

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

ESTABLISHED BY INSTRUMENT MADE BY THE MINISTER FOR JUSTICE
AND EQUALITY UNDER THE TRIBUNALS OF INQUIRY (EVIDENCE) ACT
1921, ON 17 FEBRUARY 2017

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

HELD IN DUBLIN CASTLE
ON MONDAY, 10TH JULY 2017 - DAY 5

5

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1 THE HEARING RESUMED, AS FOLLOWS, ON MONDAY, 10TH JULY
2 2017:

3
4 **MS. LEADER:** Laura Connolly, please.

5 10:00

6 LAURA CONNOLLY, PREVIOUSLY SWORN, CONTINUED TO BE
7 DIRECTLY EXAMINED BY MS. LEADER AS FOLLOWS:

8
9 1 Q. **MS. LEADER:** Ms. Connolly, did you at any time work on
10 Sergeant McCabe's file on the direction of any member
11 of An Garda Síochána?

10:01

12 A. No.

13 2 Q. Did you at any time discuss what was on that file with
14 any member of An Garda Síochána?

15 A. No.

10:01

16 3 Q. I think in your statement to the investigators, you
17 said that you had a friend who was a member of An Garda
18 Síochána. Am I correct in that?

19 A. That's correct.

20 4 Q. Did you at any time discuss these Sergeant McCabe
21 matters with that friend?

10:01

22 A. No, I did not.

23 **MS. LEADER:** If you'd answer any questions anybody else
24 might have for you.

10:02

25
26 END OF DIRECT EXAMINATION BY MS. LEADER

1 MS. CONNOLLY WAS THEN CROSS-EXAMINED BY MR. MCDOWELL:

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5 Q. **MR. MCDOWELL:** Ms. Connolly, Michael McDowell is my name. I am one of the barristers representing Sergeant McCabe. Good morning.

10:02

A. Morning.

6 Q. Could I ask you to look to your statement, which is at volume 2 at page 381 of the papers, your original statement in this matter.

A. Okay, I will follow it from the screen.

10:03

7 Q. Have you got that?

A. Yes, it's here on the screen.

8 Q. Firstly, can you tell the Chairman the circumstances in which you came to make that statement on the 20th March of this year?

10:03

A. I was --

9 Q. Sorry, I can't hear you, I'm afraid.

A. I was contacted by Mr. Gerry Lowry, who is Area Manager for Cavan-Monaghan, at a date, I think, in February, to make me aware that I had had involvement with Mr. McCabe's file in 2014 and that there was a possibility that I would need to make a written statement, so it was from there and from further updates from Mr. Lowry I became aware I would need to make this written statement.

10:03

10:03

10 Q. I am having a bit of difficulty in hearing you. You wouldn't address the microphone in front of you there more directly.

A. Yeah.

1 11 Q. Okay. So you said Mr. Lowry contacted you, is that
2 right, in relation to this matter?
3 A. Yes, initially.

4 12 Q. And what was the nature of Mr. Lowry's contact with you
5 initially? what did he say to you? 10:04
6 A. He made me aware that I had had involvement on
7 Mr. McCabe's file and that I potentially may need to
8 make a statement in due course, that we would be
9 updated via Tusla's solicitors.

10 13 Q. Did he explain to you who Mr. McCabe was at the time? 10:04
11 A. No, not that I recall, no.

12 14 Q. Did you know at that stage who Mr. McCabe was?
13 A. No.

14 15 Q. Can we stop there. Mr. Lowry rings you up and says you
15 had involvement with Mr. McCabe's file and he says -- 10:04
16 he didn't explain to you who this man was that said he
17 might be in contact with you at a latter point, is that
18 your sworn evidence?
19 A. The identity of the adult wasn't the nature of the
20 call. Mr. Lowry was simply making me aware that I had 10:05
21 involvement on the file and that I may need to make a
22 statement. The individual wasn't the issue; it was my
23 involvement in the file that was the purpose of his
24 call.

25 16 Q. Yes. well, I am asking you, did he indicate what file 10:05
26 it was that you had involvement with?
27 A. Oh, he would have made me aware of the name of the
28 file, yes.

29 17 Q. And the name meant nothing to you at that stage, is

1 that correct, in 2017?

2 A. That's correct.

3 18 Q. I just want to be clear about that, because a lot
4 depends on the value that's attached to your testimony,
5 Ms. Connolly. Are you saying that in April of this 10:05
6 year you had never heard of Sergeant Maurice McCabe?

7 A. What I am saying is that, and as per my statement on
8 Friday, that Mr. McCabe was not a person of interest
9 for me, it was not someone of significance to me and
10 not a story in the media that I was following, and that 10:06
11 remains the case in 2017.

12 19 Q. You can say that somebody is not a person of interest
13 to you, and you might be indifferent to some stories in
14 the media, but I am asking you to state, equivocally or
15 unequivocally, is it your sworn testimony that when 10:06
16 Mr. Lowry asked you to make a statement in respect of
17 this file, he gave you the name of a surname and it
18 meant nothing to you whatsoever?

19 A. Yes.

20 **CHAIRMAN:** Could I intervene, Mr. McDowell, if you 10:06
21 wouldn't mind, for just a second. Ms. Connolly --

22 A. Yes.

23 **CHAIRMAN:** -- I don't think being asked to make a
24 statement is a usual thing for a social worker; I would
25 be right about that, I think. 10:06

26 A. That's correct.

27 **CHAIRMAN:** So you're effectively being asked to go to
28 court if you are going to make statement.

29 A. Yes.

1 **CHAIRMAN:** Or to a tribunal.

2 A. Yes.

3 **CHAIRMAN:** And would the penny not have dropped then,
4 look, this is something very, very different than what
5 I am used to, as opposed to this is a social work thing 10:06
6 where maybe something has gone wrong, that this is
7 going to be a public matter.

8 A. I was aware, and I suppose from Mr. Lowry, that this
9 was going to be a very different process than what I
10 was used to with regard to matters in the District 10:07
11 Court, but I suppose my point is that the identity of
12 the adult was of no difference to me; that, for me, the
13 issue was my practice on the file.

14 20 Q. **MR. MCDOWELL:** Could we go back to that. Mr. Lowry
15 told you something which led you to believe that this 10:07
16 statement was not just a mere District Court matter;
17 this was something going to be very different, is that
18 right?

19 A. Yes. I was aware it wasn't going to be something
20 within the District Court, yes. 10:07

21 21 Q. And did he explain to you why this was going to be
22 different from the District Court?

23 A. At that point, no, not at that call in February. There
24 were no further details, other than potentially I my
25 need to be making a statement as matters would unfold. 10:07

26 22 Q. And did you feel in any way curious as to why an
27 unusual process was being triggered in February of
28 2017?

29 A. Well, from my call with Mr. Lowry, I understood that

1 was something I was going to be made more aware of
2 through the Tusla solicitors.

3 23 Q. Oh, I see. So Mr. Lowry merely said you're going to
4 have to make -- alerted you to the fact that you were
5 going to have to make a statement, is that right? 10:08

6 A. That's correct.

7 24 Q. But he didn't tell you the context and he didn't --
8 although he conveyed to you it was an unusual case, he
9 didn't tell you anything which alerted you to why it
10 was unusual, is that right? 10:08

11 A. That's correct.

12 25 Q. And you didn't pick that up from your conversation with
13 him?

14 A. My focus at that time was about my practice and if my
15 practice was appropriate, that was my focus, not the 10:08
16 person whom the file related to.

17 26 Q. You were concerned about your own professional
18 standards, is that right?

19 A. I didn't state that. I stated my focus was on my
20 practice. 10:08

21 27 Q. Yes. And what do you mean by that? Explain that more,
22 then.

23 A. Well, what was my practice on the file was what my
24 query was, because I couldn't recall this particular
25 case. As the duty social worker, you work through 10:09
26 several cases in a day, and over a number of years I
27 can't recall specific cases, so my query was, what was
28 my practice on that date.

29 28 Q. I see. And you weren't aware of how Mr. Lowry thought

1 you were involved in the matter at all, is that right?

2 A. Sorry, just ask that question again, please.

3 29 Q. You weren't aware of how Mr. Lowry believed you were
4 involved with this file at all? He just mentioned a
5 name, a surname to you? 10:09

6 A. I did ask Mr. Lowry what the nature of my involvement
7 on the file was and he informed me that I had opened
8 intake records on the file.

9 30 Q. I see. And he just mentioned the surname to you, did
10 he, or did he mention the surname? 10:09

11 A. I expect that when I asked what was the file, that
12 Mr. Lowry informed me who the file was, so I expect I
13 got the full name.

14 31 Q. Yes. And that meant nothing to you?

15 A. No. 10:10

16 32 Q. So am I then to believe that the next step was that you
17 were expecting to be contacted by a solicitor in
18 relation to this matter, is that right?

19 A. Yes, via the area manager, yes.

20 33 Q. What solicitors contacted you in relation to this? 10:10

21 A. The solicitor didn't contact me directly. The area
22 manager was the point of contact for all communication
23 from the solicitor.

24 34 Q. I see.

25 A. So the area manager, in turn, forwarded group e-mails 10:10
26 to all those involved in the case to update them on
27 what the next steps would be, so that was the Tusla
28 legal team.

29 35 Q. So could you just answer the question: what firm of

1 solicitors were acting in this matter or was it
2 in-house solicitors?

3 A. In-house solicitors.

4 36 Q. I see. And who was your area manager at the time?

5 A. Mr. Lowry. 10:10

6 37 Q. Mr. Lowry. I see. Yes. Now, to whom -- can you
7 explain the process which led to you making this
8 statement on page 381 and 382 of the book, volume 2?

9 A. Yeah. The --

10 38 Q. Was it taken down or were you just asked to write it up 10:11
11 yourself?

12 A. This statement was written by me on my own. In
13 preparation for writing of the statement, I reviewed my
14 work diary. I also had opportunity to review the file
15 in Tusla headquarters in Dublin. Upon writing of the 10:11
16 statement, which I wrote on my own, I then gave it
17 directly to the Tusla solicitor.

18 39 Q. I see. Now I am asking you to think carefully about
19 this: when you were making out that statement and you
20 were given access to your work diary and you were given 10:12
21 access to the Tusla files, did you discuss the matter
22 with anybody else?

23 A. No, other than the group of staff that were involved
24 and who attended all of the consultation days in Tusla
25 headquarters. 10:12

26 40 Q. Well, just before we get -- who were the group of staff
27 with whom you may have discussed the matter before you
28 made your statement?

29 A. The discussion with the group involved all of those who

1 are attending at the Tribunal to assist with inquiries.
2 when I say spoke with other staff, that was about the
3 involvement in the actual process, not about -- sorry,
4 my statement has just went from the screen -- it wasn't
5 about the content of my statement. 10:12

6 41 Q. I see. well, now, we know from your evidence yesterday
7 that you say that you had no direct memory of any of
8 these events, isn't that right?

9 A. That's correct.

10 42 Q. So did it ever occur to you to discuss the matter with 10:13
11 work colleagues at the time with a view to refreshing
12 your memory or getting some handle on the file?

13 A. No. Because my team leader, who was then Eileen Argue,
14 was no longer in the service, and if I was to discuss
15 it with anyone, it would have been appropriate to have 10:13
16 discussed it with Eileen, but she is not currently an
17 employee of Tusla Cavan-Monaghan.

18 43 Q. I see. well, now, Ms. Argue, she was not at this point
19 in Tusla's service, is that right, in Monaghan?

20 A. Not currently, that's correct. 10:13

21 44 Q. But was there any reason why you wouldn't telephone her
22 to discuss the matter to refresh your memory?

23 A. I didn't feel that that was necessary.

24 45 Q. And did you contact any other fellow social workers to
25 try to get some context or handle on this file, given 10:13
26 that you had no recollection whatsoever of it yourself?

27 A. No, that wasn't necessary.

28 46 Q. I see. You made a statement, the substance of which is
29 in three paragraphs, stating that on the 30th April

1 2014, the third paragraph of your statement:

2
3 *"I was occupying the role of duty social worker in the*
4 *Child and Family Agency, Drumalee Cross, Cavan Town,*
5 *County Cavan. My 2014 work diary reflects that on the* 10:14
6 *day I was working as the duty social worker. The role*
7 *of the duty social worker at the time was to accept and*
8 *to respond to telephone calls from the general public*
9 *and professionals who wished to report child protection*
10 *and welfare concerns and to complete outstanding tasks* 10:14
11 *on cases awaiting allocation. Said cases were" -- I*
12 *take it that means -- "held in the filing cabinet in*
13 *the office used for staff then occupying the role of*
14 *duty social worker. My explanation for my involvement*
15 *with Mr. McCabe's file is that it was in the filing* 10:15
16 *cabinet and next in line for review by the duty social*
17 *worker."*

18
19 Can we take it from that last line in that paragraph
20 that you had been asked for an explanation of your 10:15
21 involvement?

22 A. That I specifically had been asked?

23 47 Q. Yes. You had been asked for an explanation of your
24 involvement.

25 A. No. That -- I don't interpret by that that someone 10:15
26 specifically asked me. That is me endeavouring to
27 assist --

28 48 Q. We're not engaged in interpreting it. I am just
29 asking, were you asked by anybody to furnish an

1 explanation of your involvement?
2 A. No. I don't specifically recall. No.
3 49 Q. Well, sorry, can you answer that question more clearly.
4 Is it that you weren't asked for an explanation or that
5 you can't specifically recall whether you were asked 10:16
6 for an explanation?
7 A. I don't believe I was asked to specifically give an
8 explanation.
9 50 Q. I see.
10 A. That statement and that sentence is about me trying to 10:16
11 put in context how I would have had access to the file
12 and why I would have had access to the file on that
13 date.
14 51 Q. Well, is the Tribunal to take it that you probably
15 weren't asked for an explanation of your involvement 10:16
16 with the file?
17 A. Probably weren't, yes. That's fair, yes.
18 52 Q. Yes. And the next paragraph reads:
19
20 *"On the 30th April 2014" -- that is the same day -- "it 10:16*
21 *appears that I reviewed Mr. McCabe's file and noted*
22 *that no intake records had been created in respect of*
23 *his children in 2006 or in 2013."*
24 A. That's correct, yes.
25 53 Q. That's correct. You noted there was no intake record 10:17
26 in respect of his children at that point, is that so?
27 A. That's so, yes.
28 54 Q. I am going to ask you, you must have reviewed the file
29 to find that -- to work out that there were children,

1 isn't that right?

2 A. That's correct, yes.

3 55 Q. And we will come to it later, but you must have
4 reviewed the file very, very carefully to discover that
5 were two children born after the alleged wrongful 10:17
6 touching incident in 1988/'89?

7 A. That information was on Ms. D's file and, yes, I expect
8 that I reviewed it to the point where I noticed.

9 56 Q. But it required you to read - let's be clear about
10 this - it required you to read the file very 10:18
11 extensively and to get to the point where there was a
12 description of a visit to Ms. D's father's home and it
13 required you to go down through all of that to get to
14 the detail that he had casually mentioned there were
15 two further children, isn't that right? 10:18

16 A. Yes, that's fair, yes.

17 57 Q. So you must have studied the file very, very carefully,
18 isn't that right?

19 A. I obviously read it to the point where I noticed those
20 details there, yes. 10:18

21 58 Q. Were you looking for evidence of children when you
22 commenced the study of the file?

23 A. Well, on --

24 59 Q. Or did you just notice it?

25 A. On Mr. McCabe's file, the written report from Rian 10:18
26 makes reference to two children.

27 60 Q. Yes.

28 A. So I was aware from there that there were at least two
29 children.

1 61 Q. Now, would you answer the question. Were you looking
2 for references to children when you checked through the
3 file, or did you just happen to notice it?
4 A. It is practice that if we have other files in the
5 department that link with each other, that the other 10:19
6 file would be reviewed. I can't specifically state if
7 I was reviewing the file for the purpose of identifying
8 children. I expect that, in reviewing it, I noticed
9 that there was information to further identify
10 children. 10:19
11 62 Q. Well, what was your purpose, before you noticed there
12 was no intake record in relation to children, what was
13 your purpose in reviewing the file at that point?
14 A. I expect that my purpose was to determine if there was
15 any other information on Ms. D's file that may be 10:19
16 relevant for Mr. McCabe's adult file.
17 63 Q. For Mr. McCabe's?
18 A. Mr. McCabe's adult file.
19 64 Q. I see. So you were reading the file very carefully at
20 the time, is that right? 10:19
21 A. I expect that I was affording it an appropriate level
22 of attention, yes.
23 65 Q. You say on the 30th April you wrote a case note to
24 Eileen Argue, the then-acting social work team leader,
25 requesting direction in respect of creating intake 10:20
26 records regarding the McCabes' children, is that right?
27 A. That's correct.
28 66 Q. Are you referring there to the two pages at 428 and
29 429?

1 A. Yes, that's correct.

2 67 Q. Just so that I should be clear about this, are they, to
3 the best of your recollection, one single document or
4 are they two separate documents created on the same
5 day? 10:20

6 A. Those two pages are created on the same day.

7 68 Q. I didn't ask you that. would you answer the question I
8 put to you. Are they a single document, or are they
9 two separate documents created on the same day?

10 A. That's a single document created on the same day. 10:21

11 69 Q. Sorry, were both of them together when you finished,
12 when you signed the document on the second page there,
13 page 429, was it a continual document or was it a pair
14 of documents?

15 A. That's page 1 and page 2, they are a continual 10:21
16 document.

17 70 Q. I see. So is it your recollection that you wrote that
18 note, consisting of two pages, to Eileen Argue, is that
19 right?

20 A. Yes, that's my handwriting, yes. 10:21

21 71 Q. And how would it get from you to her on that day?

22 A. I would leave that in the duty room for the attention
23 of the social work team leader.

24 72 Q. And would you have left the file with it?

25 A. Yes, I would have left all files. 10:22

26 73 Q. So Ms. Argue would have received this note on top of
27 the file, is that right, the files that you were
28 concerned with?

29 A. That's correct, that note and the two files: the adult

1 file in respect of Mr. McCabe and Ms. D's file.

2 74 Q. I see. So I just want to understand this very, very
3 clearly. As far as you're concerned, you took out the
4 McCabes' file, family file, is that right, which was a
5 different document from the one in which there was no 10:22
6 intake file? You had two files at this stage, had you?

7 A. The two files at this point were the adult file in
8 respect of Mr. McCabe and Ms. D's file. There was no
9 file on Mr. McCabe's children at that point.

10 75 Q. Yes. So you had two files on your desk. And then you 10:22
11 put this document on top of those two files, is that
12 right?

13 A. That would be correct, yes.

14 76 Q. And you left it for Ms. Argue to come across in a tray,
15 is that right? 10:23

16 A. Yes. In the duty room we had a tray for referrals,
17 that was all of the new intake records created, and
18 there was also a tray then for social work team
19 leader's attention for any files that needed review by
20 social work team leader. 10:23

21 77 Q. Yes.

22 A. So I would have left this file in that specific tray
23 for her attention.

24 78 Q. Yes. And somebody, either Ms. Argue comes into the
25 room and takes up the two files and the cover-note or 10:23
26 somebody brings it to her, is that the procedure?

27 A. Procedure would have been that Ms. Argue would notice
28 the files in the tray for team leader review and review
29 them from there, be it take it to her office or review

1 them there and then in the duty room.

2 79 Q. I see. You headed it "*McCabe children*"?

3 A. That's correct, I did.

4 80 Q. Did you -- at that point, how did you head it "*McCabe*
5 *children*" if you hadn't discussed the matter with 10:24
6 Ms. Argue before that?

7 A. That's to alert her to the fact that the contact sheet
8 relates to the McCabe children and not Mr. McCabe and
9 not Ms. D and not anyone else.

10 81 Q. I see. But are you saying that you had no discussion 10:24
11 with Ms. Argue before you wrote her that note?

12 A. No, I expect not.

13 82 Q. Why would you expect not?

14 A. If perhaps the screen could just be scrolled up for me.

15 83 Q. Which page of your statement are you looking for? 10:24
16 A. Just on page 1 of that statement, I am just reviewing
17 it, that this a note to Eileen to say that I have
18 checked the system and we have no record of file on
19 Mr. McCabe's two children. I have no reason to suspect
20 that I had a prior discussion with her about this. 10:25

21 84 Q. I see. But you must have discussed it with her at some
22 point during the day?

23 A. Subsequent to the note, based on my two or three
24 sentences at the end of the contact sheet, Ms. Argue
25 obviously reviewed the note and gave me verbal 10:25
26 direction, because I have that recorded at the end.

27 85 Q. Because you asked a question: "*How do you want to*
28 *proceed regarding the McCabe children?*"
29

1 And then if my reading is correct, you say:
2
3 *"Case direction from Eileen: complete intake records*
4 *x4 on children."*

5 A. That's correct. 10:25

6 86 Q. So you must have added that last bit after the
7 discussion, isn't that right?

8 A. That would be right.

9 87 Q. Yes. And are you saying that -- well, can you
10 recollect the discussion you had? 10:26

11 A. No, I don't recall the discussion.

12 88 Q. Well, are you saying -- are you telling the Tribunal
13 that you didn't have a discussion with Ms. Argue before
14 you started carefully going through this file, looking
15 for details of the McCabe children? 10:26

16 A. I have no recollection of any involvement in this case.
17 The contact sheet doesn't suggest to me that I had a
18 conversation with Eileen prior to writing this note.
19 It clearly outlines I had a conversation with her after
20 the note, but I can't say definitively about 10:26
21 beforehand.

22 89 Q. I see. Is there any reason why, if you were spending a
23 lot of time going through this file, you wouldn't have
24 discussed it with her as your team leader?

25 A. In the busyness of the office environment and the 10:26
26 busyness of the demands on the team leader, I expect
27 that I proceeded to review the file and make the note
28 for Eileen to review in due course as and when
29 opportunity arose for her.

1 90 Q. But the opportunity arose instantly on the day, isn't
2 that right?

3 A. It appears it did, yes.

4 91 Q. So it wasn't a reference to be dealt with in due
5 course. This was something which was, a query put on 10:27
6 the day and got back fairly a immediate response which
7 enabled you to start work on the rest of the child
8 intake forms during that day, isn't that right?

9 A. Yes, direction was received from Eileen on the same
10 day. 10:27

11 92 Q. So can the Tribunal say that you probably spent most of
12 that day on this file?

13 A. I can't recall how long I spent on this file on the
14 30th April.

15 93 Q. Well, you had to read it very carefully, we know that, 10:27
16 and you had to read the associated file very carefully
17 to get the detail from it, you had to prepare a Garda
18 notification form and had you to interaction with
19 Ms. Argue as to whether or not you should prepare
20 separate children notification forms and you had to 10:28
21 then go and prepare each of those four separate
22 children forms at a later stage, isn't that right?

23 A. That's correct, yes.

24 94 Q. So it must have taken you the bones of a day to do all
25 of that, isn't it? 10:28

26 A. I can't proportion what length of time I spent on the
27 file. I don't expect I would have spent all day,
28 however, but I can't proportion how many hours in the
29 day I would have spent.

1 95 Q. well, to read through the original file to get to the
2 point where Mr. D is giving an account, a detailed
3 account of his involvement in the matter and his
4 daughter's involvement in the matter and is setting out
5 that there are two other children, and giving you those 10:29
6 names, that is not something you would have done in
7 half an hour or twenty minutes?

8 A. No, that is a reasonable assumption. I don't expect I
9 spent all day on the file, but, in the same vein, I
10 can't state how long I spent on the file on that given 10:29
11 day.

12 96 Q. I see.

13 **CHAIRMAN:** If I can again just intervene here,
14 Ms. Connolly.

15 A. Yes. 10:29

16 **CHAIRMAN:** Mr. McDowell is possibly asking you these
17 questions because if you come to this, I suppose, with
18 no prior involvement and you just read this note here,
19 that's I think hopefully on the screen in front of you,
20 at 428, it's like as if -- it's like as if it is a 10:29
21 conversation. So you reply and say 'Eileen, here's the
22 situation'.

23 A. Okay.

24 **CHAIRMAN:** It may look, and that's why you're being
25 asked the question -- 10:29

26 A. Right.

27 **CHAIRMAN:** -- as if you had a prior conversation and
28 therefore you are writing a note and sending it in.

29 A. Okay.

1 **CHAIRMAN:** Do you see the point? That seems to be the
2 entire point.

3 A. Yes, okay. I can't specifically recall if I had a
4 conversation prior to writing the note to Ms. Argue. I
5 can state that there was obviously a conversation after 10:30
6 that, but before that I can't state.

7 97 Q. **MR. MCDOWELL:** Now, Ms. Connolly, in the course of this
8 statement that you prepared, knowing that this was an
9 unusual matter, and it wasn't a run-of-the-mill
10 District Court matter, you prepared this statement and 10:30
11 signed it on the 20th March 2017, isn't that right?

