  
14 another document from Chief Superintendent McGinn, and  
15 I don't want to be unfair to you by suggesting that 11:02  
16 things -- in fact, sir, I would ask the Tribunal to  
17 rise for five minutes, I need to look at this?

18 CHAIRMAN: Yes. Maybe, Ms. Leader, you are probably  
19 familiar with it. It looks bulky, so, before I rise  
20 would you just give us a -- I'm sorry to interrupt you 11:02  
21 there, Superintendent McGovern, but just give us a  
22 guide to it, if you wouldn't mind, please.

23 MS. LEADER: It's Superintendent McGinn's statement  
24 dealing with the regional management meeting at Dundalk  
25 on 5th November 2013, and Chief Superintendent Sheridan 11:02  
26 has already given evidence in relation to that meeting  
27 this morning.

28 CHAIRMAN: There seems to be a whole load of stuff  
29 attached. I mean, it looks very bulky. So, the first

1 thing there, just to try and ease my own mind on it,  
2 is -- well, it's about ten or fifteen pages, the notes  
3 of the famous meeting or becoming famous, at least in  
4 this room, of the 5th November.  
5 MS. LEADER: Yes. It's actually heavily redacted, sir. 11:03  
6 It looks bulky, but --  
7 CHAIRMAN: Is this the minutes of the 5th November?  
8 MS. LEADER: Yes.  
9 CHAIRMAN: It's longer than I thought. And then is  
10 this the death threats thing on page 2796? 11:03  
11 MR. HARTY: Sorry, sir, this appears to be a divisional  
12 meeting rather than a regional meeting.  
13 CHAIRMAN: No, I'm just trying to sort it out myself so  
14 that I know what it is.  
15 MS. LEADER: I think the first documents -- 11:03  
16 CHAIRMAN: Sorry, superintendent, if you are happy,  
17 stay there, but sit down if you want.  
18 A. No, there's no problem.  
19 MS. LEADER: The first documents are briefing documents  
20 in preparation for the meeting on the 5th November. 11:04  
21 CHAIRMAN: what date do they date from, I wonder?  
22 MS. LEADER: Actually, it doesn't appear to be dated,  
23 sir.  
24 CHAIRMAN: Yes. So, this is the lead up to the  
25 meeting, is it? 11:04  
26 MS. LEADER: Yes.  
27 CHAIRMAN: When does that send, I wonder, Ms. Leader?  
28 I am just looking, trying to find it as well.  
29

1 "The following gave evidence for the prosecution in  
2 addition to the two female injured parties."

3  
4 There's five, that's page 2794, one of them is Garda  
5 Keith Harrison. That's maybe a rape case or something? 11:05  
6 I certainly don't want to go into that. And then 2796.

7 MS. LEADER: It's re Garda Harrison.

8 CHAIRMAN: Yes. Then there's the death threat and just  
9 the response to the threat. There's the reference then  
10 to Martin McDermott and a very unpleasant name, 11:05  
11 aggressive name that he called Garda Harrison. That's  
12 5th November 2013.

13 MS. LEADER: Yes.

14 CHAIRMAN: Now, that seems to be the briefing document,  
15 yes. Anything that she had to say would be that. Then 11:05  
16 the last letter is Arthur Cox letter about searches.

17 MS. LEADER: Yes. That's in relation to Mr. Hone's  
18 evidence, who is to give evidence this morning.

19 CHAIRMAN: Maybe, Ms. Leader, you would be so kind,  
20 before I break for the moment, just to read the new 11:06  
21 statement of Chief Superintendent McGinn into the  
22 record.

23 MS. LEADER: Yes. It's at page 2769 of the materials,  
24 which has just been circulated.

25  
26 "This statement is made for the purpose of providing  
27 relevant information to the Disclosure Tribunal and  
28 matters raised by the Chairman, Mr. Justice Charleton,  
29 on Day 36 regarding my attendance at a regional

1 management meeting at Dundalk on 5th November 2013.

2  
3 Regional management meetings are held on a monthly  
4 basis in the northern region. They are chaired by  
5 Assistant Commissioner Northern Region and the  
6 attendees usually include the four divisional officers  
7 in the northern region. The regional detective  
8 superintendent, the regional traffic superintendent, a  
9 member of the Garda analysis service and a note taker.

11:06

10  
11 The meetings are strategic in nature, where serious  
12 incidents of regional significance are discussed,  
13 usually including crime, budgets, policing plan targets  
14 and policy. One area that is invariably discussed is  
15 threats against Garda members.

11:07

11:07

16  
17 In preparation for the meeting on 5th November 2013, a  
18 briefing document outlining updates on page incidents  
19 in the Donegal division was prepared and was furnished  
20 to the meeting.

11:07

21  
22 The briefing note was prepared on my instruction at the  
23 divisional office in Letterkenny. The document was  
24 emailed by Garda Séan Mulroe, Divisional Officer,  
25 Letterkenny, to the regional office in Sligo on 4th  
26 November 2013, at 16:30:41. This version of the  
27 document was used for the purpose of advising the  
28 Assistant Commissioner on matters that I would be  
29 briefing him on during the meeting on 5/11/2013.

11:07

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Of the attendees, only Assistant Commissioner Kenny was provided with this briefing note in advance.

Garda Harrison is mentioned at pages 25-27 of the document. He is also mentioned in passing on page 23 of the document, as he was a witness in a prosecution against a serving Garda member." 11:08

who is named 11:08

CHAIRMAN: So, I was wrong about that. It wasn't a sexual offence case at all and I am sorry if anyone got that impression. It's in addition to the two females or whatever. All right.

MS. LEADER: 11:08

"I note from page 2 of the minutes of the meeting that the Regional Crime Analysts Mr. Eddie McGoey mentions crimes against a person, four incidents of murder threats, one of which was to a Garda in Donegal. 11:08

My memory of the meeting is that it was a long meeting. As is normal practice, during one portion of the meeting I provided an update on some of the major incidents in the Donegal division as outlined in the minutes. 11:09

Towards the end of my briefing I briefly gave an overview of a complaint that had been made against



1 Garda Harrison and the threats that had been made  
2 against him.

3  
4 To the best of my recollection there was no discussion  
5 on the matter as the notes in the briefing document 11:09  
6 were comprehensive and reflected the up-to-date  
7 situation.

8  
9 As I recall, I did not expand on the briefing document,  
10 which was not opened at the meeting and that after my 11:09  
11 overview the assistant commissioner indicated that  
12 matters were noted and directed that we move on.

13  
14 At the time I was of the view that GSOC were  
15 investigating the matter following the Section 102 11:09  
16 referral.

17  
18 The issue of divisional PALF meetings arose during my  
19 cross-examination on Day 34 of the Tribunal. At the  
20 time of preparing the divisional disclosure, 11:10  
21 documentation in relation to the divisional and  
22 regional PALF/management meetings were not discovered  
23 as I was of the view that they were not relevant to the  
24 terms of reference. However, relevant records have now  
25 been discovered. 11:10

26  
27 Garda Harrison is also mentioned in two other briefing  
28 documents; March 2015 for regional meeting dated 6th  
29 March 2015, and April 2015 for regional meeting dated

1 6th April 2015, which relate to the 2015 threat and are  
2 dealt with in section 10 of the Tribunal documents,  
3 page 1451 onwards."

4  
5 CHAIRMAN: We have that already, don't we? 11:10

6 MS. LEADER: Yes. I think that has been circulated  
7 yes.

8 CHAIRMAN: Then the actual reference then to Garda  
9 Keith Harrison is on page 2796; is that correct?

10 MS. LEADER: Yes. 11:11

11 CHAIRMAN: Maybe would you be so kind as to go through  
12 that as well, Ms. Leader, just before we rise for a  
13 minute, just to see is there anything new in it.

14 MS. LEADER: Yes.

15 CHAIRMAN: Again, if you wouldn't mind reading it into 11:11  
16 the record because we're getting bits and pieces.

17 MS. LEADER: Okay.

18 MR. HARTY: Sir, I'm not sure that it's essential to go  
19 into the full detail in relation to this. In fact, I  
20 am quite happy to proceed with Superintendent McGovern 11:11  
21 in circumstances where this document appears to relate  
22 to the later regional meeting rather than the  
23 divisional meetings, and as such there should be no  
24 difficulty with me --

25 CHAIRMAN: I think this was treated as a serious 11:11  
26 matter, I think we have to have it in the record in the  
27 event that any issue arises as to whether there has  
28 been --

29 MR. HARTY: I understand Chief Superintendent McGinn

1 will be giving evidence.

2 CHAIRMAN: Oh, I know, but it's a matter that I think  
3 it's better to do it this way. I don't want to say any  
4 more than that. So, it's 2796, is it, Ms. Leader,  
5 would you mind just reading that into the record. 11:12

6 MS. LEADER: Yes. It's:  
7  
8 "Re Garda Keith Harrison.  
9  
10 The above named member, stationed in Donegal Town, was 11:12  
11 found in breach of discipline on 24th October 2013 by  
12 deciding officer Superintendent Archbold following an  
13 investigation into his conviction for road traffic  
14 offences, insurance and tax, at Manorhamilton District  
15 Court on 8th May 2013. 11:12  
16  
17 A temporary reduction in pay was imposed."  
18  
19 CHAIRMAN: This is the famous incident outside Donegal  
20 Garda station, where the incorrect insurance disk 11:12  
21 was -- but it's not a different case, it's the same  
22 case.  
23 MS. LEADER: Yes.  
24 CHAIRMAN: It took a while to get through the court  
25 system. 11:12  
26 MS. LEADER: Yes.  
27  
28 "Garda Harrison is currently the subject of a Section  
29 102 referral following a written complaint made by his

1 partner Marisa Simms on 6th October 2013, outlining a  
2 series of alleged verbal and physical abuses, assaults,  
3 threats to harm/kill and harassment on various dates  
4 throughout their relationship. Ms. Simms is the  
5 brother of Martin McDermott, convicted of the 11:13  
6 manslaughter of Gary McLoughlin RIP.

7  
8 On 4th October 2013, at 6:50pm, a male caller rang  
9 Letterkenny Garda Station via the 999 line and reported  
10 that he overheard a conversation in a public house in 11:13  
11 Strabane, Co. Tyrone, in which four men discussed  
12 causing serious harm/death to Garda Keith Harrison.  
13 The caller implied that suspect 2 from Strabane, was  
14 the person who would carry out the attack as Garda  
15 Harrison was hassling suspect 2 all week. The caller 11:13  
16 implied that the threat was to be carried out on that  
17 date. No name was given and the SIM removed from  
18 caller's phone. Investigations revealed the call came  
19 from the Lifford area.

20 11:14  
21 On 5th October 2013, at 3:34pm, the same male rang back  
22 via 999 line and implied that the action would be  
23 carried out on 5th October 2013, and not the previous  
24 day, as he asserted in his first call. The caller  
25 elaborated on his original information and said that 11:14  
26 suspect 2 is a relation of Martin McDermott.  
27 Investigations revealed that Garda Harrison had  
28 informed prison authorities that he believed McDermott  
29 had access to a mobile phone in his cell, resulting in

1 McDermott's release date being pushed back.  
2  
3 Garda Harrison was on annual leave and not at his home  
4 in Churchill on 4th October 2013 and attempts were made  
5 to communicate with him by telephone. He was 11:14  
6 eventually contacted by phone on 4th October 2013 and  
7 indicated that he was then in Dublin and on his way to  
8 Galway and did not intend to travel home to his  
9 residence in Churchill, County Donegal. He contacted  
10 Letterkenny Garda Station at 3:00am on 5th October 11:15  
11 2013, indicating that he had returned home to  
12 Churchill.  
13  
14 Patrols were carried out in the vicinity of the home on  
15 that date. He was served with a copy of GIM 1 at 11:15  
16 12:20pm on 5th October 2013. His partner and her  
17 children were not present in the property on these  
18 dates and were scheduled to attend her sister's wedding  
19 on 5th October 2013, an event for which Keith Harrison  
20 was not invited. " 11:15  
21  
22 CHAIRMAN: Yes. It seems that the first call on the  
23 4th October came during the currency of the wedding or  
24 celebrations around the wedding and the date in  
25 relation to the wedding being on the 5th October, the 11:15  
26 date of the second call is incorrect. I don't think  
27 anybody disputes that, Ms. Leader, do they?  
28 MS. LEADER:  
29

1 "Following the second threat, Garda Harrison was  
2 notified and made a statement to Garda Sergeant  
3 McGroary at Milford station. In it he referred to the  
4 contact with Martin McDermott, indicating that his  
5 partner's mother had won money on Winning Streak 11:16  
6 earlier in the year and was in his words hassling his  
7 partner and mother relative to what his share would be.  
8 At that time he indicated that he and his partner had  
9 lost an unborn child and that he was annoyed at this  
10 contact. As a result he contacted the Portlaoise Garda 11:16  
11 Station and the prison and informed them that he  
12 believed McDermott had access to a mobile phone in his  
13 cell, resulting in McDermott's release date being  
14 pushed back to April 2015. He indicated that his  
15 partner's mother had received a letter from McDermott 11:16  
16 referring to Harrison as a "pig bastard". Garda  
17 Harrison also stated that he was aware of a regular  
18 visitor to McDermott in the prison, a female...."

19  
20 And it gives details of where she is meant to be from. 11:17  
21

22 "The threat was rated as substantial and Garda Harrison  
23 was advised to exercise caution in relation to his  
24 personal safety. Security patrols and rolling  
25 checkpoints were implemented. 11:17  
26

27 Garda Harrison reported for duty on 13th October 2013  
28 and was detailed for indoor duties and remained so  
29 detailed.

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An excess request has been made regarding the call/threats made to Letterkenny Garda Station and an application now lies with Crime and Security to identify the IMEI number of the phone used to make the calls. 11:17

As the threat against Garda Harrison was believed to have emanated from Martin McDermott, the prison authorities were contacted and carried out a search on Martin McDermott. This was acceded to and a mobile phone found on his person. The data obtained from it is being analysed. 11:17

Enquiries reveal a female is regular visitor to McDermott, she has come to attendance for being at a demonstration. Information has been received regarding her associates from S&I and has been forwarded to Detective Inspector O'Donnell for necessary investigation. No decision has been made by GSOC in relation to the complaints of Ms. Simms. " 11:18

CHAIRMAN: so that's the full documentation read into the record. so I will rise then for a few minutes. 11:18

SHORT ADJOURNMENT

1 AFTER A SHORT ADJOURNMENT, THE TRIBUNAL RESUMED AS  
2 FOLLOWS:

3  
4 153 Q. MR. HARTY: Superintendent McGovern, the situation is  
5 that you had received a letter from Mr. Hone, you now 11:40  
6 say it's a pro forma letter, your statement said that  
7 you were informed by Sergeant McGowan that the HSE had  
8 closed their file, you don't recall when that happened,  
9 and you were then summoned to a meeting with Mr. Hone  
10 in November. I have to put it to you that you that 11:41  
11 this particular referral would have been at the top of  
12 your mind in relation to that meeting?

13 A. That's not correct, Mr. Chairman.

14 154 Q. But this is a referral which you say was of utmost  
15 importance, it had to be done immediately, you received 11:41  
16 a letter saying it wasn't to be admitted or to be  
17 accepted?

18 A. With respect, Mr. Chairman, I had no concerns about the  
19 letter I received from Mr. Hone, because I was aware at  
20 the time I received the letter that a strategy meeting 11:42  
21 had already been held between Sergeant McGowan and THE  
22 HSE in relation to the matter, that the information on  
23 the day or clarification in relation to the matter had  
24 already been done. I had no concerns in relation to  
25 the letter whatsoever. 11:42

26 155 Q. Then why did you write the letter of the 24th October  
27 to Sergeant McGowan, page 768?

28 A. That's a letter to Sergeant McGowan by way of  
29 administration of the actual letter received from



1 Mr. Hone for sign off in relation to the matter. Under  
2 normal circumstances a letter like that comes in and  
3 they're sent out to the actual relevant liaison  
4 sergeant for report or for finalisation in relation to  
5 the matter, and a similar situation happened in 11:42  
6 relation to that particular matter. But when I was  
7 sending the letter I had no concerns in relation to it  
8 or I would have expressed concerns specifically in the  
9 letter.

10 156 Q. Your letter at page 768 says: 11:42  
11  
12 "Liaise meetings relevant to this referral and certify  
13 that following a discussion on the matter with  
14 following full disclosure of the facts with HSE, that  
15 no HSE intervention will now take place." 11:43  
16

17 You wrote that letter on the 24th October. You say you  
18 were aware prior to writing that letter that a strategy  
19 meeting had taken place?

20 A. That's correct. 11:43

21 157 Q. Well, then that letter doesn't make any sense?  
22 A. Well, it's subject to interpretation.

23 158 Q. It's not subject to interpretation.  
24 A. Well, unfortunately it is. It's subject to whatever  
25 interpretation you wish to put on it, but as far as I'm 11:43  
26 concerned the letter on the day was going to Sergeant  
27 McGowan to provide just a follow up report in relation  
28 to the liaising that she had done in relation to the  
29 matter.

1 159 Q. Sergeant McGowan didn't come back to you in relation to  
2 that letter, isn't that correct?

3 A. I can't answer that question because I wasn't in the  
4 Milford Garda district after the 25th October.

5 160 Q. So, as matters stood on the 24th October, as far as you 11:43  
6 were concerned, with full disclosure of the facts to  
7 HSE, that no further HSE intervention will now take  
8 place. So insofar as you were aware on the 24th  
9 October no further HSE intervention will now take  
10 place? 11:43

11 A. I'm asking Sergeant McGowan to liaise with Bridgeen  
12 Smith to certify that particular information, I cannot  
13 answer the question because I didn't see any follow up  
14 report in relation to the matter after the 24th  
15 October. 11:44

16 161 Q. As a result this referral would have been top of your  
17 mind when you were going to the meeting with Mr. Hone  
18 at the end of November?

19 A. Well, that's --

20 162 Q. Because you don't know how it played out? 11:44

21 A. No, that's not correct, Mr. Chairman. The meeting with  
22 Mr. Hone at the divisional management meeting on the  
23 29th November, it was a meeting between two agencies  
24 for the purposes of discussion of issues on the day  
25 surrounding both agencies' business and the sharing of 11:44  
26 business and ensuring on the day that issues of concern  
27 between both agencies could be discussed and ironed  
28 out. That's solely the purpose of that particular  
29 meeting, no individual cases were discussed, as I

1 already said, it wouldn't be appropriate to do so, and  
2 definitively no reference was made to either Keith  
3 Harrison, Marisa Simms or the children that had been  
4 referred in October of 2013.

5 163 Q. There was reference to the way things are done. You 11:45  
6 say that there was constant contact between Garda  
7 liaison and the HSE/Tusla?

8 A. Yes, there's ongoing contact between district liaison  
9 managers and their counterparts in the HSE, Tusla now,  
10 yes. 11:45

11 164 Q. Those counterparties in the HSE/Tusla are the team  
12 leaders; isn't that right?

13 A. Yes, and the social workers, specifically the social  
14 workers. Many of the referrals we receive from Tusla  
15 at this stage, they identify a social worker that must 11:45  
16 be contacted prior to any further Garda action in  
17 relation to the matter and those letters are referred  
18 definitively to the district liaison managers to liaise  
19 with the names person and strategy in relation to  
20 followup is discussed thereafter. 11:45

21 165 Q. In relation to Superintendent Finan's notes, which are  
22 at page 2717, he in fact appears to have the most  
23 detailed notes of that meeting. You don't have your  
24 notes of that meeting?

25 A. Unfortunately, Mr. Chairman, I can't locate my notes, 11:46  
26 but I am happy that I recorded notes and that I briefed  
27 the personnel in the Buncrana district of those notes  
28 at the follow up district meeting.

29 166 Q. In his notes he records?

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"Gerry Hone, HSE, referrals, emotional, physical, sexual abuse and neglect."

So, they were the matters that he dealt with. Did anyone at any stage say, why are we using this form? 11:46

A. Not to my recollection, Mr. Chairman. That's the form that is designated under the Children First Guidelines. That's the form that was being used at that particular time, it's the form that you will see I circulated around the Buncrana district after the fact in 2014, and it's the form that we still use to make those referrals because it's contained in the Children First Guidelines. 11:46

167 Q. Yeah. We know that the Children First Guidelines are in fact that the HSE take à la carte approach and so do the Gardaí in relation to the HSE Gardaí liaison forms and that they don't find themselves stuck to them. Did no one say this, form doesn't, in fact, make any provision for child welfare issues? 11:47

A. To my recollection, Mr. Chairman, I cannot recall that specific aspect on the day being discussed.

168 Q. Surely that would have been one of the first things that should have been discussed, which was this form doesn't actually serve the purpose for which we require it? 11:47

A. Well, all I can say, Mr. Chairman, it serves the purpose for which An Garda Síochána require it, and it's the form that's contained in the Children First

1 Guidelines, which we must use on the day to make  
2 referrals to Tusla.

3 169 Q. But it doesn't, in fact, serve the purpose at all,  
4 because it only deals with child abuse; in other words,  
5 child protection matters? 11:48

6 A. No, it also deals with child emotional abuse related  
7 incidents. I'm happy as a district officer on the day  
8 that the form fulfills my requirements in relation to  
9 referrals to Tusla.

10 170 Q. You see, everyone in the HSE and Tusla was clear that 11:48  
11 this was never a child abuse matter, it was a child  
12 welfare matter. Not a child protection matter, a child  
13 welfare matter.

14 A. But as already discussed, emotional abuse falls within  
15 the terms of domestic related abuse related incidents, 11:48  
16 and it qualifies for referral and this form on the day  
17 is the appropriate form for An Garda Síochána to use to  
18 make those referrals. As I say again, I am more than  
19 happy on the day that this was the correct form and  
20 correct manner of referral in relation to the matter in 11:48  
21 relation to the Simms children.

22 171 Q. You're more than happy, are you?

23 A. I am, yes.

24 172 Q. And were you more than happy that the other forms were  
25 not being used? 11:48

26 A. That's not my --

27 173 Q. Sorry, it was in your bailiwick, you were supposed to  
28 --

29 A. No, it isn't. With respect, Mr. Chairman, it isn't my

1 decision to make.

2 174 Q. Why is it not a decision of yours to make?

3 A. I don't deal with the followup aspects of the Children  
4 First Guidelines in relation it to liaising with the  
5 actual social workers. 11:49

6 175 Q. But there is a form that has to be filled out by the  
7 Gardaí and the HSE in relation to all Gardaí referrals.  
8 It wasn't being filled out in your district or, indeed,  
9 in any other division district in the Donegal division.  
10 Did that not come up? 11:49

11 A. To my recollection, Mr. Chairman, no.

12 176 Q. All right. If we look at the form that you were  
13 forwarding around, the template, at 2605, this was  
14 circulated afterwards but, in fact, is in the same form  
15 as the earlier one: 11:49

16  
17 "Noti fication of suspected child abuse."  
18  
19 which is a different category, we've all heard evidence  
20 from Tusla that there is a distinct difference between 11:50  
21 abuse, which is the protection matter, and welfare  
22 matters. And this was never an abuse case.

23 A. It falls under the terms of domestic abuse under  
24 Children First Guidelines and as a result it qualifies  
25 for referral as emotional related incident, and this is 11:50  
26 the correct designated form for doing that.

27 177 Q. In this particular instance they were satisfied it  
28 didn't. In this particular instance they were  
29 satisfied that it might be the subject matter of a

1 referral in respect of child welfare but not child  
2 protection.

3 A. Mr. Chairman, all An Garda Síochána have to satisfy  
4 themselves if it falls within the remit domestic abuse,  
5 emotional abuse under the domestic violence regulations 11:51  
6 and the Children First Guidelines, and as a result we  
7 were obliged on the day to make the referral and the  
8 correct form for making that referral is the one as  
9 already discussed.

10 178 Q. The question I'm asking you is, why nobody asked where 11:51  
11 do we put in child welfare referrals?

12 A. As I said, Mr. Chairman, this form fully fulfills the  
13 requirements in relation to referrals by An Garda  
14 Síochána and I am happy and still using that particular  
15 form and happy that it fulfills our requirements in 11:51  
16 relation to referrals to Tusla.

17 179 Q. Even though on the face of it, it is related solely in  
18 relation to suspected child abuse. You do accept there  
19 is a difference between child abuse and neglect  
20 matters, for example? 11:51

21 A. I certainly do, Mr. Chairman, but I reiterate what I've  
22 already said; I am more than satisfied that this form  
23 fully fulfills the requirements of An Garda Síochána in  
24 relation to referrals to Tusla and in particular it  
25 fully fulfills the requirements in relation to the 11:51  
26 Simms children in October of 2013.

27 180 Q. Even though you received a pro forma response, which  
28 you say is a pro forma response, saying, we don't have  
29 enough information to show that there is child abuse in

1 this matter, no evidence of abuse detailed, no further  
2 action will be taken, and you say the form works?

3 A. Yes, Mr. Chairman, the form works.

4 181 Q. Even though everybody accepts there was no child abuse  
5 here?

11:52

6 A. Chairman, the form just satisfies a referral,  
7 thereafter on the day it's a matter between the two  
8 agencies what discussion takes place, what strategy  
9 meetings take place and what followup happens in  
10 relation to after the fact. But the form itself  
11 fulfills the requirements and satisfied An Garda  
12 Síochána's responsibilities in relation to making the  
13 referrals.

11:52

14 182 Q. You were having a meeting with Mr. Hone as to why  
15 referrals weren't going the right way?

11:52

16 A. Well, one of the issues that was discussed at that  
17 particular meeting and as identified, 29 particular  
18 referrals where Mr. Hone identified there were issues  
19 in relation to the actual referrals or issues, that  
20 they had concerns in relation to it. As a result, you  
21 can see from the reports, the follow up reports, the  
22 district meetings and the reports that followed,  
23 remedial action was put in place by An Garda Síochána  
24 to assist Tusla in the better management of the  
25 referrals that we were making.

11:53

11:53

26 183 Q. You see, what is interesting is that in Superintendent  
27 Finan's note, and not in the other minutes of the  
28 meeting, it refers to "emotional, physical, sexual  
29 abuse and neglect", it doesn't deal with welfare



1 referrals, nobody is mentioning welfare referrals?  
2 CHAIRMAN: Yeah, but you have mentioned this point now  
3 a number of times and I think I do have the point. I  
4 think you're saying the form is inadequate. I think  
5 you made the point during the main hearings, if I can 11:53  
6 call them that now, since we have been required to  
7 break for a week, that what was reported, even taking  
8 the statement of Marisa Simms at face value, didn't  
9 amount to anything that could be referred to Tusla, and  
10 I have noted that Tusla said that in the event they 11:54  
11 have read the statement as such or had a better summary  
12 of it, that they would have in fact done a great deal  
13 more than they did. So, that's the position that  
14 people are in. I wonder the extent to which this is  
15 advancing matters. 11:54  
16 MR. HARTY: Very good.  
17 184 Q. What I am also interested in relation to is that  
18 Superintendent Finan, on page 2717, notes that there  
19 is:  
20  
21 "Team leader sergeant very good relationship with the 11:54  
22 four team leaders."  
23  
24 That was discussed at the meeting, I take it?  
25 A. Yes, it was a comment that has been noted in both 11:55  
26 Superintendent Finan's minutes and it's also noted in  
27 the minutes that were recorded by sergeant Duffy and it  
28 would have been an acknowledgment by Mr. Hone on the  
29 day of the relationship that was in existence between

1 the four district liaison managers and his staff on the  
2 day in relation to management of cases.

3 185 Q. Most particularly, it was the relationship between the  
4 sergeants and I think there were inspectors also, but  
5 team leader sergeant with the team leaders in Tusla? 11:55

6 A. Yes, basically on the day in relation to the working  
7 relationship that they had.

8 186 Q. And that was because there was regular ongoing contact  
9 between those sergeants and the team leaders?

10 A. Yeah, there would be regular ongoing contact in 11:55  
11 relation to district management of cases.

12 187 Q. Were you updated regularly by Sergeant McGowan in  
13 relation to her contact with Bridgeen Smith?

14 A. In relation to all the cases.

15 188 Q. Other cases, yes. 11:56

16 A. There would be discussion from time to time in relation  
17 to particular cases, and Sergeant McGowan would have  
18 sought time and attended with her team leader on the  
19 day to discuss and to sign off on particular cases and  
20 I would have been aware of the fact on the day that 11:56  
21 those particular meetings and sign offs were ongoing.

22 189 Q. Could you give me an estimate, was that on a daily  
23 basis, a weekly basis or a monthly basis?

24 A. I don't think it was on a daily or a weekly basis. I'm  
25 going to say monthly, Mr. Chairman, but that's not 11:56  
26 giving you a -- I can't say that definitively. But it  
27 would certainly have been on a need to attend basis.

28 190 Q. Would you agree with me that it would be certainly more  
29 frequently than a half yearly basis?

1 A. I certainly would have expected it to be more than on a  
2 half yearly basis, yes, subject to the number of cases  
3 that required on the day to be discussed and signed off  
4 on.

