

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

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1921, ON 17 FEBRUARY 2017

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

HELD IN DUBLIN CASTLE
ON WEDNESDAY, 12TH JULY 2017 - DAY 7

7

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APPEARANCES

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

REGISTRAR: MR. PETER KAVANAGH

FOR THE TRIBUNAL: MR. DIARMUID MCGUINNESS SC
MR. PATRICK MARRINAN SC
MS. KATHLEEN LEADER BL
MS. ELIZABETH MULLAN, SOLICITOR

FOR MS. D:
INSTRUCTED BY: MR. NIALL BUCKLEY BL
MR. KIERAN KELLY
FANNING & KELLY SOLICITORS
HATCH HALL
HATCH STREET LOWER
SAINT KEVIN'S
DUBLIN

FOR SGT. MCCABE:
INSTRUCTED BY: MR. MICHAEL McDOWELL SC
MR. PAUL MCGARRY SC
MR. BREFFNI GORDON BL
SEAN COSTELLO & COMPANY
HALIDAY HOUSE
32 ARRAN QUAY
DUBLIN 7

FOR THE COMMISSIONER:
INSTRUCTED BY: MR. MÍCHEÁL P. O'HIGGINS SC
MR. CONOR DIGNAM SC
MR. DONAL MCGUINNESS BL
MS. KATHY DONALD
CHIEF STATE SOLICITOR'S OFFICE
OSMOND HOUSE
LITTLE SHIP STREET
DUBLIN 8

FOR THE HSE:
INSTRUCTED BY: MR. MICHAEL CUSH SC
MR. JON LEGORBURU
MR. SEAN O'DONNELL
MR. REDMOND SCANLON
BYRNE WALLACE
88 HARCOURT STREET
DUBLIN 2

FOR TUSLA:
INSTRUCTED BY: MR. PAUL ANTHONY McDERMOTT SC
ARTHUR COX
TEN EARLSFORT TERRACE
DUBLIN 2

FOR ALAN SHATTER:
MR. BRIAN GALLAGHER
GALLAGHER SHATTER SOLICITORS
4 UPPER ELY PLACE
DUBLIN 2

FOR RTE: MR. SEAN GILLANE SC

INSTRUCTED BY: MR. EAMON KENNEDY BL
MS. PATRICIA HARRINGTON, SOLICITOR

GARDA KEITH HARRISON: MR. MARK HARTY SC
KILFEATHER SOLICITORS

SUPT. DAVID TAYLOR: MR. MICHAEL O'HIGGINS SC
INSTRUCTED BY: MR. JOHN FERRY BL
CARTHAGE CONLON
MICHAEL E HANAHOE
SUNLIGHT CHAMBERS
21 PARLIAMENT STREET
DUBLIN 2

MS. YVONNE MARTIN: MR. MICHAEL HEGARTY, SOLICITOR

FOR MR. JOHN MCGUINNESS: MR. DARREN LEHANE BL
INSTRUCTED BY: MR. FINTAN LAWLOR

FOR GARDA MAIRE O'REILLY: MS. CLIONA KIMBER SC
INSTRUCTED BY: MR. KEVIN BELL BL
MS. CAOIMHE RYAN
MORAN & RYAN

FOR THE IRISH TIMES: MR. MARK DUNNE BL
INSTRUCTED BY: HAYES SOLICITORS
LAVERY HOUSE
EARLSFORT TERRACE
DUBLIN 2

**FOR INDEPENDENT NEWS
AND MEDIA PLC:** MR. KIERAN KELLY, SOLICITOR

FOR MS. Y: MR. PAUL GUNNING BL
INSTRUCTED BY: MS. FIONA BAXTER
JOHN J. QUINN AND COMPANY
SOLICITORS
EARL STREET
LONGFORD

ASSOCIATED NEWSPAPERS: MR. MICHAEL KEALY, SOLICITOR

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1 **THE HEARING RESUMED ON WEDNESDAY, 12TH JULY 2017 AS**
2 **FOLLOWS:**

3
4 **MR. MCGUINNESS:** Sir, this morning we are continuing
5 with the evidence of Ms. Kay McLoughlin. 09:30

6
7 **MS. KAY MCLOUGHLIN CONTINUED TO BE EXAMINED BY**
8 **MR. MCGUINNESS AS FOLLOWS:**

9
10 1 Q. **MR. MCGUINNESS:** Thank you, Ms. McLoughlin. Yesterday, 09:30
11 I was asking you about the Maurice McCabe file. And,
12 had you ever seen it before you went to it in May of
13 2015?

14 A. No, not to my knowledge, I can't recall seeing it prior
15 to that. 09:31

16 2 Q. Okay. Now, yesterday I reminded you that in your
17 statement you said that after you were appointed in
18 October you started reviewing the unallocated files?

19 A. That's correct.

20 3 Q. Perhaps sometime before Christmas of 2014, is that 09:31
21 correct?

22 A. That's correct.

23 4 Q. And had you had any discussion at that stage with
24 anyone about the Maurice McCabe file?

25 A. No, I don't recall having any conversation with anyone. 09:31

26 5 Q. OK. And certainly, may the Tribunal take it that you
27 had no discussion with any Gardaí about it at that
28 time?

29 A. No, not prior to when I took over my responsibilities

1 for the duty intake team at that time.

2 6 Q. Okay. And when did you first then come across the
3 Maurice McCabe file as part of your review?

4 A. Well, I prepared lists of cases that were unallocated
5 using the MTP database, which is Measuring the 09:32
6 Pressure.

7 7 Q. Yes.

8 A. So I highlighted cases for -- to be reviewed by the
9 review team. I don't know if I said this yesterday: I
10 highlighted cases that were of a high priority to 09:32
11 follow up on first and then I looked at older cases
12 after that.

13 8 Q. Okay. So it's not the case that you went to the filing
14 cabinet, as it were, and selected the Maurice McCabe
15 file? 09:32

16 A. No. Not at the first point, no.

17 9 Q. So, you first selected the group of high priority cases
18 on --

19 A. Yes.

20 10 Q. -- the Measuring the Pressure list, is that right? 09:32

21 A. Yes, yes, children primarily.

22 11 Q. And having dealt with those you selected ones of medium
23 priority?

24 A. Well, I focused on medium priority then and I focused
25 on cases that were there the longest waiting 09:33
26 allocation.

27 12 Q. Okay. Now, which one did Sergeant McCabe's file fall
28 into?

29 A. Well, he fell into the one who was waiting a longer

1 period of time for allocation. It was there since
2 2013.

3 13 Q. All right. Now, I was asking you about the priority of
4 the case and had it been, in fact, marked or designated
5 with any form of priority? 09:33

6 A. I can't remember specifically, but I don't believe it
7 was marked with high priority.

8 14 Q. Okay. Well, you obviously reviewed it to some extent
9 at that time and then later obviously in 2016, was
10 there any form of priority marked on it or on the 09:33
11 Measuring the Pressure system entry relating to it?

12 A. Well, as I said, I can't remember specifically. It
13 could have been low or medium, I'm not sure.

14 15 Q. Okay. You see, the file as it is doesn't carry
15 Sergeant McCabe's name on the exterior cover of the 09:34
16 file, isn't that correct?

17 A. That's correct.

18 16 Q. So if you were choosing it or selecting it deliberately
19 out of the filing cabinet you would have to know the
20 file number, wouldn't you? 09:34

21 A. Yes, the file number is on the Measuring the Pressure
22 database.

23 17 Q. Okay. And you can find it easily then in the filing
24 cabinet with the filing number?

25 A. That's correct. 09:34

26 18 Q. And is that what you did?

27 A. Yes.

28 19 Q. Okay. Now, the Tribunal is anxious to know what you
29 saw on the file when you commenced this review and

1 before you wrote your email to Gerry Lowry and Séamus
2 Deeney. Would you agree with me it appears no work was
3 done on the file before you got to it in 2015?

4 A. Well, it hadn't been allocated other than a letter
5 being sent to the Gardaí in 2013. I didn't review it. 09:34
6 I, at that time -- it was selected by me for review,
7 and I -- you know, when we met to review files, we all
8 would have a bundle of maybe 20 or 30 files and we
9 would pick one each to go through. I don't believe
10 that I went through the Maurice McCabe file on that 09:35
11 date in May 2015.

12 20 Q. Well, you see, in your email you say you have been
13 reviewing files on the MTP today, "*one relates to*
14 *Maurice McCabe*"?

15 A. Yes. 09:35

16 21 Q. So --

17 A. Séamus, I believe Séamus completed a review form the
18 previous day to that email, and he highlighted some
19 actions on it. I wanted it to be brought to Gerry
20 Lowry's attention because I was concerned that it had 09:35
21 been a long time waiting for the service to be followed
22 up with.

23 22 Q. Are you referring to a case review form that is
24 unsigned relating to the file?

25 A. I think it's signed. 09:36

26 23 Q. You think it's signed?

27 A. I think it's signed.

28 24 Q. Okay. Well, in any event, the Tribunal is anxious to
29 know what was on the file at the time that you were

1 commencing the review or had begun the review, and we
2 have extracted all the documents that were on it --

3 A. Yes.

4 25 Q. -- and should have been apparently on it as of the end
5 of 2014? 09:36

6 A. Yes.

7 26 Q. And I would be anxious for your assistance in this
8 regard. Could you go to page 2009 -- sorry, 2209.
9 It's in volume 9 of the documents. And do you see the
10 cover file there? 09:37

11 A. Yes.

12 27 Q. Okay. And then on the next page is the inner sheet
13 which has been stapled on to the cover file?

14 A. Yes.

15 28 Q. And there is a large number of folders then -- 09:37

16 A. That's correct.

17 29 Q. -- into which documents are included, and in the order,
18 these appear in the order in which it was provided to
19 the Tribunal, and these are documents which appear to
20 have been on the file in 2013 and by the end of 2014? 09:37

21 A. Okay.

22 30 Q. Do you understand that? Do you?

23 A. Yes.

24 31 Q. And you have seen these before?

25 A. Yes. 09:37

26 32 Q. Now, the first document at 2212, that is the first
27 intake record for one of the McCabes children, is that
28 correct?

29 A. I haven't seen it yet but, yes.

1 33 Q. 2212. And the details of the report are at part 7 at
2 the end of that.

3 A. Yes.

4 34 Q. And that contains the incorrect allegation?
5 A. Yes, that's correct. And that was at the front, I 09:38
6 believe, of the --

7 35 Q. And 2213 is the next page.
8 A. Yes.

9 36 Q. And 2214 then is the next intake record with the same
10 details. 09:38
11 A. Yes.

12 37 Q. 2215 and 2216 are there.
13 A. Yes.

14 38 Q. And then those intake records continue into 2217 and
15 2218. So there is seven pages of intake records? 09:38
16 A. Yes.

17 39 Q. One might call them, I suppose, four different
18 documents.
19 A. Yes.

20 40 Q. The next document is the original intake record. 09:38
21 A. Yes.

22 41 Q. And you have seen that before, relating to Mr. McCabe?
23 A. Yes.

24 42 Q. And you have seen that that doesn't contain the
25 incorrect allegation, isn't that right, at the bottom 09:39
26 in part 7?
27 A. Yes.

28 43 Q. Now, that continues to page 2222, but the next actual
29 document is page 2224, and this is a draft of the Garda

1 notification that was sent.

2 A. Yes.

3 44 Q. Intended to be sent, certainly. Updated 2nd May of
4 2014.

5 A. Yes. 09:39

6 45 Q. And did you see that at that time?

7 A. I can't remember whether I seen that at that time.

8 46 Q. Okay. well, certainly at the top of the second page at
9 2225, it records the error having been reported by
10 Ms. Brophy it. 09:40

11 A. It says that there was an error, yes. It doesn't say
12 what the error was.

13 47 Q. Yes. We will come to that. The next document is at
14 page 2227. And that is the signed copy of the original
15 erroneous notification dated 2nd of May, which is the 09:40
16 file copy, the original of which was sent to the
17 Gardaí, isn't that correct?

18 A. Yes.

19 48 Q. That contains the erroneous allegation?

20 A. Yes. 09:40

21 49 Q. Now, did you see that at that time?

22 A. It's possible I did.

23 50 Q. Yes. At page 2229, this is an undated, unsigned and
24 would appear to be the first draft of the Garda
25 notification that became the draft sent on 2nd of May, 09:41
26 and that contains the erroneous allegation, isn't that
27 correct?

28 A. Yes.

29 51 Q. Now the next document, 2231, that is Laura Connolly's

1 email to Linda enclosing a draft for Garda circulation,
2 isn't that correct?

3 A. That's correct.

4 52 Q. Do you remember seeing that document?

5 A. I can't -- at that time, I can't remember having seen 09:41
6 that document.

7 53 Q. Okay. At page 2235, this is Ms. Connolly's note of her
8 seeking instruction from Ms. Argue about the intake of
9 the McCabe children, do you recall seeing that?

10 A. At that time I can't remember having seen that. It's 09:42
11 possible I did but I can't remember.

12 54 Q. Okay. At page 2237, this is a copy of the email from
13 Ms. Brophy to Ms. Argue of the 16th May, referring to
14 their conversation about the error. Do you recall
15 having seen that at this point in time? 09:42

16 A. No, I don't believe I read that at that time.

17 55 Q. At page 2238, at the bottom of the page, this is the
18 email from Pamela Armitage to Eileen Argue.

19 A. Yes.

20 56 Q. Which is the first record of Laura Brophy's contact 09:42
21 with Tusla, which details the error that was identified
22 and it clearly specifies what the error was, isn't that
23 correct?

24 A. That's correct, yes. I did not have sight of that, I
25 did not read that at that time. 09:43

26 57 Q. Yes. Now, just to be clear, do you accept that all of
27 these documents were actually on the file in 2014?

28 A. Yes, yes.

29 58 Q. Okay. And available for you to read if --

1 A. Yes, they were.

2 59 Q. And did you see, and do you see, at the top of that
3 page Ms. Argue sent that on to Mr. Lowry?

4 A. Yes, I seen that, yes.

5 60 Q. Yes. On that day, some eight minutes after she had 09:43
6 received it.

7 A. Yes, I did not review that at that point.

8 61 Q. Okay. well, would it appear that Mr. Lowry knew of the
9 error at that point in time if he had read this email?

10 A. It would appear from that email, yes. 09:43

11 62 Q. The next document is 2241, which is the amended report
12 sent in by Ms. Brophy dated the 14th of May of 2014.
13 Do you recall seeing that?

14 A. I can't recall.

15 63 Q. Okay. And I think you can see on the screen there, it 09:44
16 describes the alleged complaint in the way in which it
17 had originally been described?

18 A. That's correct.

19 64 Q. And doesn't contain the error?

20 A. That's correct. 09:44

21 65 Q. Isn't that right?

22 A. That's correct.

23 66 Q. That is a two-page document. In the correspondence
24 section or perhaps it's in the -- it says "*Case*
25 *Conference Supervision Record Plan. Child in care* 09:44
26 *review decision. Strategy*" and there's a "*case review*
27 *section.*" At page 2245, there is a copy of Ms. Ward's
28 letter to Ms. Argue in May of 2014 about the error,
29 isn't that correct?

1 A. Yes.

2 67 Q. On the next page, 2246, there is a copy of Ms. Brophy's
3 letter to Ms. Argue about the error, dated 14th May
4 2014?

5 A. Yes. 09:45

6 68 Q. Now, did you see those at that time?

7 A. I don't believe I did.

8 69 Q. Okay. Do you accept that they were on the file?

9 A. Yes, I accept that they were on the file.

10 70 Q. At page 2247, that is a letter from Keara McGlone to 09:45
11 inspector -- or Superintendent Cunningham there dated
12 15th August 2013. Did you see that at the time?

13 A. I have no memory of seeing that, either.

14 71 Q. Page 2248, it appears to be a standard form
15 acknowledgement of the receipt of Ms. Brophy's report, 09:46
16 do you recall seeing that?

17 A. No, I don't recall seeing that at the time.

18 72 Q. And that appears to be the last document on the file
19 for 2014, up to that period. Now, if the file
20 consisted of all of these documents at that time, there 09:46
21 is approximately 43 pages in the file, which, including
22 all the cover sheets and partition tabbed documents,
23 leaves only 30 pages of material on the file at that
24 point in time?

25 A. Mm-hmm. 09:46

26 73 Q. Do you accept that?

27 A. Yes.

28 74 Q. The error is contained on four documents, the four
29 intake records relating to the McCabe children and the

1 two notifications that we first looked at there. So
2 the error occurs on six pages?

3 A. That's correct.

4 75 Q. On the other hand, the remaining 19 pages, a number of
5 them are devoted to the correction of the error and, in 09:47
6 particular, the email from Ms. Armitage relating to
7 Ms. Brophy's call clearly identifies the error, isn't
8 that correct?

9 A. That's correct.

10 76 Q. Now -- 09:47

11 A. Or should I say Ms. Armitage's email is clearest.

12 77 Q. -- is based upon Ms. Brophy's --

13 A. Yes, message.

14 78 Q. -- phone call. Now, you must have opened that file
15 before you wrote your email to Mr. Lowry and 09:47
16 Mr. Deeney, is that not right?

17 A. Yes.

18 79 Q. And you record in your draft Barr letter that the abuse
19 allegedly involved digital penetration?

20 A. That's correct. 09:48

21 80 Q. And you say:
22
23 *"It is reported that this allegation was investigated*
24 *by An Garda Síochána some years later."*
25 09:48

26 Do you remember putting that in the letter?

27 A. No, but I --

28 81 Q. Perhaps we will just look at that at page 1535. That
29 is the draft that you sent with that email.

1 A. Okay.

2 82 Q. And in what is the fourth paragraph down, the second
3 line of that says:
4
5 *"The abuse allegedly involved digital penetration and 09:48*
6 *the victim was aged six to seven years old. It's*
7 *reported that this allegation was investigated by An*
8 *Garda Síochána some years later."*

9 A. Yes.

10 83 Q. *"A file was sent to the Director of Public Prosecutions 09:49*
11 *who directed that no prosecution take place."*

12 A. That's correct.

13 84 Q. Now, you could only have got that information from the
14 file unless somebody else told you of it, isn't that
15 correct? 09:49

16 A. Yes.

17 85 Q. And do you recall, in fact, taking possession of the
18 file, opening it and gleaning that from the file?

19 A. I don't have a specific memory of it but I believe I
20 did take information from the file. I possibly had 09:49
21 access to the Ms. D file also. But I have no specific
22 memory.

23 86 Q. And do you accept that you missed a crucial part of
24 what was on the file relating to Sergeant McCabe?

25 A. Absolutely, I accept that. 09:49

26 87 Q. Now, in fairness to you, have you any explanation or is
27 there anything that you'd like to say to the Tribunal
28 in connection with that?

29 A. I have to say that I did not review the file in its

1 entirety at that time. I had no cause to know that an
2 error had been made in it, so I -- that is possibly a
3 reason why I didn't, you know, review the file in its
4 entirety. I suppose I looked for the concerns on the
5 file, I found some documents that highlighted the 09:50
6 allegation of digital penetration and I used those to
7 include in the letter.

8 88 Q. All right. Well, do you accept that you must have
9 failed to appreciate --

10 A. I failed to appreciate that there was a significant 09:51
11 error on the file and I failed to review the file
12 thoroughly.

13 89 Q. All right. Now, it's just in the context where you
14 have picked this out in the sense of identifying it as
15 one that had been awaiting allocation or action -- 09:51
16 A. Yes.

17 90 Q. -- and in the context of sending the email to Mr. Lowry
18 and Mr. Deeney, which was unusual, I think you agreed
19 yesterday that you would send such an email as this?

20 A. Yes, I wouldn't send such an email as this about other 09:51
21 cases.

22 91 Q. And you knew obviously you were dealing with
23 Mr. McCabe, whom you knew something about?

24 A. Yes, I knew from the media -- yeah, I was aware that he
25 was in the media. 09:51

26 92 Q. Okay. Now, in that context, can I ask you, would it
27 not have been, I suppose, obvious and important for you
28 to have, in fact, reviewed the file fully before you
29 were either consulting your line manager or drafting

1 such a letter?

2 A. Yeah, no, that's a fair comment but I had no -- I had
3 no indication that there was an error on that file,
4 from looking at it.

5 93 Q. Okay. Well, would it be more accurate to say that 09:52
6 there is no indication that there was an error on the
7 file from the few documents that you did look at on the
8 file?

9 A. That's correct.

10 94 Q. Now, there is a line in your email to Mr. Lowry and 09:52
11 Mr. Deeney:
12
13 *"It has come back in again due to media coverage of
14 Mr. McCabe."*

15 A. Yes. 09:52

16 95 Q. Now, can I ask you, why did you include that and on
17 what basis did you say that in your email?

18 A. Well, it was speculation on my part. I would suggest
19 that I put that in there because if somebody, as in
20 this case Ms. D has made an allegation about Maurice 09:53
21 McCabe in 2006 and if it comes back up again in the
22 media, for somebody in that situation it may raise
23 issues for them. I was aware she had gone to a
24 counsellor and, therefore, I felt that Mr. McCabe's
25 name being in the public domain may have triggered 09:53
26 issues for her, and that was my assumption. I didn't
27 know that.

28 96 Q. All right. Well, I mean, there is a possible wide
29 spectrum of different theories --

1 A. Yes.

2 97 Q. -- or conspiracies, but in any sense, were you or
3 anyone in your department, out to get Sergeant McCabe?
4 A. Absolutely not.

5 98 Q. Were you in any way intent on assisting Garda 09:53
6 management or senior members of An Garda Síochána in
7 giving them ammunition against Sergeant McCabe?
8 A. Absolutely not. I have no cause to have a grievance
9 with anybody that I would take such action.

10 99 Q. Okay. well, one could look at a file like this perhaps 09:54
11 and there might be a number of responses to looking at
12 the file. One is to, let's deal with this quickly and
13 get it off our patch because of the high publicity
14 factor. was that any part of your decision-making or
15 action? 09:54
16 A. No, I don't believe that occurred to me.

17 100 Q. Did you think perhaps that because of the fact that you
18 thought it was an allegation of digital penetration,
19 that you had to deal with it quickly because of Ms. D
20 and the nature of the allegation that she had raised, 09:54
21 was that a consideration?
22 A. No.

23 101 Q. Now, just to be clear about Mr. Deeney's position at
24 this point in time. Obviously Mr. Lowry was your line
25 manager, why were you sending it to Mr. Deeney as well? 09:55
26 A. In 2015 Mr. Deeney was my direct manager. Not until
27 2016 was Gerry Lowry my direct line manager.

28 102 Q. I see.

29 A. Yeah.

1 103 Q. What position did Mr. Lowry occupy at that point?
2 A. He was the area manager.
3 104 Q. The area manager?
4 A. Yes.
5 105 Q. All right. Well, the draft letter, was it appropriate 09:55
6 for you to, as it were, jump from the phase of
7 reviewing the file on the MTP system to issuing a draft
8 Barr letter?
9 A. Well, it was a draft letter, that's -- it wasn't for
10 issuing at that point. 09:56
11 106 Q. Well, what was the point of seeking -- bringing it to
12 their attention and seeking their views on it?
13 A. I was just making them aware of the concerns that I
14 understood that were alleged in relation to Mr. McCabe.
15 107 Q. Okay. But in the ordinary course of events, the file 09:56
16 gets allocated first before any such step is ever even
17 reached, if it's ever reached, isn't that correct?
18 A. That's correct.
19 108 Q. Now, is it the case that going back to this allocation
20 issue, you were in fact dealing with it as if it was 09:56
21 allocated to you?
22 A. I couldn't deal with it as if it was allocated to me; I
23 had a considerable amount of other responsibilities at
24 that time.
25 109 Q. Okay. But that's what I am wondering: Is this a 09:56
26 bypassing or a fast forwarding of the procedure, for
27 you to go to this stage of doing a draft Barr letter
28 without allocation, an initial assessment, maybe a
29 further assessment and lots of other steps after that?

1 A. I had not intended to issue that letter at that time,
2 it was just to bring the concerns to Séamus and Gerry's
3 attention in terms of how we proceed.

4 110 Q. Well, I suppose your expectation was that they would
5 read the letter, the draft letter? 09:57

6 A. Yes.

7 111 Q. And you have heard from Mr. Lowry saying that he
8 doesn't think he did read the letter?

9 A. Yes.

10 112 Q. Are you surprised to hear that? 09:57

11 A. I heard that yesterday, I think, yes.

12 113 Q. Yes. Well, he has obviously accepted responsibility
13 for that himself?

14 A. That's correct, yes.

15 114 Q. But do you know or have you any knowledge as to whether 09:57
16 Mr. Deeney actually read the letter, your line manager?

17 A. It's possible -- I don't know, I don't know that
18 answer.

19 115 Q. Okay. Well, put it this way: Did you have any
20 discussion with both of them together or either of them 09:58
21 on their own about your email or about the letter?

22 A. I have no recollection.

23 116 Q. Okay. And you've certainly no note of it anyway --

24 A. No.

25 117 Q. -- in any event, is that right? 09:58

26 A. That's correct.

27 118 Q. Now, I am not sure whether this is in any way criticism
28 of you or the system, and I don't intend it personally,
29 but in a situation like this where you weren't the

1 intake team leader, where you hadn't been involved in
2 the intake records relating to the McCabe children,
3 would it have been appropriate or usual for you to
4 consult others who had dealt with it previously?