12 A. Yes. If perhaps I could get back to the statement,
13 please.

14 **CHAIRMAN:** 381.

15 A. Thank you. 10:30

16 **MR. MCDOWELL:** And we know from your interview with the
17 investigators, which is also among the documents given
18 to us, that you had had two separate opportunities to
19 review the files in this matter prior to making that
20 statement, isn't that right? 10:31

21 A. Prior to making this statement?

22 98 Q. No -- yes, prior to making this statement, that you had
23 had two separate opportunities to review the files, you
24 told the investigators that.

25 A. If that's what I have stated, then that's accurate, 10:31
26 yeah.

27 99 Q. You clearly had some opportunity. How many times? Did
28 you dispute that it is two, because you told the
29 investigators you had two opportunities to review the

1 files before you made that statement.

2 A. No, I'm not disputing that. If that is what is in my
3 statement, that is accurate.

4 100 Q. This is all this year, you know, so this isn't in the
5 distant past. So I am asking you, did you have two 10:31
6 separate opportunities to consult the file before you
7 made that statement on the 20th March?

8 A. If that is in my statement, that is accurate.

9 101 Q. But you have no recollection now as to whether that is
10 the case; you're only relying on the fact that you told 10:32
11 the investigators that, is that right?

12 A. At this point I have attended numerous meetings in
13 preparation for the Tribunal to date, so it is very
14 difficult for me to state how many times I viewed the
15 file, but if it is in my statement I absolutely accept 10:32
16 then I viewed it twice.

17 102 Q. Did you ever at any of those meetings discuss the files
18 with anybody?

19 A. No, my focus was with regard to my practice on the file
20 and not being concerned about anyone else's practice on 10:32
21 the files.

22 103 Q. I just want to be clear about that. You had
23 opportunities to review the file before you made your
24 statement, but at none of the numerous meetings that
25 you had have you discussed the file with any of your 10:32
26 fellow workers, is that right?

27 A. Discuss the file in what respect?

28 104 Q. Discuss the files, the original files, with any of your
29 fellow workers?

1 A. My focus has been on my own involvement in this file --
2 105 Q. I'm not asking you what your focus is. I just am
3 asking you a simple question: are you saying that you
4 did not discuss the files with any of your fellow
5 social workers? 10:33
6 A. Well, discussed in what context?
7 106 Q. At any of the meetings in any context whatsoever.
8 A. Well, the focus of all meetings that we attended was
9 about preparation for the Tribunal, so there would have
10 been discussion about the files. 10:33
11 107 Q. I see.
12 A. But my focus has been my involvement and my practice.
13 108 Q. I see. I just want to know, fairly simply, have you
14 ever had an opportunity to discuss the file and your
15 note with Ms. Eileen Argue? 10:33
16 A. I haven't identified a need to discuss that with
17 anybody.
18 109 Q. Will you answer the question. Have you ever discussed
19 it with Eileen Argue? It's not whether you had a need
20 to do so -- 10:33
21 A. No, with Ms. Eileen Argue, no, I have not, no.
22 110 Q. Pardon?
23 A. With Ms. Eileen Argue, no, I have not.
24 111 Q. I see. Now, you finished your statement on the 20th
25 March by a signature and you said you had no further 10:34
26 involvement in respect of the case, isn't that right ?
27 Immediately above your signature, isn't that right?
28 A. Yes, if I could move to page 2, please -- or 382.
29 That's correct.

1 112 Q. Now, can you take some time to answer this question.
2 How come, in the whole of that statement, which was
3 prepared for the purpose of this investigation, how
4 come you never referred to the misreading of the report
5 from Ms. Brophy? 10:34

6 A. Yeah, absolutely.

7 113 Q. Take your time now.

8 A. No, I am glad you have asked this question. The first
9 written report from Rian was not on the file at any of
10 the times that I've reviewed the file this year in 10:35
11 preparation for the Tribunal. The first sight that I
12 have had of that first written report by Rian was at my
13 investigators interview on the 23rd June, and it's for
14 that reason that that is not referenced in my
15 statement. It was only on that date, on the 23rd June, 10:35
16 that I became aware that Ms. Y's surname was in the
17 body of that report. My statement as of the 20th March
18 is an accurate reflection at that time of my
19 involvement in the case.

20 114 Q. I just want to understand this. So that you never at 10:35
21 the time, when you looked carefully at all the files in
22 front of you, you never understood that you had made an
23 error at all, is that right?

24 A. That's correct.

25 115 Q. And it was only in the last few weeks that you became 10:36
26 aware for the first time that you had made a fairly
27 catastrophic mistake here, is that right?

28 A. Absolutely, that is correct.

29 116 Q. And in all of the discussions which led up to that, did

1 anybody alert you to the fact that Ms. Y's name
2 appeared in respect of the allegation of digital
3 penetration?

4 A. No.

5 117 Q. Nobody did? 10:36

6 A. Nobody did.

7 118 Q. None of your colleagues, your solicitor, nobody ever
8 said to you, by the way, Ms. Y's -- that reference to
9 digital penetration referred to another person
10 completely? 10:36

11 A. Nobody made me aware of that until the 23rd June.

12 119 Q. Does that surprise you now, in retrospect, that people
13 who were aware of it never alerted you to this fact?

14 A. It's my understanding that other staff in the
15 department, and including Tusla solicitors, were not 10:37
16 aware either until 23rd June that Ms. Y's name was in
17 the body of that first report from Rian. I am open to
18 correction on that, but that is my understanding.

19 120 Q. I see. well, does it follow from what you are saying
20 that when you sent the note to Ms. Argue, that it 10:37
21 was -- that you were sending her the file as well, is
22 that right?

23 A. I would have attached both Mr. McCabe's file and
24 Ms. D's file with that note.

25 121 Q. And she would have had to have read the file to give 10:37
26 you the direction in question, wouldn't she, to open
27 children's documentation?

28 A. I can't say for certain if Ms. Argue reviewed the file.
29 She may have just followed the information I had in the

1 written note.

2 122 Q. So you asked her, 'how do you want me to proceed
3 regarding the McCabe children?'

4 A. I did, that's right.

5 123 Q. And you record her, obviously after the conversation, 10:38
6 as: *"Case direction from Eileen: complete intake*
7 *records x4 on the children."*

8 A. That's correct.

9 124 Q. Are we to take it -- I mean, I am asking you now, and
10 you are good at the usual practice, would you have 10:38
11 expected Ms. Argue to look at the file before she gave
12 you such a direction?

13 A. I can't state if Ms. Argue reviewed the files or not,
14 and perhaps that is something she will be able to
15 assist with in her evidence to the Tribunal. 10:38

16 125 Q. Yeah, I'm asking you about your expectation on the
17 ordinary practice. would you have expected her to
18 review the file before she gave you that direction?

19 A. Not necessarily. She may have been satisfied to follow
20 the information that I had on the contact sheets. 10:38

21 126 Q. Sorry, she may have been what?

22 A. She may have been satisfied with the review that I had
23 undertaken and the information that I had presented
24 based on the review.

25 127 Q. what you said was: she may have been satisfied to 10:39
26 follow the information that I had on the contact
27 sheets?

28 A. Yes, pertaining to the review that I had completed on
29 the files.

1 128 Q. So you would have expected her to read the contact
2 sheets, is that right?

3 A. I would have expected her to read my written note to
4 her, yes.

5 129 Q. No. Your written note to her is not the contact sheet, 10:39
6 Ms. Connolly, as you well know. Did you supply her
7 with draft contact sheets?

8 A. The contact sheets, sorry, that I'm referring to are
9 428 and 429. That's my contact sheets. They would
10 have been attached to the two files. 10:39

11 130 Q. I see. And what information did that give her about
12 the McCabe children?

13 A. That made her aware that we had no family file on the
14 McCabe children dating back to 2007, nor currently.

15 131 Q. Let's go through it again: 10:40
16
17 *"Eileen, having checked system we have no record on*
18 *file of Maurice McCabe's two children at the time based*
19 *on the Ms. D file. I suspect those two children are*
20 *blank and blank" -- presumably. 10:40*
21
22 *"I deduce that those two girls are now aged 18 years*
23 *upwards, based on notes on Ms. D's file. Maurice's two*
24 *other children who weren't born at the time of alleged*
25 *contact..." 10:40*
26
27 And I presume there are two names under that, is that
28 right?

29 A. That's correct, yes.

1 132 Q. "... deduce that those two children are under 18 years
2 now. How do you want to proceed regarding McCabe
3 children?"
4
5 Are you seriously suggesting that she could make a 10:40
6 decision based on that letter, that note?
7 A. She may have felt that that was satisfactory or she may
8 have reviewed the files. I can't say for certain.
9 133 Q. Well, an important decision of this kind, which you 10:41
10 were referring to her for directions on, would
11 presumably require a bit of reflection on her part and
12 require her to make herself knowledgeable about what
13 decision she was actually making?
14 A. That's correct.
15 134 Q. So is it fair to say you would have expected her to 10:41
16 read the file before she gave you direction?
17 A. Ms. Argue may have reviewed the file, I can't
18 specifically state.
19 135 Q. I'm asking you would you have expected her to do it in 10:41
20 response to your note, or did you think your note, by
21 itself, was enough for a quick thumbs-up or
22 thumbs-down, open files on these children?
23 A. I expect that if Eileen felt that the note wasn't clear
24 enough, that she would have reviewed the two files for
25 further clarification. 10:42
26 136 Q. This was an important decision, wasn't it?
27 A. Yes.
28 137 Q. Because, let's be very clear about it, this was a
29 decision that files were to be opened which would have

1 to be followed up on eventually --

2 A. Yes.

3 138 Q. -- in respect of four children, two probably adults,
4 two probably minors, the gist of which was that their
5 father had committed an indictable offence of rape by 10:42
6 inserting his finger into the orifices of a child some
7 time earlier. That's the decision that's being made,
8 isn't that right?

9 A. That's correct.

10 139 Q. And that they may need protection? 10:42

11 A. Yes.

12 140 Q. And that their mother may need to be informed of all of
13 this. Are you saying that you have any doubt
14 whatsoever that you would have expected Ms. Argue to
15 read the file before she made her mind up on this 10:42
16 issue?

17 A. It would be good practice for team leader to also
18 review the file.

19 141 Q. But you can't say what you expected?

20 A. No. 10:43

21 142 Q. Are you trying to cover for her at this stage?

22 A. Absolutely not.

23 143 Q. You have no expectations -- what you are saying on your
24 sworn oath, that you had no expectation at the time as
25 to whether she would bother to open the file or not 10:43
26 before answering your query, your request for
27 directions?

28 A. What I am saying is that it would be good practice for
29 the team leader to review the file in addition to any

1 contact sheet from the social worker.

2 144 Q. Could we agree with the following proposition: it
3 would be very bad practice for her to make a decision
4 without looking at the file at all, given that you had
5 sent it in to her? 10:43

6 A. To make an informed decision, it would be good practice
7 to review the file.

8 145 Q. Would it be bad practice not to do so?

9 A. I'm not certain that it's a fair statement to say that
10 it would be bad practice. If Eileen didn't review the 10:43
11 file, I expect that she was relying on my judgment in
12 this case and hoping that I had reviewed the file to a
13 good enough standard.

14 146 Q. I see. In your conversations with Ms. Argue, did she
15 appear to know who Maurice McCabe was on the 30th April 10:44
16 2014?

17 A. I have been clear in my statement and in my evidence on
18 Friday that I have no recollection of my involvement in
19 this case, never mind conversations with Ms. Argue, so
20 I can't be certain if Ms. Argue had any recollection of 10:44
21 her past involvement. And I'm aware she had past
22 involvement from the information that Ms. Leader
23 presented on Friday.

24 147 Q. Yeah. We do know that she had involvement stretching
25 right back to 2007 with Ms. D, isn't that right? 10:44

26 A. That's correct, yes.

27 148 Q. Are you saying that in your conversations with her you
28 have no recollection of her intimating whether she was
29 conversant with Ms. D's circumstances or not?

1 A. I have no recollection.

2 149 Q. I see. So I just want to be clear about this, because
3 every witness comes after another witness; as far as
4 you know, Ms. Argue never intimated to you that she had
5 prior involvement with the file or that she knew the 10:45
6 significance of Maurice McCabe's name?

7 A. Again, I have no recollection of any specific
8 conversations or direction with regard to this case, so
9 I can't answer that question categorically.

10 150 Q. I see. It may have been the case that you did? 10:45

11 A. My position remains, I can't answer that question.

12 151 Q. No, but you're not excluding it, that she intimated to
13 you that she had prior knowledge of this case and that
14 the name Maurice McCabe was of significance to her?

15 A. Yeah. Look, again, I have no recollection, so I can't 10:46
16 confirm or deny.

17 152 Q. I see.
18 **CHAIRMAN:** well, can I interrupt at this point to
19 say --

20 A. Yeah. 10:46

21 **CHAIRMAN:** -- if there was a conversation such as this,
22 oh, my goodness, that's the man the Garda Commissioner
23 resigned over, would that stick in your mind?

24 A. I expect that would, yes.

25 **CHAIRMAN:** And, well -- 10:46

26 A. No, I have no recollection, none whatsoever. And
27 again, as per my evidence on Friday, this file for me
28 was in no way different to any other adult file that I
29 worked on. There was no significance on it to me.

1 153 Q. **MR. MCDOWELL:** Now, could you I bring you to page 456.
2 No, I will come back to that a later point, if I may.
3 When you examined the file, you saw that Keara McGlone
4 had written to Superintendent Cunningham, isn't that
5 right, in Monaghan Garda Station, on the 15th August 10:47
6 2013, the previous year, isn't that right?
7 A. I am aware of that, yeah, that letter is on file, yes.
8 154 Q. So you were aware that she had asked
9 Superintendent Cunningham to contact her or to meet
10 with her in relation to this matter, isn't that right? 10:48
11 A. That's right.
12 155 Q. When you saw that letter, is it fair to assume that you
13 would have expected that such a meeting had taken
14 place?
15 A. Should that meeting or should any telephone contact 10:48
16 have taken place, I'd have expected that there would be
17 a reflection of that on the file.
18 156 Q. So, well I just want to be clear about this now. Are
19 you saying to the Court -- to the Tribunal, that
20 because there was no reply from 10:48
21 Superintendent Cunningham, you assumed that he had
22 never had a telephone conversation with Ms. McGlone?
23 A. That would have been my assumption, yes.
24 157 Q. So you were assuming that this perfectly reasonable
25 letter had at this stage gone unanswered for nine 10:48
26 months and that Superintendent Cunningham was, so to
27 speak, sitting on the matter and not contacting anybody
28 in your service, is that what you are saying?
29 A. Well, I can't answer for Superintendent Cunningham.

1 158 Q. No, I am not asking you to answer for
2 Superintendent Cunningham, but I am asking for your
3 view of the matter.

4 A. Yes, my view of the matter would have been that the
5 telephone contact or the meeting or any exchange of 10:49
6 information hadn't taken place as it wasn't reflected
7 on the file.

8 159 Q. That was a very surprising failure, wasn't it?

9 A. I suppose there's an expectation that there would have
10 been a response -- 10:49

11 160 Q. Yes.

12 A. -- given the timeframe that elapsed.

13 161 Q. Yes. I mean, Ms. McGlone would have expected to get a
14 fairly quick response from Superintendent Cunningham,
15 and you, looking at his letter, would have assumed that 10:49
16 there must have been some kind of response; that he
17 wouldn't just have simply ignored a letter for nine
18 months?

19 A. Yes.

20 162 Q. So you did assume that there was some kind of response? 10:49

21 A. I assumed that -- there was no reflection of a response
22 on file, so I assumed that there was no response.

23 163 Q. I see. So we're to take it that the file, because the
24 file didn't have a response on it, you were operating
25 on the assumption that Superintendent Cunningham had 10:50
26 not replied?

27 A. That's correct.

28 164 Q. And did yourself or Ms. Argue, to whom this was obvious
29 at the time, did either of you discuss contacting

1 Superintendent Cunningham to follow up on this if you
2 believed he had lapsed in his ordinary standard of
3 civil manners to reply?

4 A. I have no recollection of any conversation with
5 Ms. Argue in that regard. With the benefit of 10:50
6 hindsight, yes, this is something that I should have
7 brought up for team leader to follow up on.

8 165 Q. And if she looked at the file, it should have jumped
9 off the file at her that Ms. McGlone had sought a
10 meeting or a conversation before any approach was to be 10:51
11 made to Sergeant McCabe, isn't that right?

12 A. Yes, if she reviewed the file, yes, you would expect
13 she would have noticed that also.

14 166 Q. So are we to take it that not merely you, but you, in
15 conversation with Ms. Argue, just ignored that fact, 10:51
16 that this letter had gone unanswered at the time?

17 A. Again, I don't recall a conversation with Ms. Argue
18 about the letter. But I expect, on reviewing the file,
19 that I did notice -- or I'd expect, on reviewing the
20 file, in noticing that there was no response, that it 10:52
21 is something that we didn't follow up on.

22 167 Q. I see. And in determining whether you should or should
23 not notify the Gardaí, bearing in mind that it was
24 clear from the file that they had prior knowledge of
25 Ms. D's allegation, surely the first thing that would 10:52
26 have occurred to you was to follow up on Keara
27 McGlone's request for information from
28 Superintendent Cunningham?

29 A. I'm of the belief that when I reviewed the file, the

1 action by the team leader on 9th August was for duty to
2 Garda notify. This letter to Superintendent Cunningham
3 was the 15th August and I expect that the assumption
4 was on my part that if the direction to Garda notify
5 was to be amended, it would have been amended given 10:53
6 that the letter came after the direction. So it was an
7 assumption on my part that the task to -- duty to guard
8 notify, still stood, and that's the reason I proceeded
9 to notify the guards.

10 168 Q. So you're assuming it wasn't answered and the 10:53
11 notification still stood, is that right?

12 A. No. I'm assuming that when Ms. McGlone didn't amend
13 the direction to Garda notify on the 9th August - this
14 letter was dated 15th August - I assume that,
15 regardless of the response from Noel Cunningham, that 10:54
16 the action for duty to Garda notify still stood.

17 169 Q. Perhaps we can get up the Garda notify page on which
18 you were operating.

19 **CHAIRMAN:** Mr. McDowell, I wonder just before you move
20 to that point, could I just ask one question in 10:54
21 relation to that. We have obviously seen a few files
22 and it seems unusual to have a letter to a
23 superintendent from a senior social worker basically
24 asking, look, I need to talk to you about this and
25 here's my telephone numbers, three of them, my address. 10:54
26 I don't know, when you saw that, did you say, well,
27 this is odd, I wonder, what is going on, or did
28 anything occur to you at all? well, is it odd to start
29 out with, I suppose, is the thing?

1 A. It's not unusual that correspondence would be forwarded
2 to the superintendent. I'm again of the belief that
3 because the letter is dated after the date that the
4 direction was given to Garda notify, that the task to
5 Garda notify still stood. 10:55

6 **CHAIRMAN:** No, it's not so much that; it's the whole
7 notion of, look, here she is, she is writing to the
8 superintendent and she is only using initials and she
9 is clearly seeking a meeting. Why is this case
10 different? 10:55

11 A. Yeah.

12 **CHAIRMAN:** Why ask for those things --

13 A. Yes.

14 **CHAIRMAN:** -- I suppose is the kind of train of thought
15 that might occur to you, I don't know. 10:55

16 A. Yes. At the time, it obviously didn't register any
17 significance to me.

18 **CHAIRMAN:** So, Mr. McDowell, you were going on to the
19 Garda notification.

20 170 Q. **MR. MCDOWELL:** I was going to ask you about that page, 10:55
21 and I temporarily mislaid the page. I wonder could
22 somebody help.

23 **CHAIRMAN:** Ms. Leader, can you help?

24 A. The intake record is at page 2194 of volume 9.

25 **CHAIRMAN:** Is that the Garda notification? 10:56

26 **MS. LEADER:** Yes, it is the intake record created for
27 Mr. McCabe's file --

28 **CHAIRMAN:** 2194, is it?

29 **MS. LEADER:** Yes. I think that is the page

1 Mr. McDowell wants.

2 171 Q. MR. MCDOWELL: If you look at page 2194, as I read it,
3 at the bottom there's *"Duty to Garda notify and await*
4 *allocation MTP"*. But above that, in part 16, there's a
5 line through the box marked *"Notified to An Garda* 10:57
6 *Síochána"*.

7 A. Mm-hmm.

8 172 Q. A tick through it. What did that convey to you?
9 A. That conveys to me that duty is to Garda notify.

10 173 Q. No, I'm asking you about the *"Notified to An Garda* 10:57
11 *Síochána"*.

12 A. Yes.

13 174 Q. Ticked through?
14 A. Yes.

15 175 Q. What does that by itself convey to you? 10:57
16 A. For any, if you want, lay person reading that, you
17 would assume that that means it has already been
18 notified to An Garda Síochána. Unfortunately, the
19 action box doesn't give us scope to indicate the task
20 has yet to be done. So that box would be ticked to 10:58
21 indicate that the duty social worker is to Garda
22 notify. That does not indicate to me that the
23 notification has already been completed.

24 176 Q. So it's in the past tense and it's ticked, but you say
25 that it conveys to you that it was something which yet 10:58
26 required to be done?

27 A. That's correct. And the handwritten note below further
28 reinforces that, *"Duty to Garda notify"*.

29 177 Q. And am I to take it from all of that, that despite the

1 fact that there was no reply from
2 Superintendent Cunningham and despite the fact that one
3 would have expected him to reply and have some kind of
4 conversation with Ms. McGlone and especially in view of
5 the fact that she had never, on the file, indicated 10:59
6 that she was following up her inquiry for failure on
7 the part of Superintendent Cunningham to reply to it,
8 that you assumed that no response had come from
9 Superintendent Cunningham?

10 A. That's correct, yes. 10:59

11 178 Q. Is that correct?

12 A. That's correct, yes.

13 179 Q. Now, at any point in 2014, because we know that almost
14 immediately after you had completed these reports,
15 almost within days, a problem was emerging for your 11:00
16 service, isn't that right, we know that now?

17 A. How do you mean a problem was emerging?

18 180 Q. The notification which you had drawn up was, in the
19 month of May, rapidly appreciated to have been a
20 repetition of a catastrophic error made by you on a 11:00
21 reading of Ms. Brophy's report, isn't that right?

22 A. That's correct, I did not notice the error in the Rian
23 report.

24 181 Q. But we know that, within three weeks of you carrying
25 out all of this, in the month of May, the alarm bells 11:00
26 were ringing in your organisation - something has gone
27 wrong here, we have accused this man of an indictable
28 rape offence, when there was no basis for so doing?

29 A. I am aware from review of files for preparation for

1 today that Ms. Brophy had contacted the Social work
2 Department to alert us to the error in the Rian report,
3 yes.

4 182 Q. And we know, do we not, that this was an enormous error
5 to have made, a very grave error for your organisation 11:01
6 to have made?

7 A. Yes.

8 183 Q. Can you tell us why it was that nobody asked you at the
9 time, as the person who drew up the Garda notification
10 and the children's file, why it was that nobody lifted 11:01
11 a phone to you and said, what happened here?

12 A. I don't know.

13 184 Q. If, for instance, Ms. Argue knew that a catastrophic
14 error had taken place, she must have known that it was
15 as a result of what you had written on a day that she 11:02
16 was discussing the case with her, isn't that right?

17 A. Yes.

18 185 Q. Did you get on reasonably well with Ms. Argue?

19 A. Yes, yeah.

20 186 Q. Can you think of any reason why she would not, in the 11:02
21 following three weeks, have mentioned, 'look, the roof
22 has fallen in, we have made a terrible blunder, you and
23 I on the 30th April have made an appalling and
24 catastrophic mistake here'?

25 A. I don't know. 11:02

26 187 Q. You were available?

27 A. Yes, I was in employment still at that stage and based
28 in the Cavan office, yes.

29 188 Q. You were down the corridor from her, weren't you?

1 A. That's correct.

2 189 Q. And are you saying that nobody in the service bothered
3 to tell you that -- they must have known that you drew
4 up this Garda notification form, mustn't they?

5 A. That would have been known from the file because my 11:03
6 e-mail with the attachment on it was on file, yes.

7 190 Q. So Ms. Argue must have known almost immediately the
8 alarm bells started ringing here that you were the
9 person who had made this mistake?

10 A. She'd have known that I had forwarded the Garda 11:03
11 notification for circulation and that --

12 191 Q. With an allegation of digital and anal penetration?

13 A. Yes, with the incorrect information from the Rian
14 report, yes.

15 192 Q. Yes. And it must have been known to your superiors 11:03
16 that you were the person who had done this?

17 A. I assume so.

18 193 Q. And are you saying that none of them asked you about
19 it?