5 191 Q. Well, there was a lot going on at that time, there were 11:57  
6 a lot of issues before that, dealing with the guards  
7 and Tusla, we're told that with the economic situation,  
8 various problems going on, the HSE were very much  
9 overwhelmed at the time with the amount of cases that  
10 were coming in? 11:57

11 A. I think it's a reality of -- and certainly from a  
12 policing perspective, we make referrals to Tusla every  
13 week of the year.

14 192 Q. Every week in the year?

15 A. Yes. 11:57

16 193 Q. And that would be your experience in Milford and in  
17 Buncrana now?

18 A. Yes. Different policing districts have different  
19 requirements or different demands, some of them are  
20 more busy than others, depending on the actual workload 11:57  
21 in the relevant districts. But, yes, on basically --  
22 maybe more referrals in Buncrana district than there  
23 would be in the Milford district but certainly on the  
24 day, yes, it's nearly a weekly occurrence to make  
25 referrals to Tusla. 11:57

26 194 Q. You would expect the liaison sergeant therefore to have  
27 relatively frequent contact with the team leader?

28 A. The district liaison manager has regular and ongoing  
29 contact on the day with their counterparts in Tusla,

1           yes. Certainly that's the way it works at this time.  
2           And, as I say, an awful lot of referrals that come from  
3           Tusla to ourselves, they identify a key social worker  
4           that already has been put in charge of a particular  
5           case and the case is never progressed until such time   11:58  
6           as our district liaison manager makes contact with that  
7           particular social worker to discuss a strategy forward  
8           in relation to a particular case.

9   195   Q.   The minutes of the meeting taken by Sergeant Duffy are  
10           at page 2587. He refers to 29 referrals this year   11:59  
11           which require clarification. Do you know how many of  
12           those referrals you were involved in?

13           A.   No, Mr. Chairman.

14   196   Q.   The question then of that meeting, it would appear  
15           that, shall we say, the first third, or just in excess   11:59  
16           of a third of the meeting, took an hour and a quarter,  
17           and it's referenced by a third of the paper on the  
18           detail given in Sergeant Duffy's meeting, would it be  
19           fair to say that this meeting with Mr. Hone must have  
20           taken in excess of an hour?   11:59

21           A.   I can't say exactly on the day how long the meeting  
22           took, but there were a number of other speakers on the  
23           actual day and there was quite a significant amount of  
24           divisional business discussed on that particular day as  
25           well. Mr. Hone took a certain amount of time out of   12:00  
26           the meeting, I can't say exactly how long.

27   197   Q.   Mr. Hone made it clear that where a referral is  
28           received, a parent must be informed of the existence of  
29           the referral. Were you aware of that prior to that

1 meeting?

2 A. I certainly would have been aware that at some stage of  
3 the actual management of the case by the HSE or Tusla  
4 that certainly they would have had engagement with the  
5 parents in relation to referrals where children were 12:00  
6 involved, yes.

7 198 Q. But if Tusla don't engage with the parents, do you  
8 accept that it was the Gardaí's job to inform the  
9 parents that a referral had been made?

10 A. No, I don't think that is what that particular note 12:00  
11 means. That's nothing to do with the Garda  
12 responsibility in relation to the referral. Garda  
13 responsibility in relation to the referral to some  
14 extent, once we make the referral, any follow up in  
15 relation to that particular referral is the 12:00

16 responsibility of the HSE or Tusla, not the Gardaí.  
17 The Gardaí have a responsibility in relation to the  
18 criminal management of whatever aspect, if there is a  
19 criminal aspect to that particular referral. The other  
20 aspects of it are the responsibility of the HSE and 12:01  
21 Tusla and whatever interaction or joint interaction  
22 between the two agencies take place. There may well be  
23 cases, Mr. Chairman, where Tusla would have signed off  
24 on a particular case but we would not have signed off  
25 on it because there would still be an incomplete 12:01  
26 criminal investigation associated with it.

27 199 Q. Why is Mr. Hone telling you that when a referral is  
28 received the parents must be informed of the existence  
29 of the referral?

1 A. I think Mr. Hone may well be able to explain that  
2 particular aspect of it better himself. It's just  
3 letting us know that they must on all occasions notify  
4 the parents. Sometimes early notification in cases  
5 from our own point of view in relation to criminal 12:02  
6 investigation has provided difficulties. I cannot  
7 surmise what Mr. Hone's meaning of that particular  
8 sentence was. But certainly on the day he would be  
9 alerting us to the fact on the day that they have a  
10 responsibility to notify parents in relation to 12:02  
11 referrals. So, in relation to criminal investigations,  
12 I suppose it would be important for us to know that  
13 particular packet.

14 200 Q. Did you take your opportunity at that meeting to  
15 enquire as to whether or not the HSE had, in fact, 12:02  
16 dealt with the Simms referral, with anybody other than  
17 Mr. Hone?

18 A. No, as I say, Keith Harrison, Marisa Simms or the Simms  
19 children's case was not discussed at this meeting in  
20 any format. 12:02

21 201 Q. And you didn't take the opportunity to discuss with  
22 anybody as to what progress was being made?

23 A. No, absolutely not, Mr. Chairman.

24 202 Q. This was a matter which you considered to be -- you  
25 were taking immensely seriously on the 9th October. 12:02  
26 You appear to have forgotten it after the 24th October.  
27 Can you explain to the Tribunal why that was?

28 A. I wasn't the district officer responsible for the  
29 Milford Garda district after the 25th October. So, I

1 suppose the responsibility in relation to the  
2 finalisation of the matter didn't rest with me at that  
3 particular time. But it would have not have been  
4 appropriate for me in any format to discuss the case  
5 with Mr. Hone at a divisional management meeting. If I 12:03  
6 required to discuss any matter with Mr. Hone on a  
7 private basis in relation to any case, I would have had  
8 no difficulty in speaking to Mr. Hone in relation  
9 matter, but I didn't.

10 203 Q. Did you speak with him at any stage? 12:03  
11 A. No, I didn't speak with Mr. Hone at any time in  
12 relation to Keith Harrison, Marisa Simms or the  
13 referral of the Simms children.

14 204 Q. And that coincides with the failure of Inspector  
15 Sheridan to carry out any investigation, isn't that 12:03  
16 correct? She didn't do anything after 11th October.  
17 By way of an investigation.

18 A. I think, Mr. Chairman, the issues in relation to where  
19 or how the investigation progressed after that  
20 particular date has been open and explained to the 12:04  
21 Tribunal at this stage.

22 205 Q. But the point is that you weren't overly concerned  
23 about the HSE referral, just as Inspector Sheridan just  
24 wasn't overly concerned about the alleged criminal  
25 threats? 12:04  
26 A. I would have been concerned about the referral to Tusla  
27 if I didn't know that Sergeant McGowan had already met  
28 with, held a strategy meeting and shared the relevant  
29 information on the day with Tusla in relation to this

1 particular case.

2 206 Q. That isn't in your statement, Superintendent McGovern.  
3 That is not in your statement. What is remarkable is  
4 that your statement suggests precisely the opposite.  
5 It isn't in your statement that Sergeant McGowan ever 12:04  
6 told you that matters had progressed.

7 A. Well, I am aware that there's documentation supplied on  
8 the day from district records as well at Milford, that  
9 Sergeant McGowan did hold a strategy meeting on the  
10 22nd October with Tusla in relation to -- or with the 12:05  
11 HSE at the time in relation to the referral.

12 207 Q. When did you become aware of that? On the 22nd  
13 October?

14 A. No, I would have -- I don't -- as I said, I have  
15 already said, I'm not aware of what the date was. 12:05

16 208 Q. Because you're impeccable in your note taking and your  
17 entries into your journal, but you have no record of  
18 Sergeant McGowan telling you that the HSE were taking  
19 on this referral.

20 CHAIRMAN: They couldn't do anything else except take 12:05  
21 it on.

22 MR. HARTY: They could have rejected it.

23 CHAIRMAN: I know but they couldn't do anything else  
24 except take it on. Once it was there they had to take  
25 it on, that's the evidence I have been given by 12:05  
26 everybody.

27 MR. HARTY: No, that was GSOC.

28 CHAIRMAN: I know, you're referring to that letter and  
29 that letter is assuming an enormous importance in



1 relation to the case that is attempting to be built by  
2 Garda Harrison. I agree. I know that, but there's  
3 also the evidence of the strategy meeting, what was  
4 said at the strategy meeting, there's the evidence as  
5 to what information was provided, what information was 12:06  
6 received, whether there was a mistake was made, whether  
7 something was said or was not said, that's also of  
8 significance as well as this letter.

9 MR. HARTY: There's also the very precise evidence  
10 given by Superintendent McGovern in his statement, 12:06  
11 where he makes no reference to having any knowledge of  
12 that strategy meeting and where he indicates that he  
13 writes this letter on the 24th October in reply or as a  
14 result of the letter of the 16th October, to Sergeant  
15 McGowan, which makes it perfectly clear on the face of 12:06  
16 it that no further HSE intervention will now take  
17 place. That is what is said in the letter. This  
18 Tribunal is well aware of the passage from the Morris  
19 Tribunal that I have quoted before and I don't propose  
20 to go into it again, but we are dealing now with a very 12:07  
21 serious embellishment of the evidence that's on paper.

22 CHAIRMAN: All right. Well, is the case being made by  
23 Garda Harrison here that the referral was made, that  
24 the HSE rejected it but that somehow, through some  
25 nefarious means that the Garda Síochána managed to have 12:07  
26 the matter resurrected.

27 MR. HARTY: That's what happened.

28 CHAIRMAN: Is that the case?

29 MR. HARTY: That's not the case, that's what happened.

1 Through some means this referral was dead after the  
2 21st October.

3 CHAIRMAN: well, no, that's not necessarily so. I mean  
4 there was the strategy meeting.

5 MR. HARTY: After 21st October. 12:07

6 CHAIRMAN: I'm not sure you ever put it to any of the  
7 social workers, indeed, you didn't put it to any of the  
8 social workers that the case was dead after the  
9 strategy meeting.

10 MR. HARTY: Yes, I did. 12:08

11 CHAIRMAN: That the case was dead?

12 MR. HARTY: That nothing was done at all until a phone  
13 call was received.

14 CHAIRMAN: You've made the case, Mr. Harty, about  
15 practically everything, the death threats, the 12:08  
16 statement of Marisa Simms, that nothing was done, so  
17 perhaps I missed it. But you never put to any of the  
18 social workers that this was a situation where the case  
19 was dead and the matter had to be revived in  
20 consequence of something that happened after the 20th 12:08  
21 October. Now, the strategy meeting was the 21st, this  
22 letter was the 24th, Superintendent McGovern's evidence  
23 was that matters then had overtaken each other, which  
24 is understandable, like the famous line at the end of;  
25 lots of letters: If this crosses in the post with the 12:08  
26 cheque you've already sent, please don't bother to pay  
27 your TV licence twice. So, I'm not exactly sure what  
28 case you're making.

29 MR. HARTY: Sorry, firstly, I'm not making a case. I

1 am a witness at a Tribunal. If I were making a case, I  
2 would have drafted a Statement of Claim, I would have  
3 looked for a defence, I would have sought  
4 particulars --

5 CHAIRMAN: Mr. Harty. 12:09

6 MR. HARTY: No, sir, please, it's important that I say  
7 --

8 CHAIRMAN: Mr. Harty, please, I have been in legal  
9 practice since 1979, I know how civil procedure works,  
10 you don't have to tell me that. 12:09

11 MR. HARTY: I am not making a case.

12 CHAIRMAN: I am beginning to feel ancient at this point  
13 and I note one major store had its Christmas shop open  
14 already. Now, you say you're not making a case, well  
15 you are making a case and you did make a case, for 12:09  
16 instance, in relation to this letter to Minister  
17 Zappone and it's perfectly clear that what you say is  
18 that the case was in fact shutdown, but you never put  
19 to any of the social workers that the case was dead as  
20 and from the strategy meeting of the 21st October. 12:09

21 MR. HARTY: I'm not obliged to put everything.

22 CHAIRMAN: well, it would actually help if you would  
23 put a case. What case are you making now? I mean, if  
24 we could move on, Mr. Harty.

25 MR. HARTY: I am dealing with the evidence and the 12:09  
26 evidence is that on the 24th October the classic Morris  
27 Tribunal piece of paper that references what was done  
28 at the time rather than embellishment, additions or  
29 anything else being added to it at later stage. On the

1 24th October --

2 CHAIRMAN: As I recall the Morris matter, and you're  
3 telling me I am an expert in it, and possibly I am, but  
4 at this stage memory can be fallible, an awful lot of  
5 officers' notebooks went into a furnace, that didn't  
6 happen here. So, can we go on, Mr. Harty, please. 12:10

7 MR. HARTY: Yes.

8 209 Q. The situation is, Superintendent McGovern, that there  
9 is nothing in your statement or anywhere else to say  
10 that at the time of the meeting with Gerry Hone that  
11 you knew that the matter had been activated? 12:10

12 A. With respect, Mr. Chairman, and save repeating myself  
13 in relation to the matter, there was no discussion  
14 whatsoever at this particular meeting on the 29th  
15 November with Mr. Hone in relation to Keith Harrison, 12:10  
16 Marisa Simms, her children, and again, it would have  
17 not have been appropriate to do so. That would not  
18 have been the form. This meeting was for a different  
19 purpose. It wasn't there to discuss individual cases.  
20 The discussion of the individual cases and as occurred 12:11  
21 in relation to Keith Harrison, Marisa Simms and their  
22 children was at district strategy meeting level and  
23 that occurred, Sergeant McGowan on the day did, as she  
24 was required. The line was put on the actual referral  
25 to contact Sergeant McGowan in relation to the matter, 12:11  
26 that occurred and as a consequence a strategy meeting  
27 was held between herself and her relevant counterpart  
28 on the 21st October. The facts are what they are.

29 210 Q. You're wrong on that, because, in fact, if there was a

1 strategy meeting held at all, it wasn't because of what  
2 was contained on the referral, it was because of a  
3 conversation held between Sergeant McGowan and Bridgeen  
4 Smith on the 9th October at a different strategy  
5 meeting. So, it wasn't as a result of the referral? 12:11  
6 CHAIRMAN: Sorry, Mr. Harty, you just said if the  
7 strategy meeting was held at all. It was never denied  
8 on your side that there was a strategy meeting held.  
9 Everyone has given evidence there was a strategy  
10 meeting held on the 21st October, without challenge 12:12  
11 from anybody at all anywhere in the room.  
12 MR. HARTY: Sorry, sir, if --  
13 CHAIRMAN: I agree it's an inquiry but it's not an  
14 inquiry as to whether today is Monday.  
15 MR. HARTY: I don't have control of discovery in this 12:12  
16 process, I don't have the ability to go as deep as I  
17 believe is necessary in relation to things and in  
18 relation to that, where people give evidence that  
19 something took place and I am not in a position to  
20 contradict it, I can't put it to somebody that it did 12:12  
21 or did not happen.  
22 CHAIRMAN: well, there is contemporaneous --  
23 MR. HARTY: It's not a positive case that I can make or  
24 a negative one.  
25 CHAIRMAN: Mr. Harty, there's contemporaneous documents 12:12  
26 backing it up, but you're now saying apparently that  
27 the strategy meeting never took place.  
28 MR. HARTY: I'm not saying anything. I can't say  
29 anything about the meeting, I wasn't there.

1 CHAIRMAN: well, it would honestly help me if you'd  
2 actually make a case.

3 MR. HARTY: I don't propose to make a case.

4 CHAIRMAN: what is your case?

5 MR. HARTY: I propose to assist this Tribunal insofar 12:12  
6 as I can in asking what I believe to be relevant  
7 questions. That is the purpose of what I am here for.

8 CHAIRMAN: All right. well, we have been over the  
9 letter of the 24th October, we have been over the  
10 strategy meeting, which at the moment I am actually 12:13  
11 believing, perhaps unwisely, actually took place. We  
12 have been over the document and as to whether the  
13 document was or was not adequate to deal with this  
14 particular kind of child concern and whether a  
15 different document should have been drafted, we 12:13  
16 certainly are going over now as to whether the Gardaí  
17 somehow revived matters in a wrong way as opposed to  
18 treating the letter of the 24th October as a pro forma  
19 letter and then supplying information or information  
20 already having been supplied on the 21st October, not 12:13  
21 supplying information. So, we're inquiring into those  
22 matters and the basic allegation is the allegation in  
23 the letter to Minister Zappone that what happened was  
24 that this letter had shut everything down, that social  
25 workers regarded it as dead but the Garda Síochána 12:14  
26 somehow revived matters improperly. That letter to  
27 Katherine Zappone, by the way, is at page 1579 and it's  
28 10th February 2017, it's an important letter.

29 MR. HARTY: And the Tribunal has heard evidence that

1 the only thing that took place before the HSE visited  
2 or called for a meeting with Garda Harrison and Marisa  
3 Simms was as a result of contact between An Garda  
4 Síochána and Tusla. We cannot ignore that fact because  
5 that is common case from all the witnesses.

12:14

6 CHAIRMAN: That's fine, and that is what the child  
7 protection guidelines actually say, that there should  
8 be contact. But let's go on, Mr. Harty, and let's see  
9 what questions you have which may assist.

10 MR. HARTY: Yes.

12:15

11 CHAIRMAN: I'm delighted to listen to them and let's  
12 see if we can go somewhere on this matter.

13 211 Q. MR. HARTY: The situation, and we won't be much longer,  
14 Superintendent McGovern, is that on paper, on your  
15 statement, there is nothing to suggest that you had any  
16 awareness that the HSE were going to conduct an active  
17 investigation in this matter, and you, I put it to you,  
18 it would have been appropriate to raise with Mr. Hone  
19 as to why that was, either in the general or in the  
20 specific, you didn't take that opportunity?

12:15

12:15

21 A. It wouldn't have been appropriate, Mr. Chairman. It  
22 was not appropriate to raise that particular case or  
23 any other case at an open forum, a discussion meeting  
24 at a divisional conference in relation to any  
25 particular specific case. I didn't raise Keith  
26 Harrison's case, Marisa Simms's case or their  
27 children's case there, and I didn't raise it with  
28 Mr. Hone, and I didn't make any attempt -- and I want  
29 to say I didn't make any attempt at any stage to revive

12:15

1 anything that I was aware of or had any knowledge on of  
2 on the day that it had been finalised. I made no  
3 contact with Tusla or the HSE to do that at any stage,  
4 or have ever done that in relation to any case.

5 212 Q. The situation is, we don't have the minutes from 12:16  
6 Milford. Can you tell the Tribunal how many times  
7 after the 10th October Garda Harrison was discussed at  
8 district accountability meetings?

9 A. Garda Harrison would not have been specifically  
10 discussed at district management meetings. 12:16

11 213 Q. why not?

12 A. why would he be discussed specifically at district  
13 management meetings?

14 214 Q. well, there were death threats in relation to him?

15 A. There is one note in one of the district management 12:16  
16 meetings on the day after the alleged death threats  
17 took place on the 4th and 5th th October, it is  
18 contained in the management meeting notes.

19 215 Q. And why did it not continue to be mentioned in district  
20 accountability meetings after that? 12:17

21 A. I can't answer that question, Mr. Chairman. It was  
22 mentioned on that particular occasion, the instructions  
23 on the day that issued from Chief Superintendent in  
24 Letterkenny in relation to the matter were brought to  
25 the attention of the actual district force and that's 12:17  
26 basically on the day what the situation was or what was  
27 to take place into the future in relation to the  
28 matter. Like the notes have been trawled and that's  
29 the only reference on day that can be taken to refer on



1 the day to Keith Harrison in relation to the minutes,  
2 and his name wasn't mentioned, it was only the actual  
3 location of his house that was mentioned.

4 216 Q. But those threats were allegedly live and still being  
5 treated as serious a number of months later, so why was 12:17  
6 it not raised again?

7 A. Well, there would have been ongoing attention in  
8 relation to that area and no new issues of concern in  
9 relation to the threat were identified to me that  
10 required to be brought to attention on the day at the 12:18  
11 district management meeting and to be recorded in the  
12 actual district management meeting notes.

13 217 Q. Do you have any record as to how frequently Garda  
14 Harrison was mentioned at divisional management  
15 meetings? 12:18

16 CHAIRMAN: Maybe Garda Harrison isn't actually as  
17 important as all that.

18 MR. HARTY: Maybe but the question is important. He  
19 certainly merited three pages in regional meeting and  
20 in those circumstances it is perfectly valid to assume 12:18  
21 that he merited at least a paragraph in divisional  
22 management meetings.

23 CHAIRMAN: what would they be talking about? I mean  
24 what we are talking about here are things that happened  
25 long after the event. The event being the referral by 12:18  
26 the Gardaí to the HSE of effectively what Marisa Simms  
27 is supposed to have complained about, whether coerced  
28 or not, in her statement to the Gardaí of 6th October  
29 2013.

1 MR. HARTY: which manages to make it --

2 CHAIRMAN: If they discuss it endlessly for the next  
3 three years, does it change matters?

4 MR. HARTY: It certainly changes matters in the six  
5 months around the time of the making of the statement. 12:19  
6 So August, September, October, November, December,  
7 January, February, March.

8 CHAIRMAN: Right. So I can accept, Mr. Harty, that if  
9 it snows in December, it doesn't necessarily mean that  
10 it was snowing in July. I can accept that what people 12:19  
11 do in December may well cast light on what happened and  
12 what they were doing in July, but I'd say there comes a  
13 point where it's way outside the realm of anything that  
14 can cast light on an event that's in issue, and here  
15 the event that's in issue is the referral to the HSE. 12:19  
16 That is it.

17 MR. HARTY: The circumstances surrounding the referral  
18 to the HSE, which are directly referred to in a report  
19 to the regional meeting on the 5th October, they are  
20 matters which therefore one would anticipate would be 12:20  
21 mentioned at divisional and district level.

22 CHAIRMAN: well, maybe not. You've asked the question.

23 MR. HARTY: I'm asking --

24 CHAIRMAN: You're asking the question and you're going  
25 into this, as you say, in-depth. So, has the matter 12:20  
26 been gone into in depth and were people talking about  
27 Garda Keith Harrison at divisional meetings, at  
28 district meetings? Was he being noted up and written  
29 in their books, to quote Shakespeare talking about

1 Julius Cesar.

2 A. No is the answer, Mr. Chairman. That meeting that was  
3 held on the 10th October, like I was gone from the  
4 Milford district on the 25th October, so my opportunity  
5 on the day to discuss Keith Harrison, issues in 12:20  
6 relation to the Milford Garda district terminated on  
7 the 24th October.

8 218 Q. MR. HARTY: So you don't have a recollection of being  
9 of discussing him?

10 A. I certainly, Mr. Chairman, never discussed Keith 12:21  
11 Harrison at a divisional management meeting. Yes, I  
12 was at the famous meeting on the day where the  
13 conference was held by Chief Superintendent McGinn and  
14 of course he was the subject of that discussion  
15 specific. That's the only meeting and the only 12:21  
16 conference that was held by a chief superintendent or  
17 that I attended at in relation to Keith Harrison or the  
18 particular issues on the day surrounding himself,  
19 Marisa Simms, the referral of the children and the  
20 alleged death threats. 12:21

21 219 Q. You see, unfortunately we're relying on Chief  
22 Superintendent McGinn to disclose what she believes is  
23 relevant in relation to this matter, but you can't  
24 assist us any further in your recollection?

25 A. No. I have disclosed all -- 12:21

26 220 Q. I appreciate that?

27 A. Yeah, and I have disclosed comprehensive material on  
28 the day in relation to my involvement.

29 CHAIRMAN: That's an unfair comment in relation to

1 Chief Superintendent McGinn. It's always the case that  
2 lawyers leave it to the Judge to make up any assessment  
3 in relation to the veracity of evidence or the  
4 character of a witness, not for counsel. There is  
5 nothing unfortunate about it, at all. 12:22

6 MR. HARTY: In circumstances where I am receiving  
7 minutes of a meeting from the 5th November which Chief  
8 Superintendent McGinn determined to be irrelevant, even  
9 though they refer directly to --

10 CHAIRMAN: Mr. Harty, you don't need to justify a 12:22  
11 comment. I think your comment was inappropriate,  
12 that's my view, I am sure you have a different view.  
13 There it is.

14 MR. HARTY: Okay. Thank you very much, superintendent.

15 CHAIRMAN: So Mr. Barnes, have you any questions, 12:22

16 MR. BARNES: No, Chairman, thank you.

17 CHAIRMAN: Mr. Dignam, any questions.

18 MR. DIGNAM: No questions, Chairman.

19 MS. LEADER: Nothing arising.

20 CHAIRMAN: Thank you. 12:22

21  
22 THE WITNESS THEN WITHDREW

23  
24 MR. MARRINAN: The next witness is Chief Superintendent  
25 McGinn, please. 12:22

26 CHAIRMAN: Mr. Marrinan, given that both substantial  
27 documents have been read into the record, is there much  
28 you feel you need to go through on this?

29 MR. MARRINAN: No, there's two aspects of the evidence.

1  
2 CHIEF SUPERINTENDENT TERRY McGINN, HAVING BEEN  
3 RECALLED, WAS DIRECTLY-EXAMINED BY MR. MARRINAN, AS  
4 FOLLOWS:  
5

6 CHAIRMAN: You are continuing your evidence.

7 A. Okay.

8 221 Q. MR. MARRINAN: You have been recalled, chief  
9 superintendent, to deal with two meetings that you  
10 attended, one on 5th November 2013, which was a  
11 regional management meeting at Dundalk? 12:23

12 A. That's correct.

13 222 Q. We have already heard some evidence in relation to this  
14 and I'm not going to go over it again, but I think that  
15 in preparation for that meeting you caused to be  
16 prepared some briefing document, isn't that right? 12:23

17 A. That's correct. I would have received the agenda for  
18 the meeting prior to attending. One of the main issues  
19 was murder threats and the fact that there was a murder  
20 threat against a serving member. I would have supplied 12:23  
21 a comprehensive document for the Assistant  
22 Commissioner.

23 223 Q. Now, in reference to that, first of all, I think the  
24 minutes of the meeting can be found at page 2695. If  
25 we could just go over to page 2696. This was an input 12:24  
26 from Mr. McGoey in relation to the statistics and it  
27 refers to "crimes against the person" and then it says:

28  
29 "Four incidents of murder threats in the region, one of

1 which was to a Garda in Donegal."

2  
3 Is that right?

4 A. Yes, that information would be supplied and assessed  
5 and the tactical assessment that we receive before 12:24  
6 attending a meeting. One of the main issues in  
7 relation to our management meetings with the region are  
8 murder threats, they are always discussed, and it's  
9 contained within the statistics, crimes against the  
10 person. As one of the persons within that murder 12:25  
11 threat was a serving member, that's why I would have  
12 supplied a comprehensive briefing note to the  
13 Commissioner on the matter.

14 224 Q. All right. It appears at that juncture but it doesn't  
15 actually name Garda Harrison, isn't that right? 12:25

16 A. No, no, in the crime stats that we would receive, it  
17 would be just that there are four murder threats and  
18 one of them would be related to the Donegal division.

19 225 Q. You've provided the Tribunal with the briefing document  
20 which was in large part read out by Ms. Leader, and I 12:25  
21 don't wish to go through it all again, but it's at page  
22 2772 of the Tribunal documentation, to 2799. But just  
23 two matters in relation to that. I think that there is  
24 a reference there to Garda Harrison giving evidence in  
25 a case, isn't that right? 12:26

26 A. Yes, that was an ongoing court case that was going on  
27 at the time in relation to another serving Garda member  
28 related to female -- two female members.

29 226 Q. The first reference to Garda Harrison in the briefing

1 document is at page 2796. It starts off by reference  
2 to a road traffic matter and disciplinary matter  
3 arising from that, and then the only reference I think,  
4 if you can confirm, the only reference to the incident  
5 with Marisa Simms reads:

12:26

6  
7 "Garda Harrison is currently the subject of a Section  
8 102 referral following a written complaint made by his  
9 partner Marisa Simms on 6th October 2013, outlining a  
10 series of alleged verbal and physical abuses, assaults,  
11 threat to harm/kill and harassment on various dates  
12 throughout their relationship."

12:26

13  
14 A. That's correct.

15 227 Q. I think the rest of quite a lengthy report refers to  
16 the threats that had been made against Garda Harrison  
17 and what steps had been taken to investigate those  
18 threats and to protect Garda Harrison, isn't that  
19 right?

12:27

20 A. That's the purpose of the briefing note to the  
21 Commissioner.

12:27

22 228 Q. So there isn't actually any reference to the fact that  
23 the matter has been referred to the HSE/Tusla?

24 A. No, and I never discussed that with Assistant  
25 Commissioner Kenny.

12:27

26 229 Q. That briefing document was sent by your office to the  
27 assistant commissioner, Assistant Commissioner Kenny,  
28 prior to the meeting; is that right?

29 A. It was sent down on the evening of the 4th by email.

1 230 Q. Yes.

2 A. For the meeting of the 5th.

3 231 Q. You've kindly provided those to the Tribunal and I  
4 don't intend to go through them, because it seems to be  
5 the position that they were sent, but they weren't 12:28  
6 distributed to anybody else other than Assistant  
7 Commissioner Kenny, isn't that right?

8 A. That's right, and we actually didn't spend very long at  
9 the meeting. My memory was it was a very long meeting  
10 and the Commissioner moved through it very quickly, he 12:28  
11 wanted to move on to other matters, and I think it was  
12 because he had a comprehensive note and there was no  
13 new update from the previous notes and documents that  
14 he would have received on it.