5 A. Possibly, but neither Eileen Argue or Louise Carolan 09:59
6 were in the service at that time, they had both left
7 the service. So, in relation to the creation of those
8 documents, I -- Ms. Argue had left the service.

9 119 Q. Yes. But I mean, you must have got the information
10 from either one of the four intake records relating to 09:59
11 the McCabe children or possibly the Garda notification,
12 but you must have seen that Laura Connolly had created
13 those and that they hadn't been signed off on by any
14 team leader as far as authorising the intake of or
15 creation of a file in relation to the children? 09:59

16 A. Yes, I seen -- well, I have seen Laura Connolly's note,
17 I can't remember if I had at the time. But she appears
18 to have been instructed to create those documents by
19 the team leader.

20 120 Q. Okay. But is it part of the procedure or not that they 10:00
21 would or should be signed off on if they are to result
22 in an action such as the creation of a file relating to
23 the children?

24 A. well, I can't say in terms of the procedure but I can
25 say that I wouldn't have given that instruction. I 10:00
26 don't believe I would have, unless there was -- unless
27 there was, you know, more -- you know, more serious
28 grounds for concern.

29 121 Q. Okay. well, I mean, may the Tribunal take it that you

1 agree that it's unusual to create an intake record
2 relating to adults as opposed to children of an abuser?

3 A. Well, the intake record wasn't created for adults.
4 However, we didn't have any other system for recording
5 and tracking information where there's an allegation 10:01
6 made against an adult.

7 122 Q. Well, I am not clear now what response you got from
8 Mr. Lowry or Mr. Deeney to your email?

9 A. Well, I understand that Mr. Deeney replied to that
10 email. 10:01

11 123 Q. Yes. And prior to that did you have any discussion
12 with him?

13 A. I can't recall.

14 124 Q. Well, perhaps we would look at 1560. That is the
15 reply, I think, from Mr. Lowry. 10:01

16 A. Yes.

17 125 Q. He said:
18 *"Dear Kay*
19 *Thanks for the update and bringing this matter to my*
20 *attention. I have a memory that this matter was* 10:02
21 *reported to An Garda Síochána at some stage, so we*
22 *would need to coordinate with them before taking the*
23 *steps outlined below. I will discuss with you."*

24 A. Mm-hmm.

25 126 Q. Now, first of all, obviously he is thanking you for the 10:02
26 update and bringing the matter to his attention.

27 A. Mm-hmm.

28 127 Q. Did you conclude from that that he'd actually looked at
29 it, including the draft?

1 A. I can't remember what I concluded.

2 128 Q. Yes. Well, you'd sent him the draft in the expectation
3 that he would look at it, isn't that right?

4 A. Yes.

5 129 Q. Okay. And he is thanking you for bringing the matter 10:02
6 to your attention. The whole purpose of the email was
7 to bring the draft Barr letter to his attention, isn't
8 that correct?

9 A. That's correct.

10 130 Q. Yes. You must have concluded that he had read it, 10:02
11 isn't that only fair to yourself?

12 A. I might have made that assumption, I can't remember.

13 131 Q. Now, he says there:
14
15 *"I have a memory that this matter was reported to An 10:03
16 Garda Síochána at some stage, so we would need to
17 coordinate with them before taking the steps outlined
18 below. I will discuss with you."*

19 A. Mm-hmm.

20 132 Q. Well, do you recollect or did that spur a recollection 10:03
21 in your mind that there was, in fact, a Garda
22 notification on the file?

23 A. I was aware that there was a garda notification on the
24 file.

25 133 Q. And can I ask you, did you go back to the file after 10:03
26 you received this reply from Mr. Lowry?

27 A. I have no recollection at that point of going back to
28 the file.

29 134 Q. Okay. But he is suggesting the need to coordinate with

1 A. That's correct.

2 144 Q. And you were, I think, still splitting your time
3 between there and Monaghan at that point in time, is
4 that correct?

5 A. Yes. 10:05

6 145 Q. But who was Sergeant Byrne?

7 A. Sergeant Byrne was the garda, he was one of the liaison
8 officers from the Bailieboro district that we met with
9 infrequently in relation to cases that were open to
10 both services, both the Gardaí and Tusla, in 10:05
11 Cavan-Monaghan or in the Bailieboro area, in
12 particular.

13 146 Q. And do you recall receiving a letter from Sergeant
14 Byrne at some stage --

15 A. No. 10:06

16 147 Q. -- identifying himself as the sergeant at Bailieboro
17 with responsibility for liaison?

18 A. I don't recall ever receiving that information, but I
19 can't remember. But I know that I engaged in Garda
20 liaison meetings with Sergeant Byrne in Bailieboro. 10:06

21 148 Q. We have received a letter this morning from Sergeant
22 Byrne from his records.

23 A. Okay.

24 149 Q. It's not on the system but I am going to hand you a
25 copy of that [SAME HANDED]. 10:06

26 A. Yes.

27 150 Q. And I appreciate you have seen this this morning, but
28 if you received this, you would have received it in
29 November 2014?

1 A. Yes.

2 151 Q. And I was wondering have you any memory of receiving
3 that letter?

4 A. I have no memory of receiving this letter but I became
5 aware that at some point, I don't know when, and it's 10:07
6 possibly through this letter but I have no
7 recollection, that Sergeant Byrne was the Garda liaison
8 officer in Bailieboro.

9 152 Q. Okay. Just for the record, it reads as follows:
10 10:07

11 *"Addressed to Ms. Kay McLoughlin, SWTL --"*

12

13 which means social work team leader I think.

14

15 *"-- Child and Family, Drumalee Cross, Cavan. 10:07*

16 *Re: Joint An Garda Síochána and Child and Family*

17 *Agency liaison meetings.*

18

19 *Dear McLoughlin*

20 *I am a sergeant at Bailieboro Garda Station with 10:07*

21 *responsibility as the Child and Family Agency liaison*

22 *officer in respect of the Bailieboro Garda district. I*

23 *understand you are the new social work team leader for*

24 *the area and I am writing to you with a view to*

25 *organising a joint agency liaison meeting at your 10:08*

26 *earliest convenience.*

27

28 *The last meeting held was in December 2013 with*

29 *Ms. Keara McGlone. I would be very much obliged if you*

1 *could contact me regarding your availability and we can*
2 *arrange a date and venue for the meeting that suits*
3 *you. I am generally flexible regarding dates and*
4 *times."*

10:08

6 And he gives his contact number. I think obviously,
7 you had come into position in that regard in October
8 2014?

9 A. That's correct.

10 153 Q. And then at the very beginning of the next month the
11 Gardaí appear to have written this letter to you,
12 having identified you in your new position?

10:08

13 A. That's correct.

14 154 Q. And do you recall, in fact, meeting Sergeant Byrne at
15 any liaison meeting after that period in time?

10:08

16 A. I can't recall when the meetings took place but I know
17 meetings did.

18 155 Q. Okay. Did you ever write and schedule -- or phone and
19 try and schedule any discussion with any Garda liaison
20 team and have it formally put on an agenda?

10:09

21 A. Have -- the matters before the Tribunal?

22 156 Q. Yes.

23 A. No.

24 157 Q. Is there any reason why you wouldn't do that or why you
25 didn't do that?

10:09

26 A. Because I was managing a service, I wasn't an allocated
27 social worker. It would have needed an allocated
28 social worker to carry out the type of tasks that were
29 required, such as a meeting with the Gardaí.

1 158 Q. Okay. I think after you had received the email from
2 Mr. Lowry that we have been previously looking at, I
3 think did you try and make an appointment with Ms. D?
4 A. Yes.

5 159 Q. Perhaps you would look at document 1562. 10:10
6 A. Yes, I did try to make an appointment with Ms. D.

7 160 Q. And is that a contact you made after receiving a copy
8 of the waiting list review form that I referred to
9 earlier?
10 A. That was as a result of the review of -- the review day 10:10
11 we had in May and an instruction from that was to meet
12 with Ms. D.

13 161 Q. Okay. Perhaps we would look at the review form. It's
14 KM5, that is page -- sorry, this is the waiting list
15 review form that we are talking about. 10:11
16 A. Yeah.

17 162 Q. Could you just talk us through that? Ms. D is
18 identified at the top and there seems to be a note
19 beside her name there?
20 A. Yeah. 10:11

21 163 Q. Is that your handwriting?
22 A. No.

23 164 Q. No. Can you decipher that for us?
24 A. I think it says "*Alleged victim*".

25 165 Q. Okay. And in the body of it, "*Child protection*
26 *concerns*" it says "*Allegation of CSA against Maurice*
27 *McCabe*"? 10:11
28 A. Yes.

29 166 Q. "*Management decision*", and that says "*Contact Ms. D re*

1 *checking the reliability and accuracy of allegations*
2 *made. Review information. Letter proposed for Maurice*
3 *McCabe. To contact established current address."*
4 And then that is signed off by Mr. Deeney, is that
5 correct? 10:12

6 A. Yes.

7 167 Q. And that is effectively directed to you, then, is that
8 right?

9 A. It was placed on the file.

10 168 Q. That is the way it works, is it? 10:12

11 A. Yes.

12 169 Q. And you took action on foot of that?

13 A. Yes.

14 170 Q. And you wrote a letter seeking an appointment with her
15 at June 2nd, I think, is that correct? 10:12

16 A. That's correct.

17 171 Q. And I think she failed to attend that, is that right?

18 A. Yes.

19 172 Q. Was she contacted though in the interim?

20 A. Yes, yes. 10:12

21 173 Q. And was that a contact directly with you?

22 A. Yeah, I got a message from her mother to contact her
23 and I was provided with a phone number.

24 174 Q. And what was the result of that, then?

25 A. The result of that was that she said she had exams 10:13
26 coming up and I couldn't attend on that date, but I
27 asked her would she agree to attend after her exams and
28 she indicated that she would.

29 175 Q. Okay. And was any date fixed upon?

1 A. No.

2 176 Q. You had also received an email back from Mr. Deeney as
3 well on the 7th -- sorry, on 8th of May, is that
4 correct? If we could look at page 1563.

5 A. Yes. 10:13

6 177 Q. And you see that, it says: "*Dear Kay, we discussed*
7 *this case yesterday.*" Now, was that face-to-face
8 discussion with --

9 A. That was the review day where we took the files to a
10 meeting room and reviewed them. My understanding is 10:14
11 that Séamus reviewed the Maurice McCabe file.

12 178 Q. Okay.

13 A. Because he completed the review form.

14 179 Q. Okay. Now, does that mean he had the file?

15 A. Yes. 10:14

16 180 Q. Okay. And he would have taken that file from where?

17 A. Well, again, we used the MTP list to identify the file
18 and then we went and either got the file ourselves or
19 were assisted by an administrator to get the file.

20 181 Q. You see, I am wondering had you put the file back? I 10:14
21 mean, you must have had it obviously to draft the Barr
22 letter.

23 A. Yes.

24 182 Q. Would you keep that out or put it back?

25 A. I may have kept that with me while I was waiting for an 10:14
26 appointment to come in.

27 183 Q. So, do you think it's possible you could have handed
28 the file over to Mr. Deeney?

29 A. Say that again, sorry.

1 184 Q. Do you think it's possible you could have handed the
2 file over to him?

3 A. I mean, the files were brought up into a meeting room,
4 they were placed on a desk and we all picked files from
5 the bundle with the purpose of reviewing and whoever 10:15
6 reviewed the file would have filled out the review
7 form. So I am making the assumption -- I can't
8 remember that Séamus Deeney reviewed the file but I am
9 making the assumption that because the review form was
10 completed by Séamus that he reviewed the file. 10:15

11 185 Q. Okay. Well, have you any actual knowledge that he read
12 the file or not?

13 A. I can't -- I can't be certain, but for him to have
14 completed the review form he -- I would have expected
15 that he read the file. 10:15

16 186 Q. Okay. Well, I am just coming to one interpretation,
17 perhaps, of events here in this period of a few days
18 that you had, as it were, sprung the draft Barr letter
19 on Mr. Deeney and Mr. Lowry?

20 A. Mm-hmm. 10:16

21 187 Q. You then had a review and a management decision
22 referred to in the case review form and then followed
23 up by this email. Was he in effect countermanding the
24 issuing of the draft Barr letter?

25 A. Well, he is addressing -- he's outlining steps that 10:16
26 should be taken before that letter is sent.

27 188 Q. Well, you'd agree with me, he is clearly not
28 authorising the sending of the Barr letter?

29 A. Well, he is saying to complete the other tasks first.

1 189 Q. Yes. And I think, do you accept that those other tasks
2 were not completed first?

3 A. I accept that, yes. I did attempt to meet with Ms. D,
4 however she didn't attend. I accept that they didn't
5 take place. In terms of her counsellor, I would have 10:16
6 needed to meet with her first and seek her consent
7 before I contacted her counsellor.

8 190 Q. Well, let's just look at step number 1 there, it says:
9
10 *"We will contact the alleged victim as there is some 10:17*
11 *discrepancy in the allegations forwarded to us."*
12
13 Was there some discussion at the review meeting about
14 discrepancies?

15 A. I only remember -- my only recollection is that Séamus 10:17
16 did feel there was discrepancies, but I wasn't -- those
17 discrepancies were not identified to me.

18 191 Q. Well, you see, that is what I was coming to, because
19 you obviously had seen the file. In your draft you
20 said something that wasn't accurate in the sense that 10:17
21 you said there was the allegation of digital
22 penetration, and that had been investigated by the
23 guards. So I am just wondering was the discrepancy
24 discussed or considered to be that, whether the guards
25 had actually investigated that or not, or was it 10:18
26 considered to be a discrepancy between two accounts
27 that Ms. D was said to have given?

28 A. I have no recollection of the discrepancies being
29 identified and I have no recollection of any

1 discussion.

2 192 Q. Okay. Well, can I put this suggestion to you,
3 Ms. McLoughlin: That if the file had been read, as it
4 were, cover to cover, the few pages I have identified
5 there, it would have shown, in fact, that there was no 10:18
6 discrepancy between what Ms. D was saying originally
7 and what she was saying in her -- the account of her
8 referral from Rian, do you accept that?

9 A. Yes.

10 193 Q. So a reading of the file would have shown no such 10:18
11 discrepancy as would have required to go back to Ms. D,
12 in that regard?

13 A. I -- yes --

14 194 Q. Now, perhaps you still think there was a necessity to
15 go back to check the reliability and accuracy of her in 10:19
16 terms of her --

17 A. Well, yes.

18 195 Q. -- in terms of credibility assessment.

19 A. I think there's -- She had made a statement to the
20 Gardaí in 2006, I was aware of that, but I didn't have 10:19
21 sight of it, but I understood she had done that. In
22 terms of -- I didn't know what the discrepancies were.

23 196 Q. OK.

24 A. I hadn't read the file thoroughly.

25 197 Q. Well, question number one then arising from that: 10:19
26 would you not be concerned receiving this email to go
27 to Mr. Deeney and say 'look, I am not clear what you
28 mean when you are talking about the discrepancy in the
29 allegation'?

1 A. I don't recall doing that.

2 198 Q. Okay. Or the alternative step is: Look, I am not sure
3 what Séamus is talking about in terms of a discrepancy,
4 I better pick up the file again and see if I can see
5 what the discrepancy is. Did you consider doing that? 10:20

6 A. No.

7 199 Q. No. Okay. Well, it's just you appear to have then
8 proceeded on the basis of -- if you didn't know what he
9 was talking about it's difficult to see how you could
10 have successfully completed step number 1 if you didn't 10:20
11 know what the discrepancy was, is that a fair question
12 to put?

13 A. Your wording is a little bit confusing.

14 200 Q. I am sorry.

15 A. If I had met -- if I had met Ms. D -- 10:20

16 201 Q. Yes.

17 A. -- it would have been clarified. If the false
18 allegation, if the error wasn't on file would we still
19 have met Ms. D? Possibly.

20 202 Q. Yes. No, I understand that. That is perfectly 10:20
21 possible. But I wonder, is it correct that it would
22 have been cleared up in that way, because if you had
23 met Ms. D to question her about a discrepancy, she
24 wouldn't know what you were talking about, isn't that
25 right. Or, do you think she would? 10:21

26 A. If I had met Ms. D at that point in time I think she
27 would be highlighting to me that her counsellor had
28 assured her that she was correct in information, that
29 is all I can --

1 203 Q. OK.

2 A. -- say in hindsight.

3 204 Q. Yes. And the file would have told you that, in any
4 event, at that point in time?

5 A. Had it been read thoroughly, yes. 10:21

6 205 Q. All right. Now, step 2:
7
8 *"Determine whether we need to interview anyone else who
9 may be of relevance. For example, the counsellor."*
10 10:21

11 Now, I don't know if you were here for Ms. Brophy's
12 evidence.

13 A. No.

14 206 Q. She was asked about being consulted by, you know, the
15 Social work Department to whom she had made a referral, 10:21
16 and she said she would have had no difficulty
17 clarifying anything in her referral with the Social
18 work Department. Would you have considered that that
19 was a perfectly reasonable step to take, to ring the
20 counsellor? 10:22

21 A. I wouldn't have done that without Ms. D's consent.

22 207 Q. Well, you see, you don't appear to have gone back to
23 Mr. Deeney and said look, you have imposed an
24 impossible condition on me here because I can't talk to
25 the counsellor without her consent, and -- 10:22

26 A. Yes, I accept your statement.

27 208 Q. You see, you didn't go seeking Ms. D's consent then
28 either, isn't that right?

29 A. Well, I did seek to meet with her, yes, but I didn't

1 succeed.

2 209 Q. Yes. But you certainly never wrote out to Ms. D and
3 said, look, I am formally looking for your consent for
4 me to speak to your counsellor about the referral that
5 you authorised her to send in? 10:22

6 A. I didn't do that.

7 210 Q. Okay. And did you consider that her consent, which you
8 didn't seek, and this condition that you didn't go back
9 to Mr. Deeney about was a reason for just ignoring this
10 second step or jumping over it? 10:23

11 A. Well, because I didn't have her consent I didn't
12 contact her counsellor.

13 211 Q. All right. Okay. Number 3:
14
15 *"On review of the above, inform the alleged abuser of* 10:23
16 *the allegations."*

17
18 Now, I suppose in the scheme of things, there was
19 effectively nothing for you to review then the way you
20 had decided to proceed before you took that step. 10:23

21 A. Yes.

22 212 Q. All right. Now, I think you did record a telephone
23 call with Ms. D and that's at page 1567. Perhaps we
24 would look at that. And I think that records a
25 telephone call of the 15th May 2015? 10:24

26 A. Yes.

27 213 Q. And that is -- is that your handwriting?

28 A. Yes.

29 214 Q. Perhaps you'd read that out?

1 218 Q. -- Ms. Brophy herself correct the error insofar as she
2 could, and there'd been no subsequent contact
3 effectively until this period in May of 2015, going
4 into June, isn't that correct?
5 A. Yes. 10:26
6 219 Q. Well, in your statement you say:
7
8 *"From my recollection she said she thought that this*
9 *had all been dealt with back in 2006/2007."*
10 10:26
11 Now, obviously that is not in your note, but --
12 A. No.
13 220 Q. -- you must have been taking, I am sure, great care in
14 the making of your statement, and you do have a
15 recollection of her saying that? 10:27
16 A. Yes, I do.
17 221 Q. She thought it had been all dealt with?
18 A. Yes.
19 222 Q. And can you recollect what you said in response?
20 A. I outlined to her that it hadn't been dealt with in 10:27
21 2006/2007, in relation to Mr. McCabe, I think.
22 223 Q. Well, did you see it as outstanding business, as it
23 were, with Mr. McCabe at that point?
24 A. Pardon?
25 224 Q. Did you see it as outstanding business from the point 10:27
26 of view of the social work department, with Mr. McCabe?
27 A. Yes, I seen it as, that we hadn't met with Mr. McCabe
28 back in 2007 to outline the allegations that we had
29 received and to offer him the opportunity respond and

1 to assess whether he -- you know, having considered his
2 response, to assess whether he had -- or whether he
3 posed a risk to children.

4 225 Q. All right. I think you say in your statement, you
5 completed that contact sheet obviously, and you say in 10:28
6 your statement you can't remember making contact with
7 Ms. D again in relation to a further appointment and
8 you can't say whether you did or not?

9 A. I don't believe I did.

10 226 Q. And there is no record of it? 10:28

11 A. Yes.

12 227 Q. Now, I think you didn't organise any meetings with any
13 other relevant stakeholders in the matter, as such?

14 A. No.

15 228 Q. You have referred, in fairness to you, to I think 10:28
16 raising the matter in some context in October,
17 possibly, 2015, at a meeting?

18 A. Yes.

19 229 Q. And can you just describe that?

20 A. It was a Garda liaison meeting and I raised it with 10:29
21 Sergeant Byrne. It wasn't on the agenda and I just
22 wanted to know whether the Gardaí had done anything
23 since we had Garda notified them in 2014.

24 230 Q. I am sorry, could you just repeat that answer?

25 A. Well, my intention was to find out what status the 10:29
26 Garda investigation was at, whether it was opened or
27 closed. As we had sent them a Garda notification in
28 2014.

29 231 Q. Okay. Well, I mean, I think you had -- you had been

1 previously.

2 236 Q. Now, I am not criticising Sergeant Byrne or you, but is
3 it not practice for matters - if you had wanted to
4 raise matters such as this - to be put on a formal
5 agenda with some notice to An Garda Síochána? 10:31

6 A. Well, when the notification is sent, those -- between
7 either service, those notifications create discussion
8 for Garda liaison meetings. So, unless it's closed to
9 the Gardaí -- if it's closed to the Gardaí it tends not
10 to be on that agenda. But I had no written information 10:32
11 as a result of our notification in 2014 that it was
12 closed to the Gardaí, so, as a result, I was just
13 confirming that it was. But I had no response to our
14 Garda notification from 2014.

15 237 Q. Okay. Well, I mean, is it the usual procedure to put 10:32
16 matters on an agenda for these sort of meetings?

17 A. We tend -- my understanding is that the list is
18 created, the Gardaí send the list of cases over that
19 are currently open to them or are pending closure and
20 then we prepare our -- we prepare -- we prepare the 10:32
21 information that we need to share with the Gardaí in
22 relation to those cases.

23 238 Q. Yes.

24 A. Yes.

25 239 Q. But I mean, is it the case that you never received a 10:33
26 letter from the Gardaí?

27 A. Yes.

28 240 Q. And in particular, you never received a letter from
29 them notifying you that this case was on a list for

1 investigation, was still open --

2 A. No, we never received any letter to that effect.

3 241 Q. -- and was going to be or was on the agenda for any
4 liaison meeting?

5 A. That's correct. 10:33

6 242 Q. I think Ms. Duignan was at this particular meeting with
7 you, is that correct?

8 A. Yes.

9 243 Q. Ms. Denise Duignan. And in her account -- I'm sure you
10 have seen her statement, have you? 10:33

11 A. Yes.

12 244 Q. I think she says this was raised after the meeting had
13 ended, effectively as people were about to leave?

14 A. That is quite possible.

15 245 Q. And not in a formal way? You just approached -- 10:33

16 A. No, no. It wasn't on the agenda. It wasn't -- yeah.

17 246 Q. Just coming then to the letter that you issued at the
18 end of December of 2015. Could I just ask you to look
19 at a document at page 541? I am not sure if you see
20 that, it's a document, a lot of which has been blacked 10:34
21 out, but it appears to be from the -- an extract from
22 the card system, there is a lot of redactions relating
23 to third parties.

24 A. Okay.

25 247 Q. But it appears to show some action on the 9th November 10:35
26 of 2015. Can you read the entry there?

27 A. I think it's: "*McCabe, Maurice. Adult unknown.*" In
28 relation to address. "*File number --*" there is a
29 reference "*-- 2.82013*" and the next reference "*3.92005.*"

1 *Alleged perpetrator. Open. Duty case. CPM date*
2 *9/11/15 on file."*

3 248 Q. Yes. Now, we have -- we have seen the extract -- we
4 have the extract relating to Ms. Connolly, it's got the
5 same entry "*Duty case*" as of 30/4/2014 when she made 10:36
6 the entry, but the reference to "*Duty case*" there,
7 could you help us what that might refer to at that
8 point in time on 9th of November?

9 A. Well, it indicates that it's a duty case, that it would
10 be with the duty worker at that time. 10:36

11 249 Q. Okay. And do you know of anyone to whom it was
12 assigned at that time?

13 A. No.

14 250 Q. Okay.

15 A. I don't believe it was a duty case at that time. 10:36

16 251 Q. Okay. Well, I am just wondering, would it reflect the
17 fact that you had taken up the case again in November?

18 A. Yes, but I am not the duty worker so -- yeah.

19 252 Q. Okay. Did you go back and retrieve the file or had it
20 been put back in the filing cabinet after May? 10:36

21 A. Yes, it would have been put back in the filing cabinet
22 after May.

23 253 Q. Well, did you go back and retrieve the file then before
24 you wrote the letter out on the 29th of December?

25 A. I have no specific memory, but I believe I did. 10:37

26 254 Q. And did you consider whether or not you ought to have
27 reported back to Mr. Deeney and/or Mr. Lowry about
28 whether you had been able to achieve all or any of the
29 five steps set out by Mr. Deeney?

1 A. I have no recollection of what my thinking was at that
2 time --

3 255 Q. Okay.