20 A. No. 11:03

21 194 Q. And nobody asked you about it until this Tribunal was
22 established earlier this year?

23 A. That's correct.

24 195 Q. Have you any explanation as to why nobody would notify
25 you that you were the author of these documents which 11:04
26 contain these errors?

27 A. I have no explanation.

28 196 Q. Did you ever at any of the subsequent meetings ask them
29 why they didn't ring you up or walk down the corridor

1 to you and say 'you and Eileen Argue, between you, on
2 30th April have perpetrated a major injustice to this
3 man and created a major crisis for our organisation'?

4 A. I -- my only assumption is, is that perhaps other staff
5 in the department weren't aware that Ms. Y's surname 11:04
6 was on the body of the report. Other than that, I
7 don't know why I wasn't approached.

8 197 Q. I see. But they did know that you had read it, read
9 Ms. Brophy's written version of her referral, isn't
10 that right? 11:05

11 A. Yes.

12 198 Q. They must have assumed that?

13 A. Yes, but based on the fact on the 23rd June that I
14 first became aware that Ms. Y's surname was in the body
15 of the Rian report, I'm aware that senior managers also 11:05
16 became aware at that point that Ms. Y's name was in the
17 body of the report, so that is my explanation; that
18 perhaps was there an assumption that the error was
19 simply that Rian had the three sentences incorrect and
20 that it wasn't a third party was referenced in it. 11:05
21 Other than that, I don't know why I wasn't approached.

22 199 Q. You see, one of the things that I have to ask you about
23 is, if you genuinely believed that Ms. D's complaint
24 was one of digital penetration, as described, did it
25 not surprise you, as you read through the 2006/2007 11:05
26 file, that there was no reference to any of that?

27 A. No, that didn't surprise me, I don't believe.

28 200 Q. why not?

29 A. In the course of my work, I have learned that children,

1 in childhood, should they make disclosures, it is not
2 necessarily unusual that perhaps in their adulthood and
3 during the course of further counselling or therapeutic
4 work that they might make further disclosures.

5 201 Q. I see. So you did notice that she hadn't made earlier 11:06
6 reference to this allegation, but you thought that it
7 might be that she was making a further disclosure now?

8 A. I can't say definitively at this point in time if I
9 noticed the difference in the nature of the allegation
10 in 2006 and then again in 2014, but my explanation for 11:06
11 thinking that it unusual or not unusual is per what I
12 have said to your last question.

13 202 Q. You thought this might be an amplification of a
14 previous complaint, is that right?

15 A. No, what I am saying is that -- your question was, did 11:07
16 I not think it unusual that this allegation were
17 different to the allegation in 2006 and --

18 203 Q. When you were comparing the Brophy written document
19 with what was on the files in 2006 --

20 A. Yes. 11:07

21 204 Q. -- did it occur to you that the rape allegation simply
22 wasn't present previously?

23 A. I can't state at this point in time if I noticed that
24 there was a difference in the allegations. What I can
25 state is that it isn't unusual that further disclosures 11:07
26 may be made by an individual as they advance through
27 their adolescence or in their adulthood, particularly
28 if they are engaging in therapy.

29 205 Q. Well, you have -- as we agreed earlier, you must have

1 read carefully through the 2006 file in order to find
2 the name of the McCabes' two younger children?

3 A. I accept that, yes.

4 206 Q. So you must have seen the nature of the abuse which you
5 were contending with? 11:08

6 A. Again, I expect that I did. I can't say definitively
7 at this point in time.

8 207 Q. I see. Now, can you think of any reason why Ms. Argue
9 would not have contacted you in May of 2014 --

10 A. No. 11:09

11 208 Q. -- to discuss with you what was emerging as a very
12 major mistake in the activities of your agency?

13 A. No. Perhaps she felt as -- in her role as social work
14 team leader, that it was a matter for her to address
15 and manage and respond to. 11:09

16 **CHAIRMAN:** I take you meet together every now and then,
17 you have tea or coffee, or whatever, and there wasn't
18 any chat --

19 A. No.

20 **CHAIRMAN:** -- in that context? Because people do 11:09
21 discuss what is going on in the office, you know.

22 A. Absolutely. And if it were the case that that
23 conversation occurred, I would recall if I had made an
24 error in this regard.

25 209 Q. **MR. MCDOWELL:** Because the error would have taken place 11:09
26 within the previous fortnight, isn't that right?

27 A. That's correct, yes.

28 210 Q. So, somehow, there was total silence in relation to you
29 and this error at the time?

1 A. Yeah, it was not brought to my attention.

2 211 Q. And even if your involvement in it was not brought to
3 your attention, are you saying that nobody in the
4 office said, 'we have a problem, we seem to have made a
5 mess of the McCabe file'? 11:10

6 A. I don't recall any discussion or conversations.

7 212 Q. Going back to 2013, would you have attended the Monday
8 meeting on August 12th where the intake or the referral
9 was discussed?

10 A. Routinely, I attended the referrals meetings on Monday 11:10
11 mornings, yes.

12 213 Q. Well, you've had access to your work diary, I haven't
13 access to your work diary. So have you checked, were
14 you there when the referral was considered on the 12th
15 August? 11:11

16 A. I didn't review my diary for preparation -- the 2013
17 work diary, I didn't review for preparation for today.

18 214 Q. Would you normally have been there?

19 A. Yes. If I were in work, yes, and no other work
20 commitments in that morning, I would have been in 11:11
21 attendance.

22 215 Q. And we know, don't we, from Ms. Murphy, that on that
23 day the telephone version of the Ms. D referral was
24 available to that meeting for routine consideration?

25 A. That's correct, yes. 11:11

26 216 Q. Can we leave it then that although you have no specific
27 memory, it is quite possible that you personally were
28 present at a meeting when that referral was discussed?

29 A. That's correct, yes.

1 217 Q. With no digital penetration referred to in it at all?
2 A. That would be correct, yes.

3 218 Q. Another thing I just want to ask you. You said that it
4 was better practice or -- to rely on the written
5 version supplied by Laura Brophy than the telephoned-in 11:12
6 referral form which had been completed, isn't that
7 right, by Ms. Tinnelly?
8 A. In my practice, yes, I would revert to the written
9 document that the professional has sent in.

10 219 Q. Are you saying that you didn't look at the telephone 11:12
11 version at all, therefore?
12 A. I can't state if I didn't look at the telephone
13 conversation or not that was recorded in the intake
14 record.

15 220 Q. If I put it this way: If you did look at the telephone 11:13
16 version, you would have noted, would you not, that it
17 didn't refer to digital penetration?
18 A. Yes, that would be correct.

19 221 Q. So surely a question-mark would have arisen in your
20 mind as to how the story had changed dramatically 11:13
21 between what was taken down on the phone on Friday 9th
22 August and what was written as the complaint on the
23 document that arrived on the Monday 12th August?
24 A. Not necessarily, because professionals, when ringing,
25 at times give brief and limited information before they 11:14
26 submit their information in writing, so the fact that
27 there was additional information in the report --

28 222 Q. When you put the file away, Ms. Connolly, on the 30th
29 April, having generated these documents, what was next

1 to happen?

2 A. I would have left all of the files as well as the
3 intake records for discussion at referrals meeting the
4 following week.

5 223 Q. Yes. That is what I was coming to. And was it 11:14
6 discussed at the referrals meeting the following week?

7 A. No. And why I can say that is, that the intake records
8 are not signed off or dated by the team leader or
9 actioned.

10 224 Q. We're talking now about 30th April. There should have 11:14
11 been a further discussion of this file the following
12 week?

13 A. That's correct.

14 225 Q. Have you any reason why that was not done?

15 A. I don't know why that was not done. 11:15

16 226 Q. In the normal course of events, it would have been
17 discussed shortly after you made your Garda
18 notifications and prepared your intake files for the
19 children, isn't that right?

20 A. The fact there were new intake records generated, yes, 11:15
21 routine practice was that they would be discussed at
22 the following week's referrals meetings.

23 227 Q. So have you any, even now looking back on the event,
24 have you anything to offer the Tribunal as to why, in
25 this case, you having made this mistake on the 30th 11:15
26 April, the matter was not routinely discussed as the
27 norm the following week at a meeting where Ms. Argue
28 and yourself would have been present?

29 A. No.

1 228 Q. Could it have been that somebody pulled it off the
2 agenda for the following week because they'd understood
3 that a mistake had been made?
4 A. Possibly.
5 229 Q. But whoever did that would have to be somebody who also 11:16
6 decided that they wouldn't mention the matter to you,
7 even though you were at the meeting?
8 A. Yes.
9 230 Q. Is there any candidate who might have done that?
10 A. Sorry? 11:16
11 231 Q. Is there anybody involved in the process who you think
12 might have pulled it off the agenda for the following
13 week's meeting?
14 A. Well, I'm --
15 232 Q. Without telling you why that had happened? 11:16
16 A. I'm again aware from preparation for the Tribunal that
17 Ms. Brophy had initially telephoned the department and
18 then followed that up perhaps the same day, if not the
19 day after, with written correspondence for the
20 attention of Ms. Argue. 11:16
21 233 Q. But what date was that?
22 A. I would need to refer to some of the papers to get
23 those dates.
24 234 Q. You see the point is: the question will be whether
25 Ms. Brophy's telephone call -- you see, the sequence of 11:17
26 events is, you prepare a Garda notification, it is
27 circulated, it's sent to the Gardaí, somebody in the
28 Gardaí notifies Ms. D's father of its content and then
29 Ms. Brophy contacts your service, isn't that right?

1 A. That's correct, yes, I understand that to be correct.

2 235 Q. And are you saying that all of that could have happened
3 between 30th April and the next referrals meeting?

4 A. No. If I understand correct, and that perhaps is about
5 two weeks after I have -- two weeks after 30th April 11:17
6 that Ms. Brophy contacted the Social Work Department.

7 236 Q. Yes. So doesn't it seem to be the case that, wholly
8 exceptionally, this file was not considered at the
9 immediately succeeding referrals meeting and was never
10 considered at a referrals meeting at all thereafter? 11:18

11 A. That's correct.

12 237 Q. And there's no particular reason in your mind as to why
13 it wasn't considered routinely in the interval?

14 A. No.

15 238 Q. Who decides what files are considered at the referrals 11:18
16 meeting?

17 A. Well, all new intake records are left in the referrals
18 tray in the duty room and they are all taken in a
19 bundle by the duty social worker that week, and the
20 referrals meeting is led by the social work team 11:18
21 leader.

22 239 Q. Who is Ms. Eileen Argue, is that right?

23 A. That's correct.

24 240 Q. So the files would have been taken in a bundle for
25 consideration at the next referrals meeting the 11:19
26 following week, but for some reason this file was never
27 so considered, is that right?

28 A. Yeah.

29 241 Q. That must have been Ms. Argue's decision, mustn't it?

1 It wasn't your decision?

2 A. No, it wasn't my decision, no.

3 242 Q. Now, could I ask you to look at page 2229, please.
4 This is the blank Garda notification form that you
5 drafted on the 30th April, and it's a Post-It note, it 11:20
6 bears a Post-It note, isn't that right?

7 A. That's correct.

8 243 Q. "*Duty to refer alleged on to An Garda Síochána and file
9 in cabinet.*"

10 As I understand it, you say you never recollect seeing 11:20
11 that document on the file at all?

12 A. The Post-It, yes.

13 244 Q. But of course if that had been your instruction,
14 instead of the file being included in the bundle of
15 files for the next referrals meeting, it was -- on one 11:21
16 view of it, it was a direction to file it in the
17 cabinet, isn't that right?

18 A. Yes, I take that, that duty to notify allegations to An
19 Garda Síochána and filing cabinet.

20 245 Q. If it doesn't refer, and we will come back to that in a 11:21
21 moment, but if it does refer indeed to this file, this
22 is a direction apparently from Eileen to whoever it was
23 sent, to carry out the notification and to file in the
24 cabinet. It seems to be, on the face of it,
25 inconsistent with any intention to have it considered 11:21
26 at the next referrals meeting, isn't that right?

27 A. Well, this came up on Friday also. This Post-It isn't
28 dated, it doesn't indicate what file it relates to. So
29 I can't say - one scenario is that it relates to

1 Mr. McCabe's file, another scenario is that it doesn't
2 relate in any respect to Mr. McCabe's file.

3 246 Q. Well, you are absolutely right that it is undated.
4 You're absolutely right, of course, that it could have
5 fluttered in from another file and just landed on that 11:22
6 page. And the Tribunal will concern itself with the
7 probability of that as an explanation. But assuming
8 that it does relate to this file and didn't just
9 flutter in from another file onto that page to which it
10 is highly relevant, is it not a direction to whoever it 11:22
11 was given to prepare a Garda notification document and
12 to put the file away in the cabinet?

13 A. If we're taking that assumption that relates to
14 Mr. McCabe's file.

15 247 Q. Yes. 11:23

16 A. And not to the intake records on the children.

17 248 Q. Yes.

18 A. If we are taking that assumption that relates to
19 Mr. McCabe's file.

20 249 Q. Yes. 11:23

21 A. And I'm conscious we have just been talking about the
22 intake records with regard to the children, that that
23 wouldn't, to me, infer that it relates to the intake
24 records for the children.

25 250 Q. Well, can we explore that -- 11:23

26 A. Yeah.

27 251 Q. -- hypothesis for a second. If it does relate to the
28 McCabe file, it is on a draft Garda notification form
29 which you had generated, isn't that right --

1 A. Yes, that's right.

2 252 Q. -- for circulation?

3 A. Yes.

4 253 Q. And that's Ms. D, isn't that right "*Child's name:*
5 *Ms. D*"? 11:24

6 A. As the alleged victim, yes.

7 254 Q. And Ms. D was the file that was opened after the Rian
8 referral, isn't that right?

9 A. After the Rian referral in 2013, it was Mr. McCabe's
10 file that was opened for the first time in respect of 11:24
11 the department.

12 255 Q. When was that done?

13 A. That was 2013.

14 256 Q. Yes.

15 A. August 2013. 11:24

16 257 Q. I see. So it's the McCabe file, is that right?

17 A. Mr. McCabe's file.

18 258 Q. Yeah.

19 A. Adult.

20 259 Q. And you say -- on that basis, you're saying what, that 11:24
21 this was a direction by Eileen Argue to do what?

22 A. I'm following through on your assumption, I think, and
23 correct me if I am wrong, your assumption was that if
24 this Post-It was on the McCabe file, that the direction
25 may relate to "*Duty to notify allegations on to An* 11:25
26 *Garda Síochána on file in the cabinet.*"

27

28 And I suppose I'm just clarifying that the McCabe I'm
29 interpreting and I am referring to in that instance is

1 Mr. McCabe's adult file, not the McCabe children file.
2 It was just to clarify that point.

3 260 Q. Does anything turn on that?
4 A. Sorry?

5 261 Q. What was to be put in the cabinet? 11:25
6 A. If we're assuming, I am taking it that refers to that
7 Mr. McCabe's file is to be filed in the cabinet.

8 262 Q. Fair enough. We won't distract ourselves with the other
9 possibility, that was the children's file. So we will
10 stick to the proposition that this probably referred to 11:25
11 Mr. McCabe's file, isn't that right?
12 A. It has -- that is one possibility.

13 263 Q. Isn't it the probability? It'd be highly unusual that
14 you would write that on the children's file?
15 A. That wouldn't be relevant to the children's file. 11:25

16 264 Q. So would you agree with me it is highly improbable that
17 that Post-It referred to the children's file?
18 A. Yes, that's correct. I agree with that.

19 265 Q. So if it referred to a McCabe file at all, it was
20 Sergeant McCabe's file? 11:26
21 A. Yes.

22 266 Q. And unless it was some Post-It that fluttered in from
23 another file on a windy day and landed -- happened to
24 land on a Garda notification form, can we take it that
25 it was a direction to put Sergeant McCabe's file into 11:26
26 the cabinet?
27 A. In that scenario, yes.

28 **CHAIRMAN:** Sorry, can I just clarify, if you don't
29 mind, please. Are we saying that this Post-It dates

1 back to August 2013 or are we saying it is something
2 relevant to the 30th April 2014? Is there something
3 about that? And by the way, as for the fluttering
4 theory, I mean, I know these things are stuck, and the
5 bigger they get, the better they stick. 11:26

6 A. What I take from Mr. McDowell is that he's implying or
7 that it may be the possibility that this Post-It
8 relates to 30th April 2014.

9 **CHAIRMAN:** Yes. But as I understood it, it was in
10 August 2013 that the thing gets actually into the 11:27
11 famous cabinet after Measuring the Pressure, where the
12 pressure is not measured.

13 A. Yes.

14 **CHAIRMAN:** So that's what I'm thinking, because of the
15 reference to cabinet, but, I mean, one can go down 11:27
16 these little side roads endlessly.

17 267 Q. **MR. MCDOWELL:** well, perhaps I should be clearer. This
18 Post-It refers to a Garda notification, isn't that
19 right.

20 A. That's correct, yes. 11:27

21 268 Q. And it ends up on the page of the McCabe file, the
22 hard-copy page, where a draft Garda notification
23 prepared by you is to be found?

24 A. Yes.

25 269 Q. And either it dates back to August 2013 and was Eileen 11:27
26 Argue giving an explicit instruction of the same kind
27 that you believe was involved in the file as you found
28 it on the intake form, or it's a separate instruction?

29 A. Yes.

1 270 Q. And when I asked you earlier, and when you were asked
2 by Tribunal's counsel, you said that you set about
3 preparing a Garda notification because you had seen it
4 written on the intake form, isn't that right?
5 A. That's correct. 11:28

6 271 Q. It wasn't in response to a Post-It from Eileen Argue,
7 was it?
8 A. That's correct.

9 272 Q. So is it reasonable to assume that that document --
10 that that Post-It didn't come into existence in August 11:29
11 2013?
12 A. It's unlikely that that was in place in August 2013,
13 because Eileen was not the team leader so she wouldn't
14 have been giving direction.

15 273 Q. So if Eileen -- if it does relate to the McCabe file 11:29
16 and if it does bear Eileen Argue's signature, she had
17 some further dealing with this file which caused her to
18 put that Post-It somewhere among the papers on the
19 file, is that right?
20 A. That's a possibility. 11:29

21 274 Q. Well, it's the only possibility, isn't it? If it is
22 her name and if it does relate to the McCabe file, she
23 must have had some dealing with the file to write that
24 Post-It?
25 A. Yes. 11:29

26 **CHAIRMAN:** It's possible also it might be better
27 addressed to Ms. Argue, Mr. McDowell. But could I just
28 perhaps just mention one thing about this, which is,
29 I'm afraid, on my mind. As I understand it, the

1 Measuring the Pressure system, forgive me for being
2 fixated on that, is, you pluck a file out of a cabinet
3 in random order, neither chronological nor
4 alphabetical, when you get the chance, but when you
5 pluck it out of the cabinet, it doesn't go back into 11:30
6 the cabinet; it goes into an intake tray for the next
7 meeting in relation to referrals, et cetera, for
8 consideration. That is what I understand. So once it
9 comes out of the cabinet, it doesn't go back into
10 cabinet, but I might have got that wrong? 11:30

11 A. No, once it comes out of the cabinet and duty is
12 completed, the task, you would then leave it for the
13 team leader to review, to determine where it should be
14 filed at that point or what the next course of action
15 is. 11:30

16 **CHAIRMAN:** So could the team leader then give a
17 direction, put it back in the cabinet?

18 A. Yes.

19 **CHAIRMAN:** Okay. I understand.

20 275 Q. **MR. MCDOWELL:** Just in relation to the text on that 11:31
21 page, that is your composition, is that right, what's
22 in the box?

23 A. Yes, I am accepting that, yes.

24 276 Q. You're saying that Laura Brophy reported the following
25 information, is that right? 11:31

26 A. Yes.

27 277 Q. And the text itself, the sequence is:
28
29 *"Ms. D is attending counselling with Rian. During the*

1 I accept, yes, it doesn't flow in the same manner as
2 it's written in the Rian report.

3 282 Q. So you were going backwards and forwards --
4 A. Yes.

5 283 Q. -- to put together that text. And you were going 11:33
6 backwards and forwards between two sentences, both of
7 which had Ms. Y's name on it?
8 A. Yes, I accept that.

9 284 Q. Was it not something which would have caught your eye 11:33
10 at the time if you were carefully looking at those two
11 sentences, that you were dealing with a different
12 complainant?
13 A. I didn't --

14 285 Q. Complainant?
15 A. Yes, I didn't detect Ms. Y's surname in the body of 11:33
16 that report, and my explanation for that is as per
17 Friday. I am fully accepting that the surnames are
18 different, but there is a level of similarity which I'm
19 aware I'm not in a position to discuss, but I have
20 referenced in my statement, and that's only as a means 11:34
21 of trying to explain that with I reviewing a report for
22 the purpose of taking out detail, that I overlooked
23 that that surname was there.

24 286 Q. Could I ask you to look at page 2238, please. This is
25 two e-mails, one from Pamela Armitage to Eileen Argue 11:34
26 at 11:05 on the 14th May, is that right?
27 A. Yes.

28 287 Q. Saying:
29

1 *"Laura Brophy, Rian, just called to say that she has*
2 *made an error in report to us re blank. The line that*
3 *'This abuse involved digital penetration, both vaginal*
4 *and anal' is an error and should not be in the*
5 *referral. It is, in fact, a line from another referral* 11:35
6 *on another adult that has been pasted in in error.*
7 *Laura has apologised and is sending us an amended*
8 *report ASAP."*

9
10 If you look at the top of the page, you will see that, 11:35
11 within ten minutes, Ms. Argue is writing a letter, an
12 e-mail to Gerry Lowry, saying:

13
14 *"Dear Gerry, I hope this finds you well. Please see*
15 *information below. This information is in relation to* 11:36
16 *MMCC."*

17
18 Right. So clearly MMCC at that stage meant something
19 to Ms. Argue and to Mr. Lowry, because you wouldn't use
20 those initials unless that conveyed something very 11:36
21 clearly to the recipient, isn't that right?

22 A. I do accept the point that you are making. It wouldn't
23 necessarily be unusual that we might refer to
24 individuals by their initials, but I do accept the
25 point that you are making. 11:37

26 288 Q. I mean, quite clearly, initials might be used if you
27 wanted to keep it confidential, but you knew that the
28 person who received it would understand precisely who
29 you are referring to, isn't that right?

1 A. Yes, yes, I do hear what you are saying, yeah.

2 289 Q. So it is very clear that Eileen Argue, within ten
3 minutes of getting the Laura Brophy -- or, sorry, the
4 Pamela Armitage text, was flashing it on and commenting
5 on it and referring to the subject of it as MMCC? 11:37

6 A. Yeah. There was a recognition on Eileen's part she was
7 aware who the alleged perpetrator was, yes.

8 290 Q. Yes. And that she expected that Mr. Lowry would
9 immediately recognise the person as well?

10 A. Okay. 11:38

11 291 Q. Isn't that right?

12 A. I suppose, again, I can't answer for Mr. Lowry or
13 Ms. Argue, but again, I do appreciate the point that
14 you're making, yes.

15 292 Q. You see, what I am suggesting to you is that that 11:38
16 clearly indicates that there was an immediate
17 appreciation of whom this file referred to when that
18 e-mail arrived in from Paul Armitage. And what I am
19 putting to you is, that it is highly unlikely - I just
20 want your comment on it - that the fact that Ms. Argue 11:38
21 knew the perpetrator as MMCC, that she would have
22 concealed the fact that she knew who she was dealing
23 with from you on the 30th April?

24 A. Okay, yes.

25 293 Q. And I am putting it to you that far from everybody 11:39
26 dealing with this file unaware of whom MMCC or Maurice
27 McCabe was, I am putting it to you that this fact that
28 it was Maurice McCabe was well known to everyone
29 involved, including yourself?

1 A. Well, again, I will speak for myself. I remain adamant
2 that Mr. McCabe was not in any way significant to me
3 and my involvement with this case was in no way
4 different to any other adult of concern that I dealt
5 with. I don't feel it appropriate that I comment for 11:39
6 other colleagues and their knowledge within the work
7 environment or outside the work environment with regard
8 to Mr. McCabe.

9 294 Q. But when this error comes to light on the 14th May
10 nobody asks you about the original notification? 11:40

11 A. No.

12 295 Q. How it came to be that you had written it down?

13 A. That's correct.

14 296 Q. Nobody asked you to come into a room and say 'look, we
15 seem to have made a complete disastrous mistake here, 11:40
16 what precisely did you do, what materials precisely did
17 you have in hand when you made this garda
18 notification?' Nothing like that took place?

19 A. Nobody spoke to me.

20 297 Q. You were left entirely out of the loop, is that right? 11:40

21 A. Yes.

22 298 Q. And did anybody think of coming back to you to ask you
23 to amend your original garda notification form?