15 232 Q. You gave us a summary then at the meeting of those 12:28  
16 briefing notes to the meeting; is that right?

17 A. That's correct.

18 233 Q. Was Garda Harrison discussed any further outside that?

19 A. No, only the fact of the death threat, and very quickly  
20 the Commissioner noted that I had sent him the report 12:28  
21 and he moved on very quickly.

22 234 Q. Now then, if we could turn to the meeting on 29th  
23 November 2013, I think that you also attended that  
24 meeting, isn't that right?

25 A. That's correct, yes. 12:29

26 235 Q. We have already heard from the last witness,  
27 Superintendent McGovern, as to what was discussed at  
28 that meeting.

29 A. Yes.



1 236 Q. In the first instance, you point out in your statement  
2 that on 9th September 2013, you received  
3 correspondence, which was dated 6th September 2013,  
4 from a Maria McInnis, is that right?

5 A. Maria McInnis, yes.

12:29

6 237 Q. She is the Dublin area manager with the HSE at that  
7 time?

8 A. At that time, well, she was the Donegal area manager at  
9 that time.

10 238 Q. If we could just have page 2641 up on the screen,  
11 please. This was the letter that was sent to you by  
12 her dated 6th September 2013:

12:29

13

14 "Dear, Chief Superintendent McGinn,  
15 I would welcome an opportunity to meet with you to  
16 review the ongoing collaborations between the Donegal  
17 Children and Family Service and the Garda Síochána.  
18 Specifically I would like to discuss the following  
19 areas:

12:30

20

21 1. To update you on the establishment of the Child and  
22 Family Agency;

23

24 2. Review the liaison meetings between Children First  
25 inspectors and Children and Family Service;

12:30

26

27 3. Child protection notification system;

28

29 4. Development of SORAMS in Donegal."

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what's that?

A. That's sex offenders risk management system, risk assessment management system. It's to do with sex offenders.

12:30

239 Q.

"5. Children First action plan of the Children Services Committee in Donegal.

I would like to acknowledge the ongoing positive collaboration between inspector Michael Harrison and myself and also the good collaboration on the ground between front line children and family staff and the Gardaí.

12:31

I look forward to hearing from you in the near future."

12:31

I think that you then, subsequent to receiving that, had contact with her, is that right?

A. That's correct, yes.

12:31

240 Q. As a result of that ongoing contact that you had with her, is it your belief that this meeting at which Gerry Hone attended, that that's how that arose?

A. I know that I had a meeting again with her on the 8th September, but at that stage it had already been decided that Mr. Hone was coming to my office to make a presentation. So, I feel that it came to my attention through sergeant Eunan Walsh, who is the liaison officer for Letterkenny, who would have brought it to

12:31

1 my attention that he was seeking a meeting in terms of  
2 the level of information that was referred on  
3 referrals. But I do know that by the time I meet with  
4 Ms. Simms on the 8th in Glenties, it has already been  
5 decided that Mr. Hone is coming to the meeting of the 12:32  
6 29th November.

7 241 Q. So, you've provided us again with emails where the  
8 notification to various parties is referred to, and I  
9 don't intend to them with you, other parties can if  
10 they think there is anything significant in them. But 12:32  
11 that brings us to 29th November 2013, and the meeting?

12 A. That's correct.

13 242 Q. You've seen the minutes of that meeting. Does that  
14 correspond with your recollection of the meeting?

15 A. Yes. It does, Chairman. 12:32

16 243 Q. I suppose to come to the issue that could possibly  
17 arise, was there any discussion at that meeting, first  
18 of all between you and Mr. Hone, in relation to the  
19 referral to Tusla by the Gardaí in relation to Garda  
20 Keith Harrison? 12:33

21 A. No, Judge, absolutely no discussion, and at no stage  
22 did I ever discuss the Simms children referral with the  
23 HSE or Mr. Hone at any time in all of this. If you  
24 note, Judge, the format of the meeting, the meeting  
25 started at 10:00 o'clock in the morning and I had a 12:33  
26 presentation from Sergeant Wallace on crime prevention  
27 issues, particularly text alerting, Mr. Hone was taking  
28 to the meeting at 11:15 and he departed the meeting at  
29 12:15. So, there are mention of 29 referrals in the

1 notes, not one of those referrals was discussed. The  
2 purpose of the meeting was to see how the agencies  
3 could work together to provide information that would  
4 assist both of us in carrying out effectively our roles  
5 and responsibility within the legal framework and the 12:34  
6 guidelines that were provided. That was the purpose of  
7 the meeting.

8 244 Q. Did you hear anybody else discussing Garda Harrison?

9 A. Absolutely not, and it wouldn't be appropriate. It was  
10 a strategic meeting between the HSE and An Garda 12:34  
11 Síochána to see how best we could do our business,  
12 bearing in mind the legal responsibilities placed on  
13 both agencies and how we could exchange information to  
14 assist each other towards a common purpose with the  
15 focus on children. 12:34

16 245 Q. Now, in relation to disclosure matters and how these  
17 two matters came to be disclosed to the Tribunal, you  
18 wish to point out that this meeting wasn't in your mind  
19 until you were cross-examined at the Tribunal, is that  
20 right? 12:34

21 A. That's correct. When I was making disclosure on behalf  
22 of the Donegal division to this Tribunal, the fact that  
23 Mr. Gerry Hone was significantly involved never came to  
24 my mind at the time. I was fully aware that the HSE,  
25 An Garda Síochána took place at district level and at 12:35  
26 sergeant liaison officer at team level. It didn't come  
27 to my table, it was nothing that I had dealt with as  
28 the chief superintendent and this was a strategic  
29 meeting, it had nothing to do with any case or it was

1 not case specific to Garda Harrison and Garda Harrison  
2 was not discussed at the meeting. And that wasn't the  
3 purpose of the meeting.

4 246 Q. I think once you became aware that it perhaps might be  
5 significant, the matter was disclosed? 12:35

6 A. Well, as soon as it came up in my examination and  
7 cross-examination and the Judge asked me to go back and  
8 search the documents, it was through my search of the  
9 share drive at Letterkenny divisional office that this  
10 document came up and I disclosed it immediately to the 12:36  
11 Tribunal.

12 247 Q. Then in relation to the regional meeting, again there  
13 was no reference --

14 A. The regional meeting, again, as a result of my hearing,  
15 when I would have briefed the Garda commissioner on 12:36  
16 certain issues, I then went back and searched again.  
17 But I would have been aware at the time I would have  
18 been briefing the commissioner, and I think it was my  
19 evidence in cross-examination that I did brief the  
20 assistant commissioner at the margins of one of the 12:36  
21 regional meetings.

22 MR. MARRINAN: Thank you very much, would you answer  
23 any questions.

24 MR. HARTY: I am looking at the time, sir, I don't know  
25 if the Tribunal wishes me to start now. 12:36

26 CHAIRMAN: Do you want to break now for lunch? You  
27 will be half an hour.

28 MR. HARTY: Yes.

29 CHAIRMAN: If you don't mind we will break for lunch.

THE TRIBUNAL THEN ADJOURNED FOR LUNCH

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1 THE HEARING RESUMED, AS FOLLOWS, AFTER LUNCH:

2  
3 CHIEF SUPERINTENDENT TERRY MCGINN WAS CROSS-EXAMINED BY  
4 MR. HARTY, AS FOLLOWS:

5 13:43

6 248 Q. MR. HARTY: Chief Superintendent McGinn, you were  
7 involved, I understand, in determining the relevance,  
8 or otherwise, of documentation to be disclosed from the  
9 Donegal division in March of this year, isn't that  
10 correct?

13:43

11 A. Yes. As the chief superintendent I was involved in the  
12 disclosure process. In response to that then I set up  
13 an office in Ballyshannon Garda station, where I  
14 appointed a guard who was familiar with disclosure to  
15 courts, he's an incident room coordinator, and I asked  
16 him to set up a book, like jobs book, to try and gather  
17 up all the material from the Donegal division and  
18 prepare it for onward transmission Inspector Duffy in  
19 the regional office for onward transmission to Garda  
20 headquarters.

13:44

13:44

21 249 Q. I think just in that regard, Garda Howard -- Garda  
22 headquarter's liaison officer said in his affidavit:

23  
24 "The divisional shared drive at Letterkenny divisional  
25 headquarters was searched using Harrison and all  
26 material relevant to the Terms of Reference N and O to  
27 be sent to liaison officer Inspector Karen Duffy. I am  
28 informed that the files referring to divisional and  
29 district PAF meetings were not considered relevant at

13:44

1 the time by Chief Superintendent McGinn to the terms of  
2 reference and were therefore not provided to the  
3 regional office."

4  
5 So, that's correct, is it?

13:45

6 A. That's correct. Yes.

7 250 Q. So. You are the person who determined what would be  
8 given to the Tribunal?

9 A. Oh, no, no. No, I was only determining what would go  
10 from Donegal to Garda headquarters and Garda  
11 headquarters would decide then.

13:45

12 251 Q. Yes.

13 A. But I didn't send the divisional or any -- I looked at  
14 the documentation from my office and I determined at  
15 the time that they weren't relevant to the terms of  
16 reference at the time.

13:45

17 252 Q. Yes, you were the person who determined that?

18 A. Yes.

19 253 Q. Insofar as the Tribunal has received documentation  
20 coming from the Donegal division. It's on the basis of  
21 your determination of relevance or otherwise?

13:45

22 A. The ones from the divisional office are mine.

23 254 Q. Yes.

24 A. But each superintendent made their own, each person,  
25 and each retired member made their own disclosure.

13:45

26 255 Q. Right. Now, if we look at the document we have now  
27 received, which is at page 2796, that is the briefing  
28 document that you sent in advance of the regional PALF  
29 meeting. At the last paragraph of that page:



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"Garda Harrison is currently the subject of a Section 102 referral following a written complaint made by his partner Marisa Simms on the 6th October outlining a series of alleged verbal and physical abuses, assaults, threats to harm/kill, harassment on various dates throughout their relationship." 13:46

Can you explain to me how that is not relevant to the terms of reference? 13:46

A. Well, I would have been aware the Assistant Commissioner was fully briefed on those issues and reports that I had sent him, so he had that information.

256 Q. How is that document not relevant to the terms of reference. I am just trying to get inside your thinking, Chief Superintendent McGinn? 13:47

A. Yes. I determined when I looked at that document, on a strict interpretation by me, it was a subjective view on my behalf in relation to the terms of reference under O, N, it was in relation to the Tusla and the lead up to the Tusla referrals that was subject matter of this Tribunal. It was a strict interpretation on my behalf. But it is only as the Tribunal has gone through the evidence, you know, that I can see there is a great emphasis on certain matters. 13:47

257 Q. At precisely the same time as that meeting determined that a section 102 referral was made.

A. Yes.

1 258 Q. Immediately after that meeting Superintendent McGovern  
2 was tasked with making the reference to Tusla.  
3 A. No, can I correct please, no, I need to correct this.  
4 I never tasked Superintendent McGovern with making the  
5 HSE referral. At the meeting of the 8th, I satisfied 13:48  
6 myself and confirmed with him that the HSE referral was  
7 being made. I had no involvement in relation to a HSE  
8 referral. I had no briefing from him on the detail or  
9 the specifics, nor did I brief the assistant  
10 commissioner on any detail or specifics in relation to 13:48  
11 the HSE referral, because I didn't have that  
12 information.

13 259 Q. You did have that information.  
14 A. I didn't. All I knew was that the HSE referral had  
15 been made. 13:48

16 260 Q. Sorry. You wrote a letter looking for the suspension  
17 or removal from the division of Garda Harrison, where  
18 you referred to the fact that the Tusla reference had  
19 been made?

20 A. Well, my memory is, when I told the assistant 13:48  
21 commissioner that a HSE had referral had been made. I  
22 went into no specific or no details, because I didn't  
23 have that information myself, because I had never  
24 discussed with Superintendent McGovern or Mr. Hone or  
25 anybody else in relation to the HSE referral. All I 13:48  
26 knew was that a referral had been made.

27 261 Q. And you referenced that in your letter looking for the  
28 suspension or removal from the division of Garda  
29 Harrison?

1 A. Yes. Can I open just to see what I exactly -- could I  
2 open that document, please, at whatever page?

3 262 Q. I haven't got the page reference, I will get it for you  
4 and we will come back to it.

5 A. Because my memory is that I just reference that -- 13:49

6 263 Q. You do?

7 A. Yes.

8 264 Q. You don't go into detail?

9 A. I didn't go into specific detail, no, because I didn't  
10 have the detail. 13:49

11 265 Q. But the point is that you were fully aware that it was  
12 made when you wrote that letter?

13 A. Oh, I knew that a HSE referral had been made, yes.

14 266 Q. My point is that this paragraph deals directly with the  
15 background to the HSE referral. So how could this 13:49  
16 document not have been relevant?

17 A. But I understood from my reading of the terms of  
18 reference that strategic meetings at my level, where we  
19 had no input into, you know, what actually happened  
20 with the HSE referral or the investigation, weren't 13:49  
21 relevant. My involvement was with the 102 referral and  
22 in relation to his future employment within and the  
23 suspension. I wasn't dealing with that aspect and I am  
24 basing -- sorry, it was based on a strict  
25 interpretation, and that's what I made the decision at 13:50  
26 the time.

27 267 Q. You knew -- sorry, the terms of relevance, a strict  
28 interpretation?

29 A. Yes.

1 268 Q. what has Garda Harrison's move from Buncrana got to do  
2 with the terms of reference?  
3 A. It's in relation to the whole background into --  
4 269 Q. You're very careful, you're not swamping the Tribunal  
5 with irrelevant material. So, can you tell me what was 13:50  
6 so relevant about the move from Buncrana in relation to  
7 term N of the Tribunal's terms of reference?  
8 A. When I made my statement at the start, at that time the  
9 Chairman was looking for assistance and I was providing  
10 all information, a general overview of what I had in 13:50  
11 the division. It's when we came to the disclosure  
12 process I determined that -- and most of the  
13 disclosure, I'd say, for this came from the Donegal  
14 division in relation to this part of the Tribunal  
15 hearings. There's over thousands of documents 13:51  
16 disclosed from the Donegal division.  
17 270 Q. I'm asking you, because you expect us to believe that  
18 you didn't believe that this was relevant, but you did  
19 believe that the Tribunal should call witnesses in  
20 relation to the move from Buncrana? 13:51  
21 A. Yes, that's the decision I made at the time.  
22 271 Q. You did believe that the Tribunal should call evidence  
23 in relation to the anonymous letter?  
24 A. I didn't know about the anonymous --  
25 272 Q. You thought it was relevant. 13:51  
26 A. No, but I didn't decide, I was only providing an  
27 overview, briefing to the assist the Tribunal, as every  
28 other person was requested to do at that time.  
29 273 Q. Should you not have disclosed documents that might have

1           been peripherally relevant?

2           A.    But I didn't go into detail. As I said, if I was to  
3           talk about -- there's over a thousand documents  
4           disclosed from the Donegal division, if I was to detail  
5           the whole thousand, that was being done by the liaison 13:51  
6           officer at Garda headquarters, where all material was  
7           disclosed.

8 274 Q.    Are you telling me that Garda Harrison's move from  
9           Buncrana is more relevant to terms of reference N than  
10           this document? 13:52

11           A.    This document, as I described, was a briefing note to  
12           the assistant commissioner prior to the regional  
13           meeting. Its focus was on the death threat against  
14           Garda Harrison, which was the purpose of the document  
15           going down, which was the purpose of the discussion. 13:52

16 275 Q.    

17

18           "Garda Harrison is currently the subject of a Section  
19           102 referral following a written complaint made by his  
20           partner Marisa Simms on THE 6th October outlining a 13:52  
21           series of a verbal and physical abuses, assaults,  
22           threats to harm/kill, harassment on various dates..."

23

24           Are you telling me that is less relevant to the terms  
25           of reference of the Tribunal than the fact that Garda 13:52  
26           Harrison had to move from Buncrana?

27           A.    No, no, I'm not saying what is less or more relevant to  
28           the terms of reference. As we all know, as the  
29           Tribunal hearings evolved, new information came to

1 light, there was greater emphasis on certain meetings  
2 and certain information. When I made my statement back  
3 in March, I was providing the Tribunal with an overview  
4 of incidents within my knowledge within Donegal which I  
5 thought would have been of relevance. Now, there were 13:53  
6 over a thousand more documents disclosed from the  
7 Donegal division. They weren't all listed and not all  
8 scheduled at that time, because that was at the very  
9 early stages of the hearings. When we were doing the  
10 general disclosure on foot of the order from the 13:53  
11 Chairman, I was gathering the material from my office  
12 and at that time I felt that those weren't relevant as  
13 they didn't refer to the HSE referral.

14 276 Q. But it referred to the circumstances giving rise to the  
15 HSE referral? 13:53

16 A. Exactly, which I had previously reported on to  
17 Commissioner Kenny and he was aware of. That was only  
18 an update to say I had no word back from GSOC.

19 277 Q. You appreciate that this document is relevant and it's  
20 more relevant -- I have to put to you, it's more 13:53  
21 relevant than Garda Harrison's move from Buncrana?

22 A. Well, that was a decision that I made at the time. It  
23 was a subjective view on my behalf and as the  
24 Tribunal -- sorry.

25 278 Q. Do you accept that it is an incorrect decision? 13:54

26 A. No, at the time when I made it -- you see, you make a  
27 decision at the time based on whatever information that  
28 you have, and you make it in good faith. So this is  
29 the decision that you are making at the time. As the

1 evidence evolved here and the focus of the inquiry  
2 developed into particular lines of inquiry, other  
3 documents became more relevant, as we can see with the  
4 Gerry Hone attendance at my divisional management  
5 meeting.

13:54

6 279 Q. You see, you're right, because this document perhaps  
7 isn't particularly relevant to the narrative that you  
8 put together, Chief Superintendent McGinn, but you do  
9 appreciate that this Tribunal shouldn't be about and  
10 isn't about your narrative?

13:54

11 A. Oh, absolutely.

12 280 Q. Did you leave this out because it didn't actually fit  
13 into the narrative that you were putting together for  
14 the Tribunal?

15 A. No, no, no. The Tribunal is not about me, the Tribunal  
16 is about An Garda Síochána's interaction with Tusla and  
17 the Simms children.

13:55

18 281 Q. Did you disclose the documentation -- did you furnish  
19 the Tribunal with documentation in relation to the move  
20 from Buncrana?

13:55

21 A. I would have -- that would have come from different  
22 sources. There would be very little at my office in  
23 relation to that, whatever was at my office. But, as I  
24 said, there was a process put in place so that we could  
25 gather all the information. As you must appreciate, in  
26 An Garda Síochána, an instant would happen, from the  
27 birth of an incident to its conclusion, it moves  
28 through certain offices, certain functions, different  
29 people have responsibility for it, and matters are

13:55

1 duplicated as we go along and different people are kept  
2 in the loop and informed, so everybody --

3 282 Q. All the more reason not to swamp the Tribunal with  
4 fundamentally irrelevant matter, like the move from  
5 Buncrana, isn't that correct?

13:55

6 MR. O'HIGGINS: Well, I wonder, Chairman, is that fair?  
7 Excuse me for interrupting for a very brief moment.

8 The documentation touching on the transfer of Garda  
9 Harrison from Buncrana, as I think Mr. Harty will be  
10 aware, formed part of the seven categories which were  
11 the subject of a stand alone letter in April from the  
12 Tribunal. So, I don't think it is fair to put to the  
13 witness that it is odd that that was provided in  
14 circumstances where it wasn't specifically sought.

13:56

15 CHAIRMAN: Yes. Well, certainly a great deal has been  
16 made of the move from Buncrana and in particular a  
17 great deal has been made of the move to Donegal. A  
18 great deal has been made of the attempt to move from  
19 Donegal Town to Letterkenny and the response thereto,  
20 and a great deal was made also in the statement of  
21 Garda Harrison in relation to, for instance, Sergeant  
22 Durkin and his alleged bullying, all of which is part  
23 of the weave and weft of the narrative, which leads up  
24 to the tapestry which I am supposed to find contains a  
25 picture of Garda interference in the life of Garda  
26 Harrison and Ms. Simms domestically and a wrongful  
27 intervention by Tusla in consequence of Garda  
28 manipulation. That is what this is about.

13:56

13:56

13:56

29



1 So, the move from Buncrana isn't irrelevant and I don't  
2 think it's irrelevant at all. As to whether this  
3 document was one that was deliberately concealed, which  
4 is really something that should be uppermost in the  
5 mind of anyone actually doing the inquiry, and it's me 13:57  
6 that's doing the inquiry. The first test, I suppose,  
7 one would appear is whether there is anything new in it  
8 that we haven't heard before; whether there is anything  
9 different to the narrative from the Garda witness that  
10 have given evidence so far; and as to whether there 13:57  
11 would be, therefore, any cause to conceal it as opposed  
12 to whether an accident happened, which no doubt can  
13 happen to the best of people.

14  
15 So, of course, Mr. Harty, you may continue if you wish, 13:58  
16 but it seems to me that if you're saying that the move  
17 to Buncrana or from Buncrana is irrelevant, then you're  
18 saying your client's statement to the Tribunal  
19 which mentions those as part of that ongoing narrative  
20 leading to interference in his life and that of his 13:58  
21 domestic partner, itself becomes irrelevant.

22 MR. HARTY: In fact, I am dealing with the question and  
23 only the question of what was going through Chief  
24 Superintendent McGinn.

25 CHAIRMAN: I'm not putting a dialogue here, Mr. Harty. 13:58  
26 You may continue if you wish, I am not having a  
27 dialogue, I have given my view, I am the one doing the  
28 inquiry.

29 283 Q. MR. HARTY: Chief Superintendent McGinn, what we are

1 concerned about here is what was going through your  
2 mind as to what was relevant and what was not relevant.  
3 When you prepared your statement, you hadn't read Garda  
4 Harrison's statement to the Tribunal?

5 A. No, I hadn't got it, no. 13:58

6 284 Q. So, you determined that the Buncrana incident was  
7 relevant, you also determined that the anonymous letter  
8 was relevant, isn't that correct?

9 A. Yes, I did include that, yes.

10 CHAIRMAN: Mr. Harty, we have to face reality here. I 13:59  
11 mean the plain reality is that Garda Harrison didn't  
12 drop in from a helicopter into Donegal randomly. The  
13 plain reality is he went to Donegal. So, the point at  
14 which the Donegal Gardaí aided, as he says in his  
15 statement, by Garda headquarters or directed by Garda 13:59  
16 headquarters, began to act in relation to the  
17 destruction of his private life, surely begins as a  
18 matter of reality when he actually moved to Donegal.  
19 That's the point at which it begins.

20 MR. HARTY: I am not dealing with the facts, I am 13:59  
21 dealing with what was going through Chief  
22 Superintendent McGinn's --

23 CHAIRMAN: well, I am inviting you if you wish to  
24 continue, but I am not sure it's the best point that  
25 has been made so far, but I am listening with interest. 13:59

26 MR. HARTY: well, what I am interested in is how  
27 anybody could have thought this document was not  
28 relevant with other peripheral matters.

29 CHAIRMAN: Mr. Harty, is there anything new in this

1 document, are you saying there's anything new?  
2 MR. HARTY: Irrelevance doesn't arise because of  
3 novelty.  
4 CHAIRMAN: No, it does. No, it does, because if you  
5 have 50 documents saying exactly the same thing from 50 14:00  
6 different sources, then it may be that someone doing  
7 the inquiry, and that is me, by the way, may think,  
8 well, they left out document 49 but it says exactly the  
9 same thing, so how am I supposed to take an  
10 interpretation of scandal from that? Now, I don't see 14:00  
11 anything new, but if you see anything new apart from  
12 the gun threat and how seriously it was taken and the  
13 results of it, which you have cross-examined on  
14 previously, please feel free to point it out to me.  
15 MR. HARTY: Firstly, I would disagree with the Tribunal 14:00  
16 in terms of a disclosure obligation --  
17 CHAIRMAN: Sorry, Mr. Harty, I'm not having a dialogue  
18 with you, do you understand. If you wish to continue  
19 this line of questioning, please do.  
20 MR. HARTY: Yes, I will. 14:00  
21 285 Q. The situation is: Your disclosure obligation is to  
22 disclose all relevant material?  
23 A. That's correct, and I took it very serious, to such an  
24 extent that I appointed a person in the Donegal  
25 division to collect all of the information from all the 14:01  
26 relevant parties. Somebody who was familiar, she was a  
27 trained incident room coordinator, she was familiar  
28 with doing disclosure for court cases and I appointed  
29 her within the division to collect all of the

1 materials. I then have to make disclosure from my own  
2 personal office. These documents at the time were on  
3 the shared drive at Letterkenny. At the time I took a  
4 strategic overview that these were documents that had  
5 gone down to the assistant commissioner in relation to 14:01  
6 management meetings, they weren't case specific and  
7 they weren't, as I took at the time, to be of relevance  
8 to the terms of reference. It was a subjective  
9 assessment on my behalf at the time in relation to it.

10  
11 As we have seen during the inquiry, different lines of  
12 inquiry have developed, greater emphasis -- and if I  
13 can link this into the district meeting as well in  
14 relation to Mr. Hone, if I may. Different emphasis was  
15 placed on particular meetings at the time. But at the 14:02  
16 time that I made the disclosure and it went from  
17 Donegal, I deemed at the time that these two documents  
18 were not relevant.

19 286 Q. And I have to put it to you that you will now accept  
20 that they are directly relevant? 14:02

21 A. Well, first of all, if I can cover this particular one.  
22 There is no mention here of the HSE referral in this  
23 letter. The 102 was on an update. The Commissioner  
24 had already been briefed in documents from me, as had  
25 the death threats on the weekend. The death threats at 14:02  
26 a regional management meeting are very important. At  
27 that time we were after losing our colleague in  
28 Dundalk, in January, where Adrian Donoghue had been  
29 shot dead. So we were taking death threats against

1           Garda members very seriously and death threats against  
2           any person, but particularly going into regional  
3           management meetings at the time, that these documents  
4           were very important route to that, that that was  
5           happened in An Garda Síochána at that time, death           14:03  
6           threats against Garda members, and we had already lost  
7           Detective Garda Adrian Donoghue in January of that  
8           year.

9   287   Q.   In relation to this document, it is directly relevant  
10           to the terms of reference, do you accept that now?           14:03

11           A.   It's in relation to the death threats. I don't see --  
12           at the time, maybe I can accept as the inquiry went on  
13           that other documents are important, as the documents --  
14           but there is nothing new in the document.

15   288   Q.   Just so we are clear on this?           14:03

16           A.   Yes.

17   289   Q.   Your obligation is to disclose what's relevant. Your  
18           obligation is not to decide if something is new or old?

19           A.   No, no, you're right. My obligation is to determine  
20           relevance, I did determine relevance at that time and           14:03  
21           my decision at the time was they weren't relevant and I  
22           didn't disclose them as part of the --

23   290   Q.   And there are other documents, I take it, you made  
24           similar decisions about?

25           A.   Just those two in relation to --           14:03

26   291   Q.   Just those two?

27           A.   Yes, in relation to those district meetings. There are  
28           other mentions of Garda Harrison in regional and  
29           divisional PALF meetings but they're in relation to

1 other death threats that were received from a different  
2 source against Garda Harrison.

3 292 Q. We haven't seen any minutes of your divisional PALF  
4 meetings?

5 A. I understand you did in relation to the Gerry Hone 14:04  
6 meeting.

7 293 Q. Well, that's one meeting?

8 A. But I have looked at the other meetings and there is no  
9 relevance --

10 294 Q. And you have determined they are not relevant? 14:04

11 A. Well, I did a search after we left the Tribunal the  
12 last day under the word Harrison and I put that into  
13 the shared drive at Letterkenny, I got somebody in my  
14 office to do it for me, and these are the two documents  
15 that I pulled out at this time that I thought was 14:04  
16 relevant and brought them to the notice of the  
17 Tribunal.

18 295 Q. This document contains an extra entry in relation to  
19 the relevant matters, which is at page 2798, at the end  
20 of the last paragraph, 2798: 14:04

21  
22 "No decision has yet been made by GSOC in relation to  
23 the complaint of Ms. Simms."  
24

25 A. Yes. 14:05

26 296 Q. That's another reference to it as well, isn't it?

27 A. Well, I had already briefed the commissioner on that  
28 after the meeting of the 8th, the ongoing --

29 297 Q. When did you brief the commissioner?

1 A. I briefed him after the meeting of the 8th October in  
2 my office.

3 298 Q. What about the further correspondence from Chief  
4 Superintendent McLoughlin?

5 A. Yeah, well first I briefed him in relation to the 102 14:05  
6 referral, the difficulty we were having with GSOC in  
7 accepting the 102 referral, and I also at that meeting  
8 had briefed him on the death threats. I was aware then  
9 that he had received the death threats from  
10 superintendent Kevin English. I sent him down the 14:05  
11 report of the 10th in relation to the suspension, and I  
12 also had briefed him on when I looked for the  
13 appointment of an outside superintendent.