4 A. -- other than I hadn't been able to proceed and I
5 suppose I was trying to move the case forward. 10:37

6 256 Q. I mean, at this point in time, you had obviously
7 previously known of Sergeant McCabe, you had referred
8 to media coverage yourself in your previous email, and
9 is that in any way associated with why you were trying
10 to move the case on at this point in time? 10:38

11 A. I mean, it was one of many cases that I was trying to
12 move forward and, you know, to a conclusion, so I think
13 that's --

14 257 Q. OK.

15 A. That is my response. 10:38

16 258 Q. Okay. Were you conscious of continuing intense and
17 very voluminous press coverage of Sergeant McCabe and
18 actions in relation to Sergeant McCabe that were
19 occurring at that point in time?

20 A. Was I conscious? I was aware of the media, yes, 10:38
21 coverage, during 2014, and any other -- I would be
22 aware of media coverage. In terms of that impacting on
23 me in the case, is that the question?

24 259 Q. Well, did it have any bearing on what you were doing at
25 all? 10:39

26 A. Well, I would treat all cases similarly or fairly --
27 you know, equally. It wouldn't be a reason to treat
28 the case differently.

29 260 Q. It's just in the context of all the sudden work around

1 the file in May of 2015, which then appears to have
2 petered out, is there any particular reason then why
3 you didn't progress it any further after that and then
4 why you took it up again in late 2015?

5 A. My primary responsibilities were to manage a team of 10:39
6 social workers, you know, who responded to referrals
7 coming into our service and that primarily was my role.
8 I didn't have the capacity to case-manage *per se* so
9 this case wasn't followed up in a consistent way by me
10 or by anyone else. 10:40

11 261 Q. All right. Well, that's a very fair statement. But
12 can I ask you this, and it was perhaps unfair for me to
13 ask you to try and recollect what your precise thinking
14 was at the point in time, but obviously you knew when
15 you took up the file again, I take it, that Mr. Deeney 10:40
16 had, as it were, prescribed these five steps?

17 A. Yes.

18 262 Q. And would you agree with me that it would have been
19 appropriate to perhaps report back to him and/or have a
20 discussion about where matters stood at that stage 10:40
21 before issuing the letter?

22 A. Possibly, yes. I also feel that I should have written
23 to Ms. D one more time and offered her a further
24 appointment.

25 263 Q. All right. Well, that's a fair answer, obviously. But 10:41
26 I think in fairness to yourself, you say in your own
27 statement:

28

29 *"I do not believe I adhered strictly to the*

1 *five-point-plan up to point 3."*

2 A. Yes.

3 264 Q. "*I did not feel I could contact Ms. D without Ms. D's*
4 *consent."*

5 A. Yes. 10:41

6 265 Q. "*I was aware the Garda file was closed."*

7 A. Yes.

8 266 Q. "*I wasn't aware of the discrepancy was as referred in*
9 *Séamus Deeney's email. I had not read the file in*
10 *total or understood it in terms of an error having been* 10:41
11 *made on the file. I took the decision to send it based*
12 *on my understanding that a statement had been made by*
13 *Ms. D to the Gardaí in 2006."*

14 A. Yes.

15 267 Q. And you were aware that that had been made available to 10:41
16 Ms. O'Neill?

17 A. Yes.

18 268 Q. But at that point in time, you yourself hadn't
19 considered her statement?

20 A. No, I hadn't seen her statement, only the information 10:42
21 on her file.

22 269 Q. Okay. So, would you not agree with me that perhaps
23 elementary caution, maybe looking at it with the
24 benefit of hindsight but as a cautious practitioner,
25 you ought at the very least to have read Ms. D's 10:42
26 original statement before you sent out an allegation --

27 A. In hindsight, yes.

28 270 Q. And would you accept that all of the errors relating to
29 failing to read the file, and other errors that you are

1 not responsible for, and failing to consider Ms. D's
2 statement, meant that this letter should never have
3 been issued by you?

4 A. Yes, I fully accept that.

5 271 Q. Now, the letter has already been opened, I am not going 10:42
6 to deal with it. Is there any comment that you would
7 like to make in relation to the letter at this point in
8 time before I proceed on?

9 A. I fully accept that that letter was inappropriate to be
10 sent out, I fully take responsibility for it. The 10:43
11 purpose of it was to advise Mr. McCabe that we had
12 concerns, to afford him an opportunity to respond and
13 to outline our processes in that regard. It did not
14 suggest that we had any conclusion on the matter.

15 272 Q. Now, this is at a point where one year is turning into 10:43
16 another?

17 A. Yes.

18 273 Q. You knew, obviously, the Ms. D file had been closed in
19 2007?

20 A. Yes. 10:44

21 274 Q. It appears from some of the records on the Excel sheet
22 that it's noted as being open in relation to her at
23 this point in time. But did you consider whether you
24 perhaps ought to refer it to your line manager and/or
25 legal services in view of the nine year period 10:44
26 essentially that had passed since she has originally
27 made the allegation back in 2006, as to whether it's
28 appropriate to be pursuing?

29 A. I can't remember whether I considered that.

1 275 Q. Okay. All right. I think you received Mr. Costello's
2 letter?
3 A. Yes.
4 276 Q. There was a clear indication in his letter of the 20th
5 January that Mr. McCabe wouldn't be attending the 10:45
6 meeting with you?
7 A. That's right.
8 277 Q. You appear then to have taken remedial action because
9 you must have realised that the error on your part was
10 not seeing what Ms. D had said in her statement and you 10:45
11 went looking for the statement?
12 A. Yes, I read the letter and it stated that the
13 allegation of digital penetration had never been made,
14 so that led me to look into that.
15 278 Q. Yes. Now, at that point in time, what I don't 10:45
16 understand is, why you didn't, in fact, first go back
17 to the Maurice McCabe file to see, well, in fact, is
18 this allegation actually on the file as against him,
19 and you don't appear to have done that at that point?
20 A. I believe that -- I think on the 2nd February 2016, I 10:46
21 sent Emer O'Neill the email. I think she responded on
22 the 3rd.
23 279 Q. Yes.
24 A. And I think at that time I reviewed both her documents
25 that she had provided to me and the file. 10:46
26 280 Q. Yes.
27 A. And I struggled initially to find the error because,
28 for instance, Ms. Brophy's letter said the sentence
29 beginning with -- I forget what that was, but dot dot

1 dot and ending with this, is incorrect and should be
2 removed. So I didn't have the document she referred to
3 so I didn't know. The only clear indication to me that
4 the digital penetration was an allegation sent in
5 error, was from Pamela's email to Eileen Argue and that 10:47
6 was the only clear information on the file, that there
7 was an error on the file of significance.

8 281 Q. Okay. Now --
9 A. From my reading of the file.

10 282 Q. Okay. -- in fairness to you, obviously, and we have 10:47
11 seen it from the state of the file as it must have been
12 at the beginning of 2014, there were six documents left
13 on the file referring to the digital penetration
14 allegation?

15 A. That's correct. 10:47

16 283 Q. There was -- that included the two draft notifications?
17 A. Yes.

18 284 Q. And obviously you weren't responsible for leaving those
19 on the file?

20 A. No. 10:47

21 285 Q. But --
22 A. Not unless it had been brought to my attention that
23 they were --

24 286 Q. Yes. But you deal with this at a later part of your
25 statement, but would you agree with me that they either 10:48
26 ought to have been completely removed from the file or
27 stamped as inaccurate and not to be relied upon?

28 A. My understanding is that they should have been removed
29 from the file but the file should have had a note of

1 what had occurred and the removal, should have a note
2 identifying that they were removed because they were
3 incorrect. That is my understanding.

4 287 Q. And on the other hand, one of the other --
5 A. Had I -- sorry -- had I been asked -- had I been aware 10:48
6 that there was an error on the file and that there was
7 incorrect information on that file at that time, I
8 would have sought the advice of a data specialist.

9 288 Q. Okay. And I was going to draw to your attention, and I
10 think you did note this in your statement, that, in 10:48
11 fact, the amended Garda notification that was
12 ultimately sent correcting the digital penetration
13 error, a copy of that hadn't been returned to the file
14 either?

15 A. I became aware in 2017 as part of our preparation for 10:49
16 this Tribunal of Inquiry, that there was, in fact, a
17 Garda notification sent clarifying the information in
18 June 2014 and that it had amended Garda notification,
19 and I am -- I think that that was in red bold writing.

20 289 Q. Now, on the other hand, the fact still remains that 10:49
21 Ms. Armitage's email --

22 A. Yes, yes.

23 290 Q. -- and Ms. Brophy's correct reported were always on the
24 file?

25 A. That's correct. 10:49

26 291 Q. Now, obviously you did realise at this point in time
27 the error?

28 A. Yes.

29 292 Q. And I suppose the scale of the error is something of

1 great significance both for Sergeant McCabe and his
2 family, but I take it you'd accept that receiving an
3 allegation in a letter which must have arrived shortly
4 after New Year's Day in 2016, must have created seismic
5 shocks in the McCabe household? 10:50

6 A. Yes, I fully accept that. And regret it.

7 293 Q. I just want to be clear about one issue which is at the
8 heart of the second part of this module, as it were;
9 had you been consulting with Gardaí or informing Gardaí
10 as you went along, of either what was on the file or 10:50
11 what you knew about the case as far as Garda McCabe and
12 this allegation of digital penetration was concerned?

13 A. No.

14 294 Q. Did you either seek or get direction or interference or
15 any collaboration with the guards in how you dealt with 10:51
16 the file in any respect?

17 A. Absolutely not. I have no contact with Gardaí other
18 than what I outlined.

19 295 Q. So, from the point of view of your own position and
20 what you know of what occurred within Cavan, were all 10:51
21 of the errors in-house, created in-house and
22 perpetuated or repeated and documented in-house,
23 nothing to do with the Gardaí?

24 A. Yes. Absolutely nothing to do with the Gardaí.

25 296 Q. Now, you drew the attention of Mr. Lowry to 10:51
26 Mr. Costello's letter, isn't that correct?

27 A. Yes.

28 297 Q. And you provided a draft response?

29 A. Yes.

1 298 Q. And he had, in his email of the 8th February at page
2 1594, he had suggested reviewing Emer O'Neill's and the
3 Garda file and update the attached and revert to him.
4 And you had already, in fact, received Ms. D's
5 statement, but did you review Ms. O'Neill's file? 10:52

6 A. I reviewed the statement that she forwarded to me. I
7 didn't review her entire file. I reviewed Ms. D's
8 file.

9 299 Q. Okay. And the reference there to Garda file, did you
10 understand that to be the CSA file separate from the 10:52
11 '05 file opened in relation to Ms. D?

12 A. Well, I understood that to be the section on our file
13 of Garda notifications and correspondence, etcetera.

14 300 Q. Okay. Now, did you -- on foot of Mr. Lowry's email,
15 did you update the attached, as it were, in response to 10:53
16 what he said?

17 A. When it came to my -- I think the letter states, the
18 draft letter states I am seeking further clarification,
19 and I believe while the date on that is 2015, it was a
20 draft letter, I hadn't sent it. I believe I wrote that 10:53
21 on 2nd of February, at the time I was reviewing the
22 information --

23 301 Q. Yes.

24 A. -- on the files. So that letter was created at that
25 time, but at some point I believe on that date, it came 10:53
26 to my attention that I had made a grave error and that
27 there was no allegation of digital penetration.

28 302 Q. Yes. You did review matters and obviously you reviewed
29 Ms. O'Neill's file to the extent that you got Ms. D's

1 statement earlier?

2 A. Yeah. Subsequently, it was after I got her --

3 303 Q. And then you set out your analysis, as it were, in an
4 email to Mr. Lowry. And perhaps we would look at 1603.
5 This is your email of the 9th of February -- 10:54

6 A. Yes.

7 304 Q. -- of 2016. And you have got a number of bullet-points
8 set out there.

9 A. Yes.

10 305 Q. And perhaps, in fairness to you, we should go through 10:54
11 them. You say:

12

13 *"Hi Gerard*
14 *I reviewed the statements made to the Gardaí made by*
15 *Ms. D on the file. The allegation regarding digital 10:55*
16 *penetration was made erroneously by Rian counsellor,*
17 *Ms. Brophy, in August 2013. The following is*
18 *highlighted."*

19

20 And then bullet-points: 10:55

21

22 *"The referral was made initially by telephone and did*
23 *not include digital penetration allegation. This*
24 *information was put on and intake record and was*
25 *consistent with the information in Ms. D's Garda 10:55*
26 *statement in 2006. "*

27

28 and that is, I think, correct?

29 A. Yes.

1 306 Q. And will you accept from me that that could have been
2 ascertained at any time from the creation of that
3 original intake record in August 2013?
4 A. Sorry, could I -- explain that question again.
5 307 Q. Yes. I am sorry. That conclusion could have been come 10:55
6 to as early as August 2013?
7 A. Well, before we received the erroneous document, yes.
8 308 Q. Yes, yes.
9 A. Yes.
10 309 Q. Okay. Next bullet-point: 10:56
11
12 *"we then, it would appear, received the same referral*
13 *on an SRF and it appeared to contain the information...*
14 *digital penetration, and it also stated that Ms. D's*
15 *father was threatened if she disclosed the alleged 10:56*
16 *abuse."*
17
18 And that is that's correct also.
19 A. That is an assumption based object information
20 transferred in from that SRF. 10:56
21 310 Q. Yes.
22 A. Because I have never seen that SRF.
23 311 Q. Yes. *"we Garda notified this information from the SRF.*
24 *I cannot find a date on this but suspect it was*
25 *forwarded to the Gardaí in August 2013."* 10:56
26
27 And the first sentence is correct insofar as it related
28 to the garda notification --
29 A. Yes.

1 312 Q. -- in May of '14?
2 A. Yes, yes.
3 313 Q. The second sentence as I understand it your evidence is
4 that is not correct?
5 A. No, I think that was -- is either based on the intake 10:56
6 record instructing somebody to Garda notify or it's
7 based on one of the Garda notifications, which I think
8 was undated. I am not sure, but it's possible that I
9 assumed it may have been in August '13 because it was
10 an instruction of the team leader at the time. 10:57
11 314 Q. Yes. And I think you have seen Ms. McGlone's letter to
12 Superintendent Cunningham.
13 A. Yes.
14 315 Q. That neither enclosed the referral which she hadn't
15 seen -- the written referral, which she hadn't seen at 10:57
16 the time --
17 A. Yes.
18 316 Q. -- nor did it enclose any form of Garda notification?
19 A. Yes. No.
20 317 Q. Next bullet-point: 10:57
21
22 *"There is a second copy of the Garda notification which*
23 *has the original information from the 2014 notification*
24 *on file and is dated 2/5/14. Eileen Argue has also*
25 *sent a new notification on that date with the historic 10:57*
26 *information and this one does not include the errors.*
27 *She does not inform the Gardaí of an error on this.*
28 *The date is also incorrect as we were not contacted by*
29 *Ms. Brophy until 14/5/16."*

1 A. Mm-hmm.

2 318 Q. And I think that's correct, because you divined from
3 the file that Ms. Argue had corrected the error
4 relating to digital penetration and left the same date
5 on it -- 10:58

6 A. Yes.

7 319 Q. -- as the original incorrect Garda notification?

8 A. Yes. And my view, that it clarifies the information,
9 the correct information, but it does not state that --
10 when she mentions the error from the previous Garda 10:58
11 notification, it does not say that there was no
12 allegation of digital penetration and this was sent in
13 error. So it didn't state that.

14 320 Q. Yes. I suppose you weren't to know, obviously your
15 service knew that from all the letters to Ms. Argue and 10:58
16 from Ms. Brophy's phone call, but you weren't to know
17 necessarily that the Gardaí had been separately written
18 to by Rian, making it clear what the error was?

19 A. At that point I had known that Ms. Brophy had contacted
20 Ms. Argue to state that the paperwork hadn't been 10:59
21 forwarded, the correct paperwork hadn't been forwarded
22 and she was anxious, that was possibly on the 16th of
23 May. So I was aware that that had taken place only.

24 321 Q. Yes. The next bullet-point then is:
25 10:59
26 *"There is a note on file written by Laura Connolly*
27 *seeking direction from Eileen on 13/4/14 and in that*
28 *Eileen directs Laura to complete intake record on all*
29 *four of McCabes' children. This was done and included*

1 *the information re digital penetration."*

2

3 And that's all there.

4 A. That's correct, yes.

5 322 Q. Next bullet-point: *"On 14/5 we received a letter from* 10:59
6 *Ms. Brophy stating that there was an administrative*
7 *error on the SRF, that she forwarded the correct SRF*
8 *dated 14/5/14 to this service."*

9

10 Again, that is correct? 10:59

11 A. Yes.

12 323 Q. Next bullet-point: *"On 20/5 a letter from the director*
13 *of Rian ask we return the erroneous document and*
14 *advised to include copies of any garda protocol*
15 *documents. The HSE data controller was notified* 11:00
16 *according to this letter."* Again, that's correct?

17 A. Yes.

18 324 Q. Next bullet-point: *"It appears that the SRF sent in*
19 *2013 was returned. However, Garda notification remain*
20 *on file. The file was never amended to reflect the* 11:00
21 *correct SRF from Ms. Brophy and therefore there is no*
22 *allegation re digital penetration."*

23 A. Yes.

24 325 Q. And, obviously you have noted that Ms. Brophy had
25 corrected it in her subsequent report? 11:00

26 A. Yes, yes. She had, but our file didn't reflect that.
27 Yes. Our file didn't reflect that we -- our documents
28 weren't amended to reflect that appropriately.

29 326 Q. Well, what you are saying is nobody sought to excise

1 from any part of your file --

2 A. Yes.

3 327 Q. -- the error that you had been notified about?

4 A. Yes.

5 328 Q. Now, a conclusion, I think which is correct, if you go 11:00
6 agree with me or not, all of these, information in
7 these bullet-points was gleaned entirely from the file
8 in your possession?

9 A. Yes, yes.

10 329 Q. And was there to be looked at, considered and 11:01
11 enumerated in this fashion as far back as 2014 --

12 A. Mm-hmm.

13 330 Q. -- isn't that right?

14 A. Yes, yes.

15 331 Q. There is nothing there which in fact post-dates 2014 -- 11:01
16 A. No.

17 332 Q. -- isn't that correct?

18 A. No.

19 333 Q. Now, you say at the end of that "*Perhaps we can discuss*
20 *how to proceed,*" and I think there was effectively 11:01
21 radio silence from Mr. Lowry?

22 A. Well --

23 334 Q. Is that fair?

24 A. I do believe I had a conversation with him about an
25 apology; that I wanted to ensure that we wrote to 11:02
26 Mr. McCabe via his solicitors, apologising for the
27 error. And I believe I did have a conversation with
28 him in relation to that.

29 335 Q. All right. But was it a discussion then on foot of the

1 analysis and your draft response and can you recollect
2 when that was?

3 A. I can't recollect -- I can't remember when that was,
4 but it was some time after that.

5 336 Q. Yes. Now, you sent a reminder to him on 26th of 11:02
6 February.

7 A. Yes.

8 337 Q. Again you said, "*we need to discuss a response.*"
9 A. Yes.

10 338 Q. And you appear to have raised it in a supervision 11:02
11 meeting in April, so he didn't come back to you in
12 March either, is that right?

13 A. No, I don't believe -- I have no recollection.

14 339 Q. And it's mentioned in the record relating to your 11:03
15 supervision and he says: "*The Sergeant McCabe case has
16 been communicated to me by Kay*" -- this is page 1608, I
17 should say -- "*The Sergeant McCabe case has been
18 communicated to me by Kay. I have not looked at it. I
19 need to do so.*"

20 And I think at that stage he didn't do so? 11:03

21 A. No.

22 340 Q. Now, did you consider whether you should take it up at
23 another level, either with Mr. Deeney, who was your
24 line manager, or somebody more senior to Mr. Lowry,
25 because this was explosive? 11:03

26 A. Mr. Deeney finished being my line manager in January
27 2016, so Mr. Lowry was my line manager at this time.

28 341 Q. Okay. And who was his line manager, was it Ms. Creamer
29 at that stage?

1 A. Yes.

2 342 Q. And did you know Ms. Creamer?

3 A. Possibly. I can't remember when I met Ms. Creamer

4 first.

5 343 Q. Okay. 11:04

6 A. I am not sure if she -- I am not sure when she took

7 over.

8 344 Q. All right. And did you know where she was based?

9 A. Mary Hargadon was there prior to her, but I am not sure

10 when they -- 11:04

11 345 Q. Mary Hargadon?

12 A. Yes. She was there prior. I am not sure when

13 Ms. Creamer replaced Ms. Hargadon.

14 346 Q. Well, I am just concerned, because you had obviously,

15 in 2015, been conscious of the media coverage, you knew 11:04

16 it was ongoing, you knew the reaction of Sergeant

17 McCabe and his solicitor to the letter?

18 A. Yes.

19 347 Q. You knew that you had made this error, howsoever it had

20 come about, you were anxious to correct it, and time 11:04

21 was passing and months were passing by --

22 A. Yes.

23 348 Q. -- with neither a response nor an apology nor an

24 explanation. And did you not consider that you'd have

25 to raise it with somebody more senior to Mr. Lowry? 11:05

26 A. I didn't consider that, no. I was anxious that it be

27 responded to. I did try to keep it on the agenda, but

28 I didn't consider going further up the line, the line

29 management line.

1 349 Q. Okay. You see, at some stage the establishment of this
2 Sexual Abuse Retrospective Team was being contemplated,
3 and I am not sure when you became aware of that first.
4 We have some reference to it as being -- the plans to
5 establish it being made in April, but were you familiar 11:05
6 with any discussion about that?

7 A. About the --

8 350 Q. The establishment of the SART team?

9 A. I can't remember. I think I -- I suspect I was made
10 aware of the development of that team. 11:05

11 351 Q. Okay. I am just wondering is there any basis for
12 considering that Mr. Lowry was delaying on it, to your
13 knowledge --

14 A. No.

15 352 Q. -- because this was going to be sent to the SART team? 11:06

16 A. Well, I don't believe Mr. Lowry delayed the process on
17 purpose. I believe he lost sight of it and I tried to
18 keep reminding him of it, but I think he lost sight of
19 it. I don't believe he intentionally delayed the
20 sending of the letter. 11:06

21 353 Q. Okay. But when he considered the letter, did he
22 suggest any changes to it before it, in fact, went out?

23 A. It's possible he did. I can't specifically remember.

24 354 Q. Okay. Well, your letter did go out, and it seems to be
25 dated 20th of June. It's page 1611. 11:06

26 A. Yes.

27 355 Q. Perhaps you would just look at that. And that letter
28 has been read into the record.

29 A. That's right.

1 356 Q. We don't need to do that any more. Did you yourself
2 think that it was appropriate to conclude the letter
3 with an apology rather than start off with an apology,
4 or did you address your mind to the location of it or
5 the nature of it or the extent of it? 11:07

6 A. My only recollection is that I was keen that an apology
7 take place. I didn't consider where in the letter it
8 would come. I was anxious that it take place. I have
9 a recollection of a discussion with Mr. Lowry about
10 attempting to explain the error. 11:07

11 357 Q. Yes. And certainly, he, if I am understanding his
12 evidence correctly, he didn't attempt to get you to
13 rejig it in any way, shape or form?

14 A. I am not sure if there was any significant changes made
15 by Mr. Lowry. 11:08

16 358 Q. Okay. There was a further response to that from
17 Mr. Costello, which the Tribunal has seen at page 1613,
18 and we don't need to read that.

19 A. Yes.

20 359 Q. But you were concerned that that did require and it 11:08
21 called -- it called itself, in its terms, for an urgent
22 and immediate response?

23 A. Mm-hmm.

24 360 Q. But did you have any discussion about what ought to be
25 put in a response to that letter? 11:08

26 A. I think -- the only discussion I think I remember was
27 that it might be passed on to the Tusla legal services
28 for a response.

29 361 Q. You see, if we could go to page 545, which is an

1 extract again from the card system. I am not sure
2 whether we have that on screen. It's again one of
3 these heavily-redacted documents masking a lot of third
4 party information but recording the detail in it. But
5 that seems to record that it was allocated to SART on 11:09
6 5th of July --

7 A. Yes.

8 362 Q. -- of 2017, is that right?

9 A. Yes.

10 363 Q. 2016, is that -- 11:09

11 A. Yes, it was passed on to the SART team.

12 364 Q. So maybe just read the entry there.

13 A. I can't -- it's: "*McCabe Maurice (adult) unknown*" --
14 the file dates again, as I have already said earlier,
15 with the X reference -- "*Alleged perpetrator, file* 11:10
16 *open. Allocated to retrospective team and 5/7/2016 and*
17 *the file is with them.*"

18 365 Q. Now, just to be clear about the decision-making. Who
19 made that decision?

20 A. The decision was made by the -- the decision was made 11:10
21 that all retrospective cases would go to that team, and
22 so, therefore, that file was included in that list of
23 cases that would go to that team.

24 366 Q. Okay. And did you draw up the list in conjunction with
25 anyone or on your own or -- 11:10

26 A. My understanding is that the team leader for
27 Cavan-Monaghan drew up that list, so they were all
28 cases of adults who had allegations made by other
29 adults who alleged child sexual abuse.