24 A. Nobody spoke to me about the error in the report.

25 299 Q. Now, in retrospect, do you think it strange that nobody 11:41
26 told you about these events, this error having come to
27 light 14 days after you dealt with the matter?

28 A. Again, I expect that Ms. Eileen Argue, in her role as
29 social work team leader, felt that it is a matter that

1 she would deal with in conjunction with her line
2 manager.

3 300 Q. And between the 30th April and 14th May there was at
4 least one referrals meeting where, for some reason,
5 this file was not considered? 11:41

6 A. Yes.

7 301 Q. And you've no explanation to offer as to why that is
8 the case?

9 A. No, I don't.

10 **MR. MCDOWELL:** Thank you, Ms. Connolly. 11:42

11 **CHAIRMAN:** I don't know, do we have questions from the
12 Gardaí or Tusla or Mr. McDermott?

13 **MR. DIGNAM:** Chairman, I just have a few questions for
14 Ms. Connolly.

15 Ms. Connolly, my name is Conor Dignam and I appear on 11:42
16 behalf of An Garda Síochána. I just want to cover a
17 few areas with you, Ms. Connolly. Perhaps if I could
18 start with what I might call process issues or
19 procedures issues. If I could just ask you to look at
20 page 2628, which is your interview with the 11:42
21 investigators for the Tribunal.

22 **CHAIRMAN:** You don't need a break, do you?

23 A. No thanks, no.

24 **CHAIRMAN:** You have gone through about a litre of
25 water. 11:43

26 **MR. MCDOWELL:** Sorry, Judge, before My Friend --

27 **CHAIRMAN:** Yes.

28 **MR. MCDOWELL:** Now that I see, there is one question I
29 wanted to ask.

1 **CHAIRMAN:** All right, Mr. McDowell. You're back to
2 Mr. McDowell again for just a minute.

3
4 **MS. CONNOLLY WAS FURTHER CROSS-EXAMINED BY MR. MCDOWELL**
5 **AS FOLLOWS:** 11:43

6
7 302 Q. **MR. MCDOWELL:** It's on the same page.

8 **CHAIRMAN:** Yes.

9 **MR. MCDOWELL:** I don't want it to look as if I
10 overlooked it. It's at lines 242 and 243 of your 11:43
11 statement on that page. You were asked whether there
12 was a requirement to have the Garda notification
13 conduct approved by the team leader at that time. And
14 you say:

15 11:43
16 *"No, when I say no requirement we had no written*
17 *guidance or policy in respect of this matter. However,*
18 *we would have had a conversation or case discussion*
19 *regarding the appropriateness to Garda notify with the*
20 *team leader."* 11:43

21
22 I forgot to put that to you.

23 A. Yes.

24 303 Q. What does that mean?

25 A. By that, I mean that be it in supervision or maybe in a 11:44
26 conversation outside of supervision, there may be a
27 discussion about the need to Garda notify. In this
28 particular case, there wasn't a need for that formal
29 supervision or formal conversation because it was

1 already recorded on the intake record on the 9th August
2 for duty to Garda notify. That was the direction from
3 the team leader.

4 304 Q. I see. Thank you.

5 11:44

6 **END OF CROSS-EXAMINATION BY MR. MCDOWELL**

7
8 **MS. CONNOLLY WAS THEN CROSS-EXAMINED BY MR. DIGNAM:**

9
10 305 Q. **MR. DIGNAM:** The passage I wanted to ask you about, 11:44
11 Ms. Connolly, was, you were asked a question at line 51
12 on page 2628, and you are asked about your
13 understanding of what the Tusla policy or procedure was
14 in relation to the issue of Garda notifications at that
15 time, whose responsibility it was to deal with the 11:44
16 issue of Garda notifications and whether approval was
17 required for the social work team leader before sending
18 the e-mail to Linda Dewhirst, the same territory as
19 Mr. McDowell has just asked you about. Do you see in
20 your answer to that at line 336, you say: 11:45

21
22 *"The practice at that time was that social workers*
23 *could generate the Garda notification and forward it*
24 *directly to Linda Dewhirst, who would bring it to the*
25 *attention of Seamus Deeney, principal social worker and 11:45*
26 *designated officer, for approval and onward circulation*
27 *to Gardaí."*

28
29 what does that phrase "for approval" mean?

1 A. That means if it meets the criteria for notifying to An
2 Garda Síochána.

3 306 Q. And what were those criteria?

4 A. That's as per -- it's outlined in Children First, where
5 there is a suspicion of child abuse. 11:45

6 307 Q. And was it your view that this case met those criteria
7 on the basis of the information which you had at the
8 time?

9 A. At the time, my generation of the intake -- or of the
10 Garda notification was on foot of direction from the 11:45
11 social worker team leader. My own professional
12 judgment, aside from team leader direction, was that
13 this was a retrospective allegation of sexual abuse and
14 therefore met the criteria for notification.

15 308 Q. Just in relation to the system of cases being put in 11:46
16 the low/medium category of priority, and then put in
17 the duty room for further actions to be taken, as we
18 know this matter arose in August 2013 and was put in
19 that bundle of files, and then the first time anything
20 was done on it was on the 30th April. And when you 11:46
21 took it out of the file -- the cabinet on that day, it
22 had directions as to further actions to be taken,
23 including sending Garda notification. Can I ask you,
24 how long does a file have to be in the cabinet before
25 you -- before you're required to question any 11:47
26 directions or any steps that are directed to be taken?

27 A. I suppose the demands on the service impact on the
28 social worker's capacity or availability to advance
29 tasks in the duty room, so it is difficult to answer

1 that with a definitive timeframe.

2 309 Q. Now, in relation to the filing order or how documents
3 were filed or placed on the file, could you tell us
4 how -- in what order documents are filed in the social
5 work service when they come into the file -- when they 11:47
6 come into the office. Perhaps if I clarify that for
7 you, Ms. Connolly. Do you put more recent documents
8 behind the documents that are already on the file or in
9 front of documents that are already on the file?

10 A. I suppose in -- I'm taking this particular case, for 11:47
11 example. In this instance, the intake record was
12 created based on a telephone call on 9th August. When
13 the written report comes in, typically that written
14 report is attached to the back of the intake record.
15 On occasion, it may sit to the front. Any further 11:48
16 referrals that would be received after, for example,
17 9th August would sit on top of the other intake
18 records.

19 310 Q. Just a further procedural question. As I understand
20 it, the Garda notification that was prepared by you -- 11:48
21 that was sent on the 2nd May, was sent to the
22 superintendent in charge of Bailieboro Garda Station,
23 is that correct?

24 A. When I generated the Garda notification, I forwarded it
25 to Linda Dewhirst within admin and at that point Linda 11:48
26 identifies who the appropriate superintendent it is to
27 go to. So Linda would have inputted that information
28 as well as the date.

29 311 Q. Okay. Well, then, another way of putting that

1 question, Ms. Connolly, is: who is the appropriate
2 superintendent to receive a Garda notification? How do
3 you determine who the appropriate superintendent is?
4 A. That is based on the address of where the alleged
5 incident is alleged to have occurred. So the 11:49
6 notification, is my understanding, would go to the
7 district in which the alleged abuse occurred, for
8 investigation.
9 312 Q. Now, when you looked at the file then on the 30th April
10 2014, and you already answered some of these questions, 11:49
11 Ms. Connolly, from Mr. McDowell, you saw the letter
12 from Superintendent Cunningham and you assumed,
13 correctly, that it hadn't been replied to. Did you
14 consider that to be the Garda notification that would
15 normally be sent? 11:49
16 A. No.
17 313 Q. Were you here for Ms. McGlone's evidence when she said
18 that she didn't consider that to be Garda notification?
19 A. Yes.
20 314 Q. And is it correct to say that there is a standard Garda 11:50
21 notification form that is sent to the relevant
22 superintendent?
23 A. There is, that's correct.
24 315 Q. And that's the one that is in the form we've been
25 looking at, the 2nd May, the contents would obviously 11:50
26 be different, but that is the standard form that is
27 sent, is that correct?
28 A. That's correct.
29 316 Q. Now, Ms. Connolly, you qualified in 2004, is that

1 right, from UCD with a bachelor's in social science,
2 and you then did a master's and you have been working
3 with Tusla or -- the Health Service Executive and then
4 Tusla for 11 years, is that correct?

5 A. Currently, it's 11 years. At the time I was practising 11:50
6 from 2006 until 2013 -- or '14, sorry. That's eight
7 years.

8 317 Q. Sorry. Now, so you started working in 2006 in social
9 services, is that correct?

10 A. That's correct. 11:50

11 318 Q. And have you been in child protection throughout that
12 period?

13 A. No. In that eight-year period the majority of my
14 practice, six out of those eight years was with
15 children in care. 11:51

16 319 Q. Okay. And I am sure you are aware as a person holding
17 a master's qualification in the social sciences that
18 the 2000s, particularly the mid-2000s, 2009 and 2010,
19 were turbulent times for social services, particularly
20 in relation to child protection. We had the Ryan 11:51
21 Report in 2009, the Dublin Archdiocese Commission of
22 Investigation by Judge Murphy in 2009 also and then the
23 Cloyne Diocese Report by Judge Murphy in 2010. Do you
24 recall those reports?

25 A. No, I don't. 11:51

26 320 Q. You don't recall them at all?

27 A. No.

28 321 Q. Now, you saw -- you were here for Ms. McGlone's
29 evidence in relation to the standards where she said

1 329 Q. Now, when you looked at the file in 2014, 13th April
2 2014, was there anything on that file which caused you
3 to question whether or not a notification should be
4 sent to An Garda Síochána?
5 A. Not at that time, no. 11:53

6 330 Q. I think Mr. McDowell has touched on this; you had the
7 letter from Ms. McGlone to Superintendent Cunningham
8 which you say you assumed hadn't been replied to, and
9 correctly, because there was nothing on the file to
10 suggest that it had been replied to. Did that cause 11:53
11 you to wonder whether, in fact, you should notify An
12 Garda Síochána?
13 A. No, at the time it didn't. And as per my evidence
14 earlier, I believe that was on foot of the fact that
15 direction to Garda notify was given on the 9th August 11:54
16 and the subsequent letter was sent on the 15th August,
17 so I assumed the direction to Garda notify still stood.

18 331 Q. Yes. So as soon as the notifications -- so as soon as
19 the report from Rian, first of all the verbal -- the
20 type one report and then the written report came from 11:54
21 Rian, the intake record was created on the 9th August
22 and the direction to notify the Gardaí was immediately
23 given, is that right?
24 A. That's correct, yes.

25 332 Q. And that was given on foot of the telephone report 11:54
26 which was the 2006 allegation. There was no reference
27 in that to the digital penetration allegation which
28 subsequently appeared on the file?
29 A. That's correct.

1 MS. DIGNAM: Thank you, Ms. Connolly.

2

3 END OF CROSS-EXAMINATION BY MR. DIGNAM

4

5 MS. CONNOLLY WAS RE-EXAMINED BY MS. LEADER:

11:55

6

7 333 Q. MS. LEADER: There are two questions I want to ask you,
8 Ms. Connolly. Ms. Connolly, had you been told in 2014
9 that there had been a mistake in relation to the
10 information that you worked from, would you have taken
11 any steps to rectify that? 11:55

12 A. Yes, absolutely.

13 334 Q. What would you have done?

14 A. Well, first with regard to the Garda notification, to
15 ensure that that was amended to accurately reflect the
16 second written report forwarded by Rian, and secondly,
17 that the intake records in respect of the children,
18 that they, too, also would have been amended. 11:55

19 335 Q. And would you have been concerned to make sure that
20 inaccurate information which was created by you
21 remained on the file, or would you have done anything
22 in relation to the inaccurate information that you
23 created? 11:55

24 A. Yes. I'd have had to have sought direction from senior
25 managers with regard to how best to deal with that, be
26 it that they be removed totally, be it that they shred
27 it or how that should be appropriately reflected on the
28 file, yes. 11:55

29 336 Q. And in relation to the Post-It note, do you remember

1 when Ms. Argue became your supervisor?

2 A. It was shortly after Ms. McGlone changed posts.

3 337 Q. Do you remember was that 2013 or 2014?

4 A. 2014. Early 2014.

5 338 Q. Okay. So do I take it from that, Ms. Connolly, that 11:56
6 the direction, if it was on the Post-It note, when you
7 started working on the file, would have dated from 2014
8 and not 2013?

9 A. Yes. Because Eileen was not in a social work team
10 leader role prior to 2014. 11:57

11 339 Q. If you repeat the answer.

12 A. Yes, that Post-It would relate to 2014 as Ms. Argue was
13 not in a team-leading role prior to that.

14 **MS. LEADER:** Thank you very much, Ms. Connolly.

15 11:57

16 **END OF RE-EXAMINATION BY MS. LEADER**

17

18 **MS. CONNOLLY WAS THEN QUESTIONED BY THE CHAIRMAN:**

19

20 340 Q. **CHAIRMAN:** I just want to ask you a few questions, 11:57
21 please, Ms. Connolly, and thank you for your help. I
22 am just a wee bit mystified about you not being aware
23 of any reports in relation to when there were child
24 sexual abuse cases in the Roman Catholic Church and the
25 fact that a judge was sitting and reporting on those 11:57
26 things in relation to Maynooth, particular dioceses,
27 Ferns, Dublin, I mean, it was all over the news,
28 everywhere. I mean, how could you not be aware of
29 that?

1 A. Yes, I haven't specifically read any of those reports.
2 When you mention Ferns, yes, I'm aware of Ferns, of
3 having heard about it.

4 341 Q. **CHAIRMAN:** Yes. But I would say very, very few people
5 actually did get any of those reports and actually read 11:58
6 them.

7 A. Okay.

8 342 Q. **CHAIRMAN:** But they would certainly have been aware of
9 what the media choose to say what were the high points
10 of it, you know? 11:58

11 A. I --

12 343 Q. **CHAIRMAN:** would you be the same or different?

13 A. I wouldn't have enough knowledge of any of those cases
14 to comment.

15 344 Q. **CHAIRMAN:** No, it's just, like you're aware Leo 11:58
16 Varadkar is the Taoiseach?

17 A. Yes.

18 345 Q. **CHAIRMAN:** And you're aware Enda Kenny was the
19 Taoiseach?

20 A. Yes. 11:58

21 346 Q. **CHAIRMAN:** well, this is a bit similar, really, because
22 there was media storms over these things going on for
23 weeks and months.

24 A. Yes. They're not, they're not stories that I have
25 followed. 11:58

26 347 Q. **CHAIRMAN:** well, I'm tending to wonder what stories do
27 you follow, because appreciating that, with young
28 people, it may be that you are getting Twitter feeds or
29 links or things like that in relation to things you

1 have expressed an interest in?

2 A. Yes. I am not on social media. I am very much of the
3 view that life brings its own stressors and I have no
4 interest in being consumed by the media with regard to
5 any negativity or drama that is happening there, so I 11:59
6 don't follow the news intently.

7 348 Q. **CHAIRMAN:** But you would be aware, for instance, that
8 in London within the last month, a tower block went up
9 and almost 100 people were eliminated?

10 A. Yes, I am aware of that. 11:59

11 349 Q. **CHAIRMAN:** You know there is a real issue in relation
12 to what kind of insulation standards there were and
13 things like that?

14 A. Yes.

15 350 Q. **CHAIRMAN:** This Maurice McCabe story was of similar 11:59
16 prominence by times in the media?

17 A. Yes. Again, as I have stated, it's not a story of
18 interest to me. It wasn't a story of interest to me.
19 I couldn't give you any bullet points or a summary on
20 Mr. McCabe. 11:59

21 351 Q. **CHAIRMAN:** And then the whole notion of garda
22 whistleblowers, et cetera, I don't think like the
23 term --

24 A. Yes.

25 352 Q. **CHAIRMAN:** -- but I take it you have heard the word? 12:00
26 A. Yes, I have heard the term, yes.

27 353 Q. **CHAIRMAN:** And you said, 'okay, I would listen to the
28 news going along in the car'?

29 A. Yes.

1 354 Q. **CHAIRMAN:** You drive a car and you would have to drive
2 to appointments, I take it?

3 A. Yes.

4 355 Q. **CHAIRMAN:** what do you listen to? I mean, there's
5 multiple channels you could be listening to; a local 12:00
6 Cavan channel, Radio na Gaeltachta --

7 A. Yes. No, I generally listen to national radio, yes,
8 but I don't, as a rule, listen to lengthy political
9 broadcasts or news stories of that nature.

10 356 Q. **CHAIRMAN:** But this is kind of in the ether, if you 12:00
11 like. Ms. Leader asked you about a few things and she
12 put them to you in detail, and forgive me if I am going
13 over the same ground again because she has put them to
14 you expertly and fully, but you have to be aware that
15 the Garda Commissioner resigned, I mean it doesn't 12:00
16 happen every day, but he did, and that was on the 24th
17 March 2014, pretty proximate to what we are talking
18 about now?

19 A. Okay.

20 357 Q. **CHAIRMAN:** And he resigned over what, did you think? I 12:01
21 know life has stressors, but --

22 A. Sorry, can I have a tissue, please? I do accept the
23 point that you are making, but I can't be any clearer
24 in that, in that I have no further knowledge to add
25 with regard to the media and publicity. 12:01

26 358 Q. **CHAIRMAN:** And then there was a Fennelly Commission set
27 up on the 25th March to look into matters, including
28 the resignation of Commissioner Callinan. And then
29 there are other things going on that you wouldn't be

1 aware of, and Ms. Leader put them to you, such as the
2 re-referral of the Ms. D file to GSOC, claiming that it
3 hadn't been properly investigated at the time, which
4 was an allegation that GSOC rejected. Then there were
5 the articles by Paul Williams in the *Irish Independent* 12:01
6 in April 2014, the 12th and 15th. I don't know, do you
7 take a newspaper at all?

8 A. Do I -- sorry, which?

9 359 Q. **CHAIRMAN:** well, do you buy a newspaper as opposed to
10 do you take a newspaper? It's an expression. 12:02

11 A. No, I don't buy a newspaper on a daily basis, no.

12 360 Q. **CHAIRMAN:** when do you buy a newspaper?

13 A. Very rarely. I don't buy newspaper on a weekly basis.

14 361 Q. **CHAIRMAN:** The other thing that I wanted to ask you
15 about was this, and it has been touched on but forgive 12:02
16 me for asking you again about it. Just from my own
17 knowledge, I know that in some places where people are
18 working together there is an insistence, for instance,
19 in hospitals, there's a time for coffee, for
20 consultants, to -- so they are all together, they'd 12:02
21 have a chat. Now, do you have a system in your office
22 whereby there is a tea hour or a coffee hour where
23 people sit down together because it's useful to sit
24 down together?

25 A. Yes. 12:03

26 362 Q. **CHAIRMAN:** I mean, it's nice to know that someone is
27 getting married or any of that kind of stuff?

28 A. Yes.

29 363 Q. **CHAIRMAN:** But it is also nice to know what is going on

1 with other people, and people talk about those things
2 and that's the purpose of having such a set time for
3 tea or coffee, or whatever.

4 A. Yes.

5 364 Q. **CHAIRMAN:** Do you have such a thing? 12:03

6 A. In 2014?

7 365 Q. **CHAIRMAN:** Yes.

8 A. Yes, we have a canteen. We had tea breaks, yes.

9 366 Q. **CHAIRMAN:** And you would meet other people there?

10 A. Yes, absolutely, other colleagues. 12:03

11 367 Q. **CHAIRMAN:** well, if you were not talking about this,
12 I'm tending to wonder what were you talking about. I
13 mean, one of the biggest stories that I suppose might
14 come along would be, lo and behold, a really hard to
15 explain mistake has been made and we're attributing to 12:03
16 one man what another man did and it's all pretty
17 revolting, but we're attributing that in the wrong.

18 A. Yes.

19 368 Q. **CHAIRMAN:** Surely that'd be discussed?

20 A. The error in the Rian report was never brought to my 12:04
21 attention and I have no recollection of a discussion
22 about it in the office environment.

23 369 Q. **CHAIRMAN:** Or even chats centring around, let's say,
24 word processing mistakes, or anything like that?

25 A. Yes. No. 12:04

26 370 Q. **CHAIRMAN:** There's two other matters I wanted to ask
27 you about. Just thinking back on what you said, you
28 said the cabinet, and that's the Measuring the Pressure
29 cabinet, it contains generally, and I think that was

1 the word you used, it was medium risk and low risk
2 cases, but the words you used seem to suggest that
3 there might also be in that cabinet a couple of high
4 risk cases but generally they were plucked out first
5 and dealt with, but some of them might not have been 12:04
6 dealt with immediately and went into the cabinet, and
7 was I wrong in thinking that?

8 A. No, I should clarify. The filing cabinet that we're
9 referring to only holds files that are actioned for
10 tasks for the duty social worker to complete. They 12:05
11 would be medium priority cases or low priority cases.
12 High priority case would say require an immediate
13 response and will require allocation immediately. They
14 would not be in the duty room.

15 371 Q. **CHAIRMAN:** They wouldn't be in a cabinet? 12:05

16 A. No, no.

17 372 Q. **CHAIRMAN:** All right. well, I misunderstood you saying
18 that because I think you said generally when saying
19 that --

20 A. And perhaps I was not clear. 12:05

21 373 Q. **CHAIRMAN:** No, that is fine. But the system of
22 actually taking out a file is, there's the cabinet,
23 it's not chronological, it's not alphabetical, it's not
24 ranked in serious, because even within medium you could
25 have serious medium to low medium and within low risk 12:05
26 you can have, well, something that is bordering on
27 medium, it's not ranked in any way.

28 A. Yeah.

29 374 Q. **CHAIRMAN:** And it's just a question of plucking out the

1 first file that comes along, so it's like a lucky dip,
2 is that right?

3 A. At that time we had had no system in place in 2014 with
4 regard to the -- in what order a case should be next
5 work. It was simply as and when duty social worker had 12:06
6 time and capacity during the course of the day.

7 375 Q. **CHAIRMAN:** But again, I don't mean to be mean by
8 calling it a lucky dip, but you know there's a
9 system --

10 A. Yes. 12:06

11 376 Q. **CHAIRMAN:** -- of selecting jurors if you are ever
12 called for jury service, and the registrar has a box
13 and everyone's name is in the box and he just picks out
14 a number and a name.

15 A. Yeah. 12:06

16 377 Q. **CHAIRMAN:** So it was like that?

17 A. You just proceeded to take the next file, yes.

18 378 Q. **CHAIRMAN:** which could be any file?

19 A. Yeah.

20 379 Q. **CHAIRMAN:** And then just the last thing, and I am going 12:06
21 to pussyfoot around this for a very deliberate reason
22 and please don't mention any names.

23 A. No.

24 380 Q. **CHAIRMAN:** But you are saying the similarity between
25 Ms. Y and Ms. D is the first letter is the same? 12:06

26 A. Yes.

27 381 Q. **CHAIRMAN:** The second letter?

28 A. No.

29 382 Q. **CHAIRMAN:** Third letter?

1 A. No.

2 383 Q. **CHAIRMAN:** Fourth letter?

3 A. No.

4 384 Q. **CHAIRMAN:** Fifth letter?

5 A. Yes. 12:07

6 385 Q. **CHAIRMAN:** Sixth letter?

7 A. Yes.

8 **CHAIRMAN:** Right. Thanks very much.

9

10 **THE WITNESS THEN WITHDREW.** 12:07

11

12 **MR. DIGNAM:** Chairman, just before the next witness is

13 called, I wonder if I might just address one point.

14 When the Chair was trying to tease out with

15 Ms. Connolly in relation to her knowledge of events and 12:07

16 knowledge of Sergeant McCabe, there was reference made

17 to former Commissioner Callinan having resigned and

18 having resigned because of Maurice McCabe or

19 resigned -- him resigning over --

20 **CHAIRMAN:** No, I appreciate that, I may have got that 12:07

21 wrong. It was in the context of that. But again, I

22 suppose, Mr. Dignam, please do correct me, and I

23 welcome that.

24 **MR. DIGNAM:** Yes. I am obliged. And I understood the

25 context was, in fact, simply trying to tease out 12:08

26 Ms. Connolly's --

27 **CHAIRMAN:** Yeah.

28 **MR. DIGNAM:** And there was nothing specific in relation

29 to it. In fact, just for the purpose of the record,

1 former Commissioner Callinan retired on the 25th March
2 2014 rather than resigned and he did so following a
3 visit, as is public knowledge, a visit by the
4 Secretary-General of the Department of Justice to relay
5 a message to Commissioner Callinan, as he was at the 12:08
6 time, in relation to the matters relating to telephone
7 recordings of conversations at some Garda stations, and
8 that was, as the Tribunal knows, was later investigated
9 by Judge Fennelly.