14 299 Q. So, they were your only contacts with him in relation  
15 to it? 14:05

16 A. In relation to this, yeah.

17 300 Q. So, this being despite the fact that it was clear that  
18 it wasn't a valid section 102 referral as far as GSOC  
19 were concerned?

20 A. I disagree with that. 14:05

21 301 Q. That's what GSOC told you?

22 A. No, no, GSOC at the time -- we have been through this  
23 evidence, the 102 referral is the sole determination  
24 for the Garda commissioner.

25 CHAIRMAN: I'm not going back on it. 14:06

26 MR. HARTY: No, I'm not going back on it either.

27 CHAIRMAN: I'm just not going back there, I've really  
28 had enough on it. I am well able to make up my mind on  
29 the basis of what is there already.

1 302 Q. MR. HARTY: But you wrote in that letter:  
2  
3 "Garda Harrison is currently the subject of a Section  
4 102 referral."  
5 14:06  
6 But you knew at that stage that GSOC had said it was  
7 not an appropriate matter for a Section 102 referral.  
8 A. No, I didn't receive the notification back from GSOC  
9 until the 6th.  
10 303 Q. No, you didn't receive notification back from GSOC to 14:06  
11 say they were going to do nothing until the 6th?  
12 A. Yes.  
13 304 Q. But you already knew that GSOC did not believe it was  
14 an appropriate matter for a Section 102 and were going  
15 to see if they would investigate it under Section 85? 14:06  
16 A. No, GSOC never informed me they were never taking it on  
17 as a 102 referral. I received no notification from  
18 them. All I received from GSOC was looking for the  
19 rationalisation as to why a 102 referral was made.  
20 They never told me they were never going to take it on. 14:07  
21 I never knew until 6th November they weren't going to  
22 particular it on. And that was only after prompting by  
23 me with Superintendent McGovern from the first on that  
24 we were receiving no notification from GSOC as to what  
25 was happening and I was enquiring as to where the 14:07  
26 criminal investigation was at.  
27 305 Q. I think Inspector Karen Duffy was the person carrying  
28 out -- the liaison officer in the Donegal division; is  
29 that right?



1 A. Yes, that's correct. Not in Donegal, no, sorry, in the  
2 regional.

3 306 Q. Regional?

4 A. Regional.

5 307 Q. She was also the person who attended the meeting and 14:07  
6 took the minutes of that particular regional PALF  
7 meeting?

8 A. That's correct, yes.

9 308 Q. Where this issue was raised?

10 A. Yes. My memory of to was that it was a very detailed, 14:07  
11 a very long meeting and it was just a brief overview  
12 and Assistant Commissioner Kenny was happy with the  
13 comprehensive note and he didn't deliberate at time on  
14 it.

15 309 Q. Now, the meeting with Mr. Hone? 14:08

16 A. Yes.

17 310 Q. Who called that meeting?

18 A. Since I left the Tribunal the last day I have been  
19 carrying out searches to try and determine if I had any  
20 correspondence in relation to it. I have had a number 14:08  
21 of searches carried out in my office. The first that I  
22 found was the email that was sent on the 19th by Garda  
23 Mulroe from my office, advising my team that a meeting  
24 was taking place. That was confirmed on the 23rd. I  
25 enquired from sergeant Eunan Walsh, who is liaison, 14:08  
26 manager officer for the Letterkenny district, had he  
27 any recollection of -- he had a vague recollection  
28 about the meeting and about trying to get the meeting  
29 set up. I asked searched my database and I could see

1           that I had correspondence from Maria McInnis looking  
2           for a meeting. I know that when I met her in Glenties  
3           on the 8th that it had already been decided that Gerry  
4           Hone was going to attend. So, to put it any further, I  
5           think it was really -- from my assessment of all the           14:09  
6           information material and the evidence that I have now,  
7           that it was possibly set up through Sergeant Eunan  
8           Walsh, the liaison inspector at Letterkenny.

9   311   Q.    What Mr. Inspector Harrison?

10          A.    Or possibly Michael Harrison, yeah, who is the           14:09  
11          inspector liaison.

12   312   Q.    He is the inspector liaison for the division; is that  
13          right?

14          A.    He is, that's correct, and I did carry out enquiries  
15          with him, but he has no recollection of actually           14:09  
16          setting up the meeting. But it was an ongoing matter  
17          that was being discussed between the two organisations  
18          at district and sergeant level, that they weren't  
19          getting sufficient information to assist them in  
20          carrying out their assessment of the referral, and that           14:09  
21          it was a matter that needed to be dealt with at the  
22          strategic level on my behalf.

23   313   Q.    Sergeant Walsh says he doesn't recall who requested the  
24          meeting, I don't have a statement from Inspector  
25          Harrison?   14:09

26          A.    But I did carry out enquiries with inspector Harrison  
27          since we left, he wasn't able to assist.

28   314   Q.    It would be kind of odd, wouldn't it, that the head of  
29          Child and Family Services would, without a paper trail,

1 appear at a meeting in the divisional headquarters?

2 A. No. Like, it was obviously arranged and organised. I  
3 am even telling Ms. McInnis at our meeting that --

4 315 Q. You knew at that stage --

5 A. Oh, I knew that he's coming on the 8th, and I'm telling 14:10  
6 my people, it wasn't just to confirm the date, but I am  
7 telling my divisional team that he's coming on the 9th.  
8 Well, I wasn't sure on the 9th, I'm confirming it on  
9 the 26th, that he would be in attendance.

10 316 Q. Yes, but you had, in fact, been aware or at least the 14:10  
11 date penciled in, you knew at the meeting on the 8th?

12 A. I would have known that it was going to happen.

13 317 Q. Were the dates given?

14 A. Yes, the 29th and 28th, we weren't sure when it was  
15 going to happen, we were trying to match up diaries 14:10  
16 etcetera.

17 318 Q. And that was a meeting which was attended by a number  
18 of people who had dealings in respect of the Simms  
19 referral, isn't that right? You were at that meeting?

20 A. Well, I had no dealings, I have to be clear on that, I 14:11  
21 was never briefed.

22 319 Q. Yes.

23 A. All I confirmed and satisfied myself there's a HSE  
24 referral. But at that meeting was myself,  
25 Superintendent McGovern, Mr. Gerry Hone, Superintendent 14:11  
26 Michael Finan, Superintendent Archbold, Inspector  
27 Michael Harrison and our note taker, Sergeant Duffy.

28 320 Q. We mentioned the letter that you sent to the Chief  
29 Superintendent in Internal Affairs and that's at page

1 1624, and 1628 the reference to the HSE is made.

2

3 "The HSE referral has been made by Sergeant Bridget  
4 McGowan in respect of Marisa Simms children and their  
5 exposure to abusive and alleged assaults by Keith  
6 Harrison on Marisa Simms. "

14:12

7

8 A. That's correct, yeah. That was in relation to the  
9 suspension and it's in relation to the appointment.  
10 When I looked for an outside superintendent to be  
11 appointed, for Superintendent Murray to be appointed, I  
12 think it's part of that. But basically that a HSE  
13 referral has been made. There's no specifics or  
14 details, because I didn't have them, and my office  
15 didn't have them.

14:12

16 321 Q. And that was then repeated in your letter to the  
17 Assistant Commissioner Northern Region, which is dated  
18 the 12th November?

19 A. Yes.

20 322 Q. And that's at page 2124. Yet again under "other  
21 matters"?

14:12

22 A. Yeah, it's a replica of the previous.

23 323 Q. So, you did know at least who made the referral?

24 A. Oh, yes.

25 324 Q. You knew it wasn't in fact -- it was Sergeant McGowan  
26 was dealing with it, not just --

14:13

27 A. Well, Superintendent McGovern is the person -- it's his  
28 responsibility to make the referral. Sergeant McGowan  
29 is the liaison sergeant who deals with the actual

1 exchange of information between the two agencies. But  
2 the responsibility lies with superintendent --

3 325 Q. But, in fact, you knew that Sergeant McGowan was  
4 central to it?

5 A. Well, because she's the liaison manager for Milford and 14:13  
6 she would be the one that would be making the referral.

7 326 Q. So what were you informed of after that date and coming  
8 up to the meeting with Mr. Hone, which we know was  
9 arranged before 8th November 2013?

10 A. What did I know about the HSE referral? 14:14

11 327 Q. Yeah.

12 A. Nothing. Hadn't been briefed.

13 328 Q. Nothing. So. What --

14 A. Those matters would be dealt with --

15 329 Q. What did you understand that the meeting with Gerry 14:14  
16 Hone was about?

17 A. Gerry Hone, it was a strategic meeting between our two  
18 organisations to see how we could best assist each  
19 other in exchanging information in relation to  
20 referrals within the guidelines and within the 14:14  
21 legalities of the exchange of information, so that we  
22 could be more efficient and more effective on how we  
23 deal with referrals.

24 330 Q. Did you know how many referrals had been received with  
25 inadequate information? 14:14

26 A. Well, I can see from the notes of the meeting that  
27 29 --

28 331 Q. No, I mean before the meeting.

29 A. Before the meeting, no.

1 332 Q. No?  
2 A. No.  
3 333 Q. Did you know anything about that?  
4 A. No.  
5 334 Q. Nothing? 14:14  
6 A. Only that there was on ongoing dialogue between our two  
7 agencies over the amount of information that was being  
8 exchanged to assist HSE in carrying out their work and  
9 I was aware that there were competing interests in  
10 relation to the information into determining how our 14:15  
11 work was going to be carried out and there's always a  
12 judgment call in relation to how much information that  
13 we were going to provide, based on the fact that we had  
14 different roles and responsibilities. We were always  
15 conscious as an organisation that we had the criminal 14:15  
16 aspect to carry out and that our focus would be  
17 obviously on preserving evidence, whereas the HSE was  
18 in relation to child protection issues. Where those  
19 competing interests were colliding or there was  
20 collision, we would always fall down on the interests 14:15  
21 of the children and the outcome. So it was a common  
22 purpose with a shared reference and we were looking at  
23 best practice as to how we could do our business.  
24 335 Q. Yeah.  
25 A. But it was at a strategic level, it wasn't case 14:15  
26 specific, we didn't discuss any cases, it wouldn't have  
27 been appropriate.  
28 336 Q. You see, I haven't come to that point. You had a  
29 meeting with Ms. McInnis, isn't that correct?

1 A. Yes.

2 337 Q. You dealt with a number of different matters with her.  
3 In relation to the Garda notifications, you were aware  
4 already that a meeting had been set up with Mr. Hone in  
5 relation to the method of Garda notification? 14:16

6 A. Yes. That's correct. At the meeting of the 8th.

7 338 Q. So you were aware that this was having difficulties?

8 A. I was aware even before, I would have been aware that  
9 district liaison sergeants and superintendents and HSE  
10 were having difficulties in relation to the amount of 14:16  
11 information An Garda Síochána were providing to HSE in  
12 relation to referrals, because the form that was  
13 designed, there was no really space to put in  
14 additional information. And it was an ongoing --

15 339 Q. why didn't you drop the form? 14:17

16 A. Sorry.

17 340 Q. why didn't you drop the form?

18 A. why did I drop the from?

19 341 Q. why didn't you stop using the form?

20 A. well, that's what was agreed within the Children First 14:17  
21 Guidelines between two agencies at a statutory level,  
22 it's not for the chief superintendent in Donegal to  
23 start changing the form. I can only --

24 342 Q. Had the chief superintendent in Donegal stopped using  
25 the Garda HSE liaison form? 14:17

26 A. No, but I can only feed into -- I am trying to create  
27 -- try and get our job done, best practice, how best  
28 can he can do this within the confines of the  
29 guidelines and legalities as to what information we can

1 provide.

2 343 Q. I am saying to you, had the chief superintendent in  
3 Donegal stopped using the HSE Garda liaison form?

4 A. No, I don't agree there, no, we continued to use the  
5 form within the guidelines. 14:17

6 344 Q. No, you don't. Neither you nor Tusla use the Garda  
7 liaison form?

8 A. We use the forms within the referral notifications.

9 345 Q. That's not the evidence?

10 A. Well, that matter didn't come to my table, that there 14:17  
11 was a difficulty. The difficulty was the content and  
12 the amount of information that we were providing to  
13 another statutory agency to enable them to do the work.  
14 The matters that were coming to my attention were that  
15 there were data protection issues, there was Freedom of 14:18  
16 Information issues, there was issues in relation to  
17 what information we could provide in terms of soft  
18 intelligence, if people were applying for jobs, if it  
19 was information that was soft, that wasn't proven, how  
20 do we exchange that information. As Tusla were subject 14:18  
21 to the Freedom of Information, they were under  
22 different data protection matters than An Garda  
23 Síochána were at that time. So, they were dealing with  
24 the issues that I needed to deal with at a strategic  
25 level, they weren't case specific. 14:18

26 346 Q. Why wasn't it case specific? Why weren't you  
27 concerned?

28 A. The meeting wasn't for that purpose. It wouldn't have  
29 been appropriate that I would discuss Garda Harrison's



1 case. It wouldn't be at my level, it was at the level  
2 of the district officer, Superintendent McGovern and  
3 Sergeant McGowan. It wouldn't come to my desk. Those  
4 cases wouldn't come. What would come to my desk is the  
5 criminal aspect, where a member of An Garda Síochána is 14:19  
6 involved in an alleged criminal activity, that would  
7 come to my office. What would come to my office, there  
8 was death threats against a member of An Garda  
9 Síochána.

10 347 Q. You sought fit and what was necessary to enquire at the 14:19  
11 meeting of the 8th October as to whether or not a Tusla  
12 reference was being made, so it was clearly a matter  
13 which had already come to your desk?

14 A. That was to satisfy myself that the HSE referral was  
15 made, I didn't go into any details or specifics, it was 14:19  
16 just to satisfy myself and confirm that it had been  
17 made.

18 348 Q. And would you not satisfy yourself that it had been  
19 progressed?

20 A. That matter was dealt with at district level. Nobody 14:19  
21 brought it to my attention that there was a problem or  
22 issue with it.

23 349 Q. No, but, in fact, it never progressed, not for another  
24 four months, isn't that right?

25 A. As I said, I had never been briefed in relation to the 14:19  
26 HSE referral and that wasn't the purpose of my meeting  
27 with Gerry Hone.

28 350 Q. Yes, but it was something that should have been if your  
29 concerns -- we've already dealt with your so-called

1 concerns for Ms. Simms and with the reality of the  
2 threats?

3 A. Certainly, of Ms. Maria McInnis, who was the Donegal  
4 area manager, or Gerry Hone had a difficulty, my door  
5 was always open to them. We had a good working 14:20  
6 relationship on the ground. Neither agency had any  
7 difficulty picking up the phone and saying, look, this  
8 is not workable, we need to sort this out. We didn't  
9 have that type of relationship. We had a relationship  
10 that we wanted to work together on a common purpose 14:20  
11 with a shared reference. And that's how we operated  
12 the business on the ground.

13 351 Q. But you didn't ask any details about the 29 cases?

14 A. No.

15 352 Q. And what was the nature of the inadequate information? 14:20

16 A. The meeting wasn't case specific, the meeting was about  
17 how much information An Garda Síochána can provide to  
18 Tusla to enable them to carry out their duties within  
19 the framework and the legalities of what information  
20 that we can provide. Specifically around soft 14:20  
21 information, particularly around if it was in a family  
22 where mother and father had separated, how can we give  
23 the information between -- that was the discussion at  
24 the meeting. It wasn't case specific, it was about how  
25 can we do our business better and to come up with a 14:21  
26 formula --

27 353 Q. Surely an example of how you had not been doing your  
28 business correctly would have been useful?

29 A. But nobody had brought it to my attention we weren't

1 doing our business properly. I am satisfied that  
2 Superintendent McGovern, who is a very competent  
3 superintendent, carried out his business effectively in  
4 this, and it was on his table and he was the person  
5 dealing with it.

14:21

6 354 Q. But I am asking you in relation to 29th, the first  
7 question surely you'd ask Mr. Hone when you're setting  
8 up the meeting --

9 A. Mm-hmm.

10 355 Q. -- is: Can you give me an example of what is wrong  
11 here?

14:21

12 A. No, no. Mr. Hone was telling me that they were finding  
13 it a difficulty, they were now going to centralise the  
14 system, they were now moving into Tusla, they were  
15 moving away from HSE, they were trying to make their  
16 systems more efficient and effective and it was about  
17 how can we make this better? How can two agencies,  
18 statutory agencies of the State do our business where  
19 we have a common purpose? And how can we share  
20 information within the legalities of sharing  
21 information? And the big difficulty for An Garda  
22 Síochána at the time when we were providing detail,  
23 that Tusla were subject to the Freedom of Information,  
24 which was posing a problem for An Garda Síochána when  
25 we're trying to gather evidence in relation to criminal  
26 investigations. So, we were being careful about what  
27 information that we could actually disclose.

14:21

14:22

14:22

28 356 Q. And the mechanism by which --

29 A. And the mechanism of how it was going to be done. And

1 that was the purpose of the meeting. It was at a  
2 strategic level, and it was me bringing my management  
3 team in together, that we could have an open discussion  
4 on this, to see how could we do it better. And as a  
5 result of that meeting we decided that we wouldn't give 14:22  
6 out Pulse information because we had data protection  
7 issues, but we will give a précis of the evidence to  
8 enable Tusla to carry out. And we always had  
9 one-to-one meetings which would further it. So, there  
10 was always ongoing dialogue between our agencies. But 14:22  
11 this was at a strategic level and to see how as an  
12 organisation we could do our job better. And it was  
13 not case specific to Garda Harrison and he was not  
14 discussed at the meeting.

15 357 Q. But the meeting came about in the aftermath of the 14:23  
16 referral being made in respect of the Simms children,  
17 isn't that correct?

18 A. It was in and around, yeah.

19 CHAIRMAN: I presume there's three or four more others  
20 that could be even closer. 14:23

21 MR. HARTY: I don't know. I don't have the disclosure.

22 CHAIRMAN: well, let's work it out. If there's 29 and  
23 there's 12 months in the year, that means there's two a  
24 month and that surely means that in November there  
25 would have been two, could have been three. 14:23

26 MR. HARTY: The meeting was arranged before the 8th  
27 November, that's what we know.

28 A. If I can assist.

29 CHAIRMAN: I'm not sure you're seeing the point,

1 Mr. Harty.

2 MR. HARTY: I am seeing the point.

3 A. Could I assist here, I understand that Mr. Hone was  
4 bringing to the meeting that of all the referrals he  
5 got, 29 were a difficulty. I'm sure there was a lot 14:23  
6 more than 29 and he would be best able to --

7 358 Q. MR. HARTY: I appreciate that?

8 A. There were 29.

9 359 Q. But I'm asking --

10 CHAIRMAN: 29 examples. 14:24

11 A. 29 examples of where there were insufficient  
12 information provided to enable them to carry out their  
13 duties.

14 CHAIRMAN: Yes, I have some statistics from the last  
15 hearing in relation to how many there were a year, I 14:24  
16 can look them up in any event, but there's a lot.

17 A. well, I think what he was highlighting was that he had  
18 29 within Donegal where he felt he hadn't sufficient  
19 information.

20 MR. HARTY: Exactly. 14:24

21 CHAIRMAN: There were 29 where he felt he was at sea.

22 A. Yes, that he needed more information to help him assist  
23 him in his work.

24 360 Q. MR. HARTY: Did you discuss using a different form?

25 A. We discussed how we could best provide the information. 14:24  
26 There was different opinions in the room. Some people  
27 expressed that maybe we could give the Pulse data. I  
28 personally didn't agree with that because I knew there  
29 was going to be a problem in terms of data protection.

1 So, we decided how best we could give the information  
2 and we discussed then if we could provide a narrative,  
3 a synopsis of what we had on Pulse as précis, that that  
4 would assist them in carrying out the work, so then  
5 they could come back to us at strategy meetings. We 14:25  
6 were trying to find out how we best could do it, as I  
7 said, within the legalities that we were confined to,  
8 and the framework document.

9 361 Q. In terms of PALF meetings, district PALF meetings from  
10 Letterkenny? 14:25

11 A. Yes.

12 362 Q. We haven't seen those?

13 A. I have had search since I left the meeting the last day  
14 and on the shared drive there was just one reference  
15 and it's to do with sickness of Garda Harrison, which 14:25  
16 is enclosed in the --

17 363 Q. Anybody else's notes of those meetings they would have  
18 been attended by?

19 A. No, this is just the girl in the office would have  
20 inputted -- it's in relation to a sickness of Garda 14:25  
21 Harrison.

22 364 Q. And then divisional meetings?

23 A. Divisional meetings have all been searched and these  
24 were the two documents. Apart from documents I have  
25 highlighted where Keith Harrison is mentioned, but 14:25  
26 they're in relation to other death threats, not death  
27 threats linked to this particular -- in total there  
28 were five death threats against Keith Harrison.

29 365 Q. And risk registers?

1 A. Risk registers, yes.

2 366 Q. Where would they be?

3 A. They would be in my office and each district would have  
4 a risk register.

5 367 Q. And what about the risk register in relation to Keith 14:26  
6 Harrison and Marisa Simms?

7 A. Again, the risk registers, at district and divisional  
8 level they wouldn't be case specific, they would be in  
9 relation to overall what are the risks in the division  
10 in terms of murder threats, in terms of personnel, but 14:26  
11 they wouldn't be case specific. Again it's an overall  
12 document.

13 368 Q. What would they say?

14 A. What would they say? For example, they would say,  
15 we'll talk about Carrickfinn Airport, they will say 14:26  
16 about how many flights coming in, what time they come  
17 in, what manpower have we in relation to any threat  
18 assessment that would take place. They will be in  
19 relation to how we police the border in terms of the  
20 dissident activity over and back, what are the 14:26  
21 resources that we employ. You know what I mean,  
22 they're on more higher strategic level than case  
23 specific, they don't go into case specifics.

24 369 Q. Why wasn't the Milford drive searched?

25 A. The Milford shared drive was searched but it wasn't 14:27  
26 operated and wasn't used. They didn't use it in  
27 Milford. I did ask for it be searched but they weren't  
28 using it.

29 370 Q. Superintendent Howard in his statement, his affidavit

1 says that the Milford drive wasn't searched?  
2 A. It was, it wasn't used. It wasn't used at the time.  
3 You know, it wasn't a usable share drive at the time,  
4 because we did search it, and I provided that  
5 information to the Chief Superintendent Howard. They 14:27  
6 couldn't search it because they weren't using it.  
7 371 Q. But you can search it, it will just bring up nothing?  
8 A. Well, exactly.  
9 372 Q. It's a different thing?  
10 A. The only one that was really being used was the 14:27  
11 divisional office.  
12 373 Q. That the only shared drive being used?  
13 A. Apart from the one in Letterkenny, but the Letterkenny  
14 one didn't contain the district meetings, it only  
15 contained that one reference to the Garda Harrison that 14:27  
16 I told you about.  
17 374 Q. You understand better than anybody else how important  
18 it is that a Tribunal is given as much information as  
19 possible as early as possible?  
20 A. Yes, and of relevance, yes. 14:28  
21 375 Q. You appreciate that the judgment calls in relation to  
22 relevance should at best err on the side of disclosing  
23 documentation?  
24 A. Well, yes, but I carefully considered them. When I was  
25 served with a notice in the Donegal division, I took it 14:28  
26 very seriously, to such an extent that I appointed a  
27 person within my own division, who was very familiar  
28 with disclosures and murder trials.  
29 376 Q. Who is that?



1 A. Detective Garda Alison Moore, and she's very familiar  
2 with putting documents together like this. So, she was  
3 the person who I selected to do the disclosure and  
4 everybody fed into her in relation to what disclosure,  
5 and then I met with her to determine then -- 14:28

6 377 Q. The relevance or otherwise?

7 A. Well, only in relation to -- I didn't determine other  
8 people's relevance, only my own.

9 378 Q. What advice did you receive in relation to determining  
10 relevance? 14:29

11 A. From?

12 379 Q. From a lawyer?

13 A. I received the instruction that came out from Assistant  
14 Commissioner Eugene Corcoran, we received information  
15 through the portal in relation to the duty to preserve 14:29  
16 evidence and collect all relevant material to the  
17 Tribunal. I have to say, Mr. Harty, the amount of  
18 documents that are created in Donegal in relation to  
19 Garda Keith Harrison is vast and if you look at the  
20 amount of documents that were disclosed from the 14:29  
21 Donegal division, they're very, very high. So, we look  
22 it very seriously, we carried out the checks, we wrote  
23 to every retired member in the division, we searched  
24 all the documentation and the shared drives on the  
25 computers that we could. 14:29

26 380 Q. Who gave you advice as to how to determine relevance?  
27 CHAIRMAN: What are we going into now, Peruvian Guano,  
28 because it is Peruvian Guano, the word actually means  
29 something. Is that what you want me to do, wallow

1 around in Guano.

2 MR. HARTY: well Peruvian Guano is a very valuable  
3 thing.

4 CHAIRMAN: well, it is but most other countries have  
5 just decided that it is in fact Guano and they have 14:30  
6 moved onto something else. Look, Mr. Harty, in the  
7 event that there is any element of cunning here, the  
8 central question has to be: Is there something new in  
9 this document that we don't know before? And I  
10 actually can't see anything new in it that hasn't been 14:30  
11 gone over dozens of times at this stage.

12 MR. HARTY: Firstly, the question of relevance is not  
13 determined by what is new or not. Secondly, in  
14 relation to --

15 CHAIRMAN: I know all about relevance, Mr. Harty, 14:30  
16 believe me, I have even written about relevance. My  
17 goodness, I know all about relevance, but, you know, it  
18 helps to have relevance and it helps to have focus.  
19 when you have focus as to what the allegations are,  
20 then you can see what's relevant. Now, you seem to 14:30  
21 think that you're entitled to not to put any case from  
22 Garda Keith Harrison, you seem to think that you're  
23 here to do the inquiry, well, you're not, I'm here to  
24 do the inquiry. So, if you want to make the case that  
25 in fact at this meeting of 5th November 2013, that 14:31  
26 Garda Keith Harrison was in fact discussed.

27 MR. HARTY: 6th November, the briefing document was the  
28 5th, the meeting took place on the 6th.

29 CHAIRMAN: If you want to make the case that Garda

1 Keith Harrison was discussed, then please make that  
2 case. But I think you are actually obliged to make a  
3 case at this stage if you want to make a case. Now, if  
4 you don't want to make a case, well that's different.  
5 But it can't go on forever talking about documents and 14:31  
6 talking about relevance and talking about disclosure.  
7 I know courts in the past have got excited about that,  
8 but I'm not about to get excited about it, because at  
9 the moment I can't see there is anything other than an  
10 honest mistake involved here. 14:31

11 381 Q. MR. HARTY: In relation to the meeting of the 6th  
12 November, it makes it patently clear that the assistant  
13 commissioner was involved and was briefed a month later  
14 in relation to the decisions that were made at the  
15 meeting of the 8th October in respect of the statement 14:31  
16 taken by Marisa Simms, isn't that correct?

17 A. On the 8th October I called him.

18 382 Q. Yes.

19 A. I briefed him in relation to the 102 referral and the  
20 death threats. 14:32

21 383 Q. And he said he had no notes about it?

22 A. Well.

23 384 Q. Yes.

24 A. I told him, but it was basically from the fact that the  
25 102 referral and that GSOC were not happy that An Garda 14:32  
26 Síochána had made a 102, and as he was my line manager,  
27 they would be making references to him, and the death  
28 threats, the death threats against Garda Keith Harrison  
29 were taken very seriously and I wanted to brief him,

1 but I was aware he been briefed by -- he got a copy by  
2 Superintendent English had been sent to his office, he  
3 was the superintendent on call for the weekend.

4 385 Q. You see, the reason why this is relevant and just so  
5 you be satisfied, the Tribunal is asking what's new. 14:32  
6 what's new is that this is a document that makes it  
7 perfectly clear that Assistant Commissioner Kenny had  
8 another document on the 5th November in relation to  
9 Garda Keith Harrison and that Garda Keith Harrison was  
10 then discussed at a meeting on the 6th December in the 14:33  
11 presence and with Assistant Commissioner Kenny.

12 CHAIRMAN: 6th December?

13 386 Q. MR. HARTY: November.  
14 A. 6th November, yeah, very briefly.

15 CHAIRMAN: But again I am asking the question, so what, 14:33  
16 surely they should discuss it. I mean, there is a  
17 statement by the domestic partner of a Garda which on  
18 the face of it is very serious, there is a death threat  
19 against that Garda, a person whose domestic partner he  
20 is, is a person who has been convicted of manslaughter, 14:33  
21 is serving time in jail, and the death threat seems to  
22 have come by phone, and a phone enquiry reveals that  
23 the person in question had in fact a mobile phone in  
24 Portlaoise prison. So, all of those are relevant  
25 things and I would be surprised if they didn't go up 14:33  
26 the line. The question I'm inquiring into, however, is  
27 contacts between members of An Garda Síochána and Tusla  
28 in relation to Garda Keith Harrison.

29 MR. HARTY: And the use and distribution of files

1 created by Tusla to module 0, which the Tribunal has  
2 said at the moment it is parking representation issues  
3 with Garda Harrison.

4 CHAIRMAN: Any pattern of creation, distribution or use  
5 by Tusla of files containing allegations of criminal -- 14:34  
6 no, I mean, I'm asking myself the question, is there  
7 any pattern here?