1 367 Q. Okay. Your email to -- or your response to Mr. Lowry's
2 email at page 1616, perhaps we could just look at that.
3 He asks you at the bottom of the page:
4 *"Has this case been passed to the retrospective team?"*
5 A. Mm-hmm. 11:11
6 368 Q. And that is dated 20th of July?
7 A. Yes.
8 369 Q. He appears not to have known that it was allocated a
9 fortnight ago?
10 A. Yes. 11:11
11 370 Q. And you obviously knew that. And did you know it at
12 the time it was allocated on 5th of July or beforehand?
13 A. I may -- I would say that I didn't know that, and it's
14 quite possible that I was on annual leave on 5th of
15 July and was not aware that it was passed on. 11:12
16 371 Q. Okay.
17 A. And Michael Cunningham carried out that.
18 372 Q. Pardon?
19 A. Michael Cunningham, the team leader, would have passed
20 that case file on to the SART team, along with other 11:12
21 files.
22 373 Q. I am just concerned to know now, for instance, your
23 email to Mr. Lowry in February outlining, in
24 bullet-point, your analysis of the form, was that
25 contained on the file? 11:12
26 A. Yes.
27 374 Q. Can you ask [sic] me this question: Did you consider
28 in your letter of reply to Mr. Costello, which you
29 actually sent out on the 20th, did you not consider

1 whether you should, in fact, make it clear how the
2 error had occurred?

3 A. It did occur to me, yes, but that didn't happen.

4 375 Q. Right. Okay. And what -- obviously you do remember it
5 occurring to you, so what was your thinking about that, 11:13
6 the benefit of explaining or not -- not explaining how
7 this horrible, shocking error had come about?

8 A. I did feel that an explanation would have helped the
9 situation, but my recollection is that Gerry didn't
10 agree, but I can't be one hundred percent on that. 11:13

11 376 Q. Okay. What you do say in this email to Gerry is, you
12 say: *"Yes, Gerry, I am advised by Michael that it has.
13 He has also advised that the retrospective team refer
14 all solicitors' letters to legal representatives to
15 respond. Give us a call when you get a chance. The 11:13
16 letter is very emotional. However, it does bring up
17 the fact that this was not responded to back when it
18 was first made known to us and I cannot explain why.
19 We had no role in relation to the Commission of
20 Investigation and I was not aware that this allegation 11:14
21 was in the public domain. The letter states that we
22 behaved underhandedly in the comment egregious
23 misfeasance. When this case came on to my desk, when I
24 took it over I did not feel we could ignore these
25 concerns and I felt obliged to fulfil my duties in 11:14
26 relation to the allegation regardless of the
27 whistleblower issues in the public domain regarding
28 Mr. McCabe, which had nothing to do with this service."
29*

1 Now, you seem to be stating a position there --

2 A. Mm-hmm.

3 377 Q. -- in relation to your own -- the rationale for your
4 own actions?

5 A. Yes. 11:14

6 378 Q. Can I just ask you why you were doing that?

7 A. Well, it was in relation to what Mr. Costello had said
8 in his letter.

9 379 Q. Oh, right. And for no other reason?

10 A. Yes. 11:14

11 380 Q. And in terms of the digital penetration allegation, if
12 you had been aware of -- that that was not correct and
13 ought not to have been put in the Barr letter, would
14 you have still sent out the Barr letter based upon the
15 original allegation from 2006? 11:15

16 A. In hindsight, in hindsight I feel I -- that Ms. D
17 should have been contacted again in relation to the
18 information that she had previously made a Garda
19 statement on and I would have written out to Mr. McCabe
20 outlining that allegation, because that allegation does 11:15
21 require Tusla to investigate and that's why it was
22 referred to the SART team.

23 381 Q. And that is a bottom line of your division, is it?

24 A. Yes, all allegations of child sexual abuse, we are
25 obliged to follow up with them. Even non-contact abuse 11:15
26 is this -- we are required to investigate.

27 382 Q. All right. Now, you sent that letter on to a Lisa
28 O'Loughlen, I think if --

29 A. Yes.

1 383 Q. -- if we look at 1617.
2 A. Yes, because she had the file.
3 384 Q. And was she dealing with it on the SART team?
4 A. I am not sure if she allocated the case to Clair Tobin.
5 I think she did. 11:16
6 385 Q. Okay. But you, in fact, sent out, under your own name,
7 a reply, which is to be found at 1621 --
8 A. Yes.
9 386 Q. -- referring to Mr. Costello's letter of the 20th July.
10 A. Yes. 11:16
11 387 Q. And you simply said: "*Dear Mr. Costello, thank you for*
12 *your letter dated 20/7/2016 and I acknowledge receipt*
13 *of same. The Child and Family Agency will respond to*
14 *the issues you raise in due course.*"
15 A. Yes. 11:17
16 388 Q. Now, in terms of dealing with someone in Mr. McCabe's
17 position or actually dealing with Sergeant McCabe
18 through his solicitors here, would it not have been
19 appropriate at this stage to tell them of the error, to
20 tell them you were no longer dealing with the case and 11:17
21 that it had been handed over to some specialist team
22 and to provide contact details?
23 A. Okay, I was instructed to send a brief letter
24 acknowledging receipt of the letter and outlining that
25 the Child and Family Agency would respond. I was 11:17
26 instructed to do that and I was instructed to keep the
27 letter brief.
28 389 Q. You see, I am sure you have seen the SART intake form,
29 as it were --

1 A. Yes.

2 390 Q. -- at one stage. But there is a description in that
3 saying that the letter that you wrote was written
4 because it was based upon the allegation made in
5 Ms. D's statement of 2006. Now, that is not correct. 11:18

6 A. Can I see that document?

7 391 Q. Yes.

8 A. No, that is not correct.

9 392 Q. Just while we get the reference to that immediately.
10 Your dealing with the file had ended? 11:18

11 A. Yes.

12 393 Q. You think Michael Cunningham handed over the file to
13 the SART team in 2016?

14 A. Yes, yes, I am confident that he did, he assured me he
15 did. 11:18

16 394 Q. Yes. And my concern is, did you have any discussion
17 with Lisa O'Loughlen or with Clair Tobin about the basis
18 upon which you wrote the letter of the 29th of
19 December?

20 A. I don't believe I did. 11:19

21 395 Q. Okay. You have seen it, obviously, in the discovery?

22 A. Yes.

23 396 Q. And perhaps in fairness to -- to ask you to look at it
24 now at page 1113, and obviously I am asking you to do
25 so with the caveat, the same caveat that Mr. Lowry had, 11:19
26 that it's not his document?

27 A. This is the -- this is the risk form?

28 397 Q. Yes.

29 A. Not the intake form.

1 398 Q. The risk escalation. And you see that paragraph in the
2 box marked "*Nature of incident giving rise to*
3 *escalation*"?

4 A. Yes.

5 399 Q. And there is -- the second paragraph reads: "*In 2014* 11:19
6 *Ms. D was attending therapy and made the disclosure to*
7 *a therapist, who referred the matter to Social Work*
8 *Department in Cavan. Social Work Department received a*
9 *copy of Ms. D's Garda statement taken on 5 December*
10 *2006 and used this to write to D.S. McCabe in December* 11:20
11 *2015. However, inaccurate details of the disclosure*
12 *were given in the letter.*"

13

14 Now, that's --

15 A. That is not correct. 11:20

16 400 Q. That is wholly incorrect?

17 A. Yes, that is -- the first, "*In 2014*" should read in
18 2013.

19 401 Q. Yes. But it appears --

20 A. Then it moves on to say that the letter was based -- I 11:20
21 didn't have the statement until after I sent the
22 letter.

23 402 Q. Yes.

24 A. I stated that already in my evidence.

25 403 Q. Yes. So would you agree with me that you never gave 11:20
26 that account --

27 A. No.

28 404 Q. -- to anyone in connection with the SART team?

29 A. No.

1 405 Q. You never recorded that anywhere yourself?
2 A. No.

3 406 Q. You never had the statement before you sent the letter?
4 A. Before I think the 3rd of February 2016.

5 407 Q. Although, obviously, you could have, and we won't go 11:20
6 back over that ground.
7 A. I should have, but I hadn't.

8 408 Q. But when you did get it --
9 A. Yes.

10 409 Q. -- the original statement didn't contain -- 11:21
11 A. That's correct.

12 410 Q. -- the allegation of digital penetration?
13 A. That's correct.

14 411 Q. Okay. And you didn't base your letter on Ms. D's
15 statement? 11:21
16 A. Yes, unfortunately I didn't.

17 412 Q. And my concern here is whether you can shed any light
18 on how this appears to be blaming Ms. D and the
19 contents of her statement for the inclusion by you of
20 the digital penetration issue in your letter? 11:21
21 A. Sorry, can you say that again. You are saying that
22 this seems to blame Ms. D?

23 413 Q. Well, it's saying that the Social welfare Department
24 used Ms. D's statement to write the letter that
25 contained the allegation that was incorrect, isn't that 11:21
26 right?
27 A. Yes.

28 414 Q. So it appears to be placing the blame on Ms. D's
29 statement or how it was used to write the letter, and

1 can you help us as to how that --

2 A. I think this is an error. I think it's an error. I

3 don't know that it seeks to blame Ms. D, but I do think

4 it's an error, it's not correct.

5 415 Q. Yes. Well, my concern is to try and ask you, have you 11:22

6 any information or evidence as to how that error

7 occurred in this document?

8 A. No, I don't know. It's not my document.

9 416 Q. And you weren't consulted about it at the time?

10 A. No. Sir, would it be possible to take a two-minute 11:22

11 break?

12 **CHAIRMAN:** Yes. It's half eleven. would people like

13 to take an hour now as opposed to later on? You are

14 nearly finished, Mr. McGuinness?

15 **MR. MCGUINNESS:** Yes, I am nearly finished. 11:23

16 **CHAIRMAN:** Let's do that.

17

18 **THE HEARING ADJOURNED FOR LUNCH**

19

20 11:27

21

22

23

24

25

26

27

28

29

1 draft, nobody, and in particular Mr. Deeney nor
2 Mr. Lowry, brought it to your attention that the draft
3 was in any way wrong or that, in particular, that this
4 error had been created the previous year?

5 A. No, nobody had. 12:25

6 424 Q. And from your point of view personally you seem to have
7 had the clear desire to try and correct the error when
8 you found it, when it was brought to your attention?

9 A. Yes.

10 425 Q. And you identified what was on the file? 12:26

11 A. Yes.

12 426 Q. And you personally, as I understand it, were keen to
13 explain to Mr. McCabe's solicitors, Sergeant McCabe's
14 solicitors, how it had happened?

15 A. Well, it occurred to me that that should be considered, 12:26
16 yes.

17 427 Q. Okay. And just in terms of the final response then
18 that was written, signed off by you, I think that's
19 something you were told to do, as it were?

20 A. Well, that was what was agreed with Gerry Lowry and 12:26
21 myself.

22 428 Q. Right. You were told to keep it brief?

23 A. No, not that letter. The letter that I sent in July in
24 response to Mr. Costello's letter was, I was advised to
25 be brief on that letter. 12:27

26 429 Q. Yes, yes.

27 A. But on the letter of apology that was sent in June, I
28 wasn't instructed to keep that brief.

29 430 Q. No, no, I understand that. But I am talking about that

1 final letter you sent off in July --

2 A. Yes.

3 431 Q. -- that didn't contain any explanation or further
4 apologies, because you were told to keep that brief?

5 A. Yes. 12:27

6 432 Q. And it was essentially a holding letter and you knew --

7 A. Yes.

8 433 Q. -- that the matter had gone to the SART team and to the
9 legal advisers to Tusla, is that right?

10 A. Yes. I can't remember who told me that it was gone to 12:27
11 the legal advisers, whether that was somebody from the
12 SART team or whether it was Gerry Lowry.

13 434 Q. All right.

14 A. I don't recall. But I was made aware that it was gone
15 to the SART team and that the legal, Tusla's legal 12:27
16 services would respond to the letter.

17 435 Q. Okay. Just in terms of an overall picture of dealing
18 with the unallocated files, I think in 2013 Keara
19 McGlone had been team leader and she had responsibility
20 at that point in time? 12:28

21 A. That's correct.

22 436 Q. Ms. Argue took over in January, or perhaps February of
23 2014?

24 A. February, early February. I think 10th February.

25 437 Q. Yes. Then she left the service to go to Kilkenny in 12:28
26 June 2014?

27 A. Yes.

28 438 Q. And Ms. Carmel McAulay, she had some responsibility
29 until the counties were split up in 2014, in August, is

1 focused attention at a given time period, that it be
2 followed up quickly and that they would have had --
3 ideally, that it would be allocated to a social worker,
4 that they would have read the file thoroughly and
5 discussed it with their team leader and considered 12:30
6 perhaps meeting with the Gardaí or other stakeholders,
7 would have been the appropriate action, and following
8 through then with meeting Ms. D also, and that would
9 have been the best.

10 444 Q. Yes. 12:30

11 A. And that's the ideal situation for all cases.

12 445 Q. Yes. Now, insofar as Sergeant McCabe is concerned, had
13 you any prior dealings with him, to the best of your
14 recollection, or had you ever met him in any capacity?

15 A. I can't remember having ever met him. It is possible I 12:30
16 did. It is quite possible that I did. I may have
17 phoned Bailieboro Garda Station at maybe some point
18 during my covering duty over the years and maybe I
19 spoke to him, I don't know. I may have been at a case
20 conference, though my role wouldn't have involved 12:31
21 attending many case conferences in the period that I
22 was in fostering.

23 446 Q. All right. Just insofar as communications with any
24 Gardaí are concerned, I think you've no relatives who
25 are guards? 12:31

26 A. No.

27 447 Q. You had a neighbour who is a guard. But did you ever
28 discuss this or in particular --

29 A. No.

1 448 Q. -- any of the details of the allegation with any guard?

2 A. No. Other than asking Sergeant Byrne, I have not
3 discussed this with any other guard.

4 **MR. MCGUINNESS:** Okay. Thank you, Ms. McLoughlin.

5 A. Thank you.

12:31

6

7

END OF DIRECT EXAMINATION BY MR. MCGUINNESS

8

9

MS. MCLOUGHLIN WAS CROSS-EXAMINED BY MR. MCDOWELL:

10

12:31

11 449 Q. **MR. MCDOWELL:** Ms. McLoughlin, Michael McDowell is my
12 name. I am one of the barristers appearing in this
13 matter for Sergeant McCabe. Could we go back to 2013
14 for a moment. We have heard that when Laura Brophy's
15 telephone description of her inquiry was received, it
16 was converted into an intake document, is that right?

12:32

17 A. That's correct.

18 450 Q. And that that document was considered at a referral
19 meeting on the following Monday, the 12th August 2013?

20 A. That's correct.

12:32

21 451 Q. Would you have been present at that referral meeting?

22 A. I don't remember being at that meeting. I have no
23 recollection.

24 452 Q. Well, have you checked your diary ever as to whether
25 you were or were not at the meeting?

12:32

26 A. I checked to see if I was on duty and I was on duty in
27 late -- in sort of around maybe the 20th July or 22nd
28 July for a week at that time. It is my practice to go
29 on leave in August, and so, based on that, I don't

1 think I was at that meeting.

2 453 Q. I see. But from your experience in respect of the
3 referral form prepared by Ms. Tinnelly, what would have
4 happened in the normal course on Monday 12th August in
5 respect of that form? 12:33

6 A. It would have been discussed at the meeting, it would
7 been highlighted, you know the form would have been
8 read out, the concerns would have been read out at that
9 meeting and the team leader would have made a decision
10 as to whether it be allocated -- whether it would be 12:33
11 accepted as a referral - I think that may have already
12 occurred - and what would happen. So it would appear
13 that Ms. McGlone identified that it would await
14 allocation and that it should be Garda notified.

15 454 Q. The first point that we have to be clear about is that 12:33
16 it would have been discussed at that meeting, isn't
17 that right?

18 A. Yes.

19 455 Q. So how many people, typically, would attend that
20 meeting? 12:34

21 A. I can't say how many at that time. It's probably a
22 small number of people would have been at that meeting
23 at that time.

24 456 Q. Well, can you help the Tribunal at all as to what 'a
25 small number' means? 12:34

26 A. Possibly five or six people, perhaps.

27 457 Q. Five or six people. So five or six people would have
28 been aware on Monday -- in all probability on Monday,
29 12th August 2013, that this matter had been re-referred

1 to Tusla, or to -- yes, to Tusla?

2 A. I can't account for the people at the meeting or what
3 was said at the meeting.

4 458 Q. No, but in the ordinary course you would imagine that
5 five or six people would have been present at a 12:34
6 discussion of the document and they would --

7 A. Yes.

8 459 Q. -- have been aware that the complaint against Sergeant
9 McCabe --

10 A. Oh, yes, yes. 12:34

11 460 Q. -- had been re-referred to Tusla?

12 A. Well, when you say 're-referred', I don't know if they
13 were aware of that at that point, but they were aware
14 that it was referred.

15 461 Q. Well, surely they would have to have been aware of it, 12:35
16 it was a re-referral having regard to what Ms. Tinnelly
17 had noted?

18 A. I think Ms. Tinnelly had looked up the system and found
19 no information on Maurice McCabe and had ticked that
20 Maurice McCabe was not known to the service. 12:35

21 462 Q. Yes.

22 A. So I'm not sure if, at that point, if the people at
23 that meeting would have been aware that it was a
24 re-referral.

25 463 Q. I see. 12:35

26 A. I can't attest to that.

27 464 Q. Okay. But somebody subsequently was aware that it was
28 a re-referral, because we know that the last witness,
29 Mr. Lowry, was informed of it being a re-referral by

1 Louise, isn't that right?

2 A. Em --

3 465 Q. He thinks it was she who said that the matter -- that
4 it was a re-referral?

5 A. I think he said that, as far as he can recall, but he's 12:36
6 not sure, he thinks that at some point it was brought
7 to his attention by Louise Carolan.

8 466 Q. Yes. Do you think that you may have ever discussed it
9 with Louise Carolan?

10 A. That I did? 12:36

11 467 Q. Yes. Ever?

12 A. I have no recollection of discussing it with Louise
13 Carolan. She was my line manager at that time.

14 468 Q. Yes.

15 A. But my responsibilities were in relation to the further 12:36
16 assessment child protection team.

17 469 Q. Yes.

18 A. So I would not have had cause to discuss it with her.

19 470 Q. I see. But at some point between August of 2013 and
20 early 2014, you were aware that a complaint of child 12:36
21 sexual abuse had been referred in respect of Maurice
22 McCabe?

23 A. Yes.

24 471 Q. And that there was a file opened on the matter?

25 A. Yes. 12:37

26 472 Q. And you said yesterday, in answer to Mr. McGuinness,
27 that you can't be specific as to how you became
28 aware --

29 A. Yes.

1 473 Q. -- that Sergeant McCabe --
2 A. I have no recollection of how I became aware of that.
3 474 Q. But you advance two possibilities: a conversation in
4 the office --
5 A. Yes. 12:37
6 475 Q. -- or hearing it through a thin-partitioned wall?
7 A. Yes.
8 476 Q. And I just want to ask you in relation to the latter
9 possibility, do you consider that that is a probable
10 explanation as to how you became aware that Sergeant 12:38
11 McCabe was the subject of a file --
12 A. It's possible --
13 477 Q. No, I asked you was it probable, not possible.
14 A. I would say possible.
15 478 Q. I'm asking you did you think it was probable that that 12:38
16 happened?
17 A. I can't remember, so I can't say 'probable'. I can
18 only say 'possible'.
19 479 Q. would you agree with me that it was improbable?
20 A. Em, no. 12:38
21 480 Q. So you think it is as likely as not that that's how --
22 A. well, I certainly heard it within the office. It's
23 possible through -- but I have no recollection, I can't
24 definitively, you know, give an account as to how I
25 heard about it. 12:38
26 481 Q. But agree with Mr. Lowry's description of the fact that
27 it had been re-referred as a significant event. He
28 says that whoever informed him of this informed him of
29 it, he recognised it to be a significant -- an event of

1 significance that he would expect to be told about?
2 A. Em...

3 482 Q. would you agree with that view?
4 A. Not totally.

5 483 Q. why would you not agree with Mr. Lowry on that point, 12:39
6 that it was a significant event?
7 A. well, I think the significance was that it was
8 re-referred because it hadn't been dealt with
9 previously in 2007. That would be my view in terms of
10 its significance. 12:39

11 484 Q. So when Ms. Carolan -- he says that whoever it was,
12 Ms. Carolan or some other person, informed him of this
13 he would have expected that to be done because it was
14 an event of significance.

15 A. Okay. 12:39

16 485 Q. And I'm just asking you, are you saying that it was
17 significant because it was a re-referral or because it
18 was Sergeant McCabe?
19 A. well, because it was a re-referral of a case that
20 hadn't been dealt with in 2007. I don't think we 12:40
21 treated it any differently to any other referral in
22 relation to, you know, allegations of child sexual
23 abuse made against an adult.

24 486 Q. Mr. Lowry was of the view that it was an event of
25 significance, and he said that twice in his evidence, 12:40
26 and I'm just wondering, you seem to have a difficulty
27 agreeing with that proposition and I just wonder do you
28 agree that it was significant -- that it was
29 significant that Sergeant McCabe was being referred or

1 re-referred in these circumstances?

2 A. Are you asking about my current view on that?

3 487 Q. No. At the time.

4 A. I have no recollection of what I thought, other than I
5 was aware that Mr. McCabe was discussed in the media 12:41
6 and I was aware that the referral had come back in. So
7 I was aware of that information. Whether I put
8 significance on it, I cannot say.

9 488 Q. When you use the words that you just used now, that you
10 were aware that Mr. McCabe was discussed in the media 12:41
11 and you were aware that the referral had come back
12 in --

13 A. Yes.

14 489 Q. -- that suggests that you knew that Sergeant McCabe was
15 a high profile person in relative terms, and that this 12:41
16 was a re-referral?

17 A. Yes. When I -- I was aware, yes.

18 490 Q. How were you aware there was a re-referral?

19 A. As I've explained, I heard, I heard something in the
20 office. I'm not sure where. I was aware, as I have 12:41
21 stated in my evidence, I was aware that there was a
22 referral in relation to this case and it was followed
23 up by the social worker Rhona Murphy in 2006 and 2007.

24 491 Q. Well, how were you aware --

25 A. So I was aware -- 12:42

26 492 Q. How were you aware of that, Ms. McLoughlin?

27 A. I can't remember how I became aware of it, but it was a
28 small office at the time, a small department. I was
29 aware of the case. I can't remember how I was aware,

1 but it was discussed possibly in my presence and I was
2 aware of it.

3 493 Q. So you were aware at some stage between August 2013 and
4 early 2014 that it was a re-referral?

5 A. Oh, yes. 12:42

6 494 Q. And that it had already been dealt with in 2006/2007?

7 A. I was aware that -- I wasn't aware that Mr. McCabe had
8 been followed up with in relation to the allegations.

9 495 Q. No, but the allegation had been dealt with in your
10 office -- 12:42

11 A. Yes.

12 496 Q. -- in 2006 and 2007?

13 A. Yes.

14 497 Q. You're aware of that?

15 A. Yes. 12:42

16 498 Q. Is that your testimony now?

17 A. Yes, I understood -- my information was that there was
18 a case opened in relation to Ms. D at that time, in
19 2006/2007.

20 499 Q. And you weren't involved in that case -- 12:43

21 A. No.

22 500 Q. -- yourself?

23 A. No.

24 501 Q. So somebody must have said that to you, isn't that
25 right? 12:43

26 A. Well, I may have been in somebody's presence, I could
27 have been in the administration office when somebody
28 was pulling the file or asking somebody to complete
29 something on the file, or something like that. It's

1 possible. But these are just scenarios. You know, we
2 do sometimes know about each other's cases.

3 502 Q. Yes. You're not an order of Trappists?
4 A. No, we're not.

5 503 Q. I mean, you do speak to each other? 12:43
6 A. We do talk to each other.

7 504 Q. I take it there's coffee time and the like, isn't that
8 right?
9 A. Yes.

10 505 Q. So it is fair to say, therefore, and I'm not trying to 12:43
11 distort matters, that during that period you were
12 conscious of two things: that a man who was prominent
13 in the media had become the subject of a re-referral --
14 A. Yes.

15 506 Q. -- and that when you use the term 're-referral', that 12:44
16 the allegation of abuse in question had been dealt with
17 in the service in 2006/2007?
18 A. The allegation, as far as I was aware, was dealt with
19 in relation to Ms. D, but I believe I was aware that
20 Mr. McCabe had not been followed up with. 12:44

21 507 Q. Well, how did you know that in 2006 or 2007, that he
22 hadn't been followed up?
23 A. I can't remember, but I was aware --

24 508 Q. Sorry, in 2013, how could you have known that he hadn't
25 been followed up in 2006 and -- 12:44
26 A. Because I was aware that there was a re-referral and a
27 file was created and opened in 2013. That would
28 indicate to me -- it wouldn't have been necessary to
29 re-open the case had it been dealt with in 2007, so a

1 file was reopened as a result. If there had been an
2 earlier file created in 2007, there would be no need to
3 create another file in 2013.

4 509 Q. I'm finding this very difficult to follow.

5 A. Okay. 12:45

6 510 Q. You're saying -- you're saying that in 2013 the file
7 wouldn't have been reopened if it had been fully dealt
8 with in 2006/2007?

9 A. Yes.

10 511 Q. And you knew from whatever conversation or what was 12:45
11 happening in your office that it had been dealt with at
12 that time but that Sergeant McCabe had never been
13 contacted?

14 A. I had been aware that Ms. D's case had been dealt with,
15 that she had been offered services within our 12:45
16 department. I was not aware that at any time the case
17 was allocated -- or that a case was followed up in
18 relation to Mr. McCabe. And the creation of a file in
19 2013 would indicate to me that there never was a file
20 opened in relation to Mr. McCabe in 2007. 12:46

21 **CHAIRMAN:** Yes. So what you seem to be saying is,
22 there's two aspects to this: the first is, if someone
23 claims that something happened to them, counselling for
24 them.