10 **CHAIRMAN:** No, and I appreciate that, and the time-line 12:08
11 seems to be 23rd January 2014 is when, as Ms. Leader
12 did refer to it in detail.

13 **MR. DIGNAM:** She did.

14 **CHAIRMAN:** There was the Public Accounts Committee and
15 the reference to 'Frankly, I think it is quite 12:08
16 disgusting, on a personal level I think it is
17 disgusting', and then the other events that you've
18 mentioned and the article.

19 **MR. DIGNAM:** Yes.

20 **CHAIRMAN:** So it is important to put it into context. 12:09

21 **MR. DIGNAM:** Thank you.

22 **MR. MARRINAN:** Yes, sir. The next witness is
23 Mr. Gerard Lowry, please. This is Book 4, page 1016.

24

25 12:09

26

27

28

29

1 MR. GERARD LOWRY, HAVING BEEN SWORN, WAS DIRECTLY
2 EXAMINED BY MR. MARRINAN:

3
4 386 Q. MR. MARRINAN: Mr. Lowry, if you wouldn't mind just
5 giving us a brief background in relation to your 12:09
6 educational and professional qualifications.

7 A. Yes, sir. I did a degree in social science in UCD in
8 1984. I did a master's in social work in 1989 in UCC,
9 and a professional qualification of social work also in
10 1989. I did the advanced diploma in child protection 12:10
11 and welfare in Trinity in 1994. And I did the MBA in
12 UCD in the year 2000.

13 387 Q. And in terms of your work experience?

14 A. After the social science degree I worked as social care 12:10
15 worker in Oberstown for a period of time and then I
16 worked as a basic-grade social worker with the
17 Northeastern Health Board until 1989, and then after
18 the professional qualification, I was a professionally
19 qualified social worker in the North Eastern Health
20 Board and I worked with the Probation and Welfare 12:10
21 Service for approximately a year. And I was promoted
22 as a senior social worker and then as childcare manager
23 and then as area manager in 2012 as Tusla was being set
24 up in preparation in 2014.

25 388 Q. Now, I think that you have provided the Tribunal with a 12:11
26 number of charts which you describe as organisational
27 charts for the Cavan-Monaghan area for the years 2013
28 up until 2017, isn't that right?

29 A. That's correct.

1 389 Q. And if we can just go to page 1064 please. Sorry, if
2 we go to page 1067 in the first instance. This the
3 organisational chart for Cavan-Monaghan Child and
4 Family Support Services, is that correct?
5 A. That's correct. 12:12

6 390 Q. And you are seen there as being the area manager --
7 A. That's correct.

8 391 Q. -- for Cavan and Monaghan, is that right?
9 A. That's correct.

10 392 Q. I think directly below you then we have Louise Carolan, 12:12
11 who is a principal social worker, is that right?
12 A. That's correct.

13 393 Q. We also have Deirdre Duffy, and Deirdre Horan, we are
14 not concerned with them. And we also then have Seamus
15 Deeney -- 12:12
16 A. That's correct.

17 394 Q. -- whose Independent Chair Child Protection Conferences
18 and Children First 2011, is that right?
19 A. That's correct.

20 395 Q. He's the designated person for that -- 12:12
21 A. Yes.

22 396 Q. -- under section 4(4)(iii), is that right?
23 A. That's correct.

24 397 Q. I think then below that we have on the left-hand side
25 there, under "*Point of referral, duty social work* 12:12
26 *intake initial assessment*" we have Keara McGlone who is
27 noted as the social work team leader, is that right?
28 A. That's correct.

29 398 Q. Then below that we have the staffing levels, we have

1 six social workers, is that right?

2 A. That's correct.

3 399 Q. One social care leader and one family support worker,
4 is that right?

5 A. That's correct. 12:13

6 400 Q. I think you have noted that there was one social worker
7 who was on long-term sick leave?

8 A. That's correct.

9 401 Q. You also have below that MTP, that is Measuring the
10 Pressure, is that right? 12:13

11 A. That's correct.

12 402 Q. And you note that in 2013 there were 103 high priority
13 cases awaiting a social worker, is that right?

14 A. That's correct.

15 403 Q. Now to the right of that, we have "*Prevention and Early* 12:13
16 *Intervention*" we're not concerned with that. Then we
17 have the "*Child Protection Assessment Service*", is that
18 right?

19 A. That's correct.

20 404 Q. And Rhona Murphy is noted as being the social work team 12:14
21 leader?

22 A. That's correct.

23 405 Q. And you note that there are four social workers
24 attached to that team and two social care leaders, is
25 that right? 12:14

26 A. That's correct.

27 406 Q. And one family support worker?

28 A. Yes.

29 407 Q. You note that there was one vacancy for a social worker

1 who was on long-term sick leave, is that right?

2 A. That's correct.

3 408 Q. And then you have one social work team leader who was
4 going to be on long-term maternity from February 2014,
5 is that right? 12:14

6 A. That's correct.

7 409 Q. Do you recall who that was?

8 A. I don't. I'm sorry. I don't.

9 410 Q. If you don't it's all right.

10 A. No, I don't. 12:15

11 411 Q. Yeah. And then you have, again you have the Measuring
12 the Pressure and you have 73 high priority cases noted
13 there, is that right?

14 A. That's correct.

15 412 Q. They're different from those under the "*Point of*
16 *referral for the duty social work initial intake*
17 *assessment service*", is that right? 12:15

18 A. That's correct.

19 413 Q. So that is a different file, is that right?

20 A. Yes. 12:15

21 414 Q. Sorry?

22 A. They're different lists awaiting allocation.

23 415 Q. So then to the right of that you have the "*Alternative*
24 *Care Services*", is that right?

25 A. Yes. 12:15

26 416 Q. And Carmel McAulay is noted as being the social work
27 team leader. And then to the right of that we have
28 "*Services for Children in Care*", is that right?

29 A. That's correct.

1 417 Q. Now as far as Seamus Deeney is concerned, what was his
2 function and role in 2013?
3 A. Sir, he chaired in the child protection conferences for
4 cases that reached that threshold and he had oversight
5 of the garda notification system. 12:16

6 418 Q. If we could have page 1066. Again this is the
7 organisational chart for Cavan and Monaghan. And we
8 see you're there as the area manager?
9 A. Yes.

10 419 Q. And below that there seems to be different functions 12:16
11 for people at that stage?
12 A. That's correct.

13 420 Q. Seamus Deeney, he's the principal social worker, is
14 that right?
15 A. That's correct. 12:17

16 421 Q. And what is he providing at that time?
17 A. He continued to do the child protection conferences and
18 he was providing principal social work services for the
19 front door with the duty intake and initial assessment
20 service. 12:17

21 422 Q. So then below him there is a point of referral?
22 A. Yes.

23 423 Q. And it's the "*Duty Social Work Intake Initial*
24 *Assessment Service*"?
25 A. Yes. 12:17

26 424 Q. And Carmel McAulay has become the social work team
27 leader, is that right?
28 A. That's correct.

29 425 Q. And then you itemise the social workers who are

1 involved in Monaghan and then Cavan as well. Below
2 that you have the duty social work services provided by
3 all staff on a rotational basis?
4 A. That's correct.
5 426 Q. By all staff, including child wellbeing staff from, 12:18
6 15th September 2014?
7 A. Yes.
8 427 Q. Then again below Seamus Deeney in reporting to him we
9 have the child protection service, is that right?
10 A. That's correct. 12:18
11 428 Q. And we have Kay McLoughlin who is noted there. And she
12 is the team leader, is that right?
13 A. That's correct.
14 429 Q. And we have Alison Deery, Séan Cooney, Orla Dunne, and
15 Katie Kane all reporting to her from Cavan, is that 12:18
16 right?
17 A. That's correct.
18 430 Q. And then in Monaghan we have Mark Cowen, we have the
19 last witness, Laura Connolly, and Emma O'Gorman; is
20 that right? 12:18
21 A. That's correct.
22 431 Q. Now under Keara McGlone we have the alternative care
23 services who report to her, the service for children in
24 care again reporting to her as a separate unit and
25 after care services that we are not concerned about, is 12:19
26 that right?
27 A. That's correct.
28 432 Q. Also, you have noted in there on the right-hand side
29 the *"Wellbeing centre: The area-based approach,*

1 *prevention and early intervention service*" and then
2 other Tusla services are noted. But we're not
3 concerned with those in this Tribunal.

4 A. Okay.

5 433 Q. Isn't that right? 12:19

6 A. That's correct.

7 434 Q. Now if could just perhaps then turn over to page 1065.
8 Again you have done a similar chart. You occupy the
9 same position as area manager --

10 A. Yes. 12:19

11 435 Q. -- for Cavan and Monaghan. And then Seamus Deeney is
12 in the same role, is that right?

13 A. That's correct.

14 436 Q. And again there's the "*Point of referral*", and the
15 "*Duty social work intake initial assessment service*", 12:20
16 this is now run by Kay McLoughlin, is that right?

17 A. That's right.

18 437 Q. And she is the social work team leader. So she has
19 changed her role --

20 A. That's correct. 12:20

21 438 Q. -- from 2014. It seems to be, just reading it, we will
22 finish this chart, but it seems to be that there are --
23 people change role and function not infrequently, is
24 that right?

25 A. I think since the establishment of the Tusla there's 12:20
26 been a lot of growth in the service and that has led to
27 a lot of reassignments and change over the course of
28 the last three years.

29 439 Q. Yes. And when people are reassigned, are there

1 discussions that take place between the people who are
2 coming on duty and taking over the role of the former
3 team leader, for example?

4 A. Yes.

5 440 Q. Are cases discussed? 12:21

6 A. The procedure would be that there would be a hand-over
7 from whoever was taking off on the new role.

8 441 Q. But I mean, insofar as there is a hand-over that can be
9 'look, there are the files, read yourself into it, your
10 new role' or it could be 'look, we have some 12:21
11 problematic cases here' and certain problematic cases
12 could perhaps be flagged to the new team leader coming
13 in?

14 A. Okay. The hand-over should include briefing the new
15 team leader on all relevant information, including 12:21
16 critical cases.

17 442 Q. So, as I say, we have Kay McLoughlin there and you have
18 listed the social workers under her in Monaghan and
19 also in Cavan. And then she's reporting to Seamus
20 Deeney, as is Carmel McAulay, who is now in the 12:22
21 long-term further assessment service that, right?

22 A. That's correct.

23 443 Q. And you note that personnel under her in Monaghan,
24 Laura Connolly has now moved to that service, is that
25 right? 12:22

26 A. That's correct. Just for clarification, maybe, it's
27 the one service across Cavan-Monaghan, with one team
28 leader.

29 444 Q. Yes. And then if we just go, we can see to the

1 right-hand side, Keara McGlone has taken up the role as
2 PSW, is that right?

3 A. That's correct. She was in the previous chart in that
4 role.

5 445 Q. And there's a position vacant? 12:22

6 A. Yeah, that refers to Louise Carolan who went on
7 long-term sick leave in June 2014. That position was
8 still vacant at that point.

9 446 Q. And the social work team leaders in the foster care
10 services, services for children in care and after care 12:23
11 services are all reporting to Keara McGlone, is that
12 right?

13 A. That's correct.

14 447 Q. I think that we also -- you also the note the child
15 wellbeing Centre, again the point of referral in the 12:23
16 prevention and family support services and other Tusla
17 services. But we're not concerned about those.
18

19 Now if we can just move over then to page 1064 and we
20 have another organisational chart, again you're the 12:23
21 area manager, is that right?

22 A. That's correct.

23 448 Q. And again we have the chain of command, as it were, in
24 the child protection and welfare management and
25 leadership team, we now have Kay McLoughlin, is that 12:24
26 right?

27 A. That's correct.

28 449 Q. And below her is Michael Cunningham, who is a social
29 work team leader?

1 A. Yes.

2 450 Q. And now we have Laura Connolly, she seems to have moved
3 again, is that right?

4 A. Laura was promoted to a social work team leader post
5 and the significant change in that chart is that we now 12:24
6 had a team leader in Cavan and in Monaghan. So there
7 were two social work team leaders for the duty intake
8 service, whereas prior to that we had only one.

9 451 Q. And we also then have Gail Penders, is that right?

10 A. That's right. 12:24

11 452 Q. And she is the centre manager. And Emer O'Neill has
12 taken up a role as the senior clinical psychologist, is
13 that right?

14 A. That's right. Emer O'Neill rejoined the service I
15 think it was July 2016 and she has become involved at 12:25
16 the point of referral in assisting with the
17 proportionate report.

18 453 Q. And we know that she was in the service in 2005 and
19 2006 --

20 A. That's correct. 12:25

21 454 Q. -- and going into 2007. Because in fact she had dealt
22 with Ms. D along with an Orla Curran, isn't that right?

23 A. That's correct.

24 455 Q. Again you have the "Point of referral" and you have the
25 social workers listed there? 12:25

26 A. Okay.

27 456 Q. And you have the Child Wellbeing Centre again and the
28 child protection team and Carmel McAulay is noted as
29 social work team leader, isn't that right?

1 A. That's correct.

2 457 Q. I note that on the far right for child in care reviews
3 Rhona Murphy is the social work team leader?

4 A. That's correct.

5 458 Q. Isn't that right? 12:26

6 A. And maybe if I could just note, on that chart it points
7 out the two points of referral, prior to this stage we
8 had one point of referral which was for the social work
9 service but we have now developed an early intervention
10 programme so that if cases don't meet the threshold for 12:26
11 a social work service families and children still
12 receive positive family support service.

13 459 Q. Yes. We can see from the charts that, and I seem to
14 have missed in 2013, Eileen Argue isn't -- is it Argue
15 or Arg-ay? You worked with her for many years. 12:26

16 A. It is Argue. Argue. Eileen Argue.

17 460 Q. Eileen Argue, does she appear on the chart for 2013?

18 A. I haven't got names on that one. I think the names
19 were requested and they were submitted to the Tribunal.
20 They're just not on that chart that I originally 12:27
21 submitted. So I don't have the names of people on
22 that.

23 461 Q. And 2014. 1066.

24 A. Yeah, I have it here. Sir, I'm aware of Eileen's
25 position, if I could -- 12:27

26 462 Q. Yes. If you wouldn't mind, she doesn't appear to be on
27 the chart.

28 A. Okay. When Keara McGlone moved from Cavan-Monaghan in
29 I think it was January 2014 she was promoted and moved

1 to Louth, and at that point Eileen Argue became the
2 acting social work team leader for the Duty Social Work
3 Intake Service Covering both countries. So that was
4 from January and then Eileen Argue left the service in
5 June 2014. 12:28

6 463 Q. I think she transferred to Kilkenny, is that right?
7 A. Yes. She did, yes.

8 464 Q. So Eileen Argue had been there for a considerable
9 period of time, isn't that right?
10 A. That's correct. 12:28

11 465 Q. We will come to that shortly, going back to 2005,
12 perhaps 2004, is that right?
13 A. I don't know the exact year, but she was with us for a
14 good few years.

15 466 Q. And it would appear just looking at the various charts 12:28
16 that there had been people who had been involved in
17 Cavan and Monaghan, certainly in the period between
18 2013 right through to 2016 and had been there working
19 in the Social Work Department, but seemed to have moved
20 between roles, isn't that right? 12:29
21 A. That's correct.

22 467 Q. But the majority of them had worked with other
23 colleagues in the service, is that right?
24 A. That's correct.

25 468 Q. And just before we move on from that, because I had 12:29
26 asked you about discussions that could take place
27 between somebody coming in as the new social work team
28 leader in one department, perhaps signing off, and part
29 of that would involve engaging with the person who is

1 coming in to take on the function, but presumably like
2 any relatively small organisation in Cavan and Monaghan
3 people would socialise together and talk together, is
4 that right?

5 A. Yes. 12:29

6 469 Q. You know, that they talk over coffee or whatever about
7 various cases of interest, isn't that right?

8 A. That's correct.

9 470 Q. And as I say it's a relatively small group of people,
10 there wasn't any problems or friction between any 12:30
11 individuals that we should know about, were there?

12 A. No.

13 471 Q. So there was nothing to inhibit people from picking up
14 the phone perhaps if they had some query that may arise
15 or there may be some issue on a file, some ambiguity, 12:30
16 there would be nothing to prevent them from picking up
17 the phone or indeed just walking into another office to
18 discuss the file with the person who had previously
19 been on it, isn't that right?

20 A. That is correct. 12:30

21 **CHAIRMAN:** That seems like a good place to break,
22 Mr. Marrinan.

23

24 **THE HEARING THEN ADJOURNED FOR LUNCH**

25 12:30

26

27 **THE HEARING CONTINUED AFTER LUNCH AS FOLLOWS:**

28

29 **GERARD LOWRY CONTINUED TO BE DIRECTLY EXAMINED BY**

1 A. I don't see it clearly, no.

2 479 Q. Is this the right page? Page 2467, have you got it on
3 the screen?

4 A. No, it's a handwritten dialogue on the screen.

5 480 Q. It must be 2468, I am sorry, we obviously have a 13:33
6 different number.

7 A. I see the garda notification now, the form.

8 481 Q. That is the Garda station form. Sorry, will you just
9 give me one moment, we seem to have noted down the
10 wrong number. It may be, if you go to 2468, if we just 13:33
11 try that one. Is that a letter from you to the
12 superintendent in charge?

13 A. No, I am still on Garda notification.

14 482 Q. If we could go to 2469, please?

15 A. Yes, I see that. 13:34

16 483 Q. Okay. And this is a letter to the superintendent in
17 charge of Bailieboro Garda Station?

18 A. Yes.

19 484 Q. And it's Notification of Child Abuse to Health Board,
20 do you see that? 13:34

21 A. Yes.

22 485 Q. And the name Ms. D, and then:
23
24 *"Dear Superintendent*
25 *I wish to acknowledge receipt of the above notification* 13:34
26 *received on the 2nd of January 2007. Rhona Murphy --"*
27
28 who we have heard evidence from.
29

1 "-- social worker, has been assigned to the case."
2

3 And then giving Rhona Murphy's contact number and it's
4 signed by you.

5 A. That's correct. 13:35

6 486 Q. Do you have any -- do you have any recollection of
7 that?

8 A. I don't have a recollection, but when I see it that is
9 the standard acknowledgement letter, when a garda
10 notification comes in. At that point I was doing the 13:35
11 garda notification system and I would have checked who
12 is the assigned social worker and then arranged for the
13 standard acknowledgement letter to be sent back with
14 contact details, so the social worker and An Garda
15 Síochána could liaise with each other. 13:35

16 487 Q. You say you knew Sergeant McCabe, isn't that right?

17 A. I knew him. I didn't know him personally. How do --

18 488 Q. Well, did you not know him through your work at that
19 stage?

20 A. No, no, I had never met him. I wasn't doing Garda 13:35
21 social work liaison meetings, so I don't think I was --
22 I was never at a meeting with Sergeant McCabe.

23 489 Q. Are you sure about that?

24 A. Well, I'm -- I can't remember any meeting with Sergeant
25 McCabe at any stage now. 13:35

26 490 Q. I mean, I suppose when this matter ultimately came to
27 your attention in 2015 and 2016, you accept, I'm sure,
28 that within Tusla, from 2013 until 2016, that there was
29 a litany of grave errors?

1 A. Yes.

2 491 Q. Isn't that right?

3 A. That's correct.

4 492 Q. And by 2015, certainly, you were aware of the fact that
5 you were dealing with Sergeant McCabe, who was known in 13:36
6 the media as being what was described as a
7 whistleblower, isn't that right?

8 A. That's correct.

9 493 Q. And indeed, we will come to it in due course more
10 specifically, but there is a reference I think from -- 13:36
11 in an e-mail from Kay McLoughlin to yourself,
12 indicating that the reason that the case had come back
13 in was because of publicity in the media, isn't that
14 right?

15 A. That's correct. 13:37

16 494 Q. We will come to that in due course, as to what you
17 thought she meant by that. So, I suppose the first
18 thing that you would have thought was, well, had I any
19 dealings with this man over the years, he was a
20 sergeant in Bailieboro, our paths may have crossed; did 13:37
21 you consider that?

22 A. At what stage, are you -- sorry, just for clarity, are
23 you asking? Is this '06/'07 when this letter was sent
24 or was this --

25 495 Q. No, I am talking about in 2015. 13:37

26 A. Okay. If you don't mind, if you just clarify the
27 question and I will answer it.

28 496 Q. Just, when you eventually realised when dealing with
29 this file that it was Sergeant McCabe --

1 A. Yes.

2 497 Q. -- who was from Bailieboro Garda Station, and who was
3 in the media and known as being a whistleblower --

4 A. Yes.

5 498 Q. -- when you realised at that stage that this case was 13:38
6 attracting a lot of media attention, do you understand?

7 A. I do.

8 499 Q. Is that clear?

9 A. Yes, which goes back to 2013.

10 500 Q. Yes. To 2013? Did you then reflect on whether or not 13:38
11 you had come across Sergeant McCabe?

12 A. In terms of my personal work?

13 501 Q. Yes, work-wise.

14 A. Yes. I don't know if I consciously reflected on it.
15 My memory then and now is that I have never actually 13:38
16 been at a meeting with Sergeant McCabe about any
17 matter. And back in '06/'07 when I was chairing child
18 protection conferences, for example when guards would
19 have been regular attendees at those meetings, I can't
20 remember any case where Sergeant McCabe was at the 13:38
21 meeting and I was chairing those meetings. Now, I
22 cannot remember any meeting where Sergeant McCabe was
23 at.

24 502 Q. Or his name being discussed for that matter?

25 A. Again, do you mind just in terms of clarifying the 13:39
26 question.

27 503 Q. All right. Well, if you just go to page 260, please.
28 Have you seen this? This is a list that was prepared
29 by the Tribunal arising out of disclosure that had been

1 made by Tusla --

2 A. Yes.

3 504 Q. -- in relation to child conferences that you had
4 chaired?

5 A. Yes. 13:39

6 505 Q. Is that right?

7 A. Yes, I have seen this document, yes.

8 506 Q. You have seen it?

9 A. Yes.

10 507 Q. And if we could just look at it at page 260. The first 13:39
11 entry there is 27th of February 2004?

12 A. Okay.

13 508 Q. You are there present at meeting, Gerry Lowry, and also
14 then down below there is Sergeant Maurice McCabe?

15 A. I see that. 13:40

16 509 Q. So this is going back to February of 2004.

17 A. Yes.

18 510 Q. And in relation to the matters that were discussed, he
19 was placed on a CORE team?

20 A. Very good. 13:40

21 511 Q. Róisín Brecknell and two other persons whose names have
22 been redacted, do you see that?

23 A. I do.

24 512 Q. So, you were present there at a meeting with Sergeant
25 McCabe where a case was discussed that he was involved 13:40
26 with, and he was placed on the CORE team, and you had a
27 one-to-one interaction with him, isn't that right?

28 A. It would have been a group interaction, yes.

29 513 Q. Yes. And then the next one down, the 20th of July of

1 you see that?

2 A. I do.

3 519 Q. Along with others, including Kay McLoughlin, Emer
4 O'Neill and Orla Curran. And again, on the 31st of
5 October of 2006, you see you are chairing a conference, 13:43
6 Eileen Argue and Mary Tiernan are both present at that,
7 and Maurice McCabe was to attend but was unable to
8 attend and a case is discussed and Eileen Argue and
9 Maurice McCabe are put on the same CORE team, isn't
10 that right? 13:43

11 A. That's correct.

12 520 Q. And then if we go over to the next page, the 16th of
13 April of 2008, again you are chairing the meeting, this
14 time Eileen Argue is present and Sergeant McCabe is
15 also present, along with a Pamela Armitage, and again, 13:44
16 yourself, Eileen Argue and Sergeant McCabe are all on
17 the same CORE team; you are the only members of that
18 CORE team, isn't that right?

19 A. That's correct.

20 521 Q. And where a CORE team is set up, that's with a view to 13:44
21 dealing with a particular case, is it?

22 A. Yeah, at the child protection conference it was normal
23 that the key people who were directly involved with the
24 family would be assigned to the CORE team.

25 522 Q. Yes. And might be encouraged to communicate with each 13:44
26 other and discuss issues that might arise --

27 A. Yes.

28 523 Q. -- and perhaps then ultimately report back to a later
29 meeting, is that right?

1 A. That's correct.

2 524 Q. Yes. And then the 14th May of 2009, we see yourself, 13:45
3 Mary Tiernan and Eileen Argue all present. And again,
4 a matter is discussed, it may well be the same matter
5 as the previous year, because you and Eileen Argue and
6 Sergeant McCabe are all down as being members of the
7 CORE team, isn't that right?

8 A. That's correct.

9 525 Q. And then if we go to page 264, please, the bottom we 13:45
10 see the 8th July of 2009. Again, you are present,
11 Sergeant McCabe was unable to attend and it's noted
12 during the course of that conference that he is a
13 member of a CORE team, isn't that right?