8 MR. HARTY: We're not dealing with module 0 now.

9 CHAIRMAN: To have a pattern you need two things, like  
10 a finger isn't a pattern, but two fingers crossed in 14:34  
11 some way is a pattern. So, certainly I have it in the  
12 back of my mind as to what pattern may be created by  
13 any of this. But I'm looking into Tusla, that's what I  
14 am looking into, Garda and Tusla.

15 MR. HARTY: Garda Harrison was told that he did not 14:34  
16 have a scintilla of evidence to suggest that this  
17 matter went outside the Donegal division.

18 CHAIRMAN: Who told you that?

19 MR. HARTY: Mr. Marrinan.

20 CHAIRMAN: Yes. Well, I presume he told him that in 14:34  
21 the form of a question.

22 MR. HARTY: Well, I wasn't aware that it was the  
23 purpose of questioning by counsel for the Tribunal to  
24 trick people to see if they did in fact have a  
25 scintilla of evidence. 14:35

26 MR. MARRINAN: Sir, sorry, if I can just intervene  
27 here. It's totally unnecessary for Mr. Harty to make  
28 that comment. Garda Harrison was questioned in  
29 relation to try and isolate the issues and isolate the

1 case that he was making in terms of what influence did  
2 headquarters have in matters on the ground. It wasn't  
3 done with a view to tricking him in any shape or form  
4 or otherwise. Perhaps Mr. Harty would withdraw the  
5 comment, because he knows the context in which it was  
6 made. 14:35

7 MR. HARTY: I also know the context and that the  
8 comments were made by the Tribunal when I just  
9 responded to what the Tribunal just said, and I don't  
10 propose in those circumstances to deal with it because 14:35  
11 the Tribunal suggests somehow there was an innocent  
12 question without -- which Garda Harrison could have  
13 answered by himself. The answer is: Had this  
14 disclosure been made, Garda Harrison would have had  
15 more than a scintilla of evidence in relation to it and 14:36  
16 we only received this disclosure now and it's a new  
17 thing.

18 CHAIRMAN: Mr. Harty, there's two things. It's not  
19 whether a document is new, it's whether a fact is new.  
20 It's not whether an enquiry has been made, it's whether 14:36  
21 an enquiry can usefully be made. Now, in relation to  
22 the use of the word "trick" in relation to  
23 Mr. Marrinan, I think it's fair to say that I have read  
24 many of the cases throughout, in fact, the common law  
25 world in relation to confessions, fair methods of 14:36  
26 questioning, the circumstances under which people may  
27 be suggestible, and in particular I sat through the  
28 evidence of Professor Gísli Guðjónsson in the Morris  
29 Tribunal and I actually read his book, and one of the

1 most obnoxious things that can occur in the context of  
2 any questioning of an individual is that they should be  
3 tricked in relation to something, whereby, for  
4 instance, a policeman goes into a person in custody and  
5 says, oh, by the way, we have your fingerprint on the 14:37  
6 silver salver that was beside the murder victim on the  
7 floor in such and such a premises, in which case the  
8 person under questioning confesses. So, to accuse  
9 someone of tricking somebody is to accuse them of  
10 something truly obnoxious. 14:37

11  
12 Now, perhaps you didn't mean it do it, but it's a  
13 matter between you, frankly, and your conscience as to  
14 whether you wish to leave that the matter uncorrected.  
15 For my part, I can't imagine that Mr. Marrinan would 14:37  
16 ever do anything like that, and secondly, I have been  
17 sitting here all the time and it simply didn't happen,  
18 that he tried to trick anybody. So that's it. Let's  
19 just try and continue and finish this, maybe this  
20 afternoon. 14:38

21 MR. HARTY: I would ask the Tribunal to leave my  
22 conscience out of things.

23 387 Q. Chief Chief Superintendent McGinn --

24 CHAIRMAN: Sorry, Mr. Harty, you know, that may sound  
25 very smart, but, you know, you brought Mr. Marrinan's 14:38  
26 conscience into it, because a trick is a deliberate  
27 thing with a view to deceiving somebody, that's a  
28 matter of conscience. Now, if you want to accuse  
29 somebody of that, that's a matter between you and your

1 conscience, but you brought Mr. Marrinan's conscience  
2 into it.

3 MR. HARTY: This Tribunal is well aware that what I am  
4 saying was a hypothetical response to a question --

5 CHAIRMAN: Mr. Harty, if you want to start shouting at 14:38  
6 me, if you want to start shouting at me, believe me, I  
7 am not going to sit here and listen to it. Now, you  
8 can continue with your examination in you wish or you  
9 can start shouting at me, in which case I am going to  
10 leave until such time as you calm down. 14:38

11 MR. HARTY: I don't have any further questions.

12 CHAIRMAN: Has anybody else got questions?

13 MR. BARNES: I have no questions.

14 MR. POWER: Might I clarify one matter with the Chief.

15 14:39

16 CHIEF SUPERINTENDENT TERRY McGINN WAS CROSS-EXAMINED BY  
17 MR. POWER, AS FOLLOWS:

18

19 388 Q. MR. POWER: You mentioned a meeting with Ms. Maria  
20 McInnis and you mentioned it having taken place on the 14:39  
21 6th September, I wonder if you want to say anything  
22 about the date that you had the meeting.

23 A. No, I think the date of the meeting was the 8th.

24 389 Q. Sorry, the 8th, yes, you received a letter from her on  
25 the 6th, but what month was the meeting in? October? 14:39

26 A. October, yes.

27 390 Q. Or September?

28 A. No, September, September. June I think, was it, I have  
29 to check actually the.



1 391 Q. I think you received a letter from Ms. McInnis on 6th  
2 September 2013?  
3 A. Yes.  
4 392 Q. And then the meeting obviously took place thereafter?  
5 A. Yeah, or was it November? 14:39  
6 393 Q. On the 8th, yes.  
7 A. Yes, the 8th November, yes.  
8 394 Q. I think you said earlier on in your evidence it may  
9 have been September?  
10 A. Sorry, it was 8th November, yes. 14:39  
11 395 Q. Sorry about that, thank you very much?  
12 A. Thank you very much.  
13 MR. MARRINAN: Nothing arises.  
14 CHAIRMAN: Thanks, chief superintendent.  
15 A. Thank you. 14:40  
16  
17 THE WITNESS WITHDREW  
18  
19 MS. LEADER: Mr. Hone is next, sir, and his statement  
20 is at page 2719 of volume 8 of the materials. 14:40  
21  
22 MR. GERRY HONE, HAVING BEEN PREVIOUSLY SWORN, WAS  
23 FURTHER-EXAMINED BY MS. LEADER  
24  
25 396 Q. MS. LEADER: Mr. Hone, thank you for coming back to the 14:40  
26 Tribunal. I think you recall attending a meeting at  
27 Letterkenny Garda Station on 29th November 2013?  
28 A. Correct, yes.  
29 397 Q. Yes. Could you tell the Tribunal what the purpose, as

1           you understood it, of you attending that meeting was?  
2        A.    Yes.  I think for a good while prior to that meeting, I  
3           suppose to give a bit of context, we were in the  
4           process of establishing the Child and Family Agency at  
5           that time, and we were in the process of separating       14:41  
6           from the HSE.  So, our own new structures within the  
7           Child and Family Agency were being bedded in and bedded  
8           down.  So we were trying to actually review our  
9           relationships between the new agency and our colleagues  
10          in other agencies that we worked closely with.  We were       14:41  
11          re-examining some of the issues that we had been  
12          experiencing.  So, we were meeting with lots of  
13          agencies at that particular time.  So, I referred to  
14          the Children and Young People's Services Committee,  
15          that was being set up at the time, where there were       14:41  
16          subgroups with key partners in mental health in the  
17          community and voluntary sector through the various  
18          subgroups of that meeting.  But in respect of the  
19          Gardaí, this particular meeting, I think when I  
20          reviewed my documentation, really came on the back of       14:41  
21          the original request from my manager, Maria McInnis,  
22          who was area manager at the time, to sit down with the  
23          Gardaí to discuss joint issues.  Now, as I was -- I was  
24          principal social worker at the time, so, she being my  
25          manager, would have depended on me in terms of anything       14:42  
26          to do with operational issues between child protection,  
27          child welfare and the Gardaí, because I managed the  
28          team leaders who worked on the front line.  
29

1 So, the purpose of this meeting was to actually put  
2 certain issues on the table for discussion that were  
3 relevant to both agencies, as in relevant to the Child  
4 and Family Agency and relevant to the Gardaí in terms  
5 of operation of their role and function and particular 14:42  
6 issues that were causing difficulty for a period of  
7 time at that point. So that was the purpose of the  
8 meeting.

9 398 Q. Okay. Ms. McInnis's letter to Chief Superintendent  
10 McGinn which appears at 2722 of the materials and is 14:43  
11 also appended to your statement, if we could just have  
12 that up on the screen in front of you, Mr. Hone.  
13 Ms. McInnis was seeking to meet with the chief  
14 superintendent to review ongoing collaborations between  
15 the Donegal Children and Family Services and the 14:43  
16 Gardaí?

17 A. Yes.

18 399 Q. There were a number of areas she wanted to discuss, one  
19 of them being child protection notification system?

20 A. Correct. 14:43

21 400 Q. Okay. You, following on from that letter, eventually  
22 attended a meeting on 29th November 2013?

23 A. Yes, that's right.

24 401 Q. Okay. I think you conducted an extensive search of  
25 your emails in order to ascertain how it was actually 14:43  
26 arranged that you attend on 29th November 2013, and on  
27 foot of that trawl of your emails you found one email  
28 rearranging the date, is that correct?

29 A. Yes, correct.

1 402 Q. That email is at page 2809 of the materials, if that  
2 can be brought up. It's an email from Denise McBride,  
3 who is Denise McBride?  
4 A. Denise McBride was my secretary at the time.

5 403 Q. It's dated the 19th November, the subject is re meeting 14:44  
6 with Superintendent McGinn and she sets out:  
7  
8 "Hi Gerry, you were to meet with Superintendent McGinn  
9 re review of Garda notifications on Thursday, 27th  
10 November, but they need to cancel this now. They want 14:44  
11 to know if you would be available on Friday, 29th  
12 November instead. You were to check this date out for  
13 me as you were unsure if you would be in the office  
14 that day. Regards, Denise."  
15 14:45

16 A. Correct. That would suggest to me, because Denise was  
17 my secretary, that she would have received a phone call  
18 requesting that change to happen, or a written  
19 correspondence, but I haven't found any written  
20 correspondence so that's why I'm assuming it was a 14:45  
21 phone call requesting a change in the date.

22 404 Q. Do you recall any direct dealings you may have had with  
23 any member of An Garda Síochána setting up that  
24 meeting?  
25 A. No. I have no, I have no direct memory, but I know in 14:45  
26 terms of the person I would have been talking to in  
27 respect of front line issues to do with notifications  
28 and other issues to do with joint issues with the  
29 Gardaí, that would have been Eunan Walsh. So I would

1 presume it was via him that this actually got set up.  
2 Because I was seeking a forum to attend to actually  
3 address the issues where it could be done jointly, but  
4 it had to be a forum as well that covered the whole  
5 county. Hence the decision to attend the divisional 14:46  
6 meeting, because the different inspectors from  
7 different parts of the county would be present, and so  
8 the issues would be discussed at a senior level.

9 405 Q. Okay. Did you in preparation for the meeting look up  
10 any particular notifications that your agency had 14:46  
11 received from An Garda Síochána?

12 A. We did a review. My office received all Garda  
13 notifications at the time. So, we were able to check,  
14 because we've a database of all notifications, so we  
15 were able to check how many I had to write back to the 14:46  
16 Gardaí on requesting clarifications, yeah. And the  
17 number that came to be, I think it was 29, as I said in  
18 my statement. So, I would have gone in knowing that  
19 there was 29 where we had to seek clarification, but  
20 there was no discussion about anything to do with any 14:46  
21 individual one, it was just given the number to say  
22 this is illustrative of the problem that we have, and  
23 maybe to point out, the Gardaí nationally and in  
24 Donegal are the biggest referrer into the Child and  
25 Family Agency, into Tusla. So, you're talking 25 to 14:47  
26 30% of our referrals. So, if you break that down, the  
27 numbers won't be very precise, so Donegal could get  
28 between 1,000 and 1,200 referrals a year. So, you're  
29 talking anywhere between 250 and 300 referrals from

1           Gardaí. So, out of that, 29 were causing an issue,  
2           yeah.

3 406 Q.    Okay. Insofar as there was an issue about a particular  
4           referral, was it replied to in a standard format or was  
5           it taken on a case-by-case basis? 14:47

6           A.    Yes. It was generally a standard format that would go  
7           out to the Gardaí, just to say that there's  
8           insufficient information on the form for us to act and  
9           we will need further information, yes.

10 407 Q.    Okay. 14:48

11           A.    The particular problem I think that was emerging on  
12           those notifications was that you would get a box ticked  
13           in terms of one of the abuse categories and then you  
14           might have a piece of information, but you would say,  
15           well, the facts that actually led to the Gardaí to tick 14:48  
16           that box in terms of emotional abuse or neglect or  
17           whatever it was, there wasn't enough factual detail,  
18           yeah. So it might say, for example, child at home or  
19           child at home, you know, when they should be at school,  
20           and that might be put down as neglect, yeah. 14:48  
21           that's a big jump to make without more factual  
22           information in order to allow us to act in terms of a  
23           neglect issue. So it was that type of example, yeah.

24 408 Q.    Insofar as there may have been a standard response  
25           adopted, I wonder if page 115 of the materials, if we 14:49  
26           go back to the Simms notification, could be brought up  
27           in front of you. That is a letter written by you on  
28           16th October 2013?

29           A.    Yes.

1 409 Q. I think you acknowledge receipt of the notification,  
2 copy attached.  
3  
4 "However, as there is no evidence of abuse detailed, no  
5 further action will be taken from this service until we 14:49  
6 receive more information."  
7  
8 A. Yes.  
9 410 Q. Then you say it has been forwarded to Bridgeen Smith  
10 for information purposes only. 14:49  
11 A. Yes.  
12 411 Q. Is that a standard response, do you think, or is that  
13 different from --  
14 A. That's standard. The only difference that it might  
15 have is, until we receive more information, because I 14:49  
16 was aware from the initial Garda notification that it  
17 had in brackets that the HSE were to contact the Gardaí  
18 on receipt of the notification. So, I would have known  
19 that the Gardaí held further information but it just  
20 wasn't on the notification form. 14:50  
21 412 Q. Okay. Now, if we could come back to the 29th November,  
22 did you take any notes at the meeting?  
23 A. No.  
24 413 Q. Okay. Is that normal?  
25 A. That's normal. This was a Gardaí divisional meeting, 14:50  
26 it wasn't a Child and Family Agency meeting. So in my  
27 view it's up to them to minute that meeting, yes.  
28 414 Q. Okay. I wonder if you could turn to the notes that  
29 Sergeant Duffy prepared in relation to the meeting,

1           which are at page 2560 of the materials, amongst other  
2           places? Do you remember who was present? Have you a  
3           memory of Chief Superintendent McGinn.

4           A.    Yes.

5   415   Q.    Superintendent McGovern? 14:50

6           A.    Yes.

7   416   Q.    Superintendent Finan?

8           A.    Yes.

9   417   Q.    Superintendent Archbold?

10          A.    Yes. 14:51

11   418   Q.    Inspector Harrison?

12          A.    My memory of Superintendent McGinn and McGovern are  
13                very definite because I know them. The others I didn't  
14                know so well, but I knew inspector Michael Harrison  
15                very well. So, I remember them being present. The 14:51  
16                others I can't be one hundred percent sure but I have  
17                no reason to doubt that they weren't.

18   419   Q.    If we could just scroll down that document. Then we  
19                see that it's recorded that you spoke to the meeting re  
20                HSE referrals? 14:51

21          A.    Yes.

22   420   Q.    Do you remember it being a discussion or more akin to a  
23                presentation, are you speaking to the meeting and no  
24                interaction? I don't know if you can help the Tribunal  
25                in any way? 14:51

26          A.    No, I certainly had -- I think I provided the topics  
27                for discussion, mostly.

28   421   Q.    Yes.

29          A.    And then it was a discussion.



1 422 Q. We've gone through the minutes already. Do you think  
2 they are accurate insofar as you remember them?  
3 A. Yes.

4 423 Q. You remember what was discussed?  
5 A. Yes. 14:52

6 424 Q. During that particular meeting, was any particular  
7 referral mentioned during the course of the meeting?  
8 A. No, no. We didn't discuss any case in particular, no.

9 425 Q. Okay.  
10 A. That wasn't my expectation, that we would, it was to do 14:52  
11 with strategic issues. I think, it's important I went  
12 in, there were certain serious problems emerging and  
13 they've already been alluded to but, the example, like  
14 this just wasn't about Garda notifications, I have to  
15 say, I mean there's lots of other things in the minutes 14:52  
16 here. A big issue at the time was around Freedom of  
17 Information, referrals that were coming in from the  
18 Gardaí. I suppose my discussion with the Gardaí went  
19 along the lines of, well, if we are going to have a  
20 Gardaí notification on our files and it's open to 14:52  
21 disclosure, then I wanted Garda notifications to be as  
22 accurate as possible, so that means hold enough  
23 information at least to show why you thought it was  
24 appropriate to refer a certain matter on to the Child  
25 and Family Agency. As far as Children First is 14:53  
26 concerned, it says that, you know, where the Gardaí  
27 suspect that abuse has occurred or could occur, then  
28 they have to refer that under Children First. They do  
29 not need a standard of proof, that's about conviction,

1 all they need is a proof to suspect that abuse is  
2 occurring. That's the same in terms of our -- vice  
3 versa, if the Child and Family Agency is notifying  
4 back, it's the same standard. We're both caught with  
5 the same forms under Children First in terms of our 14:53  
6 notifications centre around reporting of abuse, yeah.  
7 And even the HSE, the old HSE document that reported  
8 concerns to the Gardaí was itself around abuse, yeah.  
9 But I wanted to be clear that if families have access  
10 to information, that information should be accurate and 14:54  
11 it should be proportionate to the response that's  
12 actually on the file.

13 426 Q. You didn't stay for the whole of the meeting; is that  
14 correct?

15 A. No, my understanding, I was attending what was a Gardaí 14:54  
16 meeting and I was attending a slot at the meeting in  
17 order to discuss these matters. The other issues  
18 around Freedom of Information for me at the time, was,  
19 there was changes happening in Freedom of Information  
20 legislation. We were receiving information from Gardaí 14:54  
21 around matters that might be subject to ongoing  
22 criminal investigation whilst at the same time we were  
23 receiving Freedom of Information requests from people  
24 in the community and we were hitting a problem as to,  
25 well, what can we disclose or what can't we. The new 14:55  
26 Freedom of Information legislation deals with this, in  
27 that we don't have to release information that's  
28 subject to criminal investigation. But at that point,  
29 it was a problem for the service, yeah.

1 427 Q. Now, I think in your statement which you made on the  
2 19th of this month, you also refer to other meetings  
3 that you attended with members of An Garda Síochána?  
4 A. Correct.

5 428 Q. Without referring to any specific other meeting, was 14:55  
6 the Simms referral discussed at any of those other  
7 meetings?  
8 A. Never. No, never. And I would have to say, coming  
9 into these meetings I had no particular case in my mind  
10 to discuss with the Gardaí, it was more the issues, 14:56  
11 general operational issues, and I saw the meeting, and  
12 this one in particular, and other ones that I have  
13 attended with my manager, Maria McInnis, as an  
14 opportunity to deal with those operational issues, to  
15 allow the more smooth functioning of the front line. 14:56

16 429 Q. Okay. In relation to emails which you've disclosed at  
17 the Tribunal?  
18 A. Yes.

19 430 Q. I think at one stage there was a query which you were  
20 required to answer, it's at page 2832 of the materials, 14:56  
21 it would seem to be a meeting with the Gardaí,  
22 sometimes in February of 2014.  
23 A. Yes.

24 431 Q. It was a planned meeting with the Garda senior  
25 management on Thursday. A request had been put in as 14:57  
26 to whether your colleagues could advise whether or not  
27 there were regular liaison meetings with the Gardaí.  
28  
29 "If you can name the level of reaction, e.g. monthly,

1 the rank of Gardaí and their names if possible. If you  
2 have any difficulty or lack of cooperation when you  
3 seek assistance, if there are any final issues you need  
4 raised."

14:57

5  
6 Is that correct?

7 A. That's correct.

8 432 Q. That was the request?

9 A. Yes. And that request, as I understand it, is because,  
10 this is the national office having a meet with the  
11 senior management of Gardaí nationally.

14:57

12 433 Q. Yes.

13 A. With a view to discussing operational issues at a very  
14 senior level. So that would be chief operation level,  
15 chief executive officer level.

14:57

16 434 Q. Okay. I think on foot of that query you sent that down  
17 to social workers who you were responsible to. And  
18 Bridgeen Smith would seem to have replied to you on 5th  
19 February 2014, which reply is at page 2829 of the  
20 materials, setting out that she:

14:58

21  
22 "Meets regularly with Sergeants Walsh and McGowan  
23 both --"

24  
25 I think it's liaison officers, is that right?

14:58

26 A. Yes.

27 435 Q. Child and Family Liaison Officers?

28 A. Children First Liaison Officers.

29 436 Q. Children First, thank you?

1 A. Yes.

2 437 Q.

3 "We have no outstanding issues. We meet as and when

4 required for strategy meeting and additionally if

5 required for the purpose of review of joint actions. 14:58

6 Bridgeen Smith, social work team leader."

7

8 A. Correct.

9 438 Q. Do you understand that to mean that she meets with

10 liaison officers in relation to particular cases 14:58

11 whenever that needs to be done?

12 A. Yes. Absolutely. Yes.

13 439 Q. Was any further information forthcoming from her or

14 was there any --

15 A. No. 14:59

16 440 Q. -- information in relation to any particular cases

17 forthcoming from her?

18 A. No, no information in relation to particular cases.

19 441 Q. Okay. Was that information conveyed?

20 A. Yes. That would have been conveyed, it would have been 14:59

21 collated among the teams.

22 442 Q. Yes.

23 A. And then put back up to the national office for

24 discussion at senior level.

25 443 Q. So, Ms. Smith wouldn't have been -- am I correct in 14:59

26 saying Ms. Smith wouldn't have been referenced at the

27 national meeting?

28 A. No, no.

29 444 Q. Okay.

1 A. No, not at all. No, I'd be expected to do the response  
2 on behalf of the area to the national office. So,  
3 anybody would be mentioned, it would be me, yeah, just  
4 in terms of the response from Donegal, yeah.

5 445 Q. Thank you very much. If you would answer any questions 14:59  
6 anybody else might have for you.  
7 MR. BARNES: I no questions, Chairman, thank you.  
8

9 MR. GERRY HONE WAS CROSS-EXAMINED BY MR. HARTY, AS  
10 FOLLOWS: 14:59  
11

12 446 Q. MR. HARTY: There was a note taken of the meeting as  
13 well by Superintendent Finan?

14 A. Yes.

15 447 Q. That's at 2717. I want to just look at one thing, 15:00  
16 which is, in relation to the mechanism by which people  
17 interact with the guards, it was between the liaison  
18 officer in any individual district and team leader, is  
19 that correct?

20 A. That's correct, yes, but it could be the social workers 15:00  
21 and the liaison officer as well, yes.

22 448 Q. But it was supposed to be through the team leader,  
23 wouldn't that be correct? It should be through the  
24 team leader first and foremost and then to the social  
25 workers? 15:00

26 A. At the initial point, but it depends, sometimes when we  
27 receive a notification I'll write back and I'll say the  
28 team leader dealing with this particular matter is.

29 449 Q. Yeah.

1 A. So, that will give the Gardaí the first point of  
2 contact as the case develops on further, if a social  
3 worker gets identified.

4 450 Q. Yes.

5 A. The contact is then through the social worker. 15:01

6 451 Q. Directly through the social worker?

7 A. Yes.

8 452 Q. I think your evidence is that there were 250 referrals  
9 from the Donegal division?

10 A. Approximately, yeah, approximately. 15:01

11 453 Q. So, I'm correct in saying that obviously there would be  
12 hot spots, the larger urban or quasi urban areas would  
13 obviously have a greater degree of referral, I'm  
14 presuming, and from rural areas a lesser degree?

15 A. Yes. Donegal is quite unique in terms of it has a lot 15:01  
16 of rural profit, yeah.

17 454 Q. Right?

18 A. So, a lot of problems can be rural and not precisely  
19 urban.

20 455 Q. Right. 15:01

21 A. So, for example, Inishowen would be a very busy  
22 district, where Buncrana is, and that's largely related  
23 to it has things like 33% unemployment, it has a lot of  
24 social issues, a lot of rural isolation, it doesn't  
25 necessarily have a big centre, other than maybe 15:02  
26 Buncrana and Carndonagh would be the two biggest towns,  
27 but a lot of rural issues as well, yes.

28 456 Q. would those referrals therefore be spread relatively  
29 evenly throughout the county, the 240-250 referrals?

1 A. They would. We had four teams, four social work teams  
2 at that particular point, the teams were divided  
3 geographically, almost as per referral rates, yeah. So  
4 each team was dealing with same number of referrals.  
5 So, two social work teams in Letterkenny, one kind of 15:02  
6 went northwest, the other southeast and covered half  
7 the town each. Then you'd a team in Donegal Town and  
8 then a team in Inishowen, yeah.

9 457 Q. So, Milford would be covered by?  
10 A. It'd be covered by a Letterkenny team, the one that 15:02  
11 went north, yeah, yeah.

12 458 Q. If there were 250 referrals, you would expect 250  
13 engagements between a team leader and a liaison  
14 officer, would that be correct?  
15 A. Yes. I can't comment on that exactly, because it would 15:03  
16 depend on what was decided, but you're correct in terms  
17 of, if a Garda notification comes in and I put it out  
18 to the team leader, there would have to be a  
19 conversation between the Gardaí and social work,  
20 whether that's instigated by social work or the Gardaí, 15:03  
21 yeah.

22 459 Q. If we come to that email at page 2829 from Bridgeen  
23 Smith:  
24  
25 "I meet regularly with Sergeant Walsh and McGowan, both 15:03  
26 CFLs."  
27  
28 Children First liaison officers.

29 A. Yes.



1 460 Q. what would you understand by regularly in that context?  
2 A. This would be determined by the amount of referrals  
3 coming in at any point in time. So, it's hard to say,  
4 you know, referrals don't tend to come weekly, they  
5 could sporadically. You could have 20 one week and you 15:04  
6 could have none for two weeks, yeah. So that's the way  
7 it operates. So, in the week you'd have 20, you would  
8 expect a lot of contact between social work and the  
9 Gardaí. Then you may not have some for a while but  
10 then it starts again, based on the notifications coming 15:04  
11 through, yeah.

12 461 Q. would but interpret from the word regularly as somebody  
13 who would have contact at least monthly?

14 A. Oh, yes, absolutely.

15 462 Q. And possibly more frequently, depending on the -- 15:04  
16 A. Possibly, possibly more frequently, yes. For a team  
17 leader like Bridgeen Smith, who was on a Letterkenny  
18 team, you're dealing with two different Children First  
19 liaison officers.

20 463 Q. Yes. 15:05  
21 A. Depending on what the address of a particular family  
22 is. So, that's why there's two mentioned in that  
23 particular email.

24 464 Q. Yes. would there be any circumstance where you could  
25 envisage that Ms. Smith wouldn't have contact with a 15:05  
26 liaison officer for five months?

27 A. It would depend what's going on I suppose with -- it'd  
28 be highly unusual, I would have to say.

29 465 Q. It certainly wouldn't be regular?

1 A. No, that's not regular contact, but there might be  
2 regular contact if Bridgeen Smith is off or she's away  
3 somewhere.

4 466 Q. Yes.

5 A. Or there's somebody covering for her, then there would 15:05  
6 be an acting team leader put in place, or there's  
7 always a duty officer in place on each of the teams.  
8 So there could well be liaison between the duty officer  
9 and the Gardaí, yes.

10 467 Q. Thank you very much, Mr. Hone? 15:05

11 A. Thank you.

12 MR. DIGNAM: No questions, Chair.

13 MS. LEADER: Nothing arising, thank you.

14

15 MR. HONE WAS CROSS-EXAMINED BY MR. McDERMOTT, AS 15:06  
16 FOLLOWS:

17

18 468 Q. MR. McDERMOTT: Chairman, on behalf of Tusla.  
19 Mr. Hone, can you confirm that since the Tribunal last  
20 sat you conducted a full review of all emails you had 15:06  
21 between October 2013 and March 2014, to see had you  
22 missed anything, can you confirm whether or not you  
23 found any additional documents referencing Keith  
24 Harrison or the matters being looked at in this module?

25 A. Yes, I did complete a complete check of all my emails. 15:06  
26 There was an issue on the first pass, where the first  
27 check was done, where a virus was noticed on my email  
28 system. They were made available to me and I checked  
29 those manually and they have also been checked

1 electronically and there's no reference to either Keith  
2 Harrison or the Simms children.