25 A. Yes. 12:46

26 **CHAIRMAN:** If it happened in consequence of somebody
27 else, well then you are obliged to see, look, is there
28 a danger further.

29 A. Yes.

1 **CHAIRMAN:** So one had been done, two wasn't done. That
2 was your mindset all the way through, it seems to me?

3 A. Sorry, say that again?

4 **CHAIRMAN:** Number two was, is the person alleged to be
5 the person who did the thing to the victim -- 12:46

6 A. Yes.

7 **CHAIRMAN:** -- still a danger to other people.

8 A. Yes.

9 **CHAIRMAN:** So, you do two things. It's the victim and
10 the alleged perpetrator. 12:46

11 A. Yes, and they are two separate files.

12 **CHAIRMAN:** Yes.

13 A. They are two separate pieces of work that would be
14 completed.

15 512 Q. **MR. MCDOWELL:** But we know that the decision was made 12:46
16 to open the file without any examination of any prior
17 file, isn't that right?

18 A. Em...

19 513 Q. We know that Ms. Keara McGlone did not go to any other
20 file to find out whether Sergeant McCabe was followed 12:47
21 up on in 2006/2007 when she directed that the file be
22 opened?

23 A. Yes. My understanding is that Ms. Tinnelly checked
24 with the file index, asked the administrator to check
25 the file index, was there any file in relation to 12:47
26 Mr. McCabe, and she was instructed that there wasn't.
27 So as a result, then, an intake record was completed
28 and a file was opened.

29 514 Q. I see. Now, do you agree with the evidence given by

1 Keara McGlone or the answers she gave to the
2 investigators here, to the effect that there would have
3 been no need to notify the Gardaí if they had already
4 been notified of the allegations?

5 A. Yes, I agree with that. 12:48

6 515 Q. So, does it follow from that, that the whole process of
7 notifying the Gardaí arose from a failure to appreciate
8 that the Gardaí had already been notified in 2006/2007?

9 A. Yes, that would be my thinking on the case.

10 516 Q. Yes. If it had been appreciated the guards already 12:48
11 knew about the matter, the only focus of your service
12 would have been to interact with Garda McCabe to
13 satisfy yourselves that he was not a danger to
14 children, is that right?

15 A. Yes. 12:49

16 517 Q. So does it follow, therefore, that the decision to
17 notify the Gardaí was in effect a decision made
18 accidentally and by inadvertence?

19 A. Well, I can't account for, you know, the decision to
20 notify the Gardaí. Initially it was considered to be 12:49
21 notified, but I think when it came to Ms. McGlone's
22 attention that it had already been dealt with in 2006
23 and 2007, I think that would indicate that she had
24 considered that it didn't need to be notified to the
25 Gardaí. 12:50

26 518 Q. And therefore, that by the 15th August, when her letter
27 written out in manuscript on the 12th August --

28 A. Mm-hmm.

29 519 Q. -- was typed up and sent to

1 Superintendent Cunningham --

2 A. Yes.

3 520 Q. -- in which she said she was aware that the guards had
4 been involved in 2006/2007 --

5 A. Yes. 12:50

6 521 Q. -- by that stage the instruction to Garda notify should
7 have been withdrawn?

8 A. Yes.

9 522 Q. But wasn't?

10 A. Yes. It wasn't recorded that -- 12:50

11 523 Q. Yes. So on the same day as she wrote out the letter in
12 manuscript, there was a referrals meeting, and, for
13 some reason, the process of Garda notification
14 proceeded almost on automatic pilot thereafter?

15 A. Well, I cannot really give any evidence in relation to 12:51
16 the sequence of events in terms of at what stage, for
17 instance, the Garda notification tick-box was ticked
18 and the Garda notify piece written in on the comments
19 section, that may have been at the point of when
20 Ms. McGlone signed it, she can only account for that. 12:51
21 So, the decision to Garda notify, I can't account for
22 either.

23 524 Q. It seems unusual, doesn't it, in the circumstance?

24 A. I can't - I can't account for that action.

25 525 Q. Well, let's break it down into its pieces. Ms. McGlone 12:52
26 knew on the 12th August, when she wrote her manuscript
27 letter --

28 A. Mm-hmm.

29 526 Q. -- that the guards already knew about it?

1 A. Yes.

2 527 Q. And you've agreed with me that she is correct in saying
3 that there was no need to notify the guards once she
4 was aware of that fact?

5 A. Yes. 12:52

6 528 Q. And notwithstanding that she had that awareness, she
7 did nothing to stop her direction to notify the Gardaí
8 on the day?

9 A. She didn't amend the document in relation to Garda
10 notifying or place anything else on file to say not to 12:52
11 Garda notify.

12 529 Q. Is that something that you would agree with me was
13 unusual?

14 A. I wouldn't say it was unusual.

15 530 Q. Well, was it -- 12:53

16 A. I would say it wasn't done.

17 531 Q. Was it a normal thing that people would realise that
18 they have made a redundant and purposeless direction
19 and just leave it uncorrected, are you saying that's
20 normal? 12:53

21 A. I'm saying that we don't amend documents that we have
22 created, but we update them. So it may be at point of
23 allocation that her instructions to a social worker who
24 might be allocated, they may have been instructed the
25 appropriate action. So Garda notifying, they may have 12:53
26 been told not to Garda notify but to maybe request a
27 meeting with the Gardaí instead.

28 532 Q. By using a simple yellow Post-It and sticking it onto
29 the file that was at the referrals committee meeting

1 that day, the Garda notification process could have
2 been stopped?

3 A. Well, yes.

4 533 Q. And I have to ask you, surely it is unusual that that
5 was not done? That cannot have been the normal 12:54
6 standard of sloppiness in your service?

7 A. Em, I need to consider your question.

8 **CHAIRMAN:** In other words, was there something more to
9 it than sloppiness, isn't that the question,
10 Mr. McDowell? 12:54

11 **MR. MCDOWELL:** No, I am saying, first of all, it was
12 not the norm that people would just walk away from
13 files and leave them uncorrected.

14 **CHAIRMAN:** But is there an implication behind the
15 question? Because I think the witness isn't getting 12:54
16 it.

17 **MR. MCDOWELL:** The witness said that she didn't accept
18 that it was unusual.

19 534 Q. I have to suggest to you that it would be unusual for
20 somebody not to take an elementary step of that kind. 12:54
21 I hope it is unusual that people would behave that --
22 that they would not behave in a manner which defies
23 logic?

24 A. Well, Ms. McGlone wrote to the Gardaí instead of
25 sending a Garda notification. 12:55

26 535 Q. Yes.

27 A. And in that letter it's clear that the Gardaí are aware
28 of the case. So that's my understanding.

29 536 Q. And anybody who later saw that file would have known

1 that the Gardaí had been notified?

2 A. Yes. If somebody -- yes. Well --

3 537 Q. But someone like Ms. Connolly comes across the file and
4 she sees that the guards have been notified but decides
5 that she is, nonetheless -- has a standing instruction 12:55
6 to Garda notify, is that your appreciation of the
7 situation?

8 A. My appreciation of the situation is that Ms. McGlone
9 was no longer the team leader and Ms. Argue was then
10 responsible for the actions that occurred on that file. 12:55

11 538 Q. Yes.

12 A. And my understanding is that it was her who identified
13 that as a task for Ms. Connolly. That was the
14 impression I took from my review of the file.

15 539 Q. I see. That is interesting. Your impression is that 12:56
16 Eileen Argue intervened at some stage and told
17 Ms. Connolly to Garda notify?

18 A. That's my understanding. I took that from the notes
19 that Ms. Connolly had put on the file.

20 540 Q. I see. And we know, don't we, that Ms. Connolly's 12:56
21 written request for directions went with the file to
22 Ms. Argue?

23 A. Yes, yes.

24 541 Q. And again, I have to ask you, is it usual or unusual
25 that a person would give a direction without opening 12:56
26 the file to which the query related?

27 A. Yes. It would be unusual that they would give an
28 instruction without opening the file.

29 542 Q. And it would have been evident on opening the file that

1 the Gardaí were aware of it, isn't that right?

2 A. Yes.

3 543 Q. Those are two unusual features of this matter, isn't
4 that right?

5 A. Yes. 12:57

6 544 Q. The first being that Keara McGlone failed to call back
7 her written direction, isn't that right?

8 A. Well, I feel she clarified that in the letter. So from
9 reading the letter, the Gardaí were already known --
10 already knew about the case. 12:57

11 545 Q. Yes. And the process of Garda notification was
12 entirely redundant?

13 A. Yes.

14 546 Q. And then secondly, when Ms. Connolly is allocated the
15 file, she asked for directions, and, somehow, the fact 12:57
16 that the Gardaí were already aware of the matter
17 escapes Ms. Argue's attention when the file is sent to
18 her?

19 A. I can't account for Ms. Argue's decision-making in that
20 matter. 12:58

21 547 Q. I see. But as far as you were concerned, you had this
22 general awareness, from whatever source, that
23 Sergeant McCabe, a man who is prominent in the media,
24 had been the subject of a re-referral and you also
25 believed that it had not been properly -- he had not 12:58
26 been properly followed up on in 2006/2007?

27 A. Yes. It had not been followed up on at all in relation
28 to Mr. McCabe.

29 548 Q. And that, then, is effectively the state of your

1 knowledge until 2015, is that right?

2 A. Yes.

3 549 Q. In relation to the awareness you had, were you aware
4 that, on one reading of the file, it was being alleged
5 that Sergeant McCabe had carried out a rape offence on 12:59
6 Ms. D?

7 **CHAIRMAN:** Do you know what a rape offence is?

8 A. Yes. Oh, yes, absolutely.

9 **CHAIRMAN:** I mean, it --

10 A. Yes, from my reading of the documents I read on the 12:59
11 file I was aware of that offence.

12 550 Q. **MR. MCDOWELL:** well, you see, the point is, you're
13 aware that this is a re-referral, you're aware that it
14 hadn't been followed up, but I am asking you, from the
15 office talk, or whatever, however it got into your head 12:59
16 that this event of some significance had taken place,
17 what was the nature of the allegation against
18 Sergeant McCabe? Was it --

19 A. I wasn't aware of what the information of the
20 allegations were. While you may be aware that a case 13:00
21 is opened and you may be aware that a colleague is
22 dealing with it, you know, we wouldn't necessarily
23 discuss the details of abuse about a person in the
24 office in that way. So I was n't aware of the details.

25 551 Q. If a child -- but if a prominent person in the media 13:00
26 was being complained to your service as a child rapist,
27 surely that's entirely different from the other
28 scenario, which is the hide-and-seek couch scenario?

29 A. From the service point of view, all allegations of

1 abuse need to be followed up. So from my point of
2 view, whatever the information was on file, and it was
3 an allegation of sexual abuse, it needed to be followed
4 up. That's our obligation as an agency.

5 **CHAIRMAN:** Yes. 13:01

6 A. Because of what we know.

7 **CHAIRMAN:** Perhaps I could intervene, it may help, and
8 if it doesn't help, I'm sorry. But you probably heard,
9 you know, or read in the media about the whole issue of
10 sentencing in relation to sexual abuse cases and that. 13:01

11 A. Yes.

12 **CHAIRMAN:** And are judges doing the right job.

13 A. Yes.

14 **CHAIRMAN:** And there have been attempts to classify
15 offences according to whether you get on the ladder, 13:01
16 whether you are one, two, three, four or five. All of
17 these are arbitrary, but they are human responses to a
18 very difficult situation.

19 A. Yes.

20 **CHAIRMAN:** And the DPP's decision here was that this 13:01
21 didn't amount to sexual abuse, if it happened, and
22 there was a question-mark in relation to that as well.

23 But what Mr. McDowell is asking you is: There's a very
24 different thing to being not on the ladder to being at,
25 let's say, rung number four of the ladder, and in the 13:02
26 event that you are not on the ladder, isn't that a very
27 different thing to being on rung number four out of
28 five of the ladder? That is, I think, the question
29 that you are putting, Mr. McDowell.

1 **MR. MCDOWELL:** Yes.

2 A. Okay, okay. Well, our role in Tusla is about child
3 protection. Our expertise is in relation to protecting
4 children. You know, we're not experts in relation to
5 the criminal side of things. And while we do seek to 13:02
6 work with the Gardaí, from our point of view if we are
7 following up on a case where there is a conviction, it
8 is more straightforward, it's those cases that where
9 there isn't -- you know, where there isn't a direction,
10 perhaps, from the DPP to follow through that are more 13:02
11 complicated and difficult cases to follow up. We do
12 have an obligation to follow up on all child sexual
13 abuse allegations, even noncontact cases such as
14 viewing child pornography, and that is because of the
15 research carried out into child sexual abuse. So that 13:03
16 is why we are obliged to look at all allegations of
17 inappropriate contact with children of a sexual nature,
18 and that is an obligation that we have.

19 552 Q. **MR. MCDOWELL:** Well, can we agree on this, perhaps:
20 that if you had known from conversation in the office 13:03
21 that this was an allegation of digital, vaginal and
22 anal penetration, your concept of Sergeant McCabe would
23 have changed very dramatically.

24 A. No. It's an allegation, so -- it's an allegation. I
25 don't know whether it is true or false. I can't form 13:04
26 any view on anybody, you know, because allegations are
27 what they are - allegations. So it should not
28 influence me in my response. It should --

29 553 Q. No. I'm just saying in 2013 you weren't involved in

1 Sergeant McCabe's file. You knew he was a prominent
2 man in the media. And if you had considered that a
3 very serious allegation was being made against him,
4 would it have put a question-mark in your mind over him
5 as a -- 13:04

6 A. But I wasn't aware.

7 554 Q. -- a prominent figure in the public domain?

8 A. At that time I was only aware that there was an
9 allegation of CSA. I wasn't aware of what that was.
10 Regardless of what it was, it is an allegation. It 13:04
11 wouldn't flower -- or colour, should I say, my judgment
12 or --

13 555 Q. Okay. Then can we move on then to May 2015. At page
14 451 in Volume 2 you send an email to Gerry Lowry and
15 Seamus Deeney. Do you recall sending that email? 13:05

16 A. Yes, yes.

17 556 Q. This, on what you are telling us, was your next
18 involvement or next knowledge of this file, is that
19 right?

20 A. Yes. 13:05

21 557 Q. I gather that much from your statement, but the point I
22 want to ask you about is this: did nobody at the water
23 cooler or at the coffee table or in general
24 conversation around the office or speaking through
25 walls, ever alert you to the fact that a monumental 13:06
26 error had taken place in respect of Sergeant McCabe in
27 2014?

28 A. No, I wasn't aware of it.

29 558 Q. You see, it's a bit of a mystery, isn't it, that a

1 very, very serious error had come to light in respect
2 of this file and nobody at your level is made aware of
3 it?

4 A. Well --

5 559 Q. Let's go through the people. Laura Connolly was 13:06
6 utterly unaware that she had made a major mistake until
7 this Tribunal was established.

8 A. Yes.

9 560 Q. You, in 2015, a year afterwards, just a year, exactly a 13:07
10 year after this catastrophic error, you're unaware that
11 that catastrophic error had been made?

12 A. Yes.

13 561 Q. Eileen Argue was aware of it, isn't that right?

14 A. Yes.

15 562 Q. Mr. Deeney was aware of it? 13:07

16 A. Yes.

17 563 Q. Mr. Lowry was aware of it?

18 A. Yes, it would appear from the email.

19 564 Q. But nobody else in your company was aware that the 13:07
20 office had engaged in a disastrous error the previous
21 year?

22 A. I have no recollection of being made aware of it
23 whatsoever. I have -- I cannot account for anyone
24 else, other than myself.

25 565 Q. I see. So it seems as if maybe a decision was made not 13:07
26 to mention it around the office and to hush it up?

27 A. Well, that wouldn't be my view.

28 566 Q. It wouldn't be your view?

29 A. Yes, it wouldn't be my view. My view is that both

1 Ms. Carolan and Eileen Argue left the service at the
2 time this came in, and while Ms. Argue took steps to
3 clarify the Garda notification, no further steps were
4 taken to amend the file, and I believe that's because
5 she left the service, as did her line manager. 13:08

6 567 Q. Well, okay, can we --

7 A. So the lack of continuity.

8 568 Q. Do you not consider it odd that Ms. Connolly was not
9 asked at the time anything about the highly erroneous
10 Garda notification that she had drawn up? She was 13:08
11 never alerted to the fact that she had done this,
12 according to her testimony?

13 A. If she wasn't made aware of it, then I accept that she
14 wasn't made aware of it.

15 569 Q. Can you think of any good reason why, if something like 13:09
16 that happened, if you had executed a document which
17 turned out to be entirely wrong, on a false premise,
18 that nobody would ever mention it to you for three
19 years thereafter?

20 A. I can't account for her not being aware of it. But if 13:09
21 she wasn't made aware of it, that's quite possible
22 because maybe Ms. Argue left the service, that's a
23 possibility.

24 570 Q. But Mr. Deeney and Mr. Lowry are both there and they
25 know about this? 13:09

26 A. They have been made aware of it, yes.

27 571 Q. Yes.

28 A. In an email.

29 **CHAIRMAN:** To the extent to which they appreciated it,

1 Mr. McDowell, I mean the jury is out on that. I know
2 there's not a jury, you know.

3 **MR. MCDOWELL:** Mr. Deeney --

4 **CHAIRMAN:** We certainly heard a lot of confusing
5 evidence. 13:09

6 **MR. MCDOWELL:** Chairman, Mr. Deeney clearly knew,
7 because he was party to the sending in of the correct
8 document. The correct in inverted commas.

9 **CHAIRMAN:** Yes, but then, you know, sometimes if you
10 read an illegal document, it appears that - well, bells 13:10
11 start to ring in my head to say, I wonder did they
12 actually read the whole thing. And that is what
13 appears at point 1 of the famous five-point plan.

14 **MR. MCDOWELL:** We will come to Mr. Lowry at a later
15 stage. 13:10

16 572 Q. Anyway, you wrote to Gerry and Séamus, namely Mr. Lowry
17 and Mr. Deeney, on the 7th May 2015?

18 A. Yes.

19 573 Q. And you said that you had been "*reviewing files on the*
20 *MTP today. One relates to Maurice McCabe and I would* 13:10
21 *like to discuss this case with you both.*"

22
23 Now, why did you want to speak to both of them before
24 you brought the matter any further? Why weren't you
25 content to deal with Mr. Deeney? 13:10

26 A. Well, I think in this case, as I've stated, I wanted to
27 bring this to case Mr. Lowry's attention because it was
28 a high profile case at that point or prior to that
29 point, so I wanted him to be aware of it. In terms of

1 Séamus, he had been part of the review, he had reviewed
2 the file the previous day, and I was just following up
3 in relation to that, making them aware of it.

4 574 Q. Mr. Deeney had reviewed the file the previous day?
5 A. Well, my understanding is in terms of -- his 13:11
6 handwriting is on the review form for that date and
7 that he actually looked at that file on that date. I'm
8 basing that on the fact that he completed that form.
9 So he looked at that file on that date.

10 575 Q. I see. And that's what appears at page 450 then, is 13:11
11 that right?
12 A. Yeah.

13 576 Q. And I think you made a statement to the Tribunal on the
14 20th March, and one paragraph of it reads:
15 13:11
16 *"When I took over responsibility for duty intake
17 service in October 2014 there were a considerable
18 number of cases awaiting allocation to a social worker.
19 I undertook, along with principal social worker Séamus
20 Deeney and Gail Pender, Manager, Tusla's Castleblayney 13:12
21 Wellbeing Centre, to review these files and to identify
22 actions that could be taken to ensure that the cases
23 got an adequate response."*
24

25 And that's 1530, that appears in the books. 13:12
26 A. Yes.

27 577 Q. Do you recall making that statement?
28 A. I made that statement in either the end of May or the
29 beginning of June this year, not in March.

1 578 Q. well, it's dated 20th March 2017.
2 A. Oh, my statement. Oh, sorry, yes.
3 579 Q. In any event, so you had a discussion, you believe, on
4 the 6th May 2015 with Mr. Deeney because his signature
5 appears -- 13:13
6 A. Yeah.
7 580 Q. -- where your signature might appear on the document,
8 is that right?
9 A. Yes, whoever reviewed the form, his or mine, yes.
10 581 Q. Page 450. 13:13
11 A. Yeah.
12 582 Q. The management decision on that review date was:
13 *"Contact re checking the reliability and accuracy of*
14 *allegations made."*
15 Is that right? 13:13
16 A. Yes.
17 583 Q. Can you explain what that was about?
18 A. That he's instructing that what should happen is that
19 Ms. D should be contacted regarding the accuracy and
20 reliability of her allegations. 13:13
21 584 Q. He was doing this not in conjunction with you. This
22 isn't a note of a meeting. This is a management
23 decision, or are you party to the decision?
24 A. This is his review of the file and it's his view of
25 what should take place. 13:14
26 585 Q. Were you sitting in a room with him while you discussed
27 it and he came to this management decision?
28 A. Yeah. well, most likely I was, but I can't --
29 586 Q. So can we take it there was a discussion?

1 A. I can't remember a discussion, but it's possible there
2 was, but I can't remember.

3 587 Q. Well, you could hardly be in a room with him dealing
4 with the file and not saying a word to each other. You
5 don't operate on that basis? 13:14

6 A. Well, we were discussing the files.

7 588 Q. Yes.

8 A. And says some things about them, but I don't know to
9 what degree and I have no recollection of that
10 discussion. 13:14

11 589 Q. He writes down "*Contact Ms. D re checking the*
12 *reliability and accuracy of allegations made*".

13 A. Yes.

14 590 Q. Can you just at this stage assist the Tribunal. What
15 discussion could possibly have taken place which 13:15
16 required contact with Ms. D to check the reliability
17 and the accuracy of the allegations?

18 A. Well, that was our practice, to try and endeavour to
19 meet with somebody who has made allegations. It's part
20 of our responsibility to check -- 13:15

21 591 Q. Okay.

22 A. -- their account.

23 592 Q. And did you know what the allegations were at that
24 point?

25 A. I can't say if they were. No, I can't, I can't 13:15
26 remember.

27 593 Q. Can I ask you were you proceeding -- do you think you
28 were proceeding on the basis that it was an allegation
29 of digital penetration or an allegation of playing hide

1 and seek and gyrating on top of a girl?

2 A. I can't remember, I can't remember. I can't remember
3 if Séamus -- I don't believe he did highlight the two
4 accounts. But he may have been aware of it. But I
5 can't account for that. 13:16

6 594 Q. You see, it could just be a normal thing, just: would
7 you follow up with Ms. D and verify the reliability and
8 accuracy of the allegation she made.

9 A. Yes.

10 595 Q. A run-of-the-mill direction. 13:16

11 A. Yeah.

12 596 Q. Or it could be one which was caused by seeing a problem
13 on the file. Which do you think it was?

14 A. I don't know. But I can tell you that we are obliged
15 to meet with people who make allegations and to go 13:16
16 through their account and to consider the reliability
17 of their information.

18 597 Q. Amn't I right in saying, and I think it's been conceded
19 by a number of witnesses here, and agreed by them all,
20 that before you would issue a Barr letter, you would, 13:17
21 in fact, carry out some evaluation of the reliability
22 of the material?

23 A. Yes, I'd agree with that.

24 598 Q. And then the next arrow is "*review information*".

25 A. Yes. 13:17

26 599 Q. And the next arrow is "*letter*". What does that mean?

27 A. "*Letter prepared for*" -- sorry, it just moved.

28 600 Q. "*For Maurice McCabe*", is it?

29 A. Yes.

1 601 Q. *"To contact"*. And then there is *"establish current*
2 *address"*, is that right?

3 A. Yes.

4 602 Q. So that meeting takes place on the 6th May?
5 A. Or 7th. 13:17

6 603 Q. Well --

7 A. Yeah.

8 604 Q. Maybe it's the 7th.
9 A. Well, he's dated it the 7th.

10 605 Q. Maybe it's the 7th. 13:18
11 A. Yeah.

12 606 Q. Then you write -- you write an email to one of the
13 participants, Séamus Deeney, on the following page?
14 A. Yes.

15 607 Q. And to Gerry Lowry, is that right? 13:18
16 A. Yes.

17 608 Q. You say:
18
19 *"I, along with Gail, have been reviewing files on the*
20 *MPT today. One relates to Maurice McCabe and I would* 13:18
21 *like to discuss this case with you both before taking*
22 *any action as it appears that this concern was referred*
23 *to us in 2007 and Mr. McCabe was never met."*

24 A. Mm-hmm.

25 609 Q. So you were, in one sense, writing to Mr. Deeney about 13:18
26 things that he knew himself, isn't that right?
27 A. Em, possibly, yeah.

28 610 Q. If he was involved --
29 A. Yes.

1 611 Q. -- in looking at the file with you?
2 A. Yes.

3 612 Q. *"It has come back in again due to media coverage of*
4 *Mr. McCabe."*
5 A. Yes. 13:19

6 613 Q. And you say that was speculation?
7 A. Yes.