14 A. That's correct.

15 526 Q. Now, if you just turn over to page 265, there is a 13:46
16 reference there to an unsigned letter dated 12th of
17 April of 2005 from Mary O'Reilly to Sergeant McCabe
18 seeking to arrange a liaison meeting between them and
19 Orla Curran in Bailieboro Garda Station on the 3rd of
20 May of 2005. Do you see that? 13:46

21 A. Yes, yes.

22 527 Q. And then the first bullet-point you will see that there
23 is a record of a strategy discussion meeting on the
24 23rd of August of 2007, which is attended by Emer
25 O'Neill, Orla Curran, Mary Tiernan, Kay McLoughlin, 13:47
26 Carmel McAulay, with apologies sent in from Sergeant
27 McCabe, who is noted as not being present. So, I mean,
28 it's not just simply the odd meeting that Sergeant
29 McCabe is attending; it would appear during the --

1 between 2004 and 2009, he has attended quite a large
2 number of conferences that you have chaired and he has
3 been put on a CORE team along with yourself, indeed,
4 and Ms. Argue, isn't that right?

5 A. That's -- yes, yes. 13:47

6 528 Q. Well, I mean, is it -- maybe I am attaching too much
7 significance to this, but this is somebody you have sat
8 around the table with and discussed cases of child
9 abuse with, isn't that right?

10 A. Well, from that record, yes, sir, but I would still 13:48
11 don't feel that I know Sergeant McCabe or had any
12 contact -- I accept in terms of, if I was at those
13 meetings I chaired those meetings, Maurice McCabe was
14 at them, I can't then --

15 529 Q. It may well be there is no significance to this and I 13:48
16 have to ask you these questions, but --

17 A. Yes.

18 530 Q. -- when the notification comes in, in relation to Ms. D
19 and it's quite clear that Sergeant McCabe was then
20 discussed within Tusla or the HSE, as it then was, that 13:48
21 it may well potentially have caused some embarrassment,
22 you know, that we know Sergeant McCabe?

23 A. Can I check, are you talking about '06, '07 or 2013?

24 531 Q. I am talking about '06/'07, in the first instance.

25 A. Okay. Okay. 13:49

26 532 Q. It didn't -- it doesn't jog your memory in relation to
27 the matter at all?

28 A. I think, I mean, it maybe be if -- I was certainly
29 aware in '06/'07 that the referral came in and that

1 Rhona Murphy was dealing with the case, and that there
2 was an outstanding issue in terms of dealing with the
3 adult about whom allegations had been made. So I was
4 aware of that, but I wasn't involved in that case
5 management process, in regard either to the child, 13:49
6 Ms. D, or to Maurice McCabe. So I was aware of it as
7 part of the general information within the service,
8 certainly.

9 533 Q. Were you aware that it related to Sergeant McCabe?
10 A. Yes. 13:50

11 534 Q. You were?
12 A. Yes.

13 535 Q. And were aware of the fact that Sergeant McCabe was
14 somebody that you knew at that time as somebody who was
15 attending conferences with you? 13:50
16 A. Yes, yes.

17 536 Q. You were?
18 A. I was aware that he certainly worked with the social
19 workers in regard to the protection and welfare of
20 children, yes. 13:50

21 537 Q. Well there was an issue arose in relation to Mary
22 O'Reilly and Mary Tiernan in referring the file in 2007
23 to Meath --
24 A. Yes.

25 538 Q. -- because of the potential conflict that may arise. 13:50
26 Were you aware of that?
27 A. Not at the time, no.

28 539 Q. You weren't aware of it. It's just, the reason I am
29 asking you these questions is, you made a statement to

1 the Tribunal, which is one page in length, and there is
2 no reference at all to having any knowledge of sergeant
3 McCabe going back as early as 2004, or indeed knowing
4 anything about the 2005/2006 file. But you have a
5 recollection of that now, is that right? 13:51

6 A. No, I have a recollection of knowing about the case and
7 I appreciate that Garda acknowledgement letter has come
8 to my attention since I made that initial statement.
9 So I have an awareness that it was a case the social
10 work service were dealing with. I have an awareness at 13:51
11 that time it was a case the social work service were
12 dealing with.

13 540 Q. Now, I think on the 1st January of 2014 you became the
14 area manager and at that stage you became accountable
15 for all aspects of the service within the 13:51
16 Cavan-Monaghan area, is that right?

17 A. That's correct.

18 541 Q. And if you could just from your perspective and dealing
19 with those, could you just tell us about the process of
20 the receipt of referrals in relation to 13:52
21 allegations/concerns against adults in relation to
22 children?

23 A. Sir, the duty social work service is the point of
24 referral for all concerns and allegations of child
25 abuse and neglect. So the social work team leader for 13:52
26 that service would receive all referrals and keep due
27 records of all those referrals and then use all the
28 resources available to provide a timely, proportionate
29 and effective response for all children and families.

1 And all would have been dealt with in the one -- some
2 of the situations were very, very difficult, there were
3 children at home in situations where there was a
4 serious concern they were being abused and neglected,
5 there were a lot of situations where teenagers were out 13:53
6 of control or at home and being abused and neglected,
7 and they were the kind of cases that dominated the
8 concern. the situation I think in social work services
9 at the front door is very, very rushed, very, very
10 busy, a lot of high concern, a lot of fear that 13:53
11 something might go wrong in regard to the well-being
12 and safety of children. And in terms of within
13 Cavan-Monaghan at that point in time in, I think,
14 August 2013 there were 200-plus unallocated cases and
15 those children did not have any allocated social 13:53
16 worker. So it was always a struggle to try and get a
17 service for all the children and families that came to
18 our attention.

19 542 Q. How many referral meetings were there each week?
20 A. There were weekly referrals. There were two; there was 13:53
21 one in Cavan and one in Monaghan each week.

22 543 Q. And at those weekly referral meetings, were all new
23 referrals into the service considered by the social
24 work team leader?
25 A. Yes. 13:54

26 544 Q. And was that in conjunction with the social workers who
27 were on the duty intake team?
28 A. Yes.

29 545 Q. I think that you, on your chart, organisation chart for

1 cross area comparisons. And there was certainly
2 guidance in terms of how each of those cases would be
3 high, medium and low. And high priority certainly were
4 where children were at immediate and serious risk of
5 abuse and neglect. They were the -- that was -- 13:56

6 551 Q. I think you were here earlier on when Laura Connolly
7 was giving her evidence, isn't that right?

8 A. I was.

9 552 Q. And you heard probably reference and the chairman
10 asking her questions in relation to the cabinet that 13:56
11 held the Measuring the Pressure files, isn't that
12 right?

13 A. That's correct.

14 553 Q. And it appears to have -- it just seems to have been a
15 fairly random selection of files, whichever one 13:56
16 appeared to be at the top of the filing system, isn't
17 that right?

18 A. I don't accept that.

19 554 Q. You don't accept that?

20 A. No, I think there's -- part of the social work role is 13:57
21 to try and prioritise the children and families at
22 immediate risk and that that prioritisation process
23 goes on, on an ongoing basis.

24 555 Q. Well then, perhaps you could explain Tusla's management
25 of the Measuring the Pressure system in Cavan and 13:57
26 Monaghan at the time.

27 A. As I say, I think the Measuring the Pressure System was
28 a national database in which to bring about visibility.
29 It developed then into a way for the local service to

1 see which cases were unallocated and a way to allow
2 those regular audits and reviews of cases that were
3 unallocated with a view to assignment. So, as
4 resources became available and social workers became
5 available then it was possible to assign an unallocated 13:57
6 case to one of the social workers. So there was that
7 constant processing of cases by the social work team
8 leader.

9 556 Q. If you could just explain to us the circumstances in
10 which this arose in the context of the Ms. D case. You 13:58
11 are aware of the fact that Keara McGlone did an intake
12 record in August of 2013, aren't you?

13 A. That's correct.

14 557 Q. And I think that the Ms. D case ended up being placed
15 on Measuring the Pressure file, isn't that right? 13:58

16 A. That's correct.

17 558 Q. And then apparently was reviewed by Laura Connolly in
18 2014, in April, isn't that right?

19 A. That's correct.

20 559 Q. And we know from the evidence that at that juncture 13:58
21 intake records were done in relation to the McCabe
22 children and also a garda notification was sent to the
23 Gardaí with the erroneous information on both. But
24 then it seems to have been returned to the Measuring
25 the Pressure filing cabinet, where it sat until 2015, 13:59
26 when Kay McLoughlin again took it out from the filing
27 cabinet. How is it that that arose?

28 A. I think unfortunately that's -- I don't think that is
29 unusual. I think after the intake record is completed

1 and let's say the Garda notifications are completed,
2 then if it's not possible to assign a social worker to
3 the case the case remains unallocated.

4 560 Q. So there is an initial review, it goes into the filing
5 cabinet, there is a further review, it is taken out of 14:00
6 the filing cabinet, and a Garda notification is sent,
7 and further intake records, and it's placed back into
8 the cabinet, is that right?

9 A. It remains unallocated. It's not possible to assign a
10 social worker to it because of other priorities. 14:00
11 Therefore, the case remains unallocated.

12 561 Q. And also, there is an obligation to notify the Gardaí
13 of any referral that is made to the service, isn't that
14 right?

15 A. Any suspected child abuse. 14:00

16 562 Q. Referral of child abuse.

17 A. Yes, any case of suspected child abuse, not any
18 referral.

19 563 Q. Yes. There is that obligation, isn't there?

20 A. There is an obligation to refer all suspected child 14:00
21 abuse to An Garda Síochána.

22 564 Q. Have you found any reason why that wasn't done in this
23 particular case, in August of 2013?

24 A. No.

25 565 Q. Now, I think that you then have helpfully gone on to 14:01
26 explain to our investigators how the duty intake
27 service works, isn't that right?

28 A. Yes.

29 566 Q. And you note that when a case is assigned to a social

1 worker for an initial assessment it is normal for the
2 social worker to speak to the parents and to the
3 children and other relevant professionals --

4 A. That's correct.

5 567 Q. -- for example, An Garda Síochána? 14:01

6 A. That's correct.

7 568 Q. That that wasn't done in this case -- in the case of
8 Ms. D, was it?

9 A. That's correct. Because it wasn't assigned to a social
10 worker. 14:02

11 569 Q. When it ultimately was assigned to the social worker,
12 it still wasn't done, isn't that right?

13 A. What phase, sorry, are you referencing there?

14 570 Q. I will come to it in due course, I would have thought
15 it was self-evident what I was referring to. Kay 14:02
16 McLoughlin, when she came to deal with the file --

17 A. Yes.

18 571 Q. -- she didn't make any effort to speak to the Gardaí,
19 isn't that right?

20 A. No, that is not my understanding. My understanding is 14:02
21 that she did make an effort to speak to the Gardaí.

22 572 Q. All right. Well, we will come to that in due course.
23 I think that you note that based on the initial
24 assessment, a judgement is made about the level of risk
25 to any child, isn't that right? 14:02

26 A. That's correct.

27 573 Q. And what, if any, further services should be provided.
28 You then go on to deal with situations that could
29 potentially arise under section 12 of the Emergency

1 Care Order, which we are not concerned with here.

2 A. Okay.

3 574 Q. You note that the Tusla obligation to notify An Garda
4 Síochána of all suspected child abuse is at the point
5 of suspicion and the notification to Tusla, isn't that 14:03
6 right?

7 A. That's correct.

8 575 Q. I think that there existed in 2013 onwards formal
9 protocols between the Gardaí and the HSE, isn't that
10 right? 14:03

11 A. That's correct.

12 576 Q. I think that is also dealt with in the national
13 standards in the Children First Guidelines?

14 A. That's correct.

15 577 Q. So, if you could just perhaps deal with -- from your 14:03
16 view as the area manager, as to how a file ought to be
17 dealt with from its first notification to Tusla right
18 through to the closing of the file.

19 A. When a concern, suspicion or allegation of child abuse
20 comes to our attention we certainly keep records of all 14:04
21 relevant information in order that information is
22 accessible and retrievable in the future, because it's
23 important that in order to protect children from abuse
24 the patterns of information is retrievable over time.
25 So, part of that role then of the duty social worker is 14:04
26 to look at any previous files that we have in order to
27 see what information is relevant there and to bring it
28 into the new situation. The information then is looked
29 at, based on the current information, what level of

1 risk is there, if any, to children immediately and if
2 there is immediate protection required, then we are
3 obliged to take that immediate protection. And when
4 the social work team leader looks at that information,
5 if the situation is serious it requires assignment to a 14:05
6 social worker to undertake an initial assessment, when
7 the social worker does that initial assessment the
8 social worker will meet with the family, the parents,
9 the child and other relevant professionals in order to
10 engage them in thinking about the child's protection, 14:05
11 safety and well-being. And based on that collation of
12 information and those discussions a discussion is made
13 about the most effective, proportionate and timely
14 response for the child and family. So, at that point,
15 and again ideally, if all resources being available, a 14:05
16 worker would be assigned to work with the family in
17 order to address any underlying problems and those
18 issues then would be monitored over time. If the
19 situation doesn't improve we have the option of calling
20 a child protection conference, where decisions can be 14:06
21 made about, for example, applying for care orders. But
22 certainly every effort is made to work with children
23 and families in order that the child protection issues
24 are addressed by the family themselves so that the
25 child stays within their own home, within their own 14:06
26 communities. And certainly the last possible scenario
27 would be the admission of a child into care. So based
28 on that, positive -- if the whole intervention works
29 very positively, but that very much involves a whole

1 pool of professionals working together, not just the
2 social worker on their own, then if there is adequate
3 progress the case would be closed in due course.

4 578 Q. And I suppose in relation to allegations of child
5 abuse, the assessment phase is perhaps the most 14:06
6 important phase, is it?

7 A. Well, the assessment, I sometimes call it, that's the
8 collective thinking and action. So, that is the
9 engagement process with the family with a view to what
10 is going on here, can the family themselves look at the 14:07
11 issues, the concerns, with a view to ensuring the child
12 is safe within their own environment? That is
13 certainly part of the social work role.

14 579 Q. Right. By 2013, I think that you understood that you
15 should also be implementing what is known as the Barr 14:07
16 judgment, isn't that right?

17 A. That's correct.

18 580 Q. And therefore, there was an obligation to inform the
19 people against whom there were allegations about the
20 allegation and to take their views into account in the 14:07
21 assessment process, isn't that right?

22 A. That's correct.

23 581 Q. Sergeant McCabe wasn't notified until he received a
24 letter, I think, in early January of 2016?

25 A. That's correct. 14:07

26 582 Q. I think that you'd acknowledge that he should have been
27 informed long before then?

28 A. Absolutely. One of our standards is that people
29 receive a timely service; there was not a timely

1 service in this situation.

2 583 Q. Now, if we could just move on then. You wanted to
3 highlight some aspects of factors that could have given
4 rise to some degree of uncertainty in how to deal with
5 files in 2013, 2014 and 2015, isn't that right? 14:08

6 A. I am not sure what you are referring to, sorry.

7 584 Q. I had understood you to try to highlight to the
8 investigators that there was some uncertainty as to
9 whether an assured account was required from the
10 complainant before you would approach the person 14:09
11 against whom an allegation had been made?

12 A. No, I remember it. I remember what I was referring to.
13 I think, sir, I think the point I was trying to make is
14 that intervention in situations when an allegation has
15 been made against an adult by a child or by an adult 14:09
16 has evolved over the time, and I think the whole
17 awareness about how we should deal with these
18 situations has changed. I think in '06/'07 my opinion
19 is that the response was inconsistent but by 2013 that
20 there was certainly a belief that in all situations 14:09
21 where an allegation had been made, where a person had
22 been met by professionals that we should be
23 implementing the Barr judgment and meeting the person
24 against whom there was an allegation with a view it
25 discussing with them the implications of it. But I 14:10
26 think the service has evolved further again with the
27 establishment of the regional SART team, that it's only
28 in situations I think where the alleged victim has met
29 with the SART team and there is a thorough discussion

1 and assessment about the credibility of the allegation,
2 about whether the allegation is founded or not, only at
3 that point would social workers approach the person
4 about whom there has been an allegation.

5 585 Q. I think that you have reviewed the circumstances that 14:10
6 gave rise to the problems in the Ms. D case that we are
7 looking into. And, the first issue is in relation to
8 Keara McGlone, in her role as social work team leader
9 and duty intake social work team leader at the time of
10 the referral that she wrote to garda superintendent 14:10
11 requesting a discussion with him about the case, isn't
12 that right?

13 A. That's correct.

14 586 Q. I think you have noted that there was no response from 14:11
15 Superintendent Cunningham, isn't that right?

16 A. That's correct.

17 587 Q. And indeed, but however, there was no follow-up by the
18 social work department, isn't that so?

19 A. That's correct.

20 588 Q. And anybody who later came upon the file in 2014 or 14:11
21 2015 or indeed 2016, with the SART review, would have
22 been aware of the fact that Superintendent Cunningham
23 had investigated the earlier -- the allegation earlier
24 on in 2006 and in 2007, isn't that right?

25 A. That's correct. 14:11

26 589 Q. But despite that, nobody sought to follow up on the
27 letter that had been sent to the superintendent?

28 A. That's correct.

29 590 Q. I think you also noted from the review of your files in

1 relation to this matter that there was no liaison
2 meeting between the Gardaí and Tusla in the case
3 subsequent to August of 2013 when the letter was
4 written, isn't that right?

5 A. That's correct. 14:12

6 591 Q. I think you also note that Keara McGlone left in
7 February of 2014, isn't that so?

8 A. That's right. I think it could have been January,
9 actually.

10 592 Q. In January? 14:12

11 A. Yes.

12 593 Q. And I think you also note that Eileen Argue came in
13 February of 2014 --

14 A. That's correct.

15 594 Q. -- and left in June of the same year, isn't that right? 14:12

16 A. That's correct.

17 595 Q. I think you also note that Laura Connolly was
18 conducting a general review, which wouldn't be unusual,
19 of the Maurice McCabe file as part of reviewing all the
20 unallocated cases? 14:13

21 A. That was my understanding at that time, yes.

22 596 Q. I think that she was, and she has told us, reporting to
23 Eileen Argue, isn't that right?

24 A. That's correct. Eileen Argue became acting social work
25 team leader when Keara McGlone left at the beginning of 14:13
26 February 2014.

27 597 Q. I think you have highlighted the documentation and the
28 letter that was sent from Laura Connolly to Eileen
29 Argue, asking whether she should complete the intake

1 records in relation to the McCabe children?

2 A. That's correct.

3 598 Q. And that Ms. Argue responded stating that she should
4 complete the intake records, is that right?

5 A. That's correct. 14:13

6 599 Q. Would it be unusual to do so in circumstances where two
7 of the children have been identified as being adults?

8 A. In my opinion, yes.

9 600 Q. It would be unusual?

10 A. Yeah. Well, I am not -- I haven't been directly 14:14
11 involved, let's say, at that point of making decisions
12 but I think it's -- I didn't understand that we would
13 create records about adults.

14 601 Q. We know that this occurred in 2014. What is the
15 practice now in 2017 in relation to creating intake 14:14
16 records in relation to children?

17 A. Well, we don't create intake records about adults, but
18 we create intake records about children.

19 602 Q. Is that dependent on getting an assured account from
20 the person making the allegation? 14:14

21 A. My understanding from my discussions with the SART team
22 is that that is correct, yes.

23 603 Q. You then go on to say that you encourage phone call --
24 phone contact between the referrer and Tusla to clarify
25 information and to engage with the referrer in the 14:15
26 problem resolution process as well as they could often
27 have a role in that, is that right?

28 A. That's correct.

29 604 Q. I think you'd acknowledge that that wasn't done in this

1 case?

2 A. That's correct.

3 605 Q. And there was no attempt at any stage in 2013, or
4 indeed when it came to light probably in 2014 or
5 thereafter, was there any attempt to contact Laura 14:15
6 Brophy?

7 A. I think only about the data management, the data
8 breach, there was contact.

9 606 Q. Yes. Now, I think that if we could then move on, I
10 think you provided, helpfully again, a number of 14:16
11 documents for the Tribunal in relation to the
12 spreadsheets for the Measuring the Pressure system and
13 also a number of other documents in relation to
14 directives, which we will return to later on, all
15 right? 14:16

16 A. Very good.

17 607 Q. Again, I think that the system has changed somewhat in
18 2014, is that right?

19 A. It has changed since 2014, yes.

20 608 Q. I will return to that in due course. If you could just 14:16
21 deal, perhaps now, at this juncture, when you are
22 dealing with change, because we didn't deal with it in
23 the organisation chart; when was SART set up?

24 A. August 2016.

25 609 Q. And to give it its proper name, it's Sexual Abuse 14:17
26 Regional Team, is that right?

27 A. Yes.

28 610 Q. And why was it set up?

29 A. I think to standardise how we respond to situations

1 where there's allegations made by a child or made by a
2 child or adult against an adult.

3 611 Q. And in this particular instance, we know that the team
4 was set up, you say, in August 2016, is it?
5 A. I understand it's August 2016. 14:17

6 612 Q. And who was on that team?
7 A. Lisa O'Loughlin is the person I had contact with.

8 613 Q. And I think that you also note Emer O'Neill, who is the
9 senior clinical psychologist, who had been dealing with
10 Ms. D in 2006, is also on that team, is that right? 14:18
11 A. No, no, that is not correct. Emer is part of our local
12 Cavan-Monaghan team, and she would have particular
13 specialism in working with children who have been --
14 who are suspected to have been sexually abused.

15 614 Q. Yes. Now, in terms of the audits, were there any 14:18
16 audits done over the relevant period of time in
17 relation to files?
18 A. There were not audits done in 2013, 2014 or 2015.

19 615 Q. In particular, was there an audit done by HIQA in early
20 2013? 14:18
21 A. Sorry, yeah. There was a HIQA inspection in 2013.

22 616 Q. And I think that they did a report in relation to their
23 examination of files, is that right?
24 A. That's correct.

25 617 Q. And that was done over February and March of 2013? 14:18
26 A. That's correct.

27 618 Q. Is that right?
28 A. That's correct.

29 619 Q. And how did they conduct that?

1 A. There were three inspectors who would have met all the
2 managers, all the staff, who would have met groups of
3 children, I think, or groups of other agencies who work
4 with us, and they would have inspected various files.

5 620 Q. Now, if we can just go back to Eileen Argue, who had 14:19
6 made a decision in relation to the creation of intake
7 records in relation to the children, Sergeant McCabe's
8 children. I think that on review of the file, you are
9 in a position, we have already heard this in evidence,
10 to state that Pamela Armitage was the first point of 14:20
11 contact between Rian and Tusla, isn't that right?

12 A. That's correct.

13 621 Q. I think on reviewing the file that you have noticed and
14 noted that it was followed up with a written referral
15 from Laura Brophy, from Rian, to Tusla, isn't that 14:20
16 correct?

17 A. That's right.

18 622 Q. And you are also aware from reviewing the file that the
19 written referral that was sent in by her is no longer
20 on the file held in Tusla, isn't that so? 14:20

21 A. That's correct.

22 623 Q. I think your understanding is that that file was
23 returned to Rian at their request but, however, there
24 is no record on the file in Tusla that it had been
25 returned to Rian, isn't that right? 14:21

26 A. That's correct.

27 624 Q. In fact, there is no record of it at all on the Tusla
28 file, is that right?

29 A. That's correct.

1 625 Q. Have you anything to say in relation to that?
2 A. I do.
3 626 Q. Yes.
4 A. But, sir, when the data, when Eileen Argue mailed me
5 about the data breach or the misinformation being on 14:21
6 the file, my memory is that I rang her and said for the
7 information to be returned. Now, my memory isn't
8 great, I didn't take a note of the discussion. But my
9 memory is, when she emailed me I rang her and said, get
10 rid of all the inaccurate information on the file. And 14:21
11 my memory in terms of the basis for that is, I had a
12 previous case, some years previously, in Cavan-Monaghan
13 where inaccurate information was given to me about a
14 principal and at that point there were consultations
15 with Consumer Affairs, etcetera about the management of 14:22
16 it and I was informed that I could take the inaccurate
17 information off the file at my discretion, because it
18 was inaccurate. Now, in retrospect at this point, I
19 appreciate and acknowledge my management of that data
20 situation was inadequate. I should have paid much more 14:22
21 attention to it. I should have checked, for example,
22 what data records were created, which I didn't do. My
23 memory is that I rang Eileen Argue and said get rid of
24 all the inaccurate information and that is all I did on
25 it. So that wasn't an adequate response to that 14:22
26 situation.
27 627 Q. Are you sure that you actually did respond?
28 A. Well, that's my best memory at this point, certainly.
29 And I appreciate when I was doing the interviews with

1 the investigators I was struggling with it, but my
2 memory is I did ring and say get rid of the inaccurate
3 information. And I thought that that was adequate in
4 the circumstances. I know now that it wasn't.