3 469 Q. And, I think, Mr. Hone, you're aware Arthur Cox did an  
4 electronic review of data using key words that had been  
5 suggested by the Tribunal that had been identified and 15:07  
6 again has it been brought to your attention whether any  
7 further documents have emerged referencing Garda Keith  
8 Harrison or the incidents under review in this module?

9 A. No, no further documents emerged.

10 470 Q. As a result of the extra work that's been done since 15:07  
11 the Tribunal sat, are you satisfied that the evidence  
12 you've given covers all of the interactions between  
13 Tusla and Garda Keith Harrison?

14 A. Yes, I am satisfied.

15 MR. McDERMOTT: Thank you. 15:07

16 MS. LEADER: Nothing arising. Thank you, Mr. Hone.

17

18 THE WITNESS THEN WITHDREW

19

20 MR. MARRINAN: Sir, that concludes the evidence today. 15:07  
21 The evidence that was called today arose out of  
22 questions that arose on the last day, 11th October, and  
23 all matters have been addressed bar one, Assistant  
24 Commissioner Kieran Kenny, who is holidays in the Far  
25 East, has been contacted and the indication that he has 15:08  
26 given to the solicitors on behalf of An Garda Síochána  
27 is that he has no recollection, particular recollection  
28 of the meeting on 6th November 2013, which he chaired.  
29 It doesn't appear that he has anything to offer the

1 Tribunal.

2  
3 We also have an affidavit of discovery that has been  
4 provided by Detective Chief Superintendent Anthony  
5 Howard, that's set out at page 2645 of volume 8. 15:09

6  
7 On review of that, we are happy that all matters that  
8 are relevant to this term of reference have been  
9 disclosed by An Garda Síochána to the Tribunal and that  
10 all relevant matters have been inquired into. 15:09

11 CHAIRMAN: So, let's hear submissions then. It's  
12 traditional that counsel for the Tribunal don't make  
13 any submissions.

14 MR. MARRINAN: Thank you.

15 CHAIRMAN: So, are you in a position to make 15:09  
16 submissions now or would you like to reply to  
17 submissions, Mr. Harty, or how would you like to do it?  
18 I suppose there's a couple of ways of looking at this.  
19 Tusla is in the firing line, so maybe Tusla should make  
20 submissions first. Now, in the event that anybody 15:10  
21 crosses over anybody else's submissions, of course I  
22 will give a right of reply, and that's universal,  
23 whether you go first or second. Does anybody have any  
24 problem with that? Do you want to go first, Mr. Harty.

25 MR. HARTY: I don't wish to go first, sir. I am of the 15:10  
26 view that the Tribunal should consider whether or not  
27 further disclosure is required and whether or not now  
28 is an appropriate time to close the module as such. I  
29 appreciate the Tribunal might have a different view but

1 to a large extent I will be limiting my submission  
2 purely to that issue.

3 CHAIRMAN: To what issue?

4 MR. HARTY: To the issue of whether or not sufficient  
5 disclosure has been made to the Tribunal. 15:11

6 CHAIRMAN: By whom do you say sufficient disclosure has  
7 not been made?

8 MR. HARTY: I say that, for example, in relation to the  
9 disclosure made by An Garda Síochána, it is limited in  
10 its terms and it is too limited in terms of the search. 15:11

11 I fully accept the bona fides of Detective Chief  
12 Superintendent Howard in carrying out his searches, but  
13 the documentation that is sought and the documentation  
14 that arose from that I say is too limited and it is  
15 clear from what has taken place during the course of 15:11  
16 the Tribunal that documentation has continued to appear  
17 throughout which is directly relevant and I think the  
18 Tribunal appreciates the relevance of that  
19 documentation.

20  
21 The limit of the general search to Garda Harrison and  
22 Tusla, I say is too narrow a search in relation to what  
23 he refers to as category 8, and a broader search in  
24 relation to documentation referring to Garda Harrison  
25 over a narrower timeframe is what would be necessary. 15:12  
26 In other words, a timeframe in this regard from August  
27 to March would encapsulate 2013 to 2014. But it needs  
28 to be a broader, general search in relation to relevant  
29 documentation.

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we have seen also in relation to the evidence of Chief Superintendent McGinn that she determined documentation to be irrelevant in circumstances whereby I would submit the document is plainly relevant, I appreciate the Tribunal's view that the relevance might not be as important because it might disclose nothing new, but it still remains to be a relevant document, and it wasn't excluded by Chief Superintendent McGinn on the basis that it contained nothing new, but rather that as far as she was concerned it didn't refer to Tusla and therefore it wasn't relevant.

In relation to the disclosure made by the HSE, a very new matter, which has only -- in fact, while there was suspicion about it, only come to my attention whereby I can have some certainty in relation to it, was the rather, at the time I thought extraordinary evidence from team leader Bridgeen Smith, that from the 21st October to March of the following year she had no contact at all with Sergeant Brigid McGowan. The document that we have now received at 2829 --

CHAIRMAN: well, was she asked in relation to anything on earth.

MR. HARTY: Yes.

CHAIRMAN: Anything on earth.

MR. HARTY: Anything on earth.

CHAIRMAN: Have you got a transcript reference?

MR. HARTY: Yes, the transcript reference is Day 30,

1 page 201.

2 CHAIRMAN: was she asked did she have any contact with

3 --

4 MR. HARTY:

5 15:14

6 "Q. How many times did you see Bridgid McGowan between

7 October and January 2013, 2014.

8 A I didn' t.

9 Q. You didn' t see.

10 A. No. 15:14

11 Q. At all .

12 A. That is correct.

13 Q. Did she try contacting you at any stage?

14 A. I had no further correspondence with Sergeant

15 McGowan from the strategy meeting that I chaired with 15:14

16 her in respect of this case.

17 Q. So, this is the time when I'm told by Ms. McTeague

18 that it's a particularly busy time with domestic

19 violence, child welfare, when in fact there was nothing

20 at all coming from Milford giving rise to a strategy 15:14

21 meeting from October to January.

22 A. We may have just been dealing with Letterkenny at

23 that particular time, I don't recall, but I certainly

24 did not have any further strategy meetings with

25 Sergeant McGowan from 21st October until after this 15:15

26 case closed. "

27

28 CHAIRMAN: No, any further strategy meetings?

29 MR. HARTY: No, she said, I didn't have any further --

1 CHAIRMAN: was she asked about Sergeant Walsh?  
2 MR. HARTY: well, sergeant Walsh isn't relevant to  
3 this.  
4 CHAIRMAN: well, I know, but I mean those were the two  
5 liaison persons. So, it may not be unusual that she is 15:15  
6 dealing with one but is dealing with the other, or vice  
7 versa.  
8 MR. HARTY: she has said in an email, "I meet regularly  
9 with Sergeant Walsh and McGowan". She said she didn't  
10 see her at all from October to January. 15:15  
11 CHAIRMAN: well, you're saying that I ought to do  
12 something else, what is it you're saying.  
13 MR. HARTY: I think that I need disclosure in order to  
14 deal with that rather central thing, because that is  
15 about contact between Gardaí and Tusla, from both the 15:15  
16 Gardaí and Tusla, of all contacts between Bridgeen  
17 Smith, I think Donna McTeague to be safe and Sergeant  
18 McGowan. That it's a limited search category on  
19 Ms. Smith's version of events and from the 22nd October  
20 so that I can leave out the meeting of the 21st 15:16  
21 October, to the 28th February, but any contact between  
22 those two overlap times. It's quite a central issue,  
23 that Ms. Smith found it necessary or herself capable to  
24 swear that she had no contact at all over that period.  
25  
26 The final matter which I say is critical is the contact  
27 with Assistant Commissioner Kenny. Until we received  
28 disclosure of Chief Superintendent McGinn's diary,  
29 which arose as a result of Ms. Leader's zeal in



1 checking to make sure that absolutely everything she  
2 could find was there when Chief Superintendent McGinn  
3 was giving evidence, and was only disclosed on that  
4 basis, it became clear that Assistant Commissioner  
5 Kenny was contacted on the day of the 8th October. It 15:17  
6 was only following the evidence from Chief  
7 Superintendent McGinn that we were disclosed the  
8 meeting of the 6th November, and it is only today that  
9 we receive the briefing document of the 5th November.  
10 But all of those documents make it clear that Assistant 15:17  
11 Commissioner Kenny was certainly briefed, and in  
12 respect of some matters, one would assume on the phone  
13 call where he was briefed, gave some opinion as to what  
14 needed to be done, and I do not accept that Assistant  
15 Commissioner Kenny, from the other side of the world, 15:18  
16 can simply say, I recall nothing about it. He does  
17 have officers journals, there must be correspondence in  
18 relation to him. I don't know what search has been  
19 carried out in relation to that. And it is directly  
20 relevant, because it takes place and I am mindful of 15:18  
21 not straying too far into module O, but in respect of  
22 module N, for the period between August to March of  
23 2014, that a proper statement of evidence from  
24 Assistant Commissioner Kenny should be seen by the  
25 Tribunal before it goes to its conclusion. 15:19  
26 CHAIRMAN: All right, thank you. Well, today I have  
27 sat here and I have learned absolutely nothing new.  
28 That's the position I am in. There has been a complete  
29 waste of time in my view and I don't propose to go on

1 and attempt to squeeze further information out of  
2 people when there is clearly no information to be had  
3 that is in any way relevant to the issues that the  
4 Tribunal is required to consider in consequence of all  
5 of the evidence that has been heard.

15:19

6  
7 Now, I also want to point out that this Tribunal didn't  
8 go on holidays for seven weeks in the summer. The  
9 Tribunal started in February and started gathering  
10 information and putting together a hearing of this  
11 kind, which eventually involves 2837 documents which  
12 seem to be potentially relevant, is a mammoth  
13 undertaking, the hearing should have lasted two weeks,  
14 it's now lasted four weeks. There has to come to a  
15 point where you say what you're obliged to do is what  
16 is reasonable, what you're obliged to do is make a  
17 human inquiry, not an obsessive inquiry, not an  
18 obsessive compulsive inquiry, what you are obliged to  
19 do is isolate issues and to focus yourself on those  
20 issues and ask yourself the question: Given that the  
21 matter has been referred by the Oireachtas to the  
22 Tribunal and given that the Tribunal's jurisdiction  
23 cannot stray outside what the Oireachtas has referred,  
24 have I now investigated contacts between members of An  
25 Garda Síochána and Tusla in relation to Garda Keith  
26 Harrison? And the answer to that is yes. But one  
27 thing that is missing in terms of the In re Haughey  
28 guidelines is submissions in relation to the issue in  
29 the case. People are entitled to be represented in the

15:19

15:20

15:20

15:20

1 event that their character or credit is put in issue  
2 because they have a constitutional right to their good  
3 name under Article 40.3 of the Constitution, and they  
4 are represented here.

5  
6 The Tribunal has put forward all the relevant  
7 information through counsel and that has been done in  
8 my view eminently fairly and eminently sensibly. It  
9 seems to me it's proper now that I ask for submissions  
10 from people because there is not only the right to be 15:21  
11 represented and the right to cross-examine, there is  
12 also the right to make submissions at the end. Those  
13 submissions, it seems to me, relate to a number of  
14 issues upon which I would invite the parties now to  
15 make submissions, not to ask me to come back tomorrow, 15:21  
16 when I'm attempting to sit in the Supreme Court at ten  
17 o'clock on another case, but to do it now, if they can,  
18 and if they can't finish today, well then we will sit  
19 another day or perhaps tomorrow after I am finished and  
20 as far as I'm concerned I am afraid I am going to have 15:21  
21 to ask people to dance attendance on me as soon as I am  
22 finished tomorrow in the event that we don't finish  
23 now. But it is proper, I think, at this stage, to say  
24 that an inquiry is not a loose, amorphous, unwoven  
25 exercise in thinking about this, that and the other, 15:22  
26 and furthermore, nothing of what I am going to mention  
27 now can come as a surprise to anyone who has sat  
28 through any portion of this Tribunal for more than  
29 about an hour.

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As soon as any Judge in the High Court, and I was a Judge in the High Court for about eight years, finishes an oral hearing, the first thing that he or she does is ask themselves the question: what exactly am I deciding here? That makes things perfectly clear. And what exactly am I deciding here was outlined by me in relation to the chronology which started on December 2010 and ended on 10th February 2017, on the second last occasion on which we sat. But distilling this down into a series of questions is now, it seems to me, the right thing to do because these are the things that are on my mind and I would ask people for submissions in relation to that.

Firstly, was there an animus done against Garda Keith Harrison in Donegal?

Two, if there was, did this result in bullying of Garda Keith Harrison? Is there any evidence of that.

Three, did any such animus, if it existed, result in a plan to induce Marisa Simms into coming to the Garda station on the 6th October 2013 for the purpose of making a negative statement against Garda Keith Harrison? In other words, was there such a plan by anybody? It doesn't have to be a conspiracy, any individual Garda, any group of Gardaí.

1 Fourthly, was the statement of Marisa Simms of that  
2 date coerced from Marisa Simms so that it doesn't  
3 actually represent what she wanted to say in any fair  
4 minded way?

15:24

5  
6 Fifthly, if that statement was coerced from Marisa  
7 Simms by the Gardaí, and in particular we're talking  
8 about Sergeant McGowan and Inspector Sheridan here, did  
9 Chief Superintendent McGinn, Superintendent McGovern,  
10 know or suspect that?

15:24

11  
12 Sixthly, if they did know or suspect that this was a  
13 coerced statement that was not reliable, then was the  
14 HSE referral by the Gardaí in relation to the Simms  
15 children wrongful?

15:24

16  
17 Seventhly, if they, meaning Chief Superintendent  
18 McGinn, Superintendent McGovern, in other words the  
19 higher up officers in Donegal, did not know that the  
20 statement was coerced, was the HSE referral nonetheless  
21 looking at it on face value without this issue of  
22 coercion a proper referral under the Children First  
23 Guidelines?

15:25

24  
25 Eighthly, even if the HSE referral was properly made,  
26 was it then improperly influenced or interfered with by  
27 the Gardaí?

15:25

28  
29 And then ninthly, did the social workers involved, that

1 is to say Bridgeen Smith and Donna McTeague, carry out  
2 their job properly and professionally in terms of what  
3 was needed in the light of the information which they  
4 had or believed themselves to have had in addressing  
5 themselves to that problem, or did they instead cast 15:25  
6 off the cloak of professional integrity and pursue a  
7 wrongful interference in the lives of Garda Keith  
8 Harrison, Marisa Simms and the Simms children?  
9

10  
11 Those are the issues. That's perfectly clear to  
12 everybody, it seems to me, throughout that. So,  
13 Mr. McDermott, maybe you would like to start, as it's  
14 clear to me that it's the HSE that is directly in the  
15 firing line here. 15:26

16  
17 SUBMISSION BY MR. MCDERMOTT

18  
19 MR. MCDERMOTT: May it please you. On behalf of Tusla,  
20 I think the first inquiry which arises is: what's the 15:26  
21 purpose of a module of Tribunal? It became clear that  
22 there were different views on that on day 36, page 26,  
23 when Mr. Harty, on behalf of Garda Harrison, was being  
24 questioned by the Tribunal as to the relevance of a  
25 line of inquiry and in his answer he said. 15:26

26  
27 "I am fishing in the absence of any information as to  
28 potential."  
29

1 And generally in law, be it discovery, be it  
2 cross-examination, be it any other process, the  
3 cardinal rule is you don't go fishing, you act on  
4 evidence that may give rise to a reasonable line of  
5 inquiry. And the reason this module was set up was not 15:27  
6 because there were doubts or queries or questions, but  
7 because of calculated, deliberate and studied  
8 allegations of wrongdoing that were made in a  
9 solicitor's letter, written on behalf of Garda Keith  
10 Harrison and Marisa Simms to Dr, Katherine Zappone, the 15:27  
11 Minister for Children and Youth Affairs, on 10th  
12 February 2017. And that is to be found at page 1578.

13  
14 In that letter a complaint was made against my client,  
15 along with what were described as other agencies. It 15:28  
16 was described as being part of a systemic approach by  
17 State agencies to attack and undermine the credibility,  
18 good standing and reputation of our clients. There  
19 were then specific allegations made as regards how  
20 Ms. Simms came to make her statement to the Gardaí. At 15:28  
21 no stage was it made clear that she was in fact  
22 standing over the vast majority of the allegations made  
23 in that statement. And whilst the letter indicated she  
24 had retracted the statement, it omitted to say that in  
25 retracting it she had again confirmed its contents. 15:29  
26 The specific allegation that was made against Tusla  
27 appears in paragraph 5 and 6 of that letter, where it  
28 refers to Mr. and Mrs. Simms attending -- sorry, Garda  
29 Harrison and Ms. Simms attending a meeting with Tusla.

1 And it was alleged that at the end of the meeting  
2 Ms. McTeague was satisfied to leave the matter where it  
3 was, advising that no further intervention was  
4 required, and that was the end of it. There was no  
5 mention of coming back to see the children. But 15:29  
6 instead the letter went on to say:

7  
8 "Later that evening Marisa received a phone call from  
9 Donna McTeague explaining that she had spoken to a  
10 supervisor, Bridgen Smith, who stated as a result of a 15:29  
11 phone call from the Gardaí she was now asking  
12 Ms. McTeague to do a home visit despite Ms. McTeague  
13 earlier having confirmed that no further action was  
14 needed."

15  
16 And the letter concludes by saying: 15:30

17  
18 "This intervention by Tusla in our clients' family life  
19 is a cause of concern and is by any measure an  
20 inexcusable abuse of their position." 15:30

21  
22 And, of course, it would be an inexcusable abuse of  
23 their position if any of that was true. But when the  
24 evidence was given by Ms. Simms, who is the person who  
25 is alleged to have received the phone call, to have 15:30  
26 been told that having been assured there wouldn't be  
27 any further visit, having been assured it was now over,  
28 that she received a phone call saying, because of the  
29 Gardaí there was now going to have to be another visit.



1 Ms. Simms, to her credit, when it came to giving  
2 evidence under oath on her own behalf, separately  
3 legally represented, was unwilling to stand over that  
4 allegation.

5  
6 That was the key claim made in the letter to the  
7 minister, to my client's minister, and it now  
8 transpires it was an inaccurate allegation. It was  
9 alleging a very specific phone call which it now  
10 appears never occurred at all.

11  
12 Given that was the genesis of the module and the  
13 genesis of the public concern that led to this module,  
14 a reasonable question arises as to why the claims made  
15 against Tesla were not withdrawn. Because you can  
16 withdraw a claim at any stage, you can withdraw it just  
17 before a module begins, you can withdraw it during the  
18 module, can you even withdraw it at the end of the  
19 module, because a Tribunal doesn't just happen, it's  
20 not an act of God, it is an act of government. And a  
21 Tribunal has to have focus, which is why it has terms  
22 of reference. It was an unusual feature of this module  
23 that it came about as a result of a very specific  
24 complaint about a nonexistent telephone call.

25  
26 You'll recall, sir, that at the end of their dealings  
27 with the family, Tesla wrote a letter on the 27th  
28 February 2014, that's at page 147, where Garda Harrison  
29 and Ms. Simms were expressly told, if you have any

1 questions or concerns, please do not hesitate to  
2 contact Donna McTeague. And, as the Tribunal is aware,  
3 no question was raised, no query was raised, instead  
4 subsequently that letter was written to the minister  
5 containing that very specific, untrue allegation. And 15:33  
6 when Garda Harrison was asked about why he hadn't  
7 raised any queries or concerns with Tusla, his answer  
8 was:

9  
10 "I did not because I did not want Tusla back in my 15:33  
11 life."

12  
13 And it's a matter for the Tribunal as to whether or not  
14 it accepts that as being an adequate explanation for  
15 not raising any queries with Tusla, but instead being a 15:33  
16 party to that letter written to the minister. Because  
17 the suggestion by Garda Harrison that he didn't answer  
18 the letter, because he didn't want Tusla back in his  
19 life, seems to leave the suggestion floating that by  
20 inviting them back that could leave to trouble or him 15:34  
21 or problems. But, of course, if you have a query and  
22 have you a question and you raise it, of course that is  
23 inviting the person back into your life, but only for  
24 the purpose of answering the query that you had raised.

25 15:34  
26 On the last day this Tribunal sat, Mr. Harty began to  
27 make a closing submission, that is on day 36, and he  
28 offered a different explanation as to why a letter  
29 hadn't been written at that stage raising any questions

1 or any queries. And Mr. Harty, on behalf of his  
2 client, suggested that the reason it wasn't done was  
3 because, what he described as a €1 stamp would not have  
4 answered our questions. That simply writing to Tusla  
5 would not have provided the answer. I simply ask the 15:35  
6 Tribunal to know that is a different explanation to the  
7 one his client, Garda Harrison, gave in the witness  
8 box, his explanation for not answering the letter was  
9 at that stage he didn't want Tusla back in his life.

10  
11 So, it's ultimately a matter for the Tribunal, but it 15:35  
12 appears that this module of the Tribunal was set up on  
13 an incorrect premise, it was set up on foot of an  
14 allegation that not only isn't true but wasn't even  
15 stood over by the witness who was supposed to have 15:35  
16 received the phone call, and the impact of a module  
17 having occurred on such an improper and flawed basis  
18 is, firstly, an expenditure of public money; secondly,  
19 professional witnesses have had to attend, have had  
20 allegations made against them, have been subjected in 15:36  
21 some cases to hours of cross-examination in  
22 circumstances where the actual allegation that led to  
23 the setting up of the module was no longer being made.  
24 And we would submit no focus was brought to bear on  
25 much of that questioning. 15:36  
26

27 To conclude, sir, there's an Italian playwright called  
28 Pirandello who wrote a play called Six Characters in  
29 Search of an Author. At times this module has been six

1 legal teams in search of a focus, and I make that  
2 observation not because there's any fault on the part  
3 of the Tribunal, but what seems to have happened is,  
4 terms of reference were set up on foot of a very  
5 specific allegation that wasn't true and that's where 15:37  
6 we are. I would invite the Tribunal to find that there  
7 was no evidence that Tusla acted anything other than in  
8 a proper manner and that has been accepted both by  
9 Garda Harrison, who in his evidence accepted that if  
10 the contents of Ms. Simms' statement to the Gardaí were 15:37  
11 true, then he accepted it was a proper referral, you  
12 will find that on day 28, at pages 191-196, and  
13 Ms. Simms herself accepted she understood the reasons  
14 for the referral and had no complaint to make.

15 15:37  
16 So, I say the answer to the Tribunal's final question,  
17 which is the one that most concerns my client, which I  
18 think was question 9, which is "did Tusla deal with the  
19 referral in a proper manner?" The answer given to that  
20 both by Garda Harrison and by Ms. Simms appears to be 15:38  
21 yes. May it please you.

22 CHAIRMAN: would the Gardaí like to make submissions  
23 now the. Do you want to make submissions, you don't  
24 have to.

25 MR. O'HIGGINS: Yes, sir, I will keep them brief. 15:38  
26

27 SUBMISSION BY MR. O'HIGGINS

28  
29 MR. O'HIGGINS: I think first of all, Chairman, can I

1 preface my remarks by saying perhaps a little degree of  
2 difficulty attaches to making submissions in defence of  
3 my clients in circumstances where the person who has  
4 made allegations against my client, perhaps it might be  
5 said, has either not persisted with certain allegations 15:38  
6 that were made in correspondence or has not refined  
7 them by way of submissions in this module, but that  
8 difficulty aside, I hope the following observations are  
9 of assistance in relation to the headings that you,  
10 Chairman, have identified as being relevant. 15:38  
11

12 Dealing first of all with the question of the transfer  
13 of Garda Harrison. On day 27 of the hearings, at pages  
14 73 to 76, I think it was counsel for the Tribunal set  
15 out in some detail the various obvious practical and 15:39  
16 perceptual difficulties that arose from Garda  
17 Harrison serving in the station before the trial of  
18 Mr. McDermott, who was ultimately convicted of the  
19 manslaughter. Rather than acknowledge these  
20 difficulties, Garda Harrison offered a different 15:39  
21 responses referring to diverse matters as to his  
22 difficulties in Athlone, his absence of any choice as  
23 to where to move and his indication which is proper to  
24 take at face value, of course, that he would not have  
25 intervened in Mr. McDermott's trial and there's no 15:40  
26 suggestion to the contrary.  
27

28 Nonetheless, it is relevant, I think, that it was  
29 acknowledged by Garda Harrison in evidence that his

1 failure to mention his connection to Mr. McDermott was  
2 a conscious decision which he now regretted. I think  
3 in fairness to Garda Harrison, he also accepted that  
4 his service in Buncrana was not ideal. We say that  
5 parking that the obvious disparity between his initial 15:40  
6 statement to the Tribunal and correspondence that was  
7 sent on his behalf, and his eventual acknowledgment of  
8 the difficulties which his serving in Buncrana gave  
9 rise to, we respectfully say, Chairman, that really no  
10 further response is required to an allegation of 15:40  
11 bullying against my clients of harassment by senior  
12 members of An Garda Síochána in relation to this issue.  
13 It may be that there remained on Garda Harrison's mind  
14 a lingering dissatisfaction on his part with the fact -  
15 and it was a fact - that he ultimately had to leave 15:41  
16 Buncrana. It may be that he didn't reconcile himself  
17 to that reality and that perhaps had an impact upon his  
18 ultimate attitude and his ultimate allegations.

19  
20 In any event, dealing further then with the transfer to 15:41  
21 Donegal. Garda Harrison in his statement indicated  
22 that he didn't wish to move from Buncrana and he  
23 attributed certain remarks to Chief Superintendent  
24 Sheridan which were disputed. We say, Chairman that, a  
25 complaint was made by Garda Harrison against two senior 15:41  
26 members of An Garda Síochána about the manner in which  
27 they handled the transfer. Those members are aware of  
28 this complaint, which was characterised as being part  
29 of an orchestrated campaign against Garda Harrison, had

1 to be, and were, widely circulated.

2  
3 whilst my clients, the senior members concerned, are  
4 relieved that the complaint has not been pursued, I say  
5 that the apparent ease with which it was withdrawn 15:42  
6 perhaps highlights the fact that the complaint should  
7 never -- or the allegation at least should never have  
8 been made in the first place.

9  
10 Insofar as, Chairman, you have listed the refusal of 15:42  
11 Garda Harrison's transfer to Letterkenny in the  
12 headings to be examined, I say that it is the case that  
13 Garda Harrison complains about the refusal of his  
14 transfer to Letterkenny which, Chairman, you'll be  
15 aware, was refused on the basis that members of the 15:42  
16 McDermott family were living there. It is my  
17 submission that given the concerns that had arisen in  
18 Buncrana, it is an entirely valid reason to refuse his  
19 transfer there on that basis. We submit that no  
20 members of An Garda Síochána have any right to be 15:43  
21 stationed in any particular division. There is  
22 perfectly good policy and operational reasons for  
23 having refused that particular request. I say that  
24 there is simply no evidence that that forms any part or  
25 could form any part of some alleged bullying conspiracy 15:43  
26 or targeting, as has been suggested, certainly in the  
27 correspondence that predated this Tribunal.

28  
29 Dealing then with the question of accessing of Pulse

1 records, on day 28 of the hearings, Garda Harrison was  
2 questioned as to why, if his purpose in accessing the  
3 records had been as indicated by him through counsel,  
4 namely to check whether An Garda Síochána were checking  
5 in on himself and his partner, he was asked if that was 15:43  
6 the purpose why he would have been accessing Pulse as  
7 far as back as May 2008, which is long before Garda  
8 Harrison had invited any relationship with Ms. Simms,  
9 let alone one known to his Garda colleagues. Garda  
10 Harrison stated in answer to that question that, the 15:44  
11 Pulse system it seems was used as some class of social  
12 media site and it was possible that they may have been  
13 in contact. He acknowledged he may have checked on  
14 Ms. Simms out of curiosity. The reference for that is  
15 transcript day 28, page 122. 15:44

16  
17 We say again, leaving aside perhaps the difficulty or  
18 perhaps possibility of reconciling that explanation  
19 with the initial explanation as to why he accessed  
20 Pulse, we submit that the use of Garda Harrison of the 15:44  
21 system in this manner was a matter of legitimate  
22 concern for senior members of An Garda Síochána. We  
23 acknowledge that there is a disparity in the evidence  
24 as to what occurred at the meeting between Chief  
25 Superintendent Sheridan on 24th April 2012, but we 15:45  
26 suggest that the evidence of Chief Superintendent  
27 Sheridan ought be preferred.

28  
29 It will be recalled by you, Chairman, that insofar as



1 there was a conflict on this, Chief Superintendent  
2 Sheridan stated in his evidence, on day 19, when he  
3 gave his evidence, that he raised the matter at the  
4 meeting of the Pulse accessing. That's to be  
5 contrasted with the cross-examination by counsel for 15:45  
6 Garda Harrison. It was put to Garda Harrison that --  
7 it was said that Garda Harrison doesn't recall the  
8 conversation. That's to be found at transcript day 19,  
9 at page 87. I am referring now to the  
10 cross-examination of Chief Superintendent Jim Sheridan. 15:45  
11 We say that insofar as that constitutes conflicting  
12 evidence, it should be emphasised that a failure of  
13 recollection is not a denial that the conversation did  
14 occur. We say for these reasons the evidence of Chief  
15 Superintendent Sheridan ought be preferred in this 15:46  
16 regard.