8 614 Q. It was a strange speculation to make, was it not?
9 A. Well, I think I've outlined yesterday what that was
10 based on. From my understanding of human behaviour, if 13:19
11 you've had a grievance with somebody in the past and
12 then, years later, that person is somehow brought to
13 your attention, it will bring back your issues and you
14 may do something about that, or so it -- but it was an
15 assumption. I didn't know that. 13:19

16 615 Q. I see. But then the next thing you say is:
17 *"The outstanding actions are that Mr. McCabe be written*
18 *to outlining the allegations and then be met and*
19 *afforded an opportunity to respond."*
20 A. Yes. 13:19

21 616 Q. But you'd agreed the previous day -- sorry, it may be
22 the same day with Mr. Deeney, that verification and
23 assessment of the allegations, their credibility, would
24 have to precede such a letter?
25 A. Yes. 13:20

26 617 Q. And you don't say that there?
27 A. Okay.

28 618 Q. why not?
29 A. Sorry, it's just moved. I was reading it.

1 619 Q. Take your time.
2 **CHAIRMAN:** It's easier to see it in hard copy.
3 A. Oh, no, it's okay. It just moved. And it's back. I
4 can't say why I didn't include the meeting with Ms. D
5 in that email. 13:20
6 620 Q. **MR. MCDOWELL:** Because suddenly we're leaping past
7 that, to the point that Mr. McCabe be written to to
8 outline the allegations and then be met and afforded an
9 opportunity to respond. So we're just leaving out that
10 step -- 13:20
11 A. Yes.
12 621 Q. -- that any verification or assessment of credibility
13 should take place?
14 A. Yes. I can't account for why I didn't include that.
15 It may not have occurred to me at that time. I cannot 13:21
16 account for it.
17 622 Q. *"And we would have to advise him that we would need to*
18 *tell his wife about this information so that she can be*
19 *protective."*
20 A. Mm-hmm. 13:21
21 623 Q. what allegation did you think that Mrs. McCabe was to
22 be informed about?
23 A. Given that I attached the letter with the allegations
24 then, it was the content of that letter.
25 624 Q. which is penetration? 13:21
26 A. Yes.
27 625 Q. So we're moving on to informing him -- or, first of
28 all, arranging to meet him without any credibility
29 assessment, and secondly, to contemplating that we will

1 have to tell him that we will have to inform his wife
2 about the digital penetration allegation?

3 A. Yes.

4 626 Q. Is that right?

5 A. Yes. But we would -- before that, we would have had to 13:22
6 afford him an opportunity to respond.

7 627 Q. Yes.

8 A. His response may have influenced the outcome.

9 628 Q. *"We would have to advise him that we would need to tell*
10 *his wife about this information so that she could be* 13:22
11 *protective."*

12 A. Yes.

13 629 Q. *"It is likely that she is aware of the allegations as a*
14 *file was sent to the DPP. However, no prosecution was*
15 *directed."* 13:22

16 So stopping there. You believed that a file in respect
17 of the digital penetration allegation had been sent to
18 the DPP, is that right?

19 A. Yes, that's what I believed at the time based on what I
20 had seen on the file and what I had considered on the 13:22
21 file.

22 630 Q. Yes. And that the DPP had directed no prosecution in
23 respect of that allegation?

24 A. Yes.

25 631 Q. *"Mr. McCabe has female children and the victim was a* 13:23
26 *seven-year-old child when the alleged incident*
27 *occurred."*

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29 And then you say:

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"My issues are that we are proposing to tell this woman we have concerns after not doing it for possibly up to eight years, and also, I am not confident about sending the Barr letter to an address that may be out of date."

13:23

So your issues are informing Mrs. McCabe about the digital penetration allegation, having not done so for eight years --

A. Mm-hmm.

13:23

632 Q. -- and the assumption being that this was the same allegation that had been made eight years previously, isn't that right?

A. Yes.

633 Q. And getting the address right?

13:23

A. Yes.

634 Q. But no concern whatsoever expressed about validating in any sense or assessing the credibility of the complaint?

A. Yes. Other than --

13:24

635 Q. Now, can I ask you, is that not very unusual too, or is it usual?

A. This case, from my point of view, is different because this person, Ms. D, as a child, made a statement to the Gardaí and that's what created the confusion for me, I would say. So yes, it was unusual. But that's what made it different: that she had made a statement to the Gardaí, she had made two statements, she had met with counsellors back in 2007 and she had gone to

13:24

1 counselling again in 2013. So that's what made this --

2 636 Q. Can I just stop you there. You're saying that she had
3 gone to the Gardaí and had gone to counsellors. Where
4 were you getting that information from?

5 A. From her file. 13:25

6 637 Q. Her file?

7 A. I was aware that she had made statements to the Gardaí.

8 638 Q. And what about the counsellors?

9 A. I was aware that she had attended with Emer O'Neill and
10 Orla Curran. 13:25

11 639 Q. I see.

12 A. Because of their letter on her file and from the
13 referral from Rian in 2013.

14 640 Q. I see. And you assumed that the allegations that she
15 made in 2006 were of a rape offence? 13:25

16 A. I assumed that, yes, based on the erroneous information
17 on the file.

18 641 Q. Now, Mr. Lowry receives your email and doesn't look at
19 your proposed letter, according to his own testimony,
20 which would have alerted him to the proposition that 13:26
21 you were assuming that this was a rape offence
22 allegation?

23 A. Yes.

24 642 Q. And of course we know that he would, if he had opened
25 the letter, immediately have realised that you were 13:26
26 under a misapprehension that that was a genuine
27 complaint of Ms. D, isn't that right?

28 A. Can you repeat that last sentence?

29 643 Q. If he had opened the letter and read it, he would have

1 known -- he would have immediately understood that you
2 were proceeding on the basis that Ms. D's allegation
3 was of digital penetration rape offence?

4 A. Yes.

5 644 Q. But he didn't bother to look at your draft? 13:27

6 A. Well, he has no recollection of opening it or reading
7 it.

8 645 Q. You see, the point is that if he did read it, it would
9 have leapt out at him that all of this was dealt with a
10 year ago and that's the wrong allegation, isn't that 13:27
11 right?

12 A. Possibly, yes.

13 646 Q. So it must be that he either looked at it and had
14 forgotten what had happened in May 2014, or else just
15 didn't bother looking at it or reading it? 13:27

16 A. Well, it's possible that he had forgotten what had
17 happened in 2014 in either scenario.

18 647 Q. I see. But Mr. Deeney couldn't have forgotten about
19 it?

20 A. Well, I can't account -- Mr. Deeney will -- 13:28

21 648 Q. There was a huge flap, there was a huge flap within
22 your service to get back documents and to put in
23 revised Garda notifications and to explain to the
24 guards why you were looking for copies of documents
25 back, and all of that was going on in 2014. It could 13:28
26 hardly be that either of these two gentlemen had simply
27 suffered minor amnesia about the matter?

28 A. Well, I can't account for Mr. Deeney or Mr. Lowry in
29 terms of reading that letter and recalling events of

1 May or June 2014.

2 **CHAIRMAN:** What Mr. McDowell is really asking you is
3 this: one hopes --

4 A. Yes. 13:29

5 **CHAIRMAN:** -- it can't have happened very often that
6 there is a cut-and-paste error, whereby, just to take a
7 different example, instead of someone being accused of
8 punching someone in the face, they're accused of
9 murdering them, instead.

10 A. Yes. 13:29

11 **CHAIRMAN:** And I think Mr. McDowell is saying, look,
12 isn't that the kind of thing that would have been
13 talked about, it would have been everywhere, you know,
14 how did this thing happen? what are we going to do
15 about it? And indeed it was talked about to some 13:29
16 extent and it was all withdrawn. Given that it is not
17 a regular occurrence --

18 A. It's not.

19 **CHAIRMAN:** -- what he's saying is, surely it would have
20 been discussed, surely you would have been aware of it, 13:29
21 surely everyone at some stage would have been talking
22 about it. Is that fair, Mr. McDowell?

23 **MR. MCDOWELL:** Yes, Judge.

24 A. I cannot say. I have read Ms. Argue's email to them
25 and I think the strongest piece of communication was 13:29
26 that of Pamela Armitage to highlight the issues of
27 particular concern. And I think that it should have
28 been picked up and corrected. I can only -- I can only
29 assume that change of personnel led to it not -- to

1 that not happening, and that the people who had
2 responsibility for that left the service and I believe
3 that that's why it wasn't corrected on the file.
4 That's my opinion.

5 649 Q. But you'll know, Ms. McLoughlin, that the Gardaí, in 13:30
6 2014, when they were asked to send back the material,
7 were sending letters to your service demanding to know
8 how this error had taken place and refusing to send
9 back the --

10 A. I have not seen any letters from the Gardaí. 13:30

11 650 Q. You don't even know that now?

12 A. No.

13 651 Q. That the guards responded immediately to the two
14 conflicting Garda notifications and demanded an
15 explanation as to how it had happened? 13:31

16 A. I have not seen those on the file. I have not seen
17 those documents.

18 652 Q. I quite appreciate that you may not have seen the
19 documents, but surely you now know that the Gardaí
20 reacted to getting these two very different Garda 13:31
21 notification forms and demanded explanations as to how
22 this had happened?

23 A. I'm not aware of that.

24 **CHAIRMAN:** As a matter of fact, that did happen.

25 A. Okay. 13:31

26 **CHAIRMAN:** which is one of the questions I put to
27 Mr. Lowry yesterday.

28 A. Yes, I accept that.

29 **CHAIRMAN:** Do you remember the guards --

1 A. I did, yes, but I wasn't aware of it.
2 **CHAIRMAN:** It was discussed yesterday.
3 A. It was, yes, I heard that yesterday.
4 **CHAIRMAN:** In other words, you're aware of it from
5 that -- 13:31
6 A. Yes.
7 **CHAIRMAN:** -- but not otherwise?
8 A. Yes, only from that.
9 **CHAIRMAN:** Oh, yes.
10 653 Q. **MR. MCDOWELL:** I see. I'm just asking about the two 13:31
11 people you're dealing with. You're suggesting they
12 might have forgotten about all of this. They couldn't
13 possibly have forgotten about it, isn't that right?
14 A. I think it's possible to forget about a lot of the
15 information that people have until such time as they 13:32
16 are reminded of it.
17 654 Q. There are things that people might want to forget, but
18 I have got to suggest to you that it is a different
19 thing actually forgetting them?
20 A. I think the nature of our work requires us to take in a 13:32
21 huge amount of information and it's very difficult to
22 maintain, and that's why, you know, we endeavour to
23 keep files, I suppose our memories are jogged. And I
24 think, you know, there's lots of things that I can't
25 remember. 13:32
26 655 Q. I see. Anyway, Mr. Lowry writes back to you and says,
27 "*Thanks for the update.*" And this is the day, this is
28 the 7th May 2015.
29

1 *"Thanks for the update and bringing this matter to my*
2 *attention. I have a memory that this matter was*
3 *reported to An Garda Síochána at some stage, so we*
4 *would need to coordinate with them before taking the*
5 *steps outlined below."* 13:33
6
7 And they're the steps set out in your letter, isn't
8 that right?
9 A. Yes.
10 656 Q. You knew at that stage that it had been reported to the 13:33
11 Gardaí?
12 A. Yes.
13 657 Q. Isn't that right?
14 A. Yes.
15 658 Q. So this wasn't information he was giving you; you knew 13:33
16 well, full well, when you wrote him that email, that
17 the Gardaí had been alerted to Ms. D's original
18 allegation, isn't that right?
19 A. Yes.
20 659 Q. And so he said: 13:33
21 *"we would need to coordinate with them before taking*
22 *the steps outlined below."*
23 A. Yes.
24 660 Q. Now, what did you understand by that?
25 A. I wasn't sure what he meant by that. I think he meant 13:33
26 that I contact the Gardaí to see what the status of the
27 case was with them, possibly. But I don't know what he
28 meant.
29 661 Q. Status of the case?

1 A. whether it was closed --

2 662 Q. That it had gone to the DPP and --

3 A. That it wasn't reopened at any time. That it was

4 closed in 2007 or had it been reopened or -- that is

5 what my interpretation of that would be. 13:34

6 663 Q. So you thought that coordinating with the Gardaí meant

7 find out from the Gardaí have they reopened the file in

8 relation to this matter or is it still one which stands

9 closed since 2007?

10 A. Yes, that's my interpretation. 13:34

11 664 Q. And that was to be done before you contacted

12 Sergeant McCabe?

13 A. That's correct.

14 665 Q. But why, if you were only concerned with his being a

15 risk to children? 13:34

16 A. That was his instruction.

17 666 Q. Yeah, but I'm just -- you're receiving this

18 instruction. I am just trying to -- you have to make

19 some sense of what you are being told, and he's saying

20 don't send, don't make contact with Sergeant McCabe 13:34

21 until you find out are the Gardaí reinvestigating this

22 matter?

23 A. Yes.

24 667 Q. That's what you understood it to mean?

25 A. Yes. 13:35

26 668 Q. I see.

27 A. That was my interpretation.

28 669 Q. He then says, "*I will discuss with you.*"

29 A. Yes.

1 670 Q. Did he discuss it with you?
2 A. I can't remember. I've no recollection.

3 671 Q. What's the Tribunal to infer from that; that he didn't
4 discuss the matter further with you or that he did?
5 A. I can't remember having any discussion with him about 13:35
6 it after this time, after that email was sent.

7 672 Q. But you do receive an email which is circulated to
8 Mr. Lowry on the following day, isn't that right?
9 A. Yes.

10 673 Q. And this is from Séamus Deeney? 13:35
11 A. Yes.

12 674 Q. And he is saying:
13 *"We will contact the alleged victim as there is some*
14 *discrepancy in the allegations forwarded to us."*
15 A. Yes. 13:36

16 675 Q. Well, what discrepancy did you believe existed when you
17 read that?
18 A. I didn't know what discrepancy he was referring to.

19 676 Q. Yeah. He says:
20 13:36
21 *"We discussed this yesterday. We decided that..."*
22
23 was that a reference to himself and Mr. Lowry or a
24 reference to himself and you?
25 A. It's possibly to himself and me. 13:36

26 677 Q. Yes. And *"we decided that we would contact the alleged*
27 *victim as there is some discrepancy in the allegations*
28 *forwarded to us."*
29 A. Yes.

1 678 Q. If you did have a discussion and if you did decide that
2 there was a discrepancy, Ms. McLoughlin, I'm asking you
3 now to do your level best and think back; it must have
4 been clear to you, was it not, that there were two
5 separate inconsistent sets of allegations at the time? 13:37

6 A. I can honestly say that I wasn't aware of what the two
7 different accounts were at that stage.

8 679 Q. Well, what discrepancy did you agree with him needed to
9 be investigated?

10 A. I took it that we needed to meet with Ms. D to clarify 13:37
11 our information on the files.

12 680 Q. No, no, no.

13 A. That's what I took this --

14 681 Q. You said, "*We discussed this case yesterday. We*
15 *decided that we would contact the alleged victim as* 13:37
16 *there is some discrepancy in the allegations forwarded*
17 *to us.*"

18 A. I have no recollection of the discrepancies being
19 highlighted to me.

20 682 Q. Well, they were in black and white. 13:37

21 A. Okay.

22 683 Q. And it was stated that you had agreed that there were
23 discrepancies?

24 **CHAIRMAN:** Well I am not sure it went that far,
25 Mr. McDowell. I mean I don't think -- well, certainly 13:38
26 Mr. Lowry hasn't said that he knew from Mr. Deeney or
27 he knew from a discussion that somebody pointed out,
28 look, here's on the one hand, as you say it, the hide
29 and seek, the gyration on the couch, and here's, on the

1 other hand, digital penetration of the vaginal orifice
2 and anus as well. I don't think anyone has said that
3 conversation. But what this means, of course, is
4 important, I agree with you. I am just thinking,
5 Mr. McDowell, that, you know, even going back to 2006, 13:38
6 there's an account to the aunt --

7 **MR. MCDOWELL:** Yes.

8 **CHAIRMAN:** -- as to being on the floor, there's an
9 account to somebody else being on the couch. That is a
10 discrepancy. But it is not all that material compared 13:38
11 to this, which are poles apart.

12 **MR. MCDOWELL:** But that would be relevant, Chairman,
13 with respect --

14 **CHAIRMAN:** Yeah.

15 **MR. MCDOWELL:** -- if we were talking about the couch 13:38
16 and all the rest of it.

17 **CHAIRMAN:** And nothing else, yeah.

18 **MR. MCDOWELL:** But the witness has said she believed
19 she was dealing with a digital rape case.

20 **CHAIRMAN:** So I think the question, therefore, is: 13:39
21 what did you think the discrepancy was or did you
22 address your mind to it? I think that is
23 Mr. McDowell's question ultimately, isn't it,
24 Mr. McDowell?

25 A. I didn't know what Séamus meant by "*discrepancy*". 13:39

26 684 Q. **MR. MCDOWELL:** well, then the next sentence may jog
27 your memory, because it says:

28

29 *"This will allow us to check the reliability and*

1 *accuracy of these allegations and determine whether*
2 *there is a foundation to the allegations."*
3
4 So it would need to be a fairly major discrepancy if it
5 was going to assist them to decide whether there was a 13:39
6 foundation at all for these allegations.
7 A. That is Seamus's account, yes.
8 685 Q. The second point, he says:
9 *"Determine whether we need to interview anybody else*
10 *who may be of relevance, e.g. the counsellor."* 13:39
11 A. Yes.
12 686 Q. And you said that you would have thought yourself
13 somehow inhibited or prohibited from going to Laura
14 Brophy to check on any discrepancies between the
15 versions given? 13:40
16 A. Without her consent, yes.
17 687 Q. But you never sought that consent?
18 A. I didn't get the opportunity.
19 688 Q. I see. *"And on review of the above, inform the alleged*
20 *abuser of the allegations."* 13:40
21 So there was to be a credibility assessment done before
22 Sergeant McCabe was to be approached, isn't that right?
23 A. Yes.
24 689 Q. *"And plan the action to be taken to inform third*
25 *parties, e.g. his wife."* 13:40
26 A. Mm-hmm.
27 690 Q. *"And determine protective action and plan for the*
28 *case."*
29 A. Yes.

1 691 Q. Now, can you tell me why, for a second time, the
2 credibility dimension of this just simply evaporates in
3 your mind, the necessity to assess credibility
4 disappears out of the equation for a second time?
5 A. AS I have stated yesterday, I did attempt to meet with 13:41
6 Ms. D. That attempt didn't come about, it didn't
7 happen, and when I went back to look at the file again,
8 I considered the statements that she had made, I had to
9 consider that she made statements to the Gardaí and --
10 692 Q. Did you consider the statements themselves? 13:41
11 A. No, I didn't.
12 693 Q. So there you are, you're trying to assess the -- your
13 aim is to assess the credibility before you approach
14 Sergeant McCabe, you have difficulty in contacting
15 Ms. D? 13:42
16 A. Yes.
17 694 Q. You don't -- you aren't acquainted at all with the
18 contents of her original statements?
19 A. No. But I'm aware that --
20 695 Q. And yet, somehow, you decided to dispense with all of 13:42
21 that necessary precondition for approaching Sergeant
22 McCabe?
23 A. Yes.
24 696 Q. And can I ask you why you did that?
25 A. I can only acknowledge that it was an error on my part 13:42
26 and I regret that. I think my reasoning was as stated,
27 that she had made a statement to the Gardaí, that also
28 Mr. McCabe had never been contacted or afforded an
29 opportunity to respond, and I think that was part of my

1 thinking as well.

2 697 Q. I mean, obviously I don't want to spend too much time
3 on this, but let's be clear about this; you knew it was
4 absolutely standard form before you approached any
5 alleged abuser that you do a credibility assessment? 13:43

6 A. Yes.

7 698 Q. You didn't bother to look at her original statements,
8 even to find out what her original complaint was?

9 A. I didn't look at her original statements. I read, I
10 read a letter from Emer O'Neill on the file in relation 13:43
11 to her file in relation to offering her a service.

12 **CHAIRMAN:** I wonder could I ask a question which may be
13 pertinent to the line you're pursuing, Mr. McDowell.

14 **MR. MCDOWELL:** Yes, Judge.

15 **CHAIRMAN:** And that is this: I think it was told by 13:43
16 Laura Brophy, I will check this but I have a definite
17 recollection of being told, look -- I think it was, in
18 fact, the next witness. I asked, look, do you not do
19 this thing, assessment, appropriate effect, relevant
20 detail, et cetera, to assess whether someone is telling 13:43
21 the truth or not.

22 A. Yes.

23 **CHAIRMAN:** And I was told that in circumstances where
24 someone has made a statement to the Gardaí --

25 A. Mm-hmm. 13:44

26 **CHAIRMAN:** -- you seem to take the statement at face
27 value and don't do that.

28 A. Yeah.

29 **CHAIRMAN:** So if that is so and you are saying, well,

1 before you write a Barr letter you've got to do an
2 assessment, there is just a contradiction between those
3 two things.

4 A. Yes.

5 **CHAIRMAN:** And that's part of the area that 13:44
6 Mr. McDowell is exploring and I'm just wondering about
7 that. So why, on the one hand, say, well, we're not
8 going to ask her to relive it because she's made a
9 statement to the Gardaí, and then how does that square
10 with, well, before we write a Barr letter we should 13:44
11 talk to the person to see whether we're, you know,
12 barking up the right tree here, more or less?

13 A. Well, I have used statements from children and from
14 adults to avoid putting them through going through
15 their statement again, in my work. I've I think been 13:44
16 shown, for instance, videotapes of Gardaí interviews
17 has been particularly useful in assessing allegations
18 that children make against adults. I have had -- you
19 know, I can think of a case where somebody was abroad,
20 I didn't particularly want to go into a discussion over 13:45
21 the phone with them about their allegations and they
22 gave me consent to get their Garda statement. So
23 particularly when someone has made a Garda statement,
24 for me it does provide some significance because they
25 were prepared to stand over their allegation and sign 13:45
26 off on a statement made to the Gardaí. What I was
27 unclear about was where did that leave me eight years
28 later, and that is my error, and perhaps I should have
29 sought expert advice on that, and I regret not doing

1 that.

2 699 Q. **MR. MCDOWELL:** well, apart from seeking expert advice,
3 you could have sought to have sight of her original
4 Garda statements, isn't that right?

5 A. Yes, and I regret that too. 13:46

6 700 Q. And that wouldn't have involved getting her relive the
7 allegation --

8 A. That's true.

9 701 Q. -- in any shape or form?

10 A. That's true. 13:46

11 702 Q. And that's what you did do in 2015, isn't that right --
12 or '16?

13 A. '16, yes.

14 703 Q. Isn't that right?

15 A. Yes. 13:46

16 704 Q. But, you see, the five steps described by Séamus Deeney
17 don't involve the one and only step identified by
18 Gerard Lowry on the 7th, which was the need to
19 coordinate with the Gardaí before taking any steps?

20 A. Yes. 13:46

21 705 Q. And did you take Mr. Deeney as somehow overruling the
22 need to coordinate with the Gardaí step and his five
23 steps?

24 A. well, I could have interpreted step 2 as interview or
25 to contact the Gardaí as well as counsellor. He says 13:47
26 *"may be of relevance"* -- *"anyone else who may be of*
27 *relevance, e.g. the counsellor"*. So that could have
28 also meant maybe the Gardaí. So I didn't see that as a
29 contradiction.

1 706 Q. Yes. Now, on the 15th May 2015 you spoke to Ms. D,
2 isn't that right?

3 A. Yes.

4 707 Q. And she was telling you about that she was getting
5 ready for exams, isn't that right? 13:47

6 A. That's correct.

7 708 Q. But you noted her as asking what had happened?

8 A. Yes.

9 709 Q. What did you tell her had happened?

10 A. I had explained to her that as a result of it being 13:47
11 re-referred in through Rian, we had to consider the
12 case in relation to Sergeant McCabe and to consider if
13 other children were at risk.

14 710 Q. I see.

15 A. And that that's why I was getting back in touch with 13:48
16 her at that time, as I recall.

17 711 Q. Did she mention at all to you what had happened the
18 previous year?

19 A. No. The conversation was brief.

20 712 Q. It was strange, surely, that she wouldn't mention, by 13:48
21 the way --

22 A. It was strange --

23 713 Q. -- you know that a year ago an almighty mess was made
24 by your service of this and I had to intervene to stop
25 the rape allegation from being proceeded with, isn't 13:48
26 that right? This is in her head.

27 A. No.

28 714 Q. She couldn't have forgotten what had happened the
29 previous year?

1 A. Well, I'm not going to blame Ms. D for my mistakes.

2 715 Q. No.

3 A. Certainly not.

4 716 Q. She never mentioned it to you on the phone, is that
5 what you are saying? 13:49

6 A. Yes. And -- yeah.

7 717 Q. I see. Now, we come to late December and you say you
8 probably dictated in advance the letter that went out
9 on 29th December 2015, is that right?

10 A. Say that again, sorry. 13:49

11 718 Q. You probably dictated the letter, which is at page 462,
12 in advance of that date?

13 A. Yes, I wrote that letter, yes, in advance of that date.

14 719 Q. Yes. And did it differ apart from -- did it differ in
15 any way apart from the dates from the draft you 13:49
16 prepared at the beginning?

17 A. And the appointment dates. I don't believe it did.

18 **CHAIRMAN:** Just a coincident date in relation to that,
19 Mr. McDowell, which may have no significance, I don't
20 know, there is lots of coincidences. The 16th April 13:50
21 2015 was, the designated officer in GSOC issued a
22 Section 97 report on the Ms. D case and found that
23 there should be no proceedings taken against
24 Superintendent Cunningham or Detective Sergeant Fraher
25 for the investigation into her allegations that. That 13:50
26 is literally a couple of weeks previously.