5 628 Q. Well, could we just have page 2933 on the screen, 14:23
6 please? If you look at the bottom there, you will see
7 an email, that is September to you on 14th of May,
8 2014, 11:13 --

9 A. Yes.

10 629 Q. -- from Eileen Argue. Saying: 14:23

11
12 *"Dear Gerry*
13 *I hope this finds you well.*
14 *Please see information below. This information is in*
15 *relation to MMCC, who allegations were made against him* 14:23
16 *by an adult who alleged that she was sexually abused as*
17 *a child by him.*

18 *A garda notification was forwarded by our department*
19 *based on the information received from Laura Brophy,*
20 *Rian services.* 14:24

21 *As stated below, Laura Brophy contacted our department*
22 *today in relation to her referral and the content of*
23 *same. She advised that there was information provided*
24 *which did not relate to Ms. D and was in relation to*
25 *another person, against another man and not the man* 14:24
26 *MMCC.*

27 *This notification needs to be amended as soon as*
28 *possible and the relevant superintendent needs to be*
29 *updated with regard to same.*

1 *Many thanks*
2 *Eileen Argue."*

3
4 And then your response to that, it seems to have come
5 through Seamus Deeney, is that right? 14:24

6 A. Yes.

7 630 Q. "*Dear Seamus*
8 *This should not have been sent to me."*

9 A. That is in August 2014.

10 631 Q. Yes. 14:24

11 A. My evidence is that I replied to Eileen Argue in May
12 2014.

13 632 Q. All right.

14 A. And that email from me is to highlight to Seamus and to
15 Louise Carolan at that time or I think it's -- that 14:25
16 that matter should have gone through the principal
17 social worker, not sent directly to me. That was the
18 point I was trying to make; that these issues needed to
19 be dealt with through the appropriate line management
20 process at that time in August. So that is following 14:25

21 on -- and I know I was on annual leave for the month of
22 month of June. I think Louise Carolan, who was Eileen
23 Argue's principal at that point in time in May, also
24 went on long-term sick leave in June and I know another
25 team leader also went on sick leave in June. There was 14:25
26 a lot happening. I think, my memory is when I came
27 back, I saw that e-mail and I was making my point to
28 Seamus about the appropriate line management process.

29 633 Q. The reference by Ms. Argue to MMCC, we've had some

1 questions asked about that this morning --

2 A. Yes.

3 634 Q. -- can you help us with that?

4 A. Well, I knew who the e-mail referred to when I received
5 it. 14:26

6 635 Q. And how did you know it was Maurice McCabe?

7 A. Okay. From the August referral until that point in
8 time certainly I had heard during -- in the service,
9 either from Louise Carolan principal, I suspect from
10 Louise Carolan principal, that there had been a 14:26
11 rereferral from Rian. I was told that verbally during
12 the course of supervision or management. I was told
13 that was a re-referral and my response was: Deal with
14 that case in the normal way. So that was how I knew it
15 when I saw the MMCC. 14:26

16 636 Q. All right. So, this is helpful, Mr. Lowry. You
17 haven't indicated this previously. You are saying that
18 in 2013, in August 2013, after there had been a
19 referral, and Keara McGlone had dealt with it, you
20 became aware from talking to Louise Carolan? 14:27

21 A. I became aware within the service certainly that there
22 had been a re-referral from -- the '06/'07 referral had
23 come in again through Rian, I was informed of that
24 during the course of my work, yes.

25 637 Q. Can you be more specific as to who you actually heard 14:27
26 this from and in what context?

27 A. My best guess is that Louise Carolan told me as part of
28 my normal supervision of her. And that would be normal
29 in terms of she was principal at that time, she updated

1 me about significant events in the case or in the
2 service, so in terms of she updated me that this
3 referral had come in, and my response was: Deal with
4 that case in the normal way.

5 638 Q. well, I suppose it could arise in a number of ways. It 14:27
6 could arise in circumstances where there was actually a
7 query directed to you as to how this case ought to be
8 dealt with?

9 A. No, that didn't happen. That didn't happen.

10 639 Q. Or it could arise in circumstances where perhaps 'well, 14:28
11 you know that problem that we had years ago with
12 Sergeant McCabe and the embarrassment that we had where
13 he was at our meetings and we had received a referral
14 from the Gardaí in relation to him, and we tried to
15 send it to Meath, and we eventually closed the file', 14:28
16 it could arise in that circumstance, so it's back
17 again, is that the --

18 A. I don't think so. I think my memory is, Louise updated
19 me about it as a referral and I said deal with that
20 case in the normal way, as we would any other 14:28
21 situation.

22 640 Q. So in 2013, you had certainly linked this to the
23 2006/2007 --

24 A. well, sorry, I think in terms of the first formal
25 notification I have of this is the e-mail in May 2014, 14:29
26 so yes, I --

27 641 Q. You had linked this to the earlier case, and so had
28 Louise Carolan?

29 A. I can't confirm what Louise Carolan said, I can't

1 confirm --

2 642 Q. So this had gone beyond Keara McGlone, it hadn't just
3 simply gone into a filing cabinet. It had been
4 referred for some reason by, it must have been Keara
5 McGlone, to somebody else within the service? 14:29

6 A. No, I don't understand --

7 643 Q. We know that it was reviewed. It was placed in a
8 filing cabinet on Measuring the Pressure.

9 A. Yes.

10 644 Q. We know that Keara McGlone wrote a letter to the 14:30
11 superintendent and we know that she left in January of
12 2014, isn't that right?

13 A. That's correct.

14 645 Q. But you were aware in 2013 --

15 A. 2014. 14:30

16 646 Q. No, you told us that you were aware in late 2013, that
17 the file had come back in?

18 A. Between August 2013 and May 2014 I was certainly
19 informed that this case had come back in.

20 647 Q. And at that time were you aware that Sergeant McCabe 14:30
21 was attracting a lot of media attention?

22 A. Yes.

23 648 Q. And did you associate the McCabe file with the Sergeant
24 McCabe who was being reported extensively in the media
25 in late 2013 and early 2014? 14:30

26 A. I knew it was the same person.

27 649 Q. And you said earlier there in your evidence that you
28 gave a direction that it would be dealt with like any
29 other case, is that right?

1 A. That's correct.

2 650 Q. So was it in a context that the inquiry was made of you
3 that should this be dealt with perhaps more
4 expeditiously than any other case, given a higher
5 priority than any other case? 14:31

6 A. Sorry, could you say just the full sentence again, the
7 full question, sorry.

8 651 Q. Was it in the context of look, will we deal with this
9 expeditiously now, will we pluck this case from
10 Measuring the Pressure, maybe we should deal with this 14:31
11 case?

12 A. No, I think in being informed by the principal social
13 worker that this case had come back in, I instinctively
14 said deal with this case in the normal way, don't make
15 exception of it, just deal with it in the normal way. 14:32
16 So I think that was me proactively saying deal with
17 this in the normal way.

18 652 Q. So when Ms. Argue writes to you in an email in May,
19 informing you of the problem, you were then fully aware
20 of the significance of this and the potential impact 14:32
21 that this error could have had for Sergeant McCabe?

22 A. Yes.

23 **CHAIRMAN:** Sorry, I wonder could I intervene at that
24 point? You said you wanted this dealt with in the
25 normal way, but the normal way seems to have been 14:32
26 random and chaotic. A file is plucked out of a filing
27 cabinet, it is put into somebody's in-tray and in this
28 instance it takes nearly a year-and-a-half before a
29 letter is written. I mean, if that is the normal way

1 and because it's a high profile case it's to be dealt
2 with in the normal way, one might have expected you to
3 have a completely opposite reaction and say 'well, our
4 systems are so bad, we need to do this one right'.
5 A. Okay. well, that's not how I responded, sir. I 14:33
6 responded by keeping it in the normal way. And I
7 accept I was fully aware of the delay and slowness in
8 dealing with situations of adults against whom there
9 had been allegations, but that was how I responded. We
10 didn't pull it out as an exceptional case to make 14:33
11 sure -- because of publicity, and I certainly saw the
12 publicity as separate, not to do with us, so that is --
13 was my influence on it.
14 653 Q. **MR. MARRINAN:** Eileen Argue wrote the email to you, she
15 referred to it as MMCC, I am assuming that she was also 14:33
16 aware that this was Maurice McCabe and that you would
17 know by the initials who she was referring to?
18 A. Yes.
19 654 Q. Yes?
20 A. Yes. 14:34
21 655 Q. Had you discussed it --
22 A. No. No.
23 656 Q. -- with Eileen Argue?
24 A. No. I don't think there was any discussion.
25 657 Q. Sorry? 14:34
26 A. No, I don't think there was any discussion.
27 658 Q. Had you discussed it with Seamus Deeney?
28 A. No, no. My memory is Louise Carolan is the principal
29 that Keara McGlone and Eileen Argue would have been

1 reporting to, would have been the person who would have
2 updated me on issues within that service area.

3 **CHAIRMAN:** Again, forgive me, but I am finding it
4 increasingly difficult to understand why you weren't
5 discussing this. 14:34

6 A. Because of the high numbers of unallocated cases, sir,
7 that we were struggling with on an ongoing basis and we
8 were looking for additional resources to address those,
9 but they were being -- and I appreciate that it sounds
10 like they were being dealt with at random, but cases 14:35
11 were -- we were progressing slowly with the unallocated
12 cases. But we also knew that we were never going to
13 address them all until we got additional resources.
14 So, I don't know, does that answer your question?

15 **CHAIRMAN:** No, no, I do understand that, but what I 14:35
16 don't really understand is that you're all in an office
17 situation, you're all meeting, you're all having teas
18 and coffees, I just really don't get this idea that
19 it's not discussed at all. I just don't understand
20 that. 14:35

21 A. But I'm -- sir, I am comfortable in terms of Louise
22 Carolan told me this is happening, right. I knew what
23 MMCC meant, but it didn't mean I said 'okay, let's do
24 special here, let's do something exceptional'. I was
25 trying to maintain the service to address the issues we 14:35
26 had on an ongoing basis. I didn't see this as a --
27 because I didn't link the ongoing issues within Garda
28 Síochána with this allegation. I didn't see that there
29 would be, it would be interpreted that there would be a

1 link. I said, let's deal with this in our normal way.

2 **CHAIRMAN:** But at this point you didn't even know -
3 unless I am picking something up wrong - whether this
4 is the same thing that has already come in, in
5 2006/2007, in relation to the same person that was 14:36
6 known to the service since 2005. I mean, I am just
7 finding it very hard to grasp and probably by
8 interrupting I am not helping, so I will let
9 Mr. Marrinan continue.

10 659 Q. **MR. MARRINAN:** Yes. Mr. Lowry, I am sorry you are in 14:36
11 the witness-box for this, but the Tribunal wrote out
12 and asked Tusla for statements from all the persons who
13 had dealt with the files of Ms. D and Maurice McCabe,
14 you are aware of that?

15 A. Yes. 14:36

16 660 Q. By and large, the statements that we received were of
17 perhaps, like your own, one page in length, and didn't
18 really deal with the issues and just simply said --
19 referred to an email and I passed the file from A to B.
20 But we received no information and our investigators 14:37
21 then went out and investigated and took statements and
22 asked questions of almost all the witnesses from Tusla,
23 you are aware of that?

24 A. Yes.

25 661 Q. And despite that, and sometimes spending upwards of 17 14:37
26 hours with witnesses, it wasn't until late in the day
27 that Mary Tiernan indicated that she knew Maurice
28 McCabe. And up until she introduced that, the Tribunal
29 were unaware that anybody in Tusla knew of Maurice

1 McCabe, knew anything about him being in the media,
2 knew anything about the earlier investigation of him,
3 and she said that she knew him because of attending --
4 he was the garda liaison officer, which apparently is
5 incorrect, but nevertheless, had attended meetings. 14:38
6 And that is the first that the Tribunal heard of it,
7 after some two months of investigations. Do you
8 understand?

9 A. I understand what you are saying, yes.

10 662 Q. And now you are helpfully telling us that you knew or 14:38
11 you would have met Maurice McCabe in 2004 onwards at
12 child protection conferences. But not only that, that
13 in late 2013 you were aware of the fact that the Ms. D
14 file and the Maurice McCabe file as created in August
15 of 2013 related to Sergeant Maurice McCabe? 14:39

16 A. That's correct.

17 663 Q. And certainly somebody else within Tusla was also aware
18 of that because they had discussed it with you?

19 A. That's correct.

20 664 Q. And your response was that the file ought to be dealt 14:39
21 with like any other file and no special treatment
22 should apply to it, is that right?

23 A. That's correct.

24 665 Q. And you are saying that Eileen Argue similarly must
25 have known that this file related to Sergeant McCabe 14:39
26 because she wrote to you with just his initials?

27 A. That's correct.

28 666 Q. So, in any event, did you follow up on what had
29 happened to the file after Laura Brophy had alerted

1 Rian to the problem? Did you follow up thereafter?
2 A. I didn't, sir, and that is my responsibility. The
3 matter was brought to my attention, I should have paid
4 more attention to the issue and I should have asked for
5 a file review, etcetera, and I didn't do that. 14:40
6 667 Q. Yeah. No, if we could just pursue this because it is a
7 matter of concern to the Tribunal, that we are not
8 getting the full picture, because that is what we are
9 tasked to do; is provide the full picture to the
10 chairman. You referred to Louise Carolan -- 14:41
11 A. Yes.
12 668 Q. -- and that you think that she was the one that spoke
13 about Maurice McCabe to you?
14 A. That's correct.
15 669 Q. And was this at a referrals meeting or -- 14:41
16 A. No.
17 670 Q. -- or at a conference or where was it?
18 A. This could've been part of the discussions in the
19 office that the case had been referred and she was
20 updating me on that in her role as principal. So she 14:42
21 was reporting to. Me, she was principal, I was area
22 manager. She informed me at some point that this case
23 had been referred.
24 671 Q. And in what context?
25 A. I would call it in the context of supervision. Now, I 14:42
26 don't think that supervision -- I am not suggesting
27 that a supervision record was kept of it, but in the
28 context, I was her supervisor, she reported to me about
29 significant issues within the service.

1 672 Q. Well, was it in the context that this whole allegation
2 has come back up and has been re-referred, how will we
3 deal with it?

4 A. Okay, but I am confident in terms of what I knew let's
5 say in August or in May 2014, is that I knew Ms. D had 14:42
6 spoken to Rian and made the allegation again, right,
7 and that Rian had reported the information to us. So,
8 I think that is what I knew in May 2014.

9 673 Q. Well, we have an eight-line statement from Louise
10 Carolan in relation to our request to provide the 14:43
11 Tribunal with all information in relation to the Ms. D
12 file, the Sergeant McCabe file, and it says:

13
14 *"To whom it may concern.*
15 *I was employed as principal social worker in Child and 14:43*
16 *Family Services, Cavan-Monaghan, from April 2012 until*
17 *May 2015.*

18 *I was on sick leave from May 2014 until I left in May*
19 *2015.*

20 *I had no direct involvement in relation to this matter. 14:43*
21 *I was copied on an email from Eileen Argue in relation*
22 *to inaccurate information on a Garda notification in*
23 *May 2014.*

24 *I had responsibility for child protection, children in*
25 *care and fostering at that time. I did not deal with 14:44*
26 *the Garda notifications. This was handled by other*
27 *social workers.*

28 *I did not reply to this email or take any action in*
29 *relation to it."*

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That is the extent of the information that the Tribunal has been supplied by Ms. Carolan. And you are telling us you had a conversation with her about this file and how it should be dealt with?

14:44

A. Yes. Sir, I am certainly saying that I knew the information in May 2014, therefore I was informed about it, not as part of the case management process but as part of what was happening within the service, certainly by then. And Louise Carolan, while I don't remember the specific conversation, Louise Carolan, as the service manager, would have been the person that would normally inform me of those kind of situations.

14:44

674 Q. Right. We will look into that further. Now, you told the chairman that you didn't follow up at all in relation to this error --

14:45

A. That's correct.

675 Q. -- that had been made, and had been pointed out by the Rian counsellor, is that right?

A. That's correct.

14:45

676 Q. You were aware of the fact that had it gone to be considered by the data protection department, were you aware of that?

A. No, I wasn't aware of that. And I think part of the misinterpretation at the time is that it was a Rian data breach and that, therefore, it was their responsibility to address it. But obviously we had our own Tusla issues that we should also have addressed at the time.

14:45

1 677 Q. And you made no inquiries or required a report perhaps
2 from Ms. Argue as to what had happened?

3 A. I regret that I didn't.

4 678 Q. You didn't take any steps to make sure that this didn't
5 happen again? 14:46

6 A. I did not.

7 679 Q. Well, was --

8 **CHAIRMAN:** Sorry, Mr. Marrinan, "this not happen again"
9 means what, I beg your pardon? Is it the
10 misinformation? 14:46

11 **MR. MARRINAN:** That this sort of error didn't happen
12 again.

13 **CHAIRMAN:** It's the Ms. Y/Ms. D mix-up.

14 **MR. MARRINAN:** Yeah.

15 **CHAIRMAN:** Yeah. 14:46

16 A. I think at that point, sorry, I understand that Rian
17 had made the error. I wasn't aware because partly I
18 didn't check it out, I wasn't aware of the Ms. D/Ms. Y
19 error at that point.

20 **CHAIRMAN:** When did you become aware of the Ms. D/Ms. Y 14:46
21 error?

22 A. Only during this Tribunal process.

23 **CHAIRMAN:** You mean at the hearing or --

24 A. Well, Laura Connolly informed me about it. I think
25 last week she said in her evidence it was at the end of 14:46
26 May she was informed about it. So it was at that
27 point. We didn't keep a record of what we returned.

28 **CHAIRMAN:** Yeah. So I am tending to wonder then, what
29 were you trying to sort out if -- if you didn't know

1 this was --

2 A. Yeah, I think when there is a data error of this nature
3 there should have been an effort to look at the file to
4 see what caused it and to see if we created any
5 records, which we did. I should have ensured that 14:47
6 the -- I should have asked the question: Did we create
7 any records based on the Rian inaccurate information?
8 And I didn't do that.

9 **CHAIRMAN:** And I am sorry for interrupting,
10 Mr. Marrinan, but were you aware that the error was 14:47
11 ascribing to someone a rape offence, when no one had
12 ever accused him of a rape offence?

13 A. I knew that Rian had given us inaccurate information,
14 yes.

15 **CHAIRMAN:** No. Sorry, the question I asked you was: 14:47
16 You know what a rape offence is, I know what a rape
17 offence is --

18 A. Yes.

19 **CHAIRMAN:** -- rape is, it's rape, or it's introducing a
20 hand-held object or part of your body into the orifices 14:47
21 of some other person. That is very different to
22 anything else. It's a serious matter. So you were
23 ascribing to someone a rape offence, but were you aware
24 that no one had ever accused anyone of a rape offence?

25 A. I -- 14:48

26 **CHAIRMAN:** I am sorry that I am not understanding you.
27 I seem to be totally in the dark as to what you were
28 aware of or not.

29 A. In May I was aware that Rian had sent inaccurate

1 information, the rape offence, and that that
2 information had to be returned. And I said to Eileen
3 Argue, return the inaccurate information. My error was
4 not checking what records we had created based on the
5 Rian inaccurate information. 14:48

6 **CHAIRMAN:** But again, I am sorry for interrupting but
7 if you realised how serious the error was wouldn't you
8 have done more is the question and that is the reason I
9 am asking you, did you realise how serious the error
10 was? 14:48

11 A. I did realise how serious the error was. I think by me
12 saying destroy or get rid of the inaccurate
13 information, I thought at that point in time that that
14 was an adequate response.

15 **CHAIRMAN:** Thank you. 14:49

16 680 Q. **MR. MARRINAN:** well, let's be very clear about this,
17 Mr. Lowry. At the time you knew that Sergeant McCabe
18 was receiving a lot of media attention, that he had
19 been the subject matter of perhaps inappropriate
20 comment by a former Commissioner at a Public Accounts 14:49
21 Committee meeting, that he appeared to have an ongoing
22 battle with his superiors in the Gardaí and here was
23 your service notifying the Gardaí that Sergeant McCabe
24 had a rape allegation made against him when in fact
25 that wasn't true. Could you have imagined anything 14:50
26 more serious at the time for Sergeant McCabe?

27 A. I appreciate that, I agree with that.

28 681 Q. well, did you even follow it up with the Gardaí to
29 ascertain whether or not that false allegation had been

1 passed on to Sergeant McCabe?

2 A. No. I understood Eileen Argue was ensuring that the
3 accurate information was sent with Séamus Deeney, that
4 was my understanding.

5 682 Q. We know what the formal process was -- 14:50

6 A. Yes.

7 683 Q. -- but it's what one might expect in the circumstances,
8 where you are aware of the fact --

9 A. Yes.

10 684 Q. -- that an allegation of rape against Sergeant McCabe 14:50
11 has been notified to his superiors, in circumstances
12 where he may be very vulnerable at that particular time
13 to the misuse of that information. Do you understand?

14 A. I do.

15 685 Q. In circumstances where, in fact, Tusla had been 14:51
16 duty-bound to tell Sergeant McCabe and inform him of
17 the allegation, in any event, isn't that right?

18 A. That's correct.

19 686 Q. And you did nothing or made no inquiry --

20 A. That's correct. 14:51

21 687 Q. -- of Superintendent Cunningham or indeed the Chief
22 Superintendent or the Assistant Commissioner, Kieran
23 Kenny at the time --

24 A. That's correct.

25 688 Q. -- as to whether or not they had mistakenly passed this 14:51
26 allegation on to Sergeant McCabe?

27 A. That's correct.

28 689 Q. So you were happy just to leave it and apparently
29 Sergeant McCabe's file goes back into the filing

1 cabinet and lies dormant there, is that what happened?

2 A. That is what happened.

3 690 Q. And there isn't any follow-up letters to the Gardaí as
4 to what they had done with the notification, whether
5 they had acted on it? I mean, is this correct or are 14:52
6 there things going on in the background that the
7 Tribunal is not being told about?

8 A. My understanding --

9 691 Q. Are there discussions going on that we are not being
10 told about? 14:53

11 A. I don't think so, no. Not that I was involved in, in
12 2014. Not that I am aware of.

13 692 Q. Well, you see, I will be very blunt, Mr. Lowry, and I
14 would like your comment in relation to this because we
15 have to deal fairly with all aspects of this. And 14:53
16 there is a suggestion there in the ether that, in fact,
17 this played into senior management's hands insofar as
18 this allegation and new allegation of rape against
19 Sergeant McCabe could be used to, to put it mildly,
20 discommode him, unsettle him, do you understand? 14:53

21 A. I do.

22 693 Q. That perhaps if it was allowed fester within your
23 service to emerge at some future juncture, that it may
24 break him, break his resolve by having a letter arrive
25 on his doorstep to say you have been or was being 14:54
26 investigated by Tusla for raping a young child. Do you
27 understand?

28 A. I do.

29 694 Q. And there are people who might say that it's too much

1 of a coincidence that this file, after what had
2 happened in May of 2014, found its way back into a
3 black hole and we need some sort of explanation as to
4 why the matter wasn't dealt with there and then and
5 resolved, do you understand?

14:55

6 A. I do.

7 695 Q. Have you any comment to make in relation to those
8 various suggestions, that I am not specifically putting
9 to you but I am saying there are floating in the ether?

10 A. Yes. Okay. My comment I think is, sir, I was aware of
11 the various publicity and the different phases of the
12 publicity. I didn't track that with what are the
13 implications for internal Tusla processes and the
14 management of that allegation. I didn't think, if we
15 don't deal with this now, there might be some

14:55

16 interpretation further on down the line. I was
17 certainly aware of it, but it was almost like I didn't
18 want it to influence us, I wanted us to continue our
19 internal processes, separate from any internal Garda
20 matters. So, that would be my comment. We weren't
21 consciously tracking it, I was certainly aware of the
22 different phases that were in the media, and I let
23 them -- let them be. I didn't come back into work and
24 say we need to do such-and-such because of what was in
25 the media last night, or whatever.

14:55

14:55

14:56

26 696 Q. Very well. If we could move on, and if you could be
27 shown 1069, please. This is the following year, on 7th
28 May 2015. I think just before we come to it, you were
29 aware of the fact that Kay McLoughlin and Gail Penders

1 were performing more or less the task that had been
2 thought performed by Laura Connolly; namely, they were
3 going through the files that were in Measuring the
4 Pressure, isn't that right?