17  
18 In your initial summary of headings, Chairman, you made  
19 reference to the threat to burn junior certificate  
20 papers, for example, I don't think that appeared in the 15:46  
21 list you mentioned earlier on, so I might just pass  
22 from that, I think you have that from day 22 in any  
23 event

24 CHAIRMAN: Mr. O'Higgins, you are not actually bound by  
25 that. 15:46

26 MR. O'HIGGINS: Of course.

27 CHAIRMAN: If you think that that is relevant, then it  
28 may be relevant but I'm entitled to think it's relevant  
29 as well without mentioning it necessarily in the whole

1 list of things that have emerged.

2 MR. O'HIGGINS: The way I put that was clumsy, I meant  
3 to assist counsel making submissions, you focused a  
4 refined list of what you believed to be relevant and I  
5 will endeavour to keep to that.

15:46

6  
7 Moving then to the question of the actions taken by  
8 Gardaí on foot of reports made by Marisa Simms and  
9 members of the McDermott family between 1st April '13  
10 and the 6th October '13, which is the key period  
11 perhaps. Obviously it will be for counsel representing  
12 Inspector Sheridan in particular and Sergeant McGowan  
13 to deal with the taking of the statement, because that  
14 is something for Garda officers for whom I do not act  
15 will be concerned, but it will be part of my overall  
16 submission that the taking of that statement raised no  
17 issues of concern and, indeed, was impeccable.

15:47

15:47

18  
19 To the extent that concerns were expressed on behalf of  
20 Marisa Simms and Garda Harrison about the limited  
21 nature of any subsequent criminal investigation on day  
22 24 of the hearings, the point I would make is really  
23 straightforward; I say that the limited nature of the  
24 investigation as alleged is, if anything, difficult to  
25 reconcile with the wider allegation of a malicious  
26 campaign of intimidation and harassment against Garda  
27 Harrison. We make the straightforward point that if  
28 such a campaign existed, one would have expected that a  
29 formal complaint of criminal wrongdoing on his part

15:47

15:48

1 would have been investigated fully, expeditiously and  
2 with considerable zeal. So, I say, if anything, that  
3 point actually takes from the allegation of a targeting  
4 of Garda Harrison and not the opposite.

15:48

5  
6 In relation to disciplinary proceedings, it has been  
7 suggested, though perhaps not pursued with a tremendous  
8 amount of enthusiasm, it had been suggested, certainly  
9 in the letter to the Minister for Justice that was sent  
10 by Garda Harrison's legal advisers, it was suggested  
11 that a campaign was orchestrated against Garda Harrison  
12 which led to him being disciplined for a number of  
13 alleged breaches of duty.

15:48

14  
15 Under this heading, could I simply say, Chairman, it's  
16 my respectful submission, you will make what you will  
17 of the evidence, but I say, for instance, when one has  
18 regard to the allegations that were made on paper  
19 against sergeant, the name escapes me for a moment,  
20 Sergeant Durkin as to bullying, I suggest, Chairman,  
21 that in fact a more reasonable construction of the  
22 relevant events is that there was a proper disciplining  
23 of Garda members arising from admitted breaches on his  
24 part. And insofar as there was dissatisfaction with  
25 that, dissatisfaction by Garda Harrison with a  
26 legitimate, reasonable and, I say, entirely tempered  
27 steps that were taken in relation to what ultimately  
28 were matters that he admitted to in relation to the no  
29 insurance, for instance, and any other issues of

15:48

15:49

15:49

1 breaches of discipline. It would be recalled that  
2 insofar as there was a finding of breach of discipline,  
3 again that was something that was dealt with by way of  
4 a plea of guilty by Garda Harrison and I say that that  
5 being the case, it's difficult for him to suggest that 15:50  
6 somehow this formed part of a wider campaign of  
7 bullying.

8  
9 I say that if there was something in the suggestion  
10 that there was a Garda force dealing with malicious 15:50  
11 intent, I suggest that one would have expected that  
12 there would have been an enthusiasm to avail of any  
13 opportunity to discipline Garda Harrison, whereas in  
14 fact it is clear from the evidence that many reasonable  
15 efforts were made and many things were let pass, far 15:50  
16 from seizing on any opportunity to discipline Garda  
17 Harrison.

18  
19 I say that an examination of the record demonstrates  
20 this to be the case. On 10th February 2014. 15:50  
21 Superintendent Mary Murray was appointed to conduct the  
22 internal disciplinary inquiry, complaint of Ms. Simms  
23 in October 2013, and the accessing of Pulse, it should  
24 be recalled, by Garda Harrison in relation to  
25 Ms. Simms' vehicle between August '09 and April 2013. 15:51  
26 Again, rather than advancing the matter with the  
27 enthusiasm that one would expect from a representative  
28 of the Garda force who, if the allegation is correct,  
29 had malicious intent, it is clear that, regrettably

1 perhaps, and she acknowledged it on her own part,  
2 regrettably on Superintendent Murray's part there was  
3 something of a delay in progressing the inquiry which  
4 ultimately led to the High Court granting a permanent  
5 stay on the inquiry due to the delay that had occurred. 15:51  
6 Again, I say that, if anything, this demonstrates the  
7 complete absence of a malicious intent or an enthusiasm  
8 to target Garda Harrison.

9  
10 Finally, I suggest that it is part of our submission, 15:51  
11 Chairman, that there is simply no evidence, and after  
12 all, the inquiry is examining whether there was  
13 evidence or not as to the matters this Tribunal has  
14 been tasked investigate into. The issue is: Is there  
15 evidence to support Garda Harrison's allegations that 15:52  
16 the disciplinary proceedings were centrally directed  
17 from Garda headquarters as part of some class of  
18 campaign of bullying? I say that on the contrary, the  
19 evidence appears to point the opposite way.

20 15:52  
21 As pointed out by Superintendent McGovern -- as pointed  
22 out to Superintendent McGovern by counsel for An Garda  
23 Síochána in the course of his evidence, the record of  
24 the interaction between divisional and Garda  
25 headquarters was that Chief Superintendent McGinn 15:52  
26 wished to either suspend or transfer Garda Harrison and  
27 in a response dated 21st October 2013, Chief  
28 Superintendent McLaughlin disagreed with that  
29 particular appraisal and recommended that Garda

1 Harrison should be confined to indoor duties, which  
2 ultimately was the decision that was arrived at.

3  
4 In relation to the threats against Garda Harrison, I  
5 won't dwell on those because you have the detail in 15:53  
6 relation to that, and it is clear that they were taken  
7 seriously and investigated properly. I say again that  
8 points against any suggestion that there was a  
9 targeting of the member concerned.

10  
11 In conclusion, Chairman, I say that both Garda Harrison  
12 and Ms. Simms have made a number -- initially certainly  
13 made a number of wide ranging allegations, which were  
14 serious, of impropriety against both An Garda Síochána  
15 and against Tusla, which, it was suggested, 15:53  
16 demonstrated a pattern of behaviour on the part of both  
17 organisations in dealing with Garda whistleblowers. In  
18 the course of the hearing, I think it's a matter for  
19 you, Chairman, but I suggested that Ms. Simms at least  
20 accepted that she had no evidence to support her 15:53  
21 concerns. By contrast, Garda Harrison was reluctant to  
22 make that acknowledgment. On the contrary, it seems  
23 that he appears to suggest that the absence of any  
24 evidence to support his claims somehow assists rather  
25 than undermines his case. And I say, with respect, 15:54  
26 that that makes little sense, is incoherent and perhaps  
27 is the position he has to adopt in circumstances where  
28 there simply has been no evidence whatsoever of a head  
29 of malice. Rather than supporting any malicious

1 campaign against him, the record of the various  
2 instances demonstrate, I say, that whatever  
3 difficulties Garda Harrison has experienced in his  
4 domestic and professional life were entirely of his own  
5 making, unfortunately for him this simple fact was not 15:54  
6 altered by him making protected disclosure and  
7 characterising himself as a whistleblower.

8  
9 I suggest, Chairman, that there is not a screed of  
10 evidence to support any of the allegations, either 15:54  
11 those that were made initially and abandoned or those  
12 that have been pursued even unenthusiastically. While  
13 Garda Harrison might consider the absence helpful of  
14 evidence, I suggest the reality is that entirely of his  
15 own making he had a complicated and difficult 15:55  
16 relationship with Ms. Simms and her family in 2013  
17 which resulted in a number of concerns being addressed  
18 to his colleagues. These concerns properly culminated  
19 in Ms. Simms making formal complaint in October 2013,  
20 the majority of which she has never withdrawn. I say 15:55  
21 that the relevant actors in An Garda Síochána and Tusla  
22 agreed unanimously that it was appropriate to refer the  
23 complaint, for An Garda Síochána to refer the complaint  
24 to Tusla and for Tusla to act on it. And all actors  
25 from An Garda Síochána and, critically, from Tusla, 15:55  
26 equally reject any contention that there was anything  
27 improper by way of influence by Gardaí in a child  
28 welfare case.

1 Ms. Simms at least acknowledged the reality of the  
2 situation in her evidence and accepted the absence of  
3 any manipulation or impropriety by either agency.  
4 Garda Harrison ultimately did not. I say it is  
5 regrettable that that is the case, that that was 15:56  
6 ultimately not withdrawn by him, but that's a matter  
7 ultimately for him.

8  
9 Finally, Chairman, I say on behalf of senior management  
10 of An Garda Síochána, that the virtually unanimous 15:56  
11 evidence heard in the case supports the view that there  
12 was no improper influence by An Garda Síochána on Tusla  
13 or, indeed, that there was any head of malice against  
14 Garda Harrison at all.

15  
16 Thank you. 15:56

17 CHAIRMAN: Mr. Dockery, you appear for Sergeant McGowan  
18 and for Inspector Sheridan, you might like to make some  
19 brief submissions, but before you do, can I just ask  
20 outside the transcript. 15:56

21  
22 SUBMISSION BY MR. DOCKERY

23  
24 MR. DOCKERY: Yes, Chairman, I represent Inspector  
25 Goretta Sheridan and Sergeant McGowan as well as two 15:57  
26 other members who gave evidence before the Tribunal,  
27 Sergeant James Collins and Sergeant Durkin. But I will  
28 address the circumstances in which the statement of the  
29 6th October was taken first and foremost, because the



1 letter from Kilfeather & Company Solicitors to the  
2 Minister for Children and Youth Affairs, Dr. Zappone,  
3 of 10th February 2013, stated at point number 1 of the  
4 points to be emphasised in the letter, that on 5th  
5 October 2013 Marisa Simms was invited to attend at 15:57  
6 Letterkenny Garda Station after much pressure was put  
7 on her, and that during an eight hour interview she was  
8 coerced into making a statement with a threat that if  
9 she didn't, there might be repercussions for her and  
10 her children. 15:57

11  
12 Now, in the first instance, as Mr. McDermott has  
13 already mentioned to you, sir, it's my respectful  
14 submission that Marisa Simms did not stand over  
15 evidence that the statement was coerced from her. 15:58  
16 Rather, she said that it was her statement and she  
17 quibbled over the use of some of the words used in it,  
18 and she said that it wasn't an ordeal but it felt  
19 uncomfortable and that she never intended to talk about  
20 those personal matters. 15:58

21  
22 Secondly, I say that there was no evidence at all that  
23 she was threatened that if she didn't make the  
24 statement there might be repercussions for her or for  
25 her children and that the height of the evidence as 15:58  
26 alleged by her in that regard was that Sergeant McGowan  
27 said to her once or twice, "think of your children".  
28 And I understood that to be in the context of whether  
29 you decide to make a statement. That, of course, was

1           vehemently denied by Sergeant McGowan.

2  
3           So, I think, sir, the first thing we need to consider  
4           in the context of the statement after making those  
5           initial points is: How did Marisa Simms come to visit 15:59  
6           Letterkenny Garda Station on the 6th October that year?  
7           I think the context is important, sir. The fact that  
8           she had undergone over two years what one might  
9           describe as an experience of, at the hands of Garda  
10          Harrison, obsession, control, denigration, outbursts of 15:59  
11         anger and ultimately threats which caused her to leave  
12         the home and stay with her sister Paula, a person whom  
13         she knew to be openly hostile to her partner, and with  
14         whom Marisa had not seen eye to eye at least since the  
15         time that her relationship with Keith Harrison had been 15:59  
16         reignited.

17  
18         That experience that she had undergone prior to the  
19         28th September 2011 had lasted over two years. The  
20         first incident described by her in her statement of the 16:00  
21         6th October, which made her uncomfortable, was the one  
22         at the home in Churchill, when her former husband  
23         arranged to call to the house and the next thing was  
24         Gardaí arrived and subsequently Garda Harrison, which  
25         Marisa described as totally blown out of proportion. 16:00  
26         So, that was over two years prior to her leaving on the  
27         28th September.

28  
29         The second thing is that contacts were initiated by

1 members of her own family with the Gardaí at Donegal  
2 Town and Letterkenny stations, on four occasions that  
3 we know of; 1st April 2013, the 24th August, the 24th  
4 September and the 30th September, culminating in Rita  
5 McDermott's statement of 2nd October 2013, which 16:00  
6 confirmed the making of threats. So as Rita McDermott  
7 put it about or said of Marisa at the time "she is  
8 scared for her life".

9  
10 I submit, sir, that the Gardaí's response to these 16:01  
11 concerns and in particular to the visit to Letterkenny  
12 station by Paula McDaid was appropriate and  
13 proportionate and that they made proportionate and  
14 appropriate contact with Marisa Simms herself.

15 Inspector Sheridan having been given Marisa's mobile 16:01  
16 number by Marisa's mother. But first, sir, before she  
17 attempted to contact Marisa Simms, she made further  
18 contact with Rita. The evidence for that is to be  
19 found on day 23, page 22, line 76, where Inspector  
20 Sheridan told you, sir, the following: 16:01

21  
22 "I rang Rita the following day, just, I suppose, to ask  
23 by way of follow up had she spoken to Marisa and she  
24 said she had and that Marisa was willing to make a  
25 statement and that she had furnished Marisa with my 16:02  
26 number."

27  
28 And at this point, I might just pause to note, sir,  
29 that the Tribunal has also heard evidence that on the

1 9th October Marisa told George O'Doherty of GSOC that  
2 she would think things over and talk to her mother  
3 before confirming anything to GSOC. Now, I mention  
4 that in the context that there is clearly evidence  
5 before the Tribunal that her mother was somebody with 16:02  
6 whom she did confer about matters to do with what the  
7 Tribunal is concerned with.

8  
9 Phone records in evidence before the Tribunal establish  
10 that Marisa Simms received one text from Sergeant 16:02  
11 Collins on 2nd October 2013, which was a friendly text  
12 and told her that they had been in contact with her  
13 mother, and she received one missed call the following  
14 day, on the 3rd October, and one text from Inspector  
15 Sheridan. In response to that she telephoned Inspector 16:03  
16 Sheridan back and spoke to her for at least seven  
17 minutes. That was the beginning of consensual over and  
18 back contact between the two of them by text and phone  
19 subsequently.

20 16:03  
21 So, I say that the context in which she came to be in  
22 Letterkenny Garda Station indicates fair, reasonable,  
23 proportionate and appropriate behaviour by the Gardaí,  
24 in light of the seriousness of the allegations, the  
25 fact that they were being levelled against a serving 16:03  
26 member of the Gardaí, the fact that they involve such  
27 serious matters as threats to burn and to bury and the  
28 fact that children or a child were said to be present  
29 when some or all of that occurred.

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29

Then how was the statement taken? well, as a matter of law, Chairman, I submit that as with a suspect who has been arrested and detained for the purpose of being arrested, a volunteer in the form of a complainant or a witness also enjoys a right to silence. Once at the station, such a person can decide not to make a statement or not to answer questions. That person also enjoys a right to receive legal advice from a solicitor prior to making a statement, though perhaps this seems a little academic in the case of a complainant or a witness who is not suspected of criminal wrongdoing, not detained against their will but attending voluntarily at the station and who is not being interviewed under caution.

16:04  
16:04  
16:04

Such a person, I submit, also has a right to accuracy in the recording of their statement, and it's my submission that Marisa Simms' statement was recorded faithfully and accurately. I will come back to that in a few minutes.

16:04

And lastly, a person in her position has a right not to be subjected to oppressive or persistent questioning in the face of harassment. And in my submission the evidence is that she was not subjected to such treatment. She has told you, sir, that when she arrived at the station, she was met in a very friendly manner by Inspector Sheridan. She has told you of a

16:05

1 friendly and affable chat which lasted for an hour or  
2 two. She has told you of tea breaks and loo breaks,  
3 and she has told you that she felt uncomfortable but  
4 that it was by no means an ordeal. Bearing in mind, of  
5 course, the extent to which anybody could feel 16:05  
6 comfortable in any situation in which one has to make a  
7 statement or chooses to make a statement or be  
8 interviewed by the Gardaí. It's not an everyday  
9 experience.

10  
11 Now, you will also be aware, sir, that the Criminal  
12 Justice Act 1984, Treatment of Persons in Custody in  
13 Garda Síochána Stations, Regulations, 1987, provide at  
14 regulation 12:

15  
16 "Before an arrested person is interviewed, the member  
17 conducting the interview should identify himself and  
18 any other member present by name and rank to the  
19 arrested person."

20  
21 Ms. Simms was not an arrested person and the Gardaí's  
22 conduct was not subject to the Criminal Justice Act  
23 1984 or to these regulations, but certainly she was  
24 introduced to both members, the interview was conducted  
25 as regulation requires, in a fair and humane manner, in 16:06  
26 my submission. The regulation requires that no more  
27 than two members should question the arrested person at  
28 any one time. That appears to have been the position  
29 here, though again bearing in mind that Marisa Simms

1 had not been arrested. And regulation 12 also provides  
2 that if an interview has lasted for four hours, it  
3 should either be terminated or adjourned for a  
4 reasonable time.

5  
6 Now just, a couple of points about that, sir. Firstly,  
7 just to repeat, Marisa Simms was not an arrested  
8 person. The 1984 Act and the 1987 regulations had no  
9 direct applicability. Second point, the taking of the  
10 interview itself did not take eight hours. The 16:07  
11 evidence appears to be there was a chat, preliminaries,  
12 conversation, sounding each other out, that went on,  
13 perhaps as one might have expect it would have, for an  
14 hour to two hours, which means that the interview at  
15 most took six to six and a half hours. There has been 16:07  
16 evidence, undisputed, that there were tea breaks and  
17 too breaks and there has been evidence from my clients  
18 that they offered on one or more occasions to postpone  
19 the continuation of the interview but that Ms. Simms  
20 was anxious to get it over with and wanted to get it 16:08  
21 done and dusted and completed and that they went along  
22 with that in those circumstances. So, in my respectful  
23 submission in all the circumstances, the surrounding  
24 facts of the taking of the statement indicate that it  
25 was done with her consent, voluntarily and in 16:08  
26 conjunction with her and that she knew what she was  
27 doing and was given every opportunity to adjourn it.

28  
29 Now, you see, the point is, sir, that as I put it to

1 Ms. Simms, she is not a suggestible person, rather she  
2 is an educated, intelligent woman, a secondary  
3 schoolteacher, well capable of managing and teaching  
4 young adults, well capable of making the detailed,  
5 coherent and vivid statement which she did, and of 16:08  
6 appreciating the consequences of doing so. I would ask  
7 you to bear in mind this fact: That if is borne out by  
8 evidence from Sergeant Wallace, which you heard the  
9 week before last, sir, that she reportedly told Garda  
10 Harrison the next day that she had taken out a safety 16:09  
11 order against him at Letterkenny District Court and  
12 that he was going to be arrested.

13  
14 Now, she has told this Tribunal that she was in a bad  
15 place when she made the statement of complaint, but in 16:09  
16 my submission that is the very reason why she was there  
17 making the statement of complaint. As to the length of  
18 the chat and the taking of the statement, it seems -  
19 and this point was raised by Inspector Sheridan in  
20 passing - it seems that the Tribunal's own experienced 16:09  
21 investigators took almost seven hours to complete an  
22 interview with Chief Superintendent Sheridan, as noted  
23 on the front page of the statement taken from him at  
24 page 548 of the materials.

25  
26 We know, sir that there were text messages from Marisa  
27 Simms to her sister Paula during the course of making  
28 the statement, that there were text messages to her  
29 ex-husband and the phone records show that Garda



1 Harrison rang her repeatedly and that she elected not  
2 to take any of those calls. All indicating, in my  
3 submission, that she was as comfortable as one can  
4 reasonably expect to be making a statement or being  
5 interviewed by the Gardaí in a Garda station, even 16:10  
6 where one elects to go there and do that oneself.  
7

8 There was the text message to Inspector Sheridan  
9 thanking her and confirming that she had got home  
10 safely that night. There is evidence of her internet 16:10  
11 searches and reported remarks, as I say, to Garda  
12 Harrison the following day, about his impending arrest,  
13 as she saw it, or threatened upon him and having got a  
14 safety order.

15 16:10  
16 Her follow up visit to Letterkenny Garda Station the  
17 day after that, on the 8th October, to hand in her  
18 mobile phone. And Sergeant Wallace's evidence,  
19 Chairman, and his notes, gave no hint whatsoever that  
20 on the 7th October Marisa Simms was complaining to 16:11  
21 Garda Harrison of any mistreatment by Gardaí during the  
22 course of making that statement the previous day.  
23 There was no mention of compulsion, a trick or  
24 exhaustion made by her to George O'Doherty of GSOC on  
25 either the 9th or the 11th October, when they spoke 16:11  
26 within days of the statement. No such complaint made  
27 to Donna McTeague during two meetings in early 2014,  
28 and no reference to such issues when the statement of  
29 complaint was retracted on 11th January 2014. In fact,

1 for the purpose of retracting it, she went back to the  
2 same Garda station and back to one of the same two  
3 officers who had taken the statement from her, and she  
4 confirmed that everything she had said was true, having  
5 been given an opportunity to read the statement back. 16:12  
6 The most she said of it was that she had forgotten some  
7 of the things that were in it.

8  
9 Insofar as it was suggested that there was police speak  
10 or something of that nature involved in the substance 16:12  
11 of that statement, one example of that might be where  
12 she was asked whether she had come under any duress to  
13 retract the statement. That, of course, is a question  
14 that one must ask any person who visits a Garda  
15 station, to retract an earlier statement. It's 16:12  
16 absolutely essential to establish whether there's any  
17 question of the statement being retracted under duress.  
18 Duress is a word lawyers use and police officers use,  
19 it means under compulsion and I have no doubt at all,  
20 in my submission, that the sense, if not the word, the 16:12  
21 sense of that statement, that sentence was uttered by  
22 Marisa Simms. That statement was written down by  
23 Inspector Sheridan in handwriting for Marisa Simms and  
24 she signed it.

25 16:13  
26 And then the last thing I want to say about the  
27 statement, sir, is this: That at no time did Marisa  
28 Simms make any allegation that she was pressurised or  
29 harassed, it seems to me, until the judicial review

1 proceedings of 2015. In an affidavit sworn on 19th May  
2 2015, at paragraph 8, she seemed to say things about  
3 the statement which were inherently contradictory, it  
4 seems to me. Firstly, that at no time ever had she  
5 felt pressurised or harassed by Garda Harrison, 16:13  
6 followed by an assertion by her immediately that there  
7 were only two inaccuracies in the statement. This is  
8 at page 88 of the materials. If she felt no pressure  
9 or harassment from her partner at any stage, then the  
10 entirety of the statement must be untrue. That is 16:14  
11 inconsistent with suggesting that in fact the only  
12 complaint is that there were two inaccuracies in the  
13 statement and she cited what they were, use of the  
14 words "more" and "more abusive" and use of the words  
15 "continually harassing me" at two points in the 16:14  
16 statement.

17  
18 Yet, in answer to Tribunal questions here, Mr. Hartnett  
19 said that much of the statement was true and it was  
20 merely inaccurate in certain details. He said those 16:14  
21 were that she was never put out of the house, that  
22 there was a throwing of keys on the dashboard on 1st  
23 April 2013, not a banging of Garda Harrison's fist, and  
24 that a duvet was pushed back in her house that day  
25 while she lay in bed asleep but she had not been 16:14  
26 grabbed by the arm or pulled from her bed. But in  
27 cross-examination of Inspector Sheridan, Mr. Hartnett  
28 put it to her that the word "obsessive" was the  
29 Gardaí's world and the word "controlling" was the

1           Gardaí's word. Ms. Simms maintained this in  
2           cross-examination by me but accepted that the word  
3           "suffocating", which also appears in her statement, and  
4           which means the same thing in effect, was her word.  
5           She also told the Tribunal that insofar as she was 16:15  
6           alleging that "obsessive", that is the word, and the  
7           word "controlling" were not her words, that she nodded  
8           in agreement when they were used by the Gardaí.

9  
10          So, it seems to me that if that's the height of her 16:15  
11          complaint, it's a very particular type of one, indeed,  
12          sir.

13  
14          When she gave her evidence she added in a whole slue of  
15          new inaccuracies that she alleged. She said she wasn't 16:16  
16          grabbed on the wrist, by the wrist on 28th September  
17          2013; she never said that he wasn't in control of  
18          himself and was crazy on the 28th September 2013; she  
19          never felt that she wondered whether she would get out  
20          of the house on the 28th September 2013; that only one 16:16  
21          child was crying immediately after the incident, that  
22          was only when Marisa Simms returned to the car having  
23          already removed the children earlier. None of these  
24          matters were put in cross-examination to Inspector  
25          Sheridan and, in my respectful submission, should be 16:16  
26          disregarded.

27  
28          To conclude on the statement, I say, Chairman, that  
29          there was no conspiracy here, there is no evidence of

1 any conspiracy by either the inspector and Sergeant  
2 McGowan, or by either them together and Chief  
3 Superintendent McGinn, or of any solo run by either of  
4 my two clients to bully or cajole Marisa Simms into  
5 making this statement. And that all the surrounding 16:17  
6 corroborative evidence tends to suggest from that time  
7 that it was only much later that she changed her mind  
8 about it in the context of having got back together  
9 shortly after making the statement with Garda Harrison.

10  
11 Now moving on from that, I just want to very briefly 16:17  
12 refer to the referral to Tusla, sir. Marisa Simms  
13 appears to have withdrawn any allegation of impropriety  
14 by the HSE and the Gardaí in connection with the Garda  
15 referral to Tusla or the manner in which Tusla followed 16:17  
16 up on the referral. This appears from the evidence on  
17 day 26, page 122, at line 17, where Ms. Leader said to  
18 her:

19  
20 "You're making a particular allegation, if I might put 16:18  
21 it that way, against Sergeant McGowan and Donna  
22 McTeague's superiors in the HSE."

23  
24 To which she answered:

25  
26 "I'm not implying anything. I don't know what type of 16:18  
27 relationship they have. I am assuming it was  
28 professional."  
29

1 Later that day, in answer to me, at page 130, line 3,  
2 she agreed that she had no basis whatsoever for  
3 believing the Gardaí sought to manipulate Tusla in  
4 regard to the referral.

5  
6 Notwithstanding that, she said just that in a formal  
7 statement of complaint on GSOC on the 16th August last  
8 year, in which she named Sergeant McGowan and Inspector  
9 Sheridan as the subject of her complaint. She said  
10 precisely the very thing that she resiled from before 16:18  
11 this Tribunal. She told this Tribunal that her notion  
12 that the Gardaí were involved in manipulation of Tusla  
13 was based on nothing more than a hunch, a false hunch  
14 because it had happened, the referral had happened  
15 shortly after she had retracted her statement on the 16:19  
16 11th January 2014, and I put it to her at the time that  
17 if that were the case it indicated a very casual regard  
18 for people's professional reputation.

19  
20 And just turning to reputations, Chairman, can I say 16:19  
21 this: The statement by Marisa Simms of the 16th August  
22 2016 to GSOC is in the form of a complaint. It was  
23 made at The Connaught Hotel in Galway, signed by her,  
24 witnessed by Johan Groenewald, and is stated at the  
25 head of the statement to be one, to be a witness 16:19  
26 statement made under section 21 of the Criminal Justice  
27 Act 1984. And I am instructed that that is a statement  
28 taken in the form of a criminal investigation and that  
29 it may be, but we don't know, it may be a section 98

1 referral under the 2005 Act. what she has alleged in  
2 it, sir, is a form of corruption or abuse of power.  
3 She has said:

4  
5 "I believe it was the Gardaí who made the referral to 16:20  
6 the HSE and got the kids involved. There was no reason  
7 for doing so. It was a way of abusing their authority.  
8 I believe it was pursued because I wouldn't pursue that  
9 matter I was called to chat with Sheridan about."

10  
11 In my submission that appears now to be dropped. And 16:20  
12 the evidence before this Tribunal is that she doesn't  
13 believe that it was a hunch and she doesn't stand over  
14 it.

15  
16 My clients superiors have still, I'm instructed, not 16:20  
17 been formally notified of the existence of this  
18 complaint. GSOC have not at any point contacted my  
19 clients' superiors about it, to their knowledge. And  
20 my clients were not aware of it until the Tribunal 16:20  
21 papers were circulated.