27 **MR. MCDOWELL:** It is, yes, Judge.

28 **CHAIRMAN:** Yes.

29 720 Q. **MR. MCDOWELL:** I take it you weren't aware of GSOC's

1 involvement in this, were you?

2 A. No.

3 721 Q. The Garda Ombudsman Commission?

4 A. No, I don't believe I was aware of the role of the
5 Ombudsman until documents from this Tribunal were 13:50
6 provided.

7 722 Q. Anyway, you send that letter and it arrives in the
8 McCabe house on the 5th January and Mrs. McCabe opens
9 it and gets a terrible shock. Did you feel any
10 obligation to confer with anybody in your service 13:51
11 before you sent that letter out?

12 A. I did not.

13 723 Q. Was it an effort to show that something had happened in
14 the calendar year 2015 and that the thing hadn't just
15 gone to sleep yet again, a kind of precursor of a new 13:51
16 year's resolution, we'll show some action on this file
17 in the dying days of 2015? What was it that inspired
18 you to write that letter at that time?

19 A. I regret that I wrote the information in it that was
20 incorrect because I wasn't aware of it. 13:51

21 724 Q. I know you regret --

22 A. There was no, there was no -- what I can say is that
23 case wasn't allocated to a social worker. When I had
24 time to complete tasks on case files, I took that
25 opportunity to do that, and it's possible the letter 13:52
26 was prepared in maybe earlier December but I delayed
27 posting it until after Christmas, because there would
28 be a policy in the department not to send out such
29 letters before Christmas and then have the service not

1 available to respond to the issues that would arise
2 from such letters. So I would have delayed sending the
3 letter on purpose until after Christmas.

4 725 Q. But as far as you knew, Mr. Lowry had read that -- the 13:52
5 proposed text of that letter back in May and he told
6 you not to send it until you'd taken certain steps?

7 A. Yes.

8 726 Q. And why did you feel, at that stage, absolved from the
9 direction you got from your superior?

10 A. I can't account for why I did that, other than the fact 13:53
11 that I regret it and apologise for my inappropriate
12 response to following up in relation to this letter and
13 in relation to reviewing the file. I deeply regret
14 that. I deeply regret, as you outline, that it caused
15 upset to the McCabe family. 13:53

16 727 Q. I appreciate that now, Ms. McLoughlin, but I'm asking
17 you how you felt justified in doing so. Just saying
18 that you deeply regret doing so, doesn't help. I'm
19 trying to work out how, when your superiors tell you
20 don't write that letter out, you suddenly decide I will 13:53
21 write it out.

22 A. I can't account, other than that I attempted to carry
23 out the steps, I did check with the Gardaí, I attempted
24 to contact Ms. D and I hadn't been able to, I suppose,
25 move the case forward. I think my reasoning was that 13:54
26 Mr. McCabe also had a right to respond, and I cannot
27 account otherwise.

28 728 Q. Now, can I just bring you back two pages to page 460.
29 This is a contact sheet in which you recorded what had

1 happened on the 15th May 2015, and you write at the
2 end, or towards the end of the page, "*Ms. D did not*
3 *re-contact*".

4 A. Yes.

5 729 Q. When do you think you wrote that? 13:55

6 A. I can't be sure. Possibly in July of that year. I'm
7 not sure.

8 730 Q. And why did you note that there?

9 A. Because I had no recollection of her contacting,
10 re-contacting. 13:55

11 731 Q. I see. You see, it's one thing to say that you regret
12 sending a letter, it's one thing to say that you regret
13 that it included an allegation which could have been
14 easily found to be false, an allegation of a rape
15 offence, but it's an entirely different thing to say 13:56
16 that over six months nothing happens and then suddenly
17 you decide to dispense with all of your own procedures
18 and to send a letter with no credibility assessment
19 having taken place. First of all, do you think it was
20 fair to Sergeant McCabe to send an allegation in 13:56
21 writing in this way when no attempt had been made by
22 your service over the previous ten years to assess its
23 credibility?

24 A. I think it's regrettable that no attempt had been made
25 to complete the work over the ten years. 13:56

26 732 Q. No, but, I mean, I am asking you a different question.
27 I'm saying, was it fair to Sergeant McCabe --

28 A. Yeah, it's unfair to him.

29 733 Q. -- to send an accusation --

1 A. No, I agree it is unfair to him.

2 734 Q. Yes.

3 A. Definitely.

4 735 Q. You must have felt that at the time; I am being unfair,
5 I am sending this man an allegation that I know has 13:56
6 never been tested as to its credibility?

7 A. I certainly felt it was unfair that we had not
8 responded previously to what had been alleged in 2006.

9 736 Q. Unfair on Sergeant McCabe?

10 A. Yes, that we had not afforded him the opportunity in 13:57
11 2007 to respond to those concerns at that time when he
12 was already dealing with the Garda investigation and
13 when that issue was live in his life, so yes.

14 737 Q. But you knew that the whole file had been closed,
15 without doing so, and that the DPP -- 13:57

16 A. Yes.

17 738 Q. -- had directed no prosecution?

18 A. Yes.

19 739 Q. So Sergeant McCabe was not living under some continuing
20 injustice that you were not -- that your service was 13:57
21 not further following up on this issue with him. That
22 wasn't unfair, as far as he was concerned?

23 A. Sorry, I -- what was not unfair?

24 740 Q. I am suggesting it was unfair on him that ten years had
25 elapsed and that nobody had knocked on his door or 13:58
26 written to him and said, by the way, we want to assess
27 you as a risk to children?

28 A. Well, it was unfair that it hadn't been dealt with
29 previously, and it was the correct thing to do, I

1 believe, in 2007.

2 741 Q. But it wasn't --

3 A. And so, for me to come along in the end of 2015, yes,
4 it was not -- it was far from ideal.

5 742 Q. But put it this way: was it not only far from ideal, 13:58
6 it ran contrary to every instruction you had ever been
7 given?

8 A. As stated, I wrote the letter based on the fact that
9 this person had signed a statement to the Gardaí in
10 2006 and I wrote it in that context and was willing at 13:58
11 that time, I had no reason to believe that that was
12 ever -- allegation was ever withdrawn, and I wrote it
13 in that context.

14 743 Q. But it was against every standard rule of procedure in
15 your organisation to do this? 13:59

16 A. Well, what I can say is, because the case had not been
17 dealt with in 2006/2007, it created ambiguity for me
18 and that's why I made that error.

19 **CHAIRMAN:** In other words, you say you did it in good
20 faith but you appreciate you got it wrong? 13:59

21 A. Yes, but I got it wrong.

22 **CHAIRMAN:** Yes.

23 A. I don't doubt that.

24 **MR. McDOWELL:** I see.

25 A. And I regret that. 13:59

26 744 Q. So you thought you were doing Sergeant McCabe a favour
27 by writing this letter?

28 A. No, I'm not saying that.

29 745 Q. Well, you were being fair to him, you were remedying an

1 unfairness?

2 A. well, I was providing him with an opportunity to

3 respond to information we had on files about him, which

4 I felt at that time that he had a right to be made

5 aware of -- 14:00

6 746 Q. In order to --

7 A. -- and a right to respond.

8 747 Q. But in order to -- it wasn't purely just to ask him

9 would he like to respond; it was as part of a process

10 to determine whether he was a risk to children, that's 14:00

11 the purpose behind it?

12 A. Yes, yes.

13 748 Q. So which is it?

14 A. well, it is both. Both.

15 **CHAIRMAN:** Yes. That's what was said to me, 14:00

16 Mr. McDowell. In terms of the theory, if I can say, I

17 find it a wee bit surprising that it was like a service

18 you offered to people.

19 **MR. MCDOWELL:** Yes.

20 **CHAIRMAN:** And at the same time, of course, it was to 14:00

21 see are there other people to be protected. But I

22 understand those are the instructions you're under and

23 you're not responsible for that.

24 A. Yes, yeah.

25 **CHAIRMAN:** Yeah. 14:00

26 A. Yeah.

27 749 Q. **MR. MCDOWELL:** Could I bring you to page 2600 in Volume

28 1, I think it is.

29 **CHAIRMAN:** will you be much longer, Mr. McDowell?

1 **MR. MCDOWELL:** About ten more minutes.

2 **CHAIRMAN:** Are you all right?

3 A. Yes, I'm okay.

4 750 Q. **MR. MCDOWELL:** This is a statement by Ms. Mary Tiernan
5 to the Tribunal. 14:01

6 A. Yes.

7 751 Q. And at paragraph 2.8 she says:

8
9 *"However, I do recall after the meeting of the 24th*
10 *April 2007 I discussed with Ms. O'Reilly on one or two* 14:01
11 *occasions the outcome of her request to her colleagues*
12 *in Meath. I recall that I was informed by her that on*
13 *approaching the principal social worker in Meath it had*
14 *not been agreed to follow up as requested. I cannot*
15 *remember when that discussion took place, but I believe* 14:02
16 *it would have been during 2007. My recollection is*
17 *that in discussing with Ms. O'Reilly any further*
18 *follow-up she might have been contemplating, my focus*
19 *remained on maintaining the position that it would not*
20 *have been appropriate for follow-up by any social* 14:02
21 *worker from our department and confirming that she*
22 *would have been aware that no file had been created in*
23 *relation to Mr. McCabe or his family. Given the*
24 *specific content of the allegation made by Ms. D to her*
25 *parents and Garda investigators initially and repeated* 14:02
26 *to Ms. Emer O'Neill and Ms. Orla Curran, I believe we*
27 *both considered it was unlikely that considered*
28 *analysis of the case would be likely to conclude that a*
29 *threshold had been reached to support substantial*

1 *further involvement after informing Mr. McCabe of the*
2 *report."*

3

4 would you agree with that judgement of Ms. Tiernan,
5 Mary Tiernan?

14:03

6 A. Em, she seems to state that "*after informing*
7 *Mr. McCabe*".

8 752 Q. Yes.

9 A. I cannot say that I'd necessarily with it. I think the
10 allegation did -- did require assessment.

14:03

11 753 Q. Yes.

12 A. So I don't necessarily agree with it, from what I know
13 today.

14 754 Q. When you wrote -- when you received the letter from
15 Séan Costello & Company solicitors on the 28th January
16 2015 strongly protesting about the digital allegation?

14:03

17 A. Yes.

18 755 Q. In your letter of the 28th December, you recall that?

19 A. Yes.

20 756 Q. You wrote to Emer O'Neill by email, which is at page
21 471, saying:

14:04

22

23 *"I'm following up in relation to Garda Maurice McCabe*
24 *who you may remember Ms. D made allegations against in*
25 *2007. From the file I understand that Ms. D's Garda*
26 *statement was given to you by Ms. D's parents back in*
27 *2007 and this was to prevent Ms. D having to go through*
28 *the allegations again. I wonder could I have a copy or*
29 *view this statement as currently I am assessing what*

14:04

1 *risk, if any, Maurice McCabe poses to children."*

2
3 So at this stage you are dealing with their response
4 that this is the first time that the digital rape
5 allegation had been brought to their client's
6 attention, isn't that right? 14:04

7 A. Yeah.

8 **CHAIRMAN:** would you just give me the date of that,
9 Mr. McDowell.

10 **MR. MCDOWELL:** That is on the 2nd February 2016. 14:04

11 **CHAIRMAN:** Right. And then the other date was, you
12 said 28th December?

13 **MR. MCDOWELL:** 28th January was the response from Séan
14 A. Costello, the main response. They sent a holding
15 letter saying he wouldn't be attending the proposed
16 interview. 14:05

17 **CHAIRMAN:** I beg your pardon.

18 **MR. MCDOWELL:** Page 468.

19 **CHAIRMAN:** The letter of the 28th December is what
20 year? 14:05

21 **MR. MCDOWELL:** The 28th December is Ms. McLoughlin's
22 letter.

23 **CHAIRMAN:** The Barr letter?

24 **MR. MCDOWELL:** The Barr letter, yes.

25 **CHAIRMAN:** That is the 29th December. 14:05

26 **MR. MCDOWELL:** Sorry.

27 **CHAIRMAN:** I am sorry, that just confused me for a
28 second.

29 **MR. MCDOWELL:** And the 28th January is the substantive

1 reply by Sergeant McCabe's solicitor, is that right?
2 **CHAIRMAN:** Sorry for interrupting.

3 757 Q. **MR. MCDOWELL:** Then you write to Emer O'Neill and you
4 obtain -- on the 3rd February you obtain the copy of
5 the statement that was made, isn't that right? 14:05

6 A. Yes.

7 758 Q. Now, at that stage, I take it, when you read that, you
8 realised that there's something very strange here about
9 a digital rape allegation, is that right?

10 A. Yes, I think I reviewed the file and read the 14:06
11 statements at that time, some time before 9th February.

12 759 Q. Yes. And on the 4th January at page 489 Gerry Lowry
13 says:
14

15 *"As discussed, please review Emer O'Neill's and the 14:06
16 Garda file, update the attached and revert to me."*

17

18 Have you got that, page 489?

19 A. Yes.

20 760 Q. Do you see that? 14:06

21 A. Yes. Oh yes.

22 761 Q. And the attached was your proposed draft reply to
23 Mr. Costello, is that right?

24 A. Yes.

25 762 Q. And your proposed draft reply at that stage read: 14:07
26

27 *"In relation to the allegation of digital penetration I
28 am currently seeking clarification in relation to this.
29 This allegation was forwarded to this service on behalf*

1 *of the complainant in April 2014."*
2 well, that was wrong?
3 A. Yes.
4 763 Q. But at that time you thought that that was so, you
5 believed that it was in April 2014, this allegation had 14:07
6 been made?
7 A. Yes.
8 764 Q. Yes. And he asked you -- Mr. Lowry asked you to update
9 the attached and to revert to him, isn't that right?
10 A. Yes. 14:07
11 765 Q. And then you write him the letter of the 9th February
12 2016, which is at page 490, where you set out as best
13 you could your understanding of the situation at that
14 time, isn't that right?
15 A. Yes. 14:08
16 766 Q. Tell me, did you talk to anybody else in the service
17 before you prepared that reply?
18 A. I don't think so. I think I prepared that, yeah, on my
19 own.
20 767 Q. That was entirely your own -- 14:08
21 A. Yes.
22 768 Q. -- research? I mean, there are some errors in it, but
23 you have been brought over them and I don't want to
24 waste the Tribunal's time in relation to it. On the
25 26th February at page 492 you send an email to Gerry 14:08
26 Lowry saying:
27
28 "*I am sending this to you again as it has gotten forgot*
29 *about. We need to discuss a response."*

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Were you anxious that Mr. Lowry was doing nothing about the matter?

A. I was anxious that we hadn't written back to Mr. Costello and apologised for the erroneous information being included in the letter. So I was anxious that that happen. 14:09

769 Q. Yes. And did you have a discussion about how to respond?

A. It's possible I did. I don't have any specific recollection, but I know I discussed with Gerry the need to apologise and he agreed. 14:09

770 Q. Yes. If you then go on to page 494, it would appear that there was a routine supervisory meeting held by your supervisor, Mr. Lowry, with you on the 8th April 2016? 14:09

A. Yes.

771 Q. Isn't that right?

A. Yes.

772 Q. And on the second page of that -- I mean, the first page is all to do with your performance and your duties and how you're getting on with your duties and your proficiency, and the second page says: 14:09

"The Sergeant McCabe case has been communicated to me by Kay. I have not looked at it, I need to do so." 14:10

A. Yes.

773 Q. So we are to take it that from -- on the 8th April, which is nearly two months after you became aware of

1 the mistake that had been made and the substance of the
2 mistake --

3 A. Yes.

4 774 Q. -- you put down for discussion at that conference the
5 fact that Sergeant McCabe case, and he noted down that 14:10
6 he hadn't dealt with your communications in relation to
7 that matter?

8 A. Yes.

9 775 Q. Can I take it that you felt somewhat let down by him at
10 this stage? 14:10

11 A. Well, I was keen that it happen and I was keen to
12 remind him of it. I was anxious that the apology
13 letter be issued.

14 776 Q. Yes. And were you given any reason why it hadn't been
15 issued? 14:11

16 A. No.

17 777 Q. Because I note that Mr. Lowry said that he was -- when
18 you brought the matter to his attention, that he was
19 immediately of the view that an apology was apposite,
20 and I'm just wondering how two months goes by and still 14:11
21 you have no explanation -- he hasn't bothered to look
22 at the work you've sent him?

23 A. Well, I would say that he lost sight of it.

24 778 Q. But it was a fairly serious matter, wasn't it?

25 A. It was. 14:11

26 779 Q. You had accused a man of a rape offence in the wrong?

27 A. Yes.

28 780 Q. You had notified him of it?

29 A. Yes.

1 781 Q. He knew full well what had happened, and two months
2 later he has done nothing about it?

3 A. Yes. I believe I should have reminded him more often
4 as well.

5 782 Q. Well, now, with respect now, Ms. McLoughlin, are you 14:11
6 serious, that you should have reminded your superior
7 about the need for him to deal with the correspondence
8 you'd sent him on this grave matter?

9 A. Well, given my level of anxiety I was keen that this be
10 responded to quickly and I didn't want it to drag on. 14:12

11 783 Q. Yes.

12 **CHAIRMAN:** Well, Mr. McDowell, I think I've stated my
13 position in relation to another issue, which is I think
14 that if somebody gets a letter, they should answer a
15 letter. 14:12

16 **MR. MCDOWELL:** Yes.

17 **CHAIRMAN:** And I'm not sure this is any different,
18 unless someone persuades me.

19 **MR. MCDOWELL:** No.

20 784 Q. I suggest to you that this non-response went on and on 14:12
21 and on until, was it July?

22 A. June.

23 785 Q. June. And, in June, a so-called apology is made --

24 A. Yes.

25 786 Q. -- to Sergeant McCabe, but your desire that some 14:12
26 explanation be given to him as to how this false
27 accusation be made was not complied with on the express
28 instruction of Mr. Lowry?

29 A. Possibly, yes. That's my recollection.

1 787 Q. That's no 'possibly' about it?
2 A. Well, that's my recollection.
3 788 Q. You wanted to explain it to him and he was saying
4 don't?
5 A. Well, I wanted to explain it to some degree. Yes, I 14:13
6 did want to give some explanation as to how it
7 occurred.
8 789 Q. And when you sent this terse and utterly uninformative
9 apology, you get a letter from Costello & Company on
10 the 20th July 2016, isn't that right? 14:13
11 A. Yes.
12 790 Q. And they point out that no explanation has been given?
13 A. Yes.
14 791 Q. They point out their dismay at what has happened?
15 **CHAIRMAN:** I appreciate that, Mr. McDowell, and it has 14:14
16 to be said these letters are eloquent. Most letters
17 from solicitors, no disrespect intended, would leave
18 one gasping for air in order to stay awake, but these
19 don't fit into this.
20 **MR. MCDOWELL:** I'm not going to read through the whole 14:14
21 thing, but I am just saying that you took the view that
22 this letter was emotional?
23 A. Yes.
24 792 Q. And I have got to suggest to you that it was far from
25 emotional; it was very reserved in the circumstance 14:14
26 that you were deliberately being economical in your
27 explanation to them?
28 A. I accept that. I think they had a right to be angry.
29 I don't dispute that.

1 793 Q. Just one other thing, you mentioned that you dealt with
2 sergeant Byrne, I think, in Bailieboro?
3 A. Yes.
4 794 Q. Why was it that you went back to Bailieboro? Surely
5 Bailieboro had no connection with the -- it was the 14:15
6 wrong district, wrong station -- wrong --
7 **CHAIRMAN:** I think the explanation earlier given, in
8 any event, was that it's where the alleged offence took
9 place.
10 **MR. MCDOWELL:** No, it wasn't. 14:15
11 **CHAIRMAN:** Somebody said that, Mr. McDowell.
12 **MR. MCDOWELL:** No, no, certainly not. The alleged
13 offence was the other end of County Cavan, in the Cavan
14 district. So I am just wondering --
15 **CHAIRMAN:** All right, yeah, you may be right. I didn't 14:15
16 focus on that.
17 A. Yes, I believe that's correct, that that was the wrong
18 district.
19 **MR. MCDOWELL:** It was a mistake to go to Bailieboro,
20 wasn't it? 14:15
21 A. Yes, it was, you're right, because it occurred in a
22 different district.
23 **MR. MCDOWELL:** Thank you very much.
24
25 **END OF CROSS-EXAMINATION BY MR. MCDOWELL** 14:15
26
27 **CHAIRMAN:** Yes. Is there anyone who needs to ask any
28 other questions?
29 **MR. DIGNAM:** Chairman, on behalf of An Garda Síochána,

1 there are a number of areas that I would like to cover
2 with Ms. McLoughlin, but I think I will probably be at
3 least 20 minutes.

4 **CHAIRMAN:** We have 20 minutes, but that is all we have.
5 Mr. McDermott, are you content? You are? Yes. Good. 14:16
6 Thank you. So if we could confine it to that, but I'm
7 afraid you are confined to that, please, at the most.

8 **MR. DIGNAM:** Certainly, Chairman.

9 **CHAIRMAN:** Ms. McLoughlin, you don't require to have a
10 break now, do you? 14:16

11 A. I'm good for 20 minutes.

12 **CHAIRMAN:** Let's try and finish this then.

13

14 **MS. MCLOUGHLIN WAS CROSS-EXAMINED BY MR. DIGNAM:**

15

16 795 Q. **MR. DIGNAM:** Ms. McLoughlin, as I said to the Chairman,
17 there are just a number of areas I want to cover with
18 you and some of them have been touched on by
19 Mr. McGuinness and indeed Mr. McDowell. I think you
20 have accepted in your evidence, Ms. McLoughlin, that 14:16
21 you only read part of the file that was available to
22 you, isn't that correct?

23 A. That is correct.

24 796 Q. And that was in the context of carrying out your review
25 in May 2015? 14:16

26 A. That's correct.

27 797 Q. Yes. And you seem -- is it fair to say that you read
28 the smaller part of the file --

29 A. Yes.

1 798 Q. -- rather than the majority?
2 A. Yes, I read the section of the file where the concerns
3 would be contained.
4 799 Q. Yes.
5 A. But I can't say I read all of the documents in those 14:17
6 sections.
7 800 Q. Yes. Is it also fair to say, Ms. McLoughlin, that the
8 part that you did read, you in fact misread?
9 A. Can you specify that?
10 801 Q. Yes. You refer in your statement -- or your interview, 14:17
11 rather, with the Tribunal investigators, that you
12 believed that the second Garda notification, which was
13 in fact dated 2nd May but had been prepared at a later
14 stage, was a duplicate of the original?
15 A. Yes, I misread that, yes. 14:17
16 802 Q. Yes. And they were two documents which were available
17 to you and which you looked at?
18 A. And which I may have assumed were one and the same
19 instead of different.
20 803 Q. Yes. And you accept, therefore, that you misread the 14:17
21 document that you did?
22 A. Yes, yes.
23 804 Q. Or that you did look at?
24 A. Yes.
25 805 Q. Now, it was that review that you carried out in 2015 14:17
26 which led to a number of events, isn't that right?
27 A. That's right.
28 806 Q. It led to you trying to contact -- sorry, led to you
29 contacting Ms. D?

1 A. Yes.

2 807 Q. And having the conversation with her in June 2015?

3 A. Yes.

4 808 Q. Yes. And it led to the sending of the Barr letter
5 containing the incorrect allegation -- 14:18

6 A. Yes.

7 809 Q. -- on the 29th December 2015, isn't that right?

8 A. Yes.

9 810 Q. And that flowed, therefore, from your partial reading
10 and misreading of the file, is that right? 14:18

11 A. Yes.

12 811 Q. And in fairness to you, you appear to accept that on a
13 number of occasions in your interview with the
14 investigators?

15 A. That's right. 14:18

16 812 Q. If I could just bring you to a section of your
17 interview at page 1476. This is where the
18 investigators asked you about a number of documents
19 and, as I understand it, they were all taken from --
20 they're all documents which were on the file. You'll 14:19
21 see where you say at the top of page 1476 that "*I had
22 been asked whether I had sight of the following
23 documents at the time,*" that's 7th May 2015, so at the
24 time of your review. And the investigators then took
25 you through a number of documents and you gave your 14:19
26 account as to whether you had seen those at the time,
27 whether you had read them or whether they were
28 documents which you subsequently saw, do you remember
29 that passage in the interview?

1 A. Yes.

2 813 Q. Yes. Now, I'm not going to take to you all of the
3 documents but I just want to refer to some of them very
4 briefly, and you will have seen these so I'm not going
5 to open them up formally to you, Ms. McLoughlin. 14:19

6 A. Okay.

7 814 Q. But I will just direct you to them.

8 A. Yes.

9 815 Q. And these are all documents that you -- the ones that I
10 am going to refer to, are all documents which you 14:19
11 accept were on the file at the time --

12 A. Yes.

13 816 Q. -- and were therefore available to you to have read?

14 A. Yes.

15 817 Q. At page 1537 we have -- have you got that, 14:19
16 Ms. McLoughlin?

17 A. It's coming up, yes.

18 818 Q. That's the original intake record, isn't it, based on
19 the verbal report --

20 A. Yeah. 14:20

21 819 Q. -- made by Ms. Brophy --

22 A. Yeah.

23 820 Q. -- to Tusla on the 9th August 2013?

24 A. Yes.

25 821 Q. And that was available to you, wasn't it? 14:20

26 A. Yes.

27 822 Q. Isn't that correct?