5 A. That's correct. 14:56

6 697 Q. And arising out of that, Kay McLoughlin sent you the
7 following email, and also to Séamus Deeney:

8

9 *"Dear Gerry and Seamus*

10 *I, along with Gail, have been reviewing files on the* 14:57

11 *MTP today. One relates to Maurice McCabe and I would*

12 *like to discuss this case with you both before taking*

13 *any action as it appears that this concern was referred*

14 *to us in 2007 and Mr. McCabe was never met. It has*

15 *come back in again due to media coverage of* 14:57

16 *Mr. McCabe."*

17

18 what did you understand that to mean?

19 A. I think Kay is referencing that there has been media
20 coverage. I don't accept the way she has phrased it; 14:57
21 it has come back in again due to media coverage. I am
22 not aware of it coming back in due to media coverage.

23 698 Q. Well, what has media coverage got to do with just
24 simply reviewing files under the measure the pressure?
25 It would come back in again because we have gone in and 14:58
26 done what turns out to be an unlucky dip for Sergeant
27 McCabe, that that is what has happened isn't it,
28 effectively?

29 A. Well, I agree. I don't think the reference to media

1 coverage is relevant to the management of the process.

2 699 Q. It has no business there at all, isn't that right?

3 A. I agree.

4 700 Q. *"The outstanding actions are that Mr. McCabe be written*
5 *to outlining the allegations and then be met and* 14:58
6 *afforded an opportunity to respond."*

7

8 You were aware of the 2006 file on Sergeant McCabe and
9 that in 2007 it had been closed, isn't that right?

10 A. And in 2007 Ms. D's file was closed. 14:59

11 701 Q. Sorry, the Ms. D file was closed, yes.

12 A. Yes.

13 702 Q. With a reference to Sergeant McCabe?

14 A. That's correct.

15 703 Q. And a note that he hadn't been met with? 14:59

16 A. That's correct.

17 704 Q. And that he should be offered an assessment, isn't that
18 right?

19 A. That's correct.

20 705 Q. And that that was in fact never done? 14:59

21 A. That's correct.

22 706 Q. And here we are eight years later and it's being
23 pointed out that he hadn't been written to and the
24 allegations hadn't been outlined to him, isn't that
25 right? 14:59

26 A. That's correct.

27 707 Q. But you were aware of the fact that there had been a
28 Garda investigation and the file had gone to the
29 Director of Public Prosecutions?

1 A. Yeah, I am not sure if I was aware of that level of
2 detail.

3 708 Q. Well, you see, the -- we will go on.

4
5 *"The outstanding actions are that Mr. McCabe be written 15:00*
6 *to outlining the allegations, and then be met and*
7 *afforded an opportunity to respond. We would have to*
8 *advise him that we would need to tell his wife about*
9 *this information so as she can be protected. It is*
10 *likely she is aware of the allegations as a file was 15:00*
11 *sent to the DPP."*

12

13 Yeah?

14 A. Yes.

15 709 Q. So, it would appear that you were informed of that 15:00
16 level --

17 A. Yes.

18 710 Q. -- of investigation.

19

20 *"However, no prosecution was directed. Mr. McCabe has 15:00*
21 *female children and the victim was a seven-year-old*
22 *child when the alleged incident occurred.*

23

24 *My issues are that we are proposing to tell this woman*
25 *that we have concerns after not doing it for possibly 15:01*
26 *up to eight years, and also I am not confident about*
27 *sending the Barr letter --"*

28

29 To an address.

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"-- that may be out of date."

And then I think that she attached a copy of that Barr letter and that is at page 1070, is that right? 15:01

A. That's correct.

711 Q. And that is the draft.

A. That's correct.

712 Q. Did you read the draft?

A. I didn't. Seamus was Kay's direct manager at that point in time and she provided a detailed response. I replied suggesting that she certainly liaise with An Garda Síochána before doing anything. 15:01

713 Q. Page 1070, we will just go through the response.

CHAIRMAN: Sorry, the draft, was it? Was it the draft you were referring to? 15:02

MR. MARRINAN: Yes.

CHAIRMAN: Yes, yes, the draft, yes.

714 Q. **MR. MARRINAN:** *"Dear Mr. McCabe*

I am a child protection social worker employed by the Child and Family Agency, and I am investigating allegations made by Ms. D. The CFA has responsibility for the protection of children under the Childcare Act of 1991. The CFA is obliged to investigate allegations of abuse and to reach a determination as to whether there are sufficient grounds for believing that you may potentially pose a risk to children. 15:02

The allegations made by Ms. D are as follows:

1 *That on one occasion between 1998 and 1999 at the home*
2 *of Maurice McCabe, Ms. D alleged that Maurice McCabe*
3 *sexually abused her. The abuse allegedly involved*
4 *digital penetration, and the victim was aged six to*
5 *seven years old. It is reported that this allegation* 15:03
6 *was investigated by An Garda Síochána some years later.*
7 *A file was sent to the Director of Public Prosecutions,*
8 *who directed that no prosecution take place.*

9
10 *I would like to meet with you to discuss the* 15:03
11 *allegations and allow you an opportunity to respond. A*
12 *decision has not yet been reached with regard to the*
13 *allegations and the purpose of this proposed meeting is*
14 *to give you an opportunity to respond. On this basis,*
15 *I would like to meet with you on --"* 15:03

16
17 And then there is no date put in.

18
19 *-- in the CFA office [named venue]. If you intend to*
20 *be accompanied by a supporting person for the meeting,* 15:03
21 *please notify me. If you do not wish to attend or*
22 *provide a response in writing, a determination will*
23 *have to be made as to whether you may pose a risk to*
24 *children without the benefit of your views.*

25 15:04
26 *It may be necessary to carry out further investigations*
27 *in light of information you provide. I will inform you*
28 *of any proposed further investigations. I will provide*
29 *you with the outcome of the Social Work Department's*

1 *assessment and give you an opportunity to respond to*
2 *it, either by way of a further meeting or in writing.*
3 *If the assessment outcome is that you may pose a risk*
4 *to children, I will have to bring this view to the*
5 *attention of any relevant third party. This may* 15:04
6 *include your employer or your family. You will be*
7 *notified prior to this being done.*

8
9 *Please note that for the purpose of confidentiality the*
10 *details of any allegations will not be discussed over* 15:04
11 *the phone, should you choose to phone prior to your*
12 *appointment."*

13
14 And that was drafted by Kay McLoughlin.

15 15:05
16 Did you think in the circumstances that that letter was
17 appropriate?

18 A. I think that was the draft letter Kay was giving to
19 Seamus and myself to prompt discussion about the case.

20 715 Q. Yes. 15:05

21 A. That was --

22 716 Q. There is an initial on page 171, on the right-hand side
23 of that letter "CGL".

24 A. Yes.

25 717 Q. Is that you? 15:05

26 A. That is me, yes.

27 718 Q. It would appear that you did sign off on the draft?

28 A. I mean, can I just check, is that not my signature from
29 the Tribunal process that I signed this?

1 719 Q. No.
2 A. No?
3 720 Q. No, it's down at the bottom is your signature of the
4 document always.
5 A. Em... 15:05
6 721 Q. We can look into that, I don't want to be unfair to
7 you. You may be correct and we will look into it.
8 A. Okay.
9 722 Q. And we can deal with it again. We will come back to
10 that, all right. I don't want to be unfair to you in 15:06
11 that regard.
12 **CHAIRMAN:** Mr. Murrinan, it appears in two places, it
13 appears at the very start and it appears at the very
14 end.
15 **MR. MARRINAN:** Yes, it does. 15:06
16 **CHAIRMAN:** And it appears right beside the text. And I
17 don't know whether that is your habit, Mr. Lowry, or
18 not?
19 A. No, that signature reminds of when I was signing this
20 for the tribunal, after the investigators I signed all 15:06
21 documents, and I was asked to initial various ones.
22 **CHAIRMAN:** Okay. Well, certainly no one wants to make
23 a mistake.
24 723 Q. **MR. MARRINAN:** In any event this letter was sent by Kay
25 McLoughlin to yourself and Séamus Deeney for approval, 15:06
26 isn't that right?
27 A. Well, with her cover email asking for -- thinking about
28 the case.
29 724 Q. Mmm?

1 A. With her cover email asking for consideration of the
2 matter.

3 725 Q. Of the draft letter?

4 A. Yeah.

5 726 Q. And did you think that that letter was appropriate? 15:07

6 A. No, I think Seamus replied in detail with steps that he
7 wanted Kay to take before the letter was issued. And
8 the one point I made to her was to ensure that there
9 was liaison with the guards before the letter was
10 issued. 15:07

11 **CHAIRMAN:** But sorry, Mr. Lowry, I am sorry for
12 interrupting but it's jumping out that it's the wrong
13 allegation.

14 A. Yes.

15 **CHAIRMAN:** I know, but it's jumping out at everybody 15:07
16 here that it's completely the wrong allegation, when
17 you are sending this to a completely innocent person.
18 I mean, that is what Mr. Marrinan is asking you about.
19 I am not going to interrupt further.

20 A. Okay. Well, sir, when I saw the email I didn't -- I 15:07
21 don't think -- I didn't look at the draft letter in
22 detail. I replied to her email about what to do based
23 on a memory that there needed to be some liaison with
24 the guards. And Seamus gave a detailed -- but I
25 certainly didn't open the attachment. I was working on 15:08
26 the assumption that it would be accurate and that those
27 steps and that thinking had to be done before --

28 **CHAIRMAN:** I am tending to wonder, in your organisation
29 with the mistakes that have been made so far, how could

1 you possibly reach the conclusion, given what you know,
2 that the attachment was bound to be correct? And
3 people attach things to emails to be read, otherwise
4 they don't attach them at all. 'Here is a picture of
5 my dog,' they expect you to open the picture before you 15:08
6 comment 'Isn't that a nice dog'.

7 727 Q. **MR. MARRINAN:** Just, Mr. Lowry, to be clear, I referred
8 you to page 1070 and 1071, with your initial there.
9 You are correct, that initial does not appear on the
10 original documentation that was sent to the Tribunal, 15:09
11 right? So you haven't, as I put it to you, signed off
12 or appeared to have signed off on it. I will return to
13 that letter shortly.

14
15 1072, please. This is an email sent by you on 7th May 15:09
16 2015 to Kay McLoughlin:

17
18 *"Dear Kay*
19 *Thanks for the update and bringing this matter to my*
20 *attention. I have a memory of this matter, that this 15:09*
21 *matter was reported to An Garda Síochána at some stage.*
22 *So you would need to coordinate with them before taking*
23 *the steps outlined below. I will discuss with you."*

24
25 So, it's apparent that at that time you linked this 15:10
26 case and this file with what had happened in 2014,
27 isn't that right?

28 A. I think so, yes.

29 728 Q. And was that not the moment in time when you'd call

1 everybody into your office and you say, hang on a
2 second, not only is this a high profile case, we have
3 ignored that, whether it's in the media or not is
4 irrelevant for our consideration, everybody is equal
5 here, and all cases will be dealt with in accordance 15:10
6 with our procedures, but hang on, this case caused a
7 huge amount of furore in 2014, we had Rian on to us, we
8 had concerns, we had to rewrite our Garda notification
9 to the Gardaí and now we want to make sure everything
10 is correct this time around? 15:11

11 A. I absolutely should have done so. It would have been
12 good management on my part if I had done so.

13 729 Q. Well, was there any reason why you didn't?
14 A. No.

15 730 Q. Did you then discuss it with Séamus Deeney? 15:11
16 A. My memory is that Seamus and Kay would have updated me,
17 that Seamus had outlined the steps that needed to be
18 taken.

19 731 Q. And he consulted with you because you added in one, is
20 that right, one of the preconditions? 15:12
21 A. I don't know if he consulted with me, but I think we
22 were aware that those steps were being taken.

23 732 Q. Sorry?
24 A. I wouldn't say he consulted with me but we were aware
25 that those steps were being taken by Kay. 15:12

26 733 Q. Okay. If we could just go on to 1074, please. This is
27 an email from Séamus Deeney --
28 A. Yes.

29 734 Q. -- to Kay McLoughlin, and it's copied to you, isn't

1 that right?

2 A. That's correct.

3 735 Q. And it's 8th of May of 2015?

4 A. Yes.

5 736 Q. At 9:48. 15:12

6

7 *"Dear Kay*

8 *We discussed this case yesterday. We decided that:*

9 *1. We would contact the alleged victim as there is*

10 *some discrepancy in the allegations forwarded to us."* 15:12

11

12 what did you understand that to mean?

13 A. I understand that to mean Seamus had been aware of the

14 discrepancy between the -- certainly '06/'07

15 allegations or the initial Rian phone call and then the 15:13

16 written information.

17 737 Q. So at this moment in time, you had applied your minds

18 to the fact that there was a discrepancy between the

19 original allegation that had been made in December of

20 2006 and the notification that was sent by Tusla to the 15:13

21 Gardaí in 2014, in May, is that right?

22 A. That is based on that, yes.

23 738 Q. And between the discrepancy that existed within the

24 file, as it existed in Tusla at that time?

25 A. That's correct. 15:13

26 739 Q. So how was this going to be resolved?

27 A. Well, I think, my reading of that is: Seamus was

28 outlining to Kay 'check out these discrepancies before

29 taking action'. That was his number one point.

1 740 Q. *"This will allow us to check the reliability and*
2 *accuracy of the allegations and determine whether there*
3 *is a foundation for the allegations."*

4

5 So, which allegation are we talking about?

15:14

6 A. Well, I think at the first sentence there Seamus refers
7 to the discrepancy in the allegations, so I read that
8 as this is -- this is a step to clarify.

9 741 Q. Well, are we talking about a letter that is going out
10 in relation to some incident with a young child during
11 a game of hide and seek or are we talking about a rape
12 offence?

15:14

13 A. I interpret number 1 as meaning Kay will clarify the
14 reliability and accuracy of the allegations.

15 742 Q. But which one is it? I mean, you are aware that the
16 allegation in December 2007 involved some action,
17 horseplay in Maurice McCabe's house. We then have an
18 allegation and a Garda notification sent in May of 2014
19 of a rape offence. You couldn't confuse the two, sure
20 you couldn't?

15:15

21 A. But that is what Seamus -- sorry.

22 743 Q. I mean, the rape offence is immeasurably more
23 serious --

24 A. Okay.

25 744 Q. -- than the earlier allegation, isn't that right?

15:15

26 A. That's correct.

27 745 Q. They are poles apart?

28 A. That's correct.

29 746 Q. So there being this discrepancy between the earlier

1 allegation, the original allegation, and then the
2 utterly false allegation that is communicated to the
3 Gardaí in May 2014, how was that going to be resolved?

4 A. It was being resolved by Kay being assigned to check
5 the reliability and accuracy of the allegations. 15:16

6 747 Q. But sure you already had a draft letter --

7 A. That's correct.

8 748 Q. -- which yourself and Séamus Deeney would have noted
9 contained the allegation of rape?

10 A. That's correct. 15:16

11 749 Q. So here was the time when the discrepancy was a live
12 issue for you to put a hold on the draft letter and
13 say, well look, hang on, and then look in and very
14 quickly discover that the discrepancy or that the
15 allegation contained in the letter was in fact the 15:16
16 false allegation that was sent to the Gardaí in May of
17 2014?

18 A. That's correct.

19 750 Q. why wasn't it done?

20 A. The task Seamus had assigned or agreed with Kay is that 15:17
21 she would check the reliability and accuracy of the
22 allegations before any further steps were taken.

23 751 Q. And this had been discussed with Kay McLoughlin as we
24 can see?

25 A. That's correct. 15:17

26 752 Q. So there was not only this written communication about
27 these discrepancies, it had also obviously been
28 discussed between Séamus Deeney and Kay McLoughlin?

29 A. That's correct.

1 753 Q. And had Séamus Deeney discussed it with you?

2 A. Not from my memory. I certainly was copied into that
3 email, so I saw what was happening.

4 754 Q. The second then is:

5 15:17

6 *"Determine whether we need to interview anyone else who*
7 *may be of relevance, e.g. the counsellor."*

8

9 So you were aware of the fact that Laura Brophy had
10 been involved in the case at this juncture?

15:18

11 A. Seamus was highlighting the need to talk to Laura
12 Brophy, yes.

13 755 Q. And then, obviously conditional on the first one,
14 certainly:

15

15:18

16 *"3. On review of the above, inform the alleged abuser*
17 *of the allegations.*

18

19 *4. Plan the action to be taken to inform third parties*
20 *in relation to the allegations, e.g. his wife.*

15:18

21

22 *5. Determine protective action and plan for the case.*

23

24 *The above should be carried out using the Policy and*
25 *Procedures for Responding to Allegations of Child Abuse*
26 *and Neglect, September 2014."*

27

28 Isn't that right?

29 A. That's correct.

1 756 Q. Can you give the chairman any explanation as to why,
2 having considered this matter in that level of detail
3 and alert to the discrepancies, the 8th May of 2015,
4 that the matter actually progressed to a situation
5 where the draft letter was sent to Maurice McCabe with 15:19
6 the incorrect allegation of rape?
7 A. Can I just clarify the question you'd like me to
8 answer: You want me to give an explanation?
9 757 Q. Yes.
10 A. I think Séamus Deeney outlined positive steps there to 15:19
11 do the file review in detail, to talk to relevant
12 people, with a view to clarification. Those steps
13 weren't completed to the required standard to do the
14 clarification, is my explanation, and that is how the
15 letter then got issued. 15:20
16 758 Q. They weren't completed at all. Not to any level of
17 competence. There was absolutely no -- nothing done in
18 relation to point 1?
19 A. No, that is not accurate.
20 759 Q. What was done? 15:20
21 A. There were efforts made to contact the alleged victim
22 by letter.
23 760 Q. No. I am talking about the discrepancy between the
24 2006 accusation --
25 A. Okay. 15:21
26 761 Q. -- and the 2014 allegation of rape that was notified to
27 the Gardaí. You were aware that there was a
28 discrepancy between the two, you must have been aware
29 of the fact that the second - namely, the rape

1 allegation - was false, because you were alerted in May
2 of 2014 by Eileen Argue --

3 A. Yes.

4 762 Q. -- to that very problem?

5 A. Yes. 15:21

6 763 Q. Isn't that right?

7 A. That's correct.

8 764 Q. So, did this just slip your mind completely?

9 A. I think I was leaving it for Kay and Seamus to deal
10 with it, in terms of Kay was taking the actions to 15:21
11 clarify the information, etcetera, etcetera.

12 765 Q. But --

13 A. And that I wasn't -- I was maintaining myself, I
14 suppose, as service manager as opposed to getting
15 involved with the detail on it. 15:22

16 766 Q. Okay. So, you do nothing in relation to it, is that
17 right?

18 A. I saw that steps were being taken.

19 767 Q. Do you follow up at all with Kay McLoughlin?

20 A. I did not. 15:22

21 768 Q. Did you follow up with Séamus Deeney?

22 A. I did not.

23 769 Q. Did you make sure that there couldn't be any
24 misunderstanding by Séamus Deeney as to the
25 discrepancy? 15:22

26 A. I did not.

27 770 Q. Did you try and make sure that there couldn't be any
28 misunderstanding with Kay McLoughlin about the
29 discrepancy?

1 A. I did not.

2 771 Q. Did you advise Kay McLoughlin that, look, the contents
3 of your letter are clearly wrong, this relates to a
4 wrong allegation that was made in 2014 and notified to
5 the Gardaí, did you advise her of that? 15:22

6 A. I did not.

7 772 Q. And subsequently that letter was sent to Garda McCabe,
8 isn't that right?

9 A. That's correct.

10 773 Q. On the 29th of December 2015, just after Christmas and 15:23
11 before the new year. Isn't that right?

12 A. That's correct.

13 774 Q. Now, if you could just be shown page 1080, please.
14 This was a letter sent by Seán Costello & Company to
15 Kay McLoughlin: 15:23

16

17 *"Dear Ms. McLoughlin*
18 *Please note that we have been consulted by Mr. McCabe*
19 *concerning your letter of the 29th December 2015.*

20 15:23

21 *We are to take our client's further instructions and*
22 *shall respond to you within seven days. In those*
23 *circumstances our client will not be attending the*
24 *meeting with you tomorrow."*

25 15:24

26 And that is dated the 20th of January of 2015. And I
27 think that that was copied to you by Kay McLoughlin, is
28 that right?

29 A. I think so, yes.

1 775 Q. Pardon?
2 A. I haven't got the email in front of me, but yes.
3 **CHAIRMAN:** Sorry Mr. Murrinan, just to please clarify,
4 as I understand it, 1077 is the actual letter sent to
5 Maurice McCabe. 15:24
6 **MR. MARRINAN:** Yes.
7 **CHAIRMAN:** And as I understand it, then, the draft is
8 the document you and Mr. Lowry have been referring to,
9 it's at 1070?
10 **MR. MARRINAN:** Yes. 15:25
11 **CHAIRMAN:** And it is exactly the same, isn't it?
12 **MR. MARRINAN:** Yes.
13 **CHAIRMAN:** Okay.
14 **MR. MARRINAN:** With the exception, as Mr. McGuinness
15 points out correctly, in relation to the date of the 15:25
16 proposed meeting with Mr. McCabe.
17 **CHAIRMAN:** Oh yeah, yes. But in substance it's exactly
18 the same. I mean, it includes an address and things
19 like that. And gives a time.
20 776 Q. **MR. MARRINAN:** So when this matter came back on to your 15:25
21 desk were you surprised?
22 A. I didn't know -- sorry, at that point the solicitor was
23 saying they weren't cooperating with a meeting -- with
24 the social work service. It doesn't refer to the
25 inaccuracy. And at that point in time, it wasn't a 15:26
26 surprise that the client would not be attending the
27 meeting.
28 777 Q. Well, no. Well, first of all, did you say to Kay
29 McLoughlin -- because the last dealings you'd had with

1 her in relation to this was in May, did you say to her
2 'well, did you do all the points that séamus Deeney had
3 pointed out and I'd agreed upon?'

4 A. The first, I think, conversation I had with her was
5 when she brought to my attention that she had made the 15:26
6 error after the second letter from the solicitor.

7 778 Q. Sorry?

8 A. I didn't speak to Ms. McLoughlin after this letter,
9 from my memory. She did speak to me when the second
10 letter from the solicitor came in, which outlined -- 15:26

11 779 Q. All right. Okay. well then, after the second letter
12 came in, yeah.

13 A. So --

14 780 Q. well, did you not say, well look --

15 A. I did. I did ask her what had happened, how the error 15:27
16 had been made, etcetera, and there was various steps
17 then she undertook to try and clarify the information.

18 781 Q. well, when you say "clarify", was it not apparent
19 immediately that there had been a total failure in your
20 systems in Tusla, that having highlighted discrepancies 15:27
21 and had agreed a course of action in May of 2015, in
22 order to try and rectify the allegation of rape
23 contained in the draft letter, that there had been a
24 total failure by your systems and by Kay McLoughlin to
25 do so -- 15:28

26 A. That's correct.

27 782 Q. -- did you ask her for an explanation as to how it was
28 that seven months later she sent out the draft letter
29 which had already been identified as having contained

1 incorrect information?

2 A. I did.

3 783 Q. And what explanation did you get?

4 A. She said there was inaccurate information on the file
5 and that it was based on that that she wrote the 15:28
6 inaccurate letter.

7 784 Q. But that had already been pointed out as a discrepancy
8 in May of 2014?

9 A. That's correct.

10 785 Q. It had already been pointed out in May of 2015 and 15:28
11 identified as a discrepancy?

12 A. That's correct.

13 786 Q. Séamus Deeney had given her instruction on how to deal
14 with it?

15 A. That's correct. 15:28

16 787 Q. You see, this is yet another error. And every error
17 that is made is to the detriment of Sergeant McCabe, do
18 you understand?

19 A. Yes, I do.

20 788 Q. There isn't an error in his favour. Nobody made a 15:29
21 mistake by which he benefited, do you understand?

22 A. Yes.

23 789 Q. And there are those who may say that this litany of
24 grave errors can't just simply be coincidence after
25 coincidence after coincidence that is being suggested, 15:29
26 do you understand?

27 A. I do.

28 790 Q. And can you assure us that they are merely
29 coincidences?

1 A. I can, sir. I think they are terrible errors
2 consistently, but they were absolutely coincidences.
3 Bad file management.

4 791 Q. So, in any event, Kay McLoughlin has contacted you, you
5 discussed the matter with her, did you? 15:30

6 A. Yes.

7 792 Q. And it's decided to write a letter to Maurice McCabe
8 apologising for what took place, is that right?

9 A. That's correct.

10 **CHAIRMAN:** Mr. Marrinan, I have something else I need 15:30
11 to do in another place at this point and perhaps we
12 could leave it there until the morning which I think is
13 10:00? It is 10:00.

14

15 **THE HEARING WAS THEN ADJOURNED TO TUESDAY, 11TH JULY**
16 **2017 AT 10:00AM**

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