22  
23 That brings me back to the letter to the Minister for 16:21  
24 Children on 10th February 2017, alleging coercion in  
25 the taking of the statement, and a threat. My clients  
26 were not aware of this letter until this Tribunal began  
27 its hearings and the papers were circulated in advance.  
28 My client, Inspector Sheridan, has had a very fruitful  
29 career in the Garda Síochána to date and in the

1 ordinary course might look forward to being promoted  
2 further to superintendent rank and beyond. As matters  
3 stand, my instructions are that that advancement, if it  
4 were to happen, is in suspension and will not happen  
5 unless she emerges from these allegations about the 16:21  
6 taking of this statement with her integrity fully  
7 intact, her professional integrity, her personal  
8 integrity.

9  
10 To conclude, almost, or almost to the end, sir, can I 16:22  
11 just say this: That Sergeant Bridget McGowan has been  
12 criticised as well, in particular with regard, for  
13 example, to the anonymous letter of January 2012.  
14 Whether she ought to have requested a copy of it from  
15 Úna Coll, the HSE officer who brought it to her 16:22  
16 attention in the first instance, in the form of an  
17 informal referral. The opening sentence of the letter  
18 makes it plain that its purpose was to raise concerns  
19 over the wellbeing of "the Simms children", it referred  
20 to them as having become withdrawn, of having been 16:22  
21 placed under stress, of needing help. This was brought  
22 to her attention, Sergeant McGowan 's attention, by the  
23 HSE in her capacity as child liaison officer. It was  
24 her duty to request a copy of it. It related to a  
25 serving Garda officer. It was forwarded to her 16:23  
26 superintendent. It was marked confidential. And in my  
27 submission it was an exemplary excuse by her of her  
28 duties, not to speak of her discovery of multiple Pulse  
29 checks against Marisa Simms apparently carried out by



1           Garda Harrison going back to May 2008.

2  
3           I should also say that in regard to sergeant Harrison,  
4           sir, her reputation emerges intact from the evidence of  
5           Donna McTeague, who told you on the 3rd October that           16:23  
6           Sergeant McGowan was a person of the utmost integrity  
7           and professional repute, and who told Mr. Hegarty in  
8           questions that she was given the essential facts of the  
9           referral on the 9th October 2013 and that that was what  
10          allowed her to prepare intake records on the 16th           16:23  
11          October. And she accepted to Mr. Hegarty that she had  
12          no recollection of being told by Sergeant McGowan of  
13          the threats but that she could have been told of them  
14          and doesn't remember it. And in my submission the fact  
15          of the matter is that they were the most essential           16:24  
16          facts of the referral and the very reason why it was  
17          considered necessary to organise a strategy meeting on  
18          the 21st October.

19  
20          Lastly, can I just refer in passing and briefly to           16:24  
21          Sergeant Durkin and his involvement with Garda Harrison  
22          at Donegal Town, sir? There is no issue to resolve  
23          there in my respectful submission. Sergeant Durkin's  
24          evidence was that Garda Harrison was treated fairly and  
25          settled in well there. He was included in everything.           16:24  
26          This was not challenged. Yes, Sergeant Durkin was a  
27          witness in a prosecution taken against Garda Harrison  
28          for failure to display a task disk and fraudulent use  
29          of insurance disk, but no ill will emerged between the

1 two men over that. There is no evidence of any malice  
2 by Sergeant Durkin. Garda Harrison pleaded guilty in  
3 the District Court to that. And it is unclear to me  
4 why he would wait until 2017 to suggest that there was  
5 a bullying campaign by Sergeant Durkin against him. My 16:25  
6 understanding is the state of the evidence before this  
7 Tribunal is that there is no such evidence.

8  
9 It emerged under cross-examination by Mr. O'Higgins at  
10 some stage that Garda Harrison intended to maintain in 16:25  
11 another forum that he had been subjected to bullying at  
12 Donegal Town Station in a general way, not specifically  
13 at the hands of Sergeant Durkin, again there has been  
14 no evidence of that before this Tribunal. Rather,  
15 Sergeant Durkin gave evidence that in May 2014 when 16:25  
16 Garda Harrison came to him with a report alleging  
17 bullying in the Westmeath and Donegal divisions,  
18 Sergeant Durkin was told by Sergeant Harrison that  
19 Sergeant Harrison had no such allegation to make  
20 regarding Donegal Town and Sergeant Durkin noted this. 16:26  
21 And his note is apparent at page 684 of the materials.

22  
23 Then lastly, sir, my client Sergeant James Collins.  
24 You know his involvement, sir; it was at the early  
25 stages of this saga. He was on duty on the 30th 16:26  
26 September when he received a report from a garda in his  
27 unit, Garda Mahon, that Paula McDaid had been in to the  
28 station. Now, he asked Garda Mahon to repair a report,  
29 and I think that was appropriate, and I submit it was

1 appropriate, and three critically important facts  
2 emerge from Sergeant James Collins' evidence, in my  
3 respectful submission. Firstly, that Marisa had told  
4 Paula McDaid of the fact that threats to burn her and  
5 to bury Paula and her had been made by Garda Harrison; 16:26  
6 secondly, Garda Mahon's belief that Ms. McDaid was  
7 visibly upset and genuinely concerned for her sister,  
8 for her sister's safety; and thirdly, that Sergeant  
9 Collins acted appropriately, in my submission - this is  
10 the third factor - in seeking a report from Garda 16:27  
11 Mahon, in notifying Sergeant McGowan about an incident  
12 reported from the Milford District, which was her  
13 district, and in notifying his own immediate superiors.  
14 And I suggest, sir, that Marisa Simms' contemporaneous  
15 reporting of threats to her sister is consistent with 16:27  
16 Marisa Simms' reaction to the threats as expressed in  
17 the series of emails which passed between her and Garda  
18 Harrison, between the 28th and 30th September 2013,  
19 where she challenged him and told him that he would  
20 never threaten her again. These emails, and her 16:27  
21 contemporaneous reporting of the threats to her sister,  
22 serve to undermine the version now put forward by both  
23 she and Keith Harrison that the texts were deliberate  
24 lies or at least exaggeration aimed solely at  
25 discombobulating Garda Harrison. 16:28  
26

27 And I finally say that Sergeant Collins acted  
28 appropriately in taking a statement from Rita McDermott  
29 with his colleague, Inspector Sheridan, and that any

1 question mark over that statement can be set aside, and  
2 has been clarified by solicitor's letter by submissions  
3 made by her counsel, Mr. O'Neill, to the Tribunal and  
4 by her own evidence that she had merely forgotten  
5 important things in her statement made in 2013.

16:28

6  
7 And I say that Sergeant Collins' conduct of this  
8 investigation at that stage was exemplary as well and  
9 that no findings that are critical can justifiably be  
10 made against either Inspector Sheridan, Sergeant  
11 McGowan, Sergeant Durkin or Sergeant Collins.

16:28

12  
13 Thank you, sir.

14 CHAIRMAN: The DAR is still on. Let's go off  
15 transcript for a second. [SHORT EXCHANGE OFF THE  
16 RECORD] I beg your pardon, Ms. Kelly, we better take  
17 this down. Let's go back one second. Mr. Dwyer, for  
18 Superintendent English and Superintendent Coen?

16:28

19 MR. DWYER: Total time, Chairman, two to three minutes,  
20 maximum.

16:29

21 CHAIRMAN: And Mr. Barnes then on behalf of Marisa  
22 Simms?

23 MR. BARNES: Yes, Chairman. My instructions are to  
24 offer no submissions in relation to the evidence before  
25 this Tribunal and as to any inferences or conclusions  
26 which the Tribunal may draw. Thank you.

16:30

27 CHAIRMAN: And then, for Garda Keith Harrison,  
28 Mr. Harty?

29 MR. HARTY: I think perhaps Chief Superintendent

1           McGinn --

2           CHAIRMAN: Yes. No, you are right. Then Mr. Power for  
3           Chief Superintendent McGinn?

4           MR. POWER: Yes, chairperson, I will be very brief.

5           CHAIRMAN: Are we talking about five minutes? 16:30

6           MR. POWER: Yes, less.

7           CHAIRMAN: And then for Garda Harrison, Mr. Harty?

8           MR. HARTY: Less than ten minutes.

9           CHAIRMAN: We might get it finished today, but let's  
10          not force ourselves. Ms. Kelly, should we take a 16:30  
11          break? It would probably be the prudent thing to do.

12

13          AFTER A SHORT ADJOURNMENT THE TRIBUNAL RESUMED AS  
14          FOLLOWS

15 16:34

16          MR. O'NEILL: Chairman, before you take up the  
17          proceedings, I should have identified myself.

18          CHAIRMAN: I am sorry, if I left you out. It certainly  
19          was not in any way deliberate.

20          MR. O'NEILL: I don't take any offence whatsoever. I 16:39  
21          have very brief comments to make, two to three minutes  
22          maximum.

23          CHAIRMAN: Maybe just remind me of who you are  
24          appearing for.

25          MR. O'NEILL: Niall O'Neill, appearing on behalf of 16:39  
26          Rita McDermott.

27          CHAIRMAN: Ah yes, I know Mr. O'Neill.

28          MR. O'NEILL: I think there were a couple of comments  
29          the Tribunal made on day 35 involving Rita, there is

1 one aspect of that, that I wish to address.

2 CHAIRMAN: Please do draw them to my attention. Make  
3 whatever submissions you want. Thank you, Mr. O'Neill.

4  
5 SUBMISSION BY MR. O'NEILL:

16:40

6 MR. O'NEILL: Thank you, Chairman. I didn't know  
7 whether there was a running order. It is just simply  
8 on day 35, I think that the Tribunal referred to the  
9 actions on the part of McDermott family and whether  
10 there was any ulterior motive in relation to the  
11 McDermotts in the way that they approached these  
12 matters, and obviously that includes my client, Rita  
13 McDermott, who is the mother of Marisa and Paula, and  
14 has had a fairly, I suppose, maybe germane part to play  
15 in relation to the matters that come before the  
16 Tribunal. But, in any event, I think that whenever  
17 Ms. McDermott was being questioned by the Tribunal and  
18 by various legal teams, I don't think that, in relation  
19 to her part in the events that it was ever challenged  
20 that she acted anything other than out of genuine  
21 concern for her daughter and for her granddaughter, I  
22 would say in the first part, Mr. Chairman.

16:40

16:40

16:40

23  
24 There was also reference I think as far as the  
25 genuineness of her statement and I suppose I would  
26 point out that, certainly my instructions, and I think  
27 that the evidence certainly never in any event diverged  
28 from the assertion that my client had any conversation  
29 with any member of the family in relation to Keith

16:41

1 Harrison attending the wedding, I would say at the  
2 outset. I would also point out that there were a  
3 number of contacts obviously with the Gardaí by my  
4 client, Rita McDermott, before the wedding and before  
5 her statement on the 2nd October and in fact her 16:41  
6 involvement with the Gardaí and the connections with  
7 the Gardaí went back to before summer of 2013, well  
8 before I think the wedding was even on the radar. I  
9 would say that at the outset, that obviously you have  
10 the text messages then that bear out in the middle of 16:42  
11 August concerns that Ms. McDermott had. There was  
12 certainly never any evidence that the text messages  
13 that were brought -- brought forward in the evidence in  
14 questioning of my client in regard to any ulterior  
15 motive for any of those text messages, I don't think 16:42  
16 that those text messages bore out any ulterior motive.  
17 I don't think any reasonable reading of those text  
18 messages would show anything other than my client, Rita  
19 McDermott, having a concern at the time for her  
20 daughter. And certainly nothing that would lead, I 16:42  
21 would submit, a person to believe that in fact there  
22 was a collusion there or indeed that there was an  
23 ulterior motive on behalf of Rita McDermott to approach  
24 the Gardaí, having regard to the previous contacts she  
25 had. 16:43

26  
27 And I would point out as well that obviously the 28th  
28 September is a particularly significant date and Rita  
29 McDermott's contacts with the Gardaí, that is coming

1 from her, occurred before that date and indeed before  
2 the statement of the 2nd October. There was contact  
3 between Sergeant Durkin and Rita McDermott coming from  
4 Sergeant Durkin on the 1st October, but in any event it  
5 was not my client, Ms. McDermott, that was, I suppose, 16:43  
6 approaching the Gardaí in the early days before the  
7 wedding.

8  
9 And I think it's very important to point out that on  
10 the 2nd October Inspector Sheridan referred to the 16:43  
11 meeting of Ms. McDermott on the street in Raphoe as  
12 being a cold call, and that was the situation. And I  
13 would submit to the Tribunal, when the Tribunal is  
14 looking at the genuineness of the statement, that the  
15 Tribunal have regard to the fact that maybe when a 16:44  
16 person might in some way put together their own  
17 statement or I suppose maybe have an ulterior motive  
18 that some time might be given to putting some thought  
19 into the fruits of that ulterior motive, and in this  
20 case that could not have happened because of the manner 16:44  
21 in which Ms. McDermott was stopped on the street.

22  
23 And I would say that in relation to the way the matters  
24 flowed after that, it's been clear from the evidence  
25 that the statement, as it was taken, in Ms. McDermott's 16:44  
26 house, was in a fairly relaxed manner. In fact, it was  
27 Inspector Sheridan who said that Ms. McDermott spoke  
28 freely -- this is from her evidence, that "she spoke  
29 freely and openly and came across to me as a pleasant



1 lady who had genuine concerns", and I think that those  
2 last couple of words echo the approach that many of the  
3 legal teams had, indeed, in relation to the questioning  
4 of Ms. McDermott. And that is that she had genuine  
5 concerns and that there was never an ulterior motive in 16:45  
6 the way that she approached those matters.

7  
8 If I leave it at that, Chairman. Thank you.

9 CHAIRMAN: Thank you, Mr. O'Neill. So, Mr. Power.

10  
11 SUBMISSION BY MR. POWER: 16:45

12 MR. POWER: Thank you very much, Chairman. It seems to  
13 be suggested by Garda Harrison that Chief  
14 Superintendent McGinn acted out of malice towards him.  
15 There is no evidence to support any such assertion. In 16:45  
16 fact, we are yet even to hear what motive Chief  
17 Superintendent McGinn is accused of having for any such  
18 malice. That Chief Superintendent McGinn acted in  
19 accordance with her duties is a matter of written  
20 record and is clearly apparent from the correspondence 16:45  
21 and documentation presented to this Tribunal. She has  
22 honestly set forth her evidence to this Tribunal and  
23 any doubting of her credibility is unwarranted, and any  
24 such assertion can only be made to pursue a version of  
25 events not grounded in fact. 16:46

26  
27 Chief Superintendent McGinn did not seek Garda Harrison  
28 out. Ms. Simms' mother and sister sought the  
29 assistance of An Garda Síochána in relation to his

1 conduct. As a serving member within her division Chief  
2 Superintendent McGinn was required to act as she did.  
3 And that is something that seems to be accepted,  
4 because on day 26 of this Tribunal, on the 27th  
5 September 2017, Ms. Simms herself accepted in her 16:46  
6 evidence that Chief Superintendent McGinn had a proper  
7 basis for action on foot of her statement of complaint  
8 and the statements and preceding reports from family  
9 members.

10  
11 It must also be remembered that Chief Superintendent 16:47  
12 McGinn had received a number of Garda reports  
13 concerning Garda Harrison prior to her appointment of  
14 Inspector Sheridan on October 2nd, 2013. Her actions  
15 were grounded in statements of fact. 16:47

16  
17 Any allegation of coercion that might be made as  
18 regards her statement must be considered in respect of  
19 what Ms. Simms has told this Tribunal and any  
20 assessment of Chief Superintendent McGinn's knowledge 16:47  
21 of any such alleged coercion must be seen in that  
22 light.

23  
24 In fact, having heard the evidence, the only reasonable  
25 conclusion is that at all reasonable times Chief 16:47  
26 Superintendent McGinn acted properly and in good faith  
27 and any actions she took were carried out in her role  
28 as chief superintendent in a professional manner, not  
29 motivated by malice against Garda Harrison.

1  
2 As regards the HSE or the Tusla reference, the only  
3 involvement Chief Superintendent McGinn had was to  
4 satisfy herself that the referral was being attended  
5 to, and that was entirely appropriate. Indeed, in that 16:48  
6 regard and in regard to the GSOC referral one would ask  
7 the question, had Chief Superintendent McGinn failed to  
8 act as she did one might ask what criticism she might  
9 then have faced in the absence of action.

10  
11 Thank you very much, Chairperson.

12 CHAIRMAN: Thank you very much, Mr. Power. Mr. Dwyer?

13  
14 SUBMISSION BY MR. DWYER:

15 MR. DWYER: Yes, Chairman. I appear with Mr. Gageby 16:48  
16 and Mr. Conlon - I think I might have overlooked a  
17 member of the legal team earlier in calling people into  
18 the record - representing Superintendent Kevin English  
19 and Superintendent James Coen. Ultimately, the  
20 Tribunal did not hear from either of those potential 16:48  
21 witnesses. The evidence referred to those two  
22 potential witnesses at different times, but the  
23 critical evidence, Chairman, from the point of view of  
24 making findings and conclusions with respect to both  
25 Superintendent James Coen and Superintendent Kevin 16:49  
26 English may be found in the transcript on the day of  
27 the 29th September, pages 78 to 79 onwards. And the  
28 witness, Garda Harrison, confirmed in cross-examination  
29 in relation to both of those witnesses, insofar as his

1 treatment was concerned, that he had no issues in  
2 relation to those witnesses, bar a small issue in  
3 relation to Superintendent Coen. The Tribunal may  
4 recall that Superintendent Coen had made an inquiry as  
5 to the address of Garda Harrison, but Garda Harrison 16:49  
6 confirmed in his evidence that the request to  
7 Superintendent Coen to make that particular inquiry  
8 came from Superintendent McGovern and that he was  
9 simply acting on a request from another officer.

10  
11 The Tribunal will recall, perhaps, that Superintendent 16:50  
12 English made his statement prior to the module  
13 commencing. Superintendent Coen made his statement  
14 during the module, arising out of, I believe, a request  
15 made for such a statement. That request was made, I 16:50  
16 think, by counsel for Mr. Harrison during the currency  
17 of the evidence of Chief Superintendent Sheridan.  
18 Ultimately, in any event, Chairman, having heard the  
19 cross-examination you stated then at page 78, going  
20 into 79: 16:51

21  
22 "Is there any need to call Superintendent Coen or  
23 Superintendent English in the light of that?"

24  
25 And following that day's hearing, Chairman, both 16:51  
26 Superintendent Coen and Superintendent English were  
27 informed that they would not be required as witnesses.  
28 So whilst there may have been some discrepancies and  
29 some potential controversies on foot of statements that

1 they had made, ultimately the evidence disclosed that  
2 there was no controversy or issue of any substance in  
3 relation to either of those witnesses.  
4

5 That concludes the submission. 16:51

6 CHAIRMAN: Mr. Harty?  
7

8 SUBMISSION BY MR. HARTY:

9 MR. HARTY: Yes, sir. The Tribunal will be aware that  
10 as important as it is to hear the evidence that it has 16:51  
11 received, just as one is analysing a canvas one doesn't  
12 just look at the action that is put in place or clearly  
13 visible, one must also look at the lacunae. One  
14 doesn't just see what actors are moving but also assess  
15 the inertia. What has been represented to the Tribunal 16:52  
16 today by way of closing submission on the evidence by  
17 the various parties, all I will say to the Tribunal is  
18 that that is one view of the evidence that was given by  
19 the various witnesses and that a closer examination of  
20 the evidence of those witnesses, which is clearly a 16:52  
21 role solely for the Tribunal, will reveal that it  
22 perhaps is not quite so serving of the parties who wish  
23 to have that particular colour put on that evidence.  
24 And I don't propose to take issue with any particular  
25 individual characterisation of the evidence made in 16:53  
26 closing submissions.  
27

28 what I will say to the Tribunal is that at a meeting in  
29 Blacklion, Chief Superintendent McGinn gave a

1 disciplinary file to Superintendent Mary Murray, and  
2 the Tribunal has a copy of that file, and the Tribunal  
3 will see from that file that much of what took place in  
4 terms of the statement of Chief Superintendent McGinn  
5 and the early stages of the investigation in this 16:53  
6 module are in fact reflected in that file for good or  
7 for ill. And to a certain extent that file contains  
8 matters which are not directly relevant to the matters  
9 that Superintendent Murray was asked to investigate nor  
10 indeed this Tribunal, but I accept, and I think it is 16:54  
11 fair to say, that when the matters were put before the  
12 Tribunal and appeared to show some relevance the  
13 Tribunal had to go into them.

14  
15 I would ask the Tribunal in particular to note one fact 16:54  
16 which is the anonymous letter, which Chief  
17 Superintendent McGinn said she only saw in March of  
18 this year when in fact she handed it to Superintendent  
19 Murray in February of 2014. And I would ask the  
20 Tribunal to inquire of itself: why was that letter 16:54  
21 there yet again? It would seem to me that it's purpose  
22 was to give a dog a bad name and to beat it. And much  
23 of what is contained in the statement of Chief  
24 Superintendent McGinn and the backstory is not there  
25 because it is probative, but because it puts a colour 16:55  
26 on the actions of Garda Harrison.

27  
28 In relation to the central matters - which are the  
29 taking of the statement on the 6th October, the meeting

1 of the 8th October, the steps taken by the Garda  
2 Síochána following that meeting - what I would say to  
3 the Tribunal is, firstly, I would ask the Tribunal to  
4 look at what was actually contained in the statement of  
5 evidence prior to evidence being taken out or being 16:55  
6 brought out by way of examination or cross-examination,  
7 but what detail was in fact offered first in relation  
8 to that? Then, I would ask the Tribunal to ask itself  
9 in relation to the statement which was sold or was  
10 proffered as evidence of serious criminal wrongdoing in 16:56  
11 the version of events that this Tribunal was asked to  
12 look at and the canvas that was being painted, when in  
13 fact it came to that meeting of the 8th October what is  
14 clear is that at that point already the Garda Síochána  
15 had decided they were not going to investigate this 16:56  
16 criminal activity. And then that gives rise to the  
17 question, one assumes, and indeed everyone's position  
18 is, that the Gardaí, if they believed there were  
19 serious threats to kill, would do something about it.  
20 And one remembers the evidence Mr. Wright from GSOC 16:56  
21 when he said that he would expect the Garda Síochána  
22 where they took such threats to be serious not to just  
23 sit back but to do something. But within minutes of  
24 the referral to GSOC being made it was clear and  
25 correspondence was issuing to say that this should not 16:57  
26 have been a section 102 referral. What did Chief  
27 Superintendent McGinn do? Nothing. What did Inspector  
28 Sheridan do? Nothing.  
29

1 That must give rise then to the question which must be  
2 foremost in the mind of this Tribunal, which is: Did  
3 An Garda Síochána believe that there were real and  
4 intended criminal threats made against Marisa Simms as  
5 relayed in the statement of Marisa Simms on the 6th 16:58  
6 October? It poses a conundrum for the Tribunal because  
7 if the Gardaí did believe there were such real threats  
8 then the Tribunal has to ask itself, why they did  
9 nothing. And it is a conundrum which I cannot see a  
10 clear answer on the evidence that has been heard by the 16:58  
11 Tribunal. Because excuses have been made to say that  
12 it was with GSOC and then there was to be a  
13 disciplinary file, but everybody accepts that in terms  
14 of the protection of a person who is the subject matter  
15 of threats the Gardaí were the only ones who could act. 16:58  
16

17 The matters then move on in terms of the HSE referral  
18 and yet again we have lacunae and absence of  
19 explanation and also inertia, we have partial  
20 explanations that the HSE were busy, we have the 16:59  
21 somewhat convoluted explanation of what happened  
22 between, in the correspondence between Mr. Hone and  
23 Superintendent McGovern and what people understood to  
24 have been the outcome of that, but what is clear is  
25 that after the 24th October 2013 nothing was done until 16:59  
26 phone calls were made between An Garda Síochána and  
27 members of Tusla at the end of January 2014. It is  
28 also clear that Tusla were not going to do anything  
29 prior to that contact with An Garda Síochána. And



1 insofar as there is an allegation contained in a  
2 letter -- and the precise details of such an allegation  
3 I say are not directly relevant, in that the precise  
4 format of them is somewhat irrelevant, but what is much  
5 more relevant is: why did Sergeant McGowan feel it 17:00  
6 necessary to ring somebody in Tusla, who she didn't  
7 identify, to say that the statement of complaint had  
8 been withdrawn? why did Ms. McTeague say that she  
9 spoke to Sergeant McGowan and give a version of events  
10 which is in fact not mirrored by her contemporaneous 17:00  
11 note which refers to her phoning to see what the  
12 progress was in the criminal investigation? And  
13 perhaps even more extraordinary, why or how did it come  
14 about Ms. Bridgeen Smith gave evidence that she had no  
15 contact between the 21st October 2013 and the 1st March 17:01  
16 2014, and on the last day of this module we received  
17 evidence which showed that certainly as of the 5th  
18 February 2014 she was saying she was in regular contact  
19 with Brigit McGowan?

20  
21 Now, those are questions which are difficult to answer  
22 and in fact I would suggest have not been answered.

23  
24 In relation to the other matters which follow on, which  
25 is the disciplinary matter, nothing again was done in 17:01  
26 relation to it until December, by which stage High  
27 Court proceedings stopped the disciplinary proceedings,  
28 but did not stop any criminal proceedings. And that is  
29 something which this Tribunal must be aware of; is that

1 never at any stage was there any bar on the criminal  
2 proceedings or the criminal investigation of that  
3 statement and yet never at any stage did any member of  
4 An Garda Síochána see fit to investigate it.

17:02

5  
6 Now it has been asked what proof is there of malice,  
7 what proof is there of an improper purpose, and that  
8 proof rests in the two letters of Chief Superintendent  
9 McGinn, the first requesting the suspension and the  
10 second requesting the appointment of a disciplinary  
11 officer. And in respect of those it is clear that the  
12 purpose here was not to criminally investigate the  
13 complaint but rather to rely on the complaint for the  
14 purpose of seeking a suspension, a removal from the  
15 division and potentially dismissal from An Garda  
16 Síochána following a disciplinary inquiry. And that  
17 was the actual purpose. And there is no evidence to  
18 suggest the contrary at all. Insofar as there are  
19 lacunae, they all point in that direction.

17:02

17:03

20  
21 And I will also just, at my client's request, thank the  
22 Tribunal for its assistance. It is certainly a matter  
23 for which a €1 stamp would not have provided him with  
24 the answers that he required. And that in relation to  
25 the question of a play, there are Pirandello plays that  
26 perhaps could describe the actions of the various  
27 parties in relation to the statement of Marisa Simms,  
28 but it's not Six Characters in Search of an Author,  
29 it's Henry IV, whereby one is engaged in a charade in

17:03

17:04

1 your actions.

2  
3 I have nothing further to say. Thank you.

4 CHAIRMAN: Thanks, Mr. Harty. I did say that if anyone  
5 wished to exercise a brief, and I really, really do 17:04  
6 mean brief, rebuttal that if they want to take that  
7 opportunity, just please indicate. If you don't --

8 MR. POWER: Yes, thank you, Chairman. Could I make two  
9 comments arising out of the submission made in due  
10 course? 17:04

11 CHAIRMAN: Yes.

12  
13 FURTHER SUBMISSION BY MR. POWER:

14 MR. POWER: Thank you, Chairman. Firstly, in relation  
15 to the file that was handed to Superintendent Mary 17:05  
16 Murray in Blacklion and the content of the file  
17 containing the anonymous letter, the uncontested  
18 evidence before this Tribunal was that Chief  
19 Superintendent McGinn was unaware of the letter  
20 notwithstanding it was enclosed within the file. I 17:05  
21 think that is a context that is very important, given  
22 the manner in which the submission was made to the  
23 Tribunal, given an impression that a particular single  
24 individual letter as an individual document was handed  
25 over. That is not how matters transpired. And I think 17:05  
26 my friend should have known better.

27  
28 And secondly, in relation to the late allegation of  
29 malice now made by Garda Harrison in respect of the

1 letters written by Chief Superintendent McGinn, those  
2 letters have been before the Tribunal and with Garda  
3 Harrison for a very long time, and the content of them  
4 speak for themselves, and were put to Chief  
5 Superintendent McGinn before this Tribunal, and the 17:06  
6 answers will speak for themselves, and in my respectful  
7 submission are no basis for any allegation of malice,  
8 even if put at this late stage. Thank you,  
9 Chairperson.

10 CHAIRMAN: All right. Mr. McDermott, you don't want to 17:06  
11 say anything, you're happy enough with what you have  
12 said already? All right, then that is the same as  
13 everybody else. Okay. Well, that is that for this  
14 little bit. There's obviously a good way to go in  
15 relation to the rest of the Tribunal. It's not 17:06  
16 something to be rushed at. I need to think about it.  
17 I will of course put something on the website as soon  
18 as is possible to indicate when a report will be ready  
19 in relation to this, not anything else, in due course.  
20 I am sure people would like more information than that, 17:06  
21 but I just can't give it at the moment. It requires  
22 some thought. So there it is.

23  
24 INQUIRY INTO TERM OF REFERENCE (N) THEN CONCLUDED  
25 PENDING THE CHAIRMAN'S REPORT 17:07  
26  
27  
28  
29

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