28 A. Yes.

29 823 Q. It was on the file?

1 A. Yes.

2 824 Q. And that doesn't refer to any allegation of digital
3 penetration, isn't that right?

4 A. That's correct.

5 825 Q. You then have, on page 1548, the Garda notification, 14:20
6 the original Garda notification made by Tusla, which
7 was signed on the 2nd May. That is at 1548. That is
8 the one containing the incorrect allegation, isn't that
9 right?

10 A. Yes. 14:20

11 826 Q. You then have, at 1550, you have the email from Eileen
12 Argue to Mr. Lowry?

13 A. Yes.

14 827 Q. Which is cc'd to Louise Carolan?

15 A. Yes. 14:21

16 828 Q. This is the one which you -- I think you mentioned it
17 today in your evidence also, but on page 1506 you
18 identify as being the clearest piece of information in
19 relation to the mistake?

20 A. Yes. 14:21

21 829 Q. If I just bring you to that, this is the email-thread
22 beginning with an email from Pamela Armitage?

23 A. Yeah.

24 830 Q. And then, above that, an email from Eileen Argue to
25 Mr. Lowry -- 14:21

26 A. Yes.

27 831 Q. -- Ms. Carolan, Mr. Deeney and cc'd Ms. Armitage, and
28 you identified this as being a clear statement --

29 A. Yes.

1 832 Q. -- of the error which at this stage was on the file?
2 A. Yes.

3 833 Q. And identified on the file, is that right?
4 A. Particularly Pamela Armitage's email to Eileen.

5 834 Q. Ms. Armitage says: *"Dear Eileen, Laura Brophy has just* 14:21
6 *called to say that she has made an error in her report*
7 *to us re Ms. D. The line 'that this abuse involved*
8 *digital penetration, both vaginal and anal' is an error*
9 *and should not be in the referral. It is in fact a*
10 *line from another referral on another adult that has* 14:22
11 *been pasted in error. Laura has apologised and is*
12 *sending us an amended report ASAP."*

13 A. Yes.

14 835 Q. Now, that was 14th May 2014 at 11:05.
15 A. Yes. 14:22

16 836 Q. You then have at pages 1551 and 1552 the letter from
17 Ms. Brophy to Ms. Argue.
18 A. Yes.

19 837 Q. And on 1552 the amended report from Ms. Brophy of
20 the -- 14:22
21 A. Yes.

22 838 Q. -- 14th May 2014.
23 A. Yes.

24 839 Q. And that says in the *"Description of Abuse"*:
25 14:22
26 *"That Ms. D informed me that there was a singular*
27 *incident of sexual abuse. At the time of the incident*
28 *both Ms. D and the alleged were fully clothed and the*
29 *incident involved inappropriate contact as the alleged*

1 *rubbed himself up and down against Ms. D in a sexual*
2 *manner."*

3 A. Yes.

4 840 Q. So that is on file?

5 A. Yes. 14:23

6 841 Q. And that makes it clear that the extent of the
7 allegation was simply as is set out in that short
8 description, is that right?

9 A. Yes.

10 842 Q. And then at 1555 and 1556 you have another email from 14:23
11 Ms. Argue to Linda Dewhirst, which was cc'd to Pamela
12 Armitage?

13 A. Yes.

14 843 Q. The of 7th June?

15 A. Yes. 14:23

16 844 Q. With an attached draft amended Garda notification.

17 A. Yes.

18 845 Q. Yes. And you accept that that Garda notification was
19 on the file, but you seemed to --

20 A. Yes. 14:23

21 846 Q. -- take some issue about whether or not the email was,
22 in fact, on the file, the covering email?

23 A. Yeah, I'm not sure about the email.

24 847 Q. Es. But you accept that the amended Garda
25 notification? 14:23

26 A. Yes.

27 848 Q. Draft -- it was only a draft at that stage?

28 A. Yes.

29 849 Q. And I'm not going to read all of that out,

1 Ms. McLoughlin, but do you accept that there is no
2 reference to the digital penetration allegation in
3 that?

4 A. Yes.

5 850 Q. Yes. And you didn't know at the time, as I understand 14:23
6 it, but you must know now, that that ultimately was
7 sent out in those terms on the 20th June 2014 to the
8 Gardaí, in those terms?

9 A. That's right. But I had no sight of the final draft of
10 that. 14:24

11 851 Q. Now, they're all documents, isn't that right,
12 Ms. McLoughlin --

13 A. Yes.

14 852 Q. -- that you accept were on the file when you reviewed
15 it in May 2015? 14:24

16 A. That's correct, yes.

17 853 Q. And you must agree, therefore, Ms. McLoughlin, that
18 those documents make it absolutely clear that the
19 allegation of digital penetration was incorrect and was
20 no longer a live allegation to anybody who read the 14:24
21 file and read it correctly?

22 A. Well, from my point of view, those documents set out
23 clearly what the allegations were. They don't set out
24 what the allegations were not. And I wasn't, at the
25 time of viewing those records for those that I did 14:24
26 view, I wasn't aware that there was an error in
27 relation to digital penetration, and, as I stated
28 earlier, Pamela Armitage's email was the clearest piece
29 of information on the file that I did not view and

1 regret not viewing in relation to the clarification.

2 854 Q. I understand that, Ms. McLoughlin, but if you had read
3 the file --

4 A. Yes.

5 855 Q. -- the entire file -- 14:25

6 A. Yes.

7 856 Q. -- it was clear, if from no other document --

8 A. Yeah.

9 857 Q. -- clear from Ms. Armitage's email, that the allegation
10 of digital penetration was a mistake? 14:25

11 A. Yes.

12 858 Q. And shouldn't have been included?

13 A. Yes, in the letter.

14 **CHAIRMAN:** What is your page number for that?

15 **MR. DIGNAM:** 1550. 14:25

16 **CHAIRMAN:** Thank you.

17 859 Q. **MR. DIGNAM:** So it was absolutely clear from the file,
18 if the file was read --

19 A. Yes.

20 860 Q. -- that the allegation of digital penetration was a 14:25
21 mistake?

22 A. Yes.

23 861 Q. Wasn't a correct allegation?

24 A. Yes.

25 862 Q. And therefore wasn't a live allegation at that stage? 14:25

26 A. Yes.

27 863 Q. If I could ask you then to turn to 1505,
28 Ms. McLoughlin. This is a page from your statement
29 where you say that, at the top of the page, that:

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"I believe my comment in the email was based on the social work team leader recommendation on the file that a Garda notification be forwarded in 2013."

A. Yes. 14:26

864 Q. And this is in response to a question arising from -- that was asked by the investigators --

A. Yes.

865 Q. -- about how you were able to say, when you were corresponding with Mr. Lowry and Mr. Deeney, that a Garda notification had been made in 2013? 14:26

A. Yes.

866 Q. You accept that is incorrect now?

A. That is incorrect, I accept that.

867 Q. Yes. And I think you described that as being based on a presumption that because a direction was given that a Garda notification -- 14:26

A. Yes.

868 Q. -- should be made, that it was therefore made at that time? 14:27

A. Yes.

869 Q. Does that fairly describe your position in relation to that?

A. Yes.

870 Q. Yes. Were you in a position to or are you in a position to make that presumption, because Garda notification, when a referral comes in, is almost automatic? 14:27

CHAIRMAN: In other words, what he is saying is, you

1 get an allegation of child sexual abuse to you as
2 opposed from the Gardaí.

3 A. Yes.

4 **CHAIRMAN:** Under the modern legislation, and even back
5 then, it was the practice it goes to the Garda. 14:27

6 A. Yes.

7 **CHAIRMAN:** Is that fair?

8 A. Yes, garda notification should be sent immediately.

9 **CHAIRMAN:** Yes.

10 A. Because the Gardaí have a duty to follow up in a timely 14:27
11 fashion and we have a duty to notify them in a timely
12 fashion.

13 **CHAIRMAN:** There's nothing sinister about it.

14 A. Yes.

15 **CHAIRMAN:** It simply happens. 14:27

16 A. Yes.

17 **MR. DIGNAM:** Thank you, Judge.

18 871 Q. And in fairness to you, Ms. McLoughlin, you say at page
19 251 of your interview:

20 14:27

21 *"Our practice is to notify the Gardaí even before we*
22 *have carried out any investigations into the veracity*
23 *of the allegations as it is up to the Gardaí to*
24 *investigate any criminal allegations made..."*

25 A. That's correct. 14:28

26 872 Q. *"... and to decide whether it reaches the threshold for*
27 *a prosecution."*

28 A. Yes, and we should be notifying them in a timely
29 manner.

1 873 Q. Yes. And you accept, and I think this has been
2 accepted by other witnesses, Ms. McLoughlin, if you
3 disagree you might tell us, that the letter that was
4 sent to Superintendent Cunningham on the 15th August
5 didn't constitute a Garda notification by Tusla, is 14:28
6 that fair?

7 A. No, no. It's automating to discuss the matter.

8 874 Q. Yes. Now, if I can then just turn to the conversation
9 you had, and we will finish on this, Ms. McLoughlin,
10 the conversation that you had with Sergeant Byrne. 14:28

11 A. Yes.

12 875 Q. You were asked by Mr. McGuinness in relation to a
13 letter which you received --

14 A. Yes.

15 876 Q. -- which Sergeant Byrne will say he sent to you, you 14:28
16 have no recollection of receiving that letter, but you
17 don't deny that you may have received it?

18 A. No, I accept that it was received and it may have been
19 dealt with on my behalf by my administrator.

20 877 Q. Yes. Now, Ms. McLoughlin, were you aware -- sorry, if 14:29
21 I understand it correctly, there was quite a turn-over
22 of staff in the period late 2013 into late 2014, is
23 that fair?

24 A. Yes.

25 878 Q. And I think the sequence was that Ms. McGlone was the 14:29
26 social work team leader up to January 2014?

27 A. Yes.

28 879 Q. There was then a bit of a hiatus and Ms. Argue was
29 appointed --

1 A. Yes.

2 880 Q. -- in February 2014?

3 A. Yes.

4 881 Q. She vacated the post on the 30th May 2014?

5 A. Yes. 14:29

6 882 Q. And then Ms. Carmel McAulay, I think, took over from
7 Ms. Argue, is that correct?

8 A. Yeah.

9 883 Q. And then she vacated the post, if I understand
10 correctly, in July 2014? 14:29

11 A. Yes, for Cavan, yes.

12 884 Q. Yes. And then you were appointed to the post?

13 A. Yes.

14 885 Q. When? When was that?

15 A. I was appointed to cover Cavan in July 2014 and I was 14:30
16 appointed as covering full duty intake tasks,
17 responsibilities in October for both counties.

18 886 Q. Now, were you aware of efforts being made by Sergeant
19 Byrne to arrange meetings with the relevant social team
20 leaders over that period? He tried to arrange a 14:30
21 meeting with you, isn't that right, on the basis of the
22 letter?

23 A. Yes, yes.

24 887 Q. And he will say in his evidence that he wrote an
25 identical letter, in fact, to Ms. McAulay when she 14:30
26 was -- when she took over the post?

27 A. Okay.

28 888 Q. But, in fact, didn't have a meeting with Ms. McAulay
29 because one was cancelled?

1 A. Okay.

2 889 Q. And then Ms. McAulay departed and you took over?

3 A. That's correct, yes.

4 890 Q. He was making efforts to arrange a meeting with the
5 social team -- 14:31

6 A. Yes, I fully accept that.

7 891 Q. Now, you said in relation to the meeting which you had
8 with --

9 **CHAIRMAN:** Sergeant Byrne.

10 892 Q. **MR. DIGNAM:** Sergeant Byrne, yes, in October 2015, you 14:31
11 were asked by Mr. McGuinness in relation to the
12 direction or suggestion by Mr. Lowry that you
13 coordinate with the Gardaí.

14 A. Yes.

15 893 Q. And that was in May 2015. Mr. McGuinness asked you did 14:31
16 you coordinate with the Gardaí and you responded that
17 you didn't coordinate with them at that point?

18 A. Yes.

19 894 Q. And Mr. McGuinness picked you up on that and asked at
20 what stage did you coordinate with them, and you said, 14:31
21 in response, that I believe I raised the matter with
22 Sergeant Byrne at a Garda liaison meeting --

23 A. Yes.

24 895 Q. -- in October 2015?

25 A. Yes. 14:31

26 896 Q. Now, leave aside Bailieboro being the -- whether or not
27 it was the correct district, just for the moment.

28 A. Yes.

29 897 Q. Is it your case that the conversation which you

1 describe having with Sergeant Byrne was coordination
2 with the Gardaí in relation to this case?

3 A. No. I would say it was clarification of the status of
4 the case with the Gardaí.

5 898 Q. Yes. But you put that up, in response to 14:31
6 Mr. McGuinness's question, as being the coordination
7 that you'd been directed to have with the Gardaí?

8 A. Well, I was meeting with the Gardaí, but in terms of --
9 I'm not sure what Mr. Lowry meant by 'coordinating'.

10 **CHAIRMAN:** Yes. In any event, the problem was that 14:32
11 Sergeant Byrne knew nothing?

12 A. Yes.

13 **CHAIRMAN:** And no disrespect intended.

14 A. Yes.

15 **CHAIRMAN:** But you could have taken it further and 14:32
16 said, well, who does know something --

17 A. Yes.

18 **CHAIRMAN:** -- or whatever.

19 A. Yes.

20 **CHAIRMAN:** It might be fair to concede that? 14:32
21 A. Yes.

22 899 Q. **MR. DIGNAM:** And in fairness to you, Ms. McLoughlin,
23 when you made your initial statement, I think you
24 qualified it by saying that you're not even sure
25 whether you did have a conversation with Sergeant Byrne 14:32
26 but that you subsequently checked it out with your
27 administrator --

28 A. Yes.

29 900 Q. -- and she confirmed that you had?

1 A. Yes.

2 901 Q. And you deal with that at page 1531 --

3 A. That's correct.

4 902 Q. -- of your -- which is the interview notes?

5 A. Yes. 14:32

6 903 Q. Sorry, at 1519 of your interview notes, where you say
7 in response to a question about seeking more details
8 about the Tusla garda liaison meeting and what exactly
9 what was said between you and Sergeant Byrne, you say:
10
11 *"I was not even sure, I had a vague memory that I had*
12 *asked Sergeant Tony Byrne about the status of the garda*
13 *investigation into the allegation."*
14

15 So, isn't it fair to say that that was a conversation 14:33
16 that you had at a meeting rather than coordination --

17 A. Yes.

18 904 Q. -- with the Gardaí in relation to it?

19 A. Yes. Okay, yes.

20 905 Q. Yes. And you have seen Sergeant Byrne's account -- 14:33
21 A. I have, yes.

22 906 Q. -- of how you raised that. It was at the end of the
23 meeting.

24 A. Yes.

25 907 Q. In fact, it was after his assistant had even left the 14:33
26 room. You asked him about the Sergeant McCabe case.
27 He said it predated his time. And that seems to have
28 been the end of it really, is that right?

29 A. Yes.

1 908 Q. And you didn't follow that up with a letter to him --
2 A. No.

3 909 Q. -- looking for further information?
4 A. NO.

5 910 Q. No. 14:33
6 A. I didn't.

7 911 Q. And you didn't follow it up with a letter to anybody
8 else --
9 A. No, I didn't.

10 912 Q. -- in An Garda Síochána looking for further 14:33
11 information. And in fact, Ms. McLoughlin, in dealing
12 with that liaison, those liaison meetings, you said
13 that if a case is closed to the Gardaí then it tends
14 not to be on the agenda?
15 A. That's correct. 14:34

16 913 Q. Yes. And to the best of your knowledge was the
17 Sergeant McCabe/Ms. D case ever on an agenda for a
18 garda liaison meeting that you were at?
19 A. I have no recollection that it was ever on the agenda
20 for a garda liaison meeting. 14:34

21 914 Q. And doesn't that suggest to you, Ms. McLoughlin, that
22 the case was closed to the Gardaí?
23 A. Yes, it would suggest to me that. Yes.

24 915 Q. And then finally, Ms. McLoughlin, on -- sorry, just two
25 more questions, Ms. McLoughlin. On page 34, in giving 14:34
26 your evidence today you said that you told Ms. D when
27 you spoke to her in May 2015 that the case hadn't been
28 dealt with in '06/'07. Now that can only mean that
29 Tusla --

1 A. Yes.

2 916 Q. -- /HSE hadn't dealt with it?

3 A. Yes.

4 917 Q. Because the Gardaí had fully dealt with it?

5 A. Yes. 14:35

6 918 Q. Yeah. And they had brought it to the stage of
7 directions from the DPP?

8 A. Yes.

9 919 Q. Now finally, Ms. McLoughlin, you were asked by
10 Mr. McDowell whether it would be unusual for someone to 14:35
11 give a direction in relation to a file without opening
12 the file, and I think you said yes, it is unusual.

13 A. Yes.

14 920 Q. In fact, in the context of what we know about what 14:35
15 happened here, where there was a litany of mistakes one
16 after the other, and in fact where you took action on a
17 file without reading the whole file --

18 A. Yes.

19 921 Q. -- I have to put it to you that it doesn't seem to be 14:35
20 that unusual in the context of the way this case was
21 handled?

22 A. Well, I can't account for whether --

23 **CHAIRMAN:** well, yeah. I mean the other thing is: I'm
24 not sure we've identified any other files with this
25 kind of error in it. 14:35

26 **MR. DIGNAM:** No, I appreciate that.

27 **CHAIRMAN:** I mean, people skipping through files, or
28 however, I don't know usual or unusual that is in this
29 circumstance.

1 **MR. DIGNAM:** No, but I think it is important because
2 what Mr. McDowell I think was playing around the edges,
3 Judge, with and in fact the Tribunal --

4 **CHAIRMAN:** well, you can get to the point. I don't
5 mind, Mr. Dignam. I'm not trying to stop you, you 14:36
6 know.

7 **MR. DIGNAM:** Yes.

8 922 Q. Ms. McLoughlin, and I don't want speak to for
9 Mr. McDowell but what he appeared to be suggesting was
10 that there was something unusual, and I read from that 14:36
11 something sinister, about what was going on in certain
12 actions being taken. Was there any direction or
13 influence or other agenda going on when you made your
14 mistakes in relation to this file?

15 **CHAIRMAN:** In other words, it's the same question 14:36
16 again --

17 A. Yes.

18 **CHAIRMAN:** -- were you the puppet of the Gardaí in
19 relation to anything?

20 A. No, no, no. I have a duty of care to all clients who 14:36
21 come on my desk and if I felt I was in some way biased
22 or even very acquainted with somebody I wouldn't deal
23 with the case. I have no agenda, and nor was I aware
24 of any agenda. And I can't account for Ms. Argue's
25 reading of the file also. 14:36

26 **MR. DIGNAM:** Thank you.

27

28 **MS. KAY MCGLOUGHLIN WAS THEN RE-EXAMINED BY**

29 **MR. MCGUINNESS:**

1 923 Q. **MR. MCGUINNESS:** Thank you, Ms. McLoughlin, just one
2 further issue before we release you. Could I ask you
3 to look at one document at page 2319? It's an undated
4 case review form. Now, you may recall we looked at a
5 signed and dated case review form earlier in May 2015. 14:37
6 A. Yes.

7 924 Q. Signed by Mr. Deeney. This is a different case review
8 form and it's on the Sergeant McCabe file. And it's
9 preceded in the file that we got by the SART review and
10 the SART audit, which date from later. So they 14:37
11 couldn't have been on the file when you first reviewed
12 it in 2015, they both date from 2016. Now I should say
13 for the record that this is referred to in our index to
14 volume 2, at page 3 of the index, as dated 2/8/2013,
15 but I think you will see from this file there's no date 14:38
16 on it at all.

17 A. Yeah.

18 925 Q. That's the case reference number at the top --

19 A. Yes.

20 926 Q. -- isn't that correct? 14:38
21 A. Em...

22 927 Q. Now Ms. Murphy --

23 A. Yes.

24 928 Q. Ms. Murphy was asked about this, and it's not her
25 handwriting and she wasn't able to identify it, it 14:38
26 doesn't seem to me, from the samples of your
27 handwriting --

28 A. No.

29 929 Q. -- that it is your handwriting on the document?

1 A. No, it's not.

2 930 Q. It doesn't look like Ms. Argue's handwriting to me, but
3 would you be in a position to identify whose
4 handwriting it is?

5 A. It's not Ms. Argue's handwriting, because she has very 14:38
6 tiny writing.

7 931 Q. Yes. It seems to have come into existence some time
8 after the corrected garda notification was sent and we
9 know that that was signed by Mr. Deeney on the 10th
10 June, sent to the Guards on the 20th June or 14:38
11 thereabouts, so it appears to date from some date post
12 the middle of June. Now it says: *"Activities/services*
13 *provided. Garda notification corrected in May '14 due*
14 *from misinformation from Rian."*

15 A. Yes. 14:39

16 932 Q. *"Query regarding files for his children."*
17

18 Now obviously if it is post June 2014, Ms. Connolly had
19 already opened the files for the intake records.
20 Although no files were actually created for 14:39
21 Mr. McCabe's children.

22 A. Yes.

23 933 Q. But, can you recollect anyone raising a query over the
24 opening of the files for his children or whether it was
25 intended to open files in fact? 14:39

26 A. I can't remember anything in relation to this.

27 934 Q. All right. It says under the heading:
28 *"Social Worker's Recommendations:*
29 *1. Awaiting allocation.*

1 **CHAIRMAN:** Thank you for your help, Ms. McLoughlin.

2 **MS. MCLOUGHLIN:** Thank you.

3 **CHAIRMAN:** All right. well, I think there is just one
4 more thing that I need to mention, and that is this:
5 There is an issue in relation to privacy and Ms. D and 14:40
6 to what extent that is to be protected, and by whom and
7 in what circumstances. That includes obviously press
8 and photographers. Now I don't want to make an order
9 which is going to cause trouble for people, especially
10 if it ever have to be enforced. without hearing the 14:41
11 relevant parties. The relevant parties would clearly
12 be counsel for the Tribunal and I don't know if anyone
13 else would take an interest. I mean, if the newspapers
14 wish to make a submission on this, I'm happy to hear a
15 submission, by which I mean media organisation. But I 14:41
16 don't want to hear the same submission 15 times in a
17 row. So Mr. McGuinness, have you any suggestion?

18 **MR. MCGUINNESS:** well. I know counsel --

19 **CHAIRMAN:** Sorry, you might like to sit down now.

20 **MS. MCLOUGHLIN:** I'm okay. 14:41

21 **CHAIRMAN:** Fine, if you are happy there.

22 **MR. MCGUINNESS:** I know counsel for Ms. D is here and I
23 am sure he would wish to be heard and he might lead off
24 on the matter. And counsel for Sergeant McCabe might
25 have a view to express. 14:41

26 **CHAIRMAN:** well, do you think you will have a view?
27 You can think about it overnight.

28 **MR. MCDOWELL:** I thought it was going to be dealt with
29 tomorrow, Judge.

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CHAIRMAN: What?

MR. McDOWELL: My understanding was --

CHAIRMAN: No, I'm just trying to see who is going to be making a submission, Mr. McDowell, I'm not asking for a submission now. In fact, we might sit at nine o'clock to hear this, because we're losing a bit of time. Traffic is light. Is there any newspaper, I mean media organisation that wants to make a submission about this? I mean, I'm inviting it because it's advisable given that it's going to be against media. well, have I put you on fair warning, in which case you can make a submission tomorrow if you want, you don't have to send in any letter or anything. I don't know who is nodding or not nodding but we will have to leave it at that. All right. So it's going to be nine in the morning I'm afraid.

14:42

14:42

14:42

THE HEARING THEN ADJOURNED UNTIL THURSDAY, 13TH JULY 2017 AT 9:00AM

'**05** [1] - 53:11
'**06/07** [1] - 160:28
'**13** [1] - 56:9
'**14** [2] - 56:1, 164:13
'**16** [2] - 125:12, 125:13
'**look** [1] - 34:27
'**possibly**' [1] - 142:1
'**re** [2] - 80:12, 86:15
'**re-referral**' [1] - 86:15
'**re-referred**' [1] - 80:12
'**that** [1] - 149:7

/

/HSE [1] - 161:2

1

1 [5] - 33:8, 35:10, 101:13, 133:28, 164:29
10th [2] - 75:24, 164:9
1113 [1] - 69:24
11:05 [1] - 149:14
12TH [2] - 1:18, 5:1
12th [5] - 78:19, 79:4, 79:29, 89:27, 90:26
13/4/14 [1] - 57:27
13TH [1] - 167:18
14/5 [1] - 58:5
14/5/14 [1] - 58:8
14/5/16 [1] - 56:29
144 [1] - 4:6
1476 [2] - 146:17, 146:21
14th [4] - 13:12, 14:3, 149:14, 149:22
15 [1] - 166:16
1505 [1] - 152:27
1506 [1] - 148:17
1519 [1] - 159:6
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1531 [1] - 159:2
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1548 [2] - 148:5, 148:7
1550 [2] - 148:11, 152:15
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1562 [1] - 29:5
1563 [1] - 31:4
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15th [6] - 14:12, 37:25, 89:26, 126:1, 130:1, 155:4
16 [1] - 1:6
1603 [1] - 54:4
1608 [1] - 60:16
1611 [1] - 62:25
1613 [1] - 63:17
1616 [1] - 65:2
1617 [1] - 68:1
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1621 [1] - 68:7
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17 [1] - 1:10
19 [1] - 15:4
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