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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 FRIDAY, 14TH JULY 2017 - DAY 9

9

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1 THE HEARING RESUMED, AS FOLLOWS, ON FRIDAY, 14TH JULY
2 2017:

3
4 **MR. MCGUINNESS:** Sir, we are continuing with the
5 evidence today of Ms. Clair Tobin. 10:01

6
7 MS. CLAIR TOBIN CONTINUED TO BE DIRECTLY EXAMINED BY
8 MR. MCGUINNESS:

9
10 1 Q. **MR. MCGUINNESS:** Thank you, Ms. Tobin. Yesterday I was 10:01
11 asking you about when you commenced your review of the
12 file.

13 A. Yes.

14 2 Q. And I think at that stage you had told me that, just 10:01
15 quoting your answer here "*Review is, like, social work*
16 *speak. So when I get the file my practice would be to*
17 *read the file, to look at what information is on the*
18 *file and that would be relevant in terms of my work*
19 *going forward. I suppose it's an undocumented review.*
20 *So it's to take note of what information is on file."* 10:01

21
22 Just arising out of that, we were talking about August
23 at that time, but did you take the file away with you
24 in August?

25 A. From? The file was in our office in the Nexus Building 10:02
26 in Blanchardstown at that time, yes.

27 3 Q. Okay. But I had understood you to be describing and
28 talking firstly about a meeting that you had with
29 Mr. Cunningham, where he showed you the files in the

1 Cavan office, am I mistaken about that?

2 A. No, no. That's correct. We would have met with
3 Michael to go through some of the cases on that date, I
4 think it was 28th June, and at that point we would have
5 reviewed some of the files on site and taken away what 10:02
6 we had gone through with Michael to review the rest of
7 the files.

8 4 Q. Okay. And did you take away the Maurice McCabe file?
9 A. We did, yes.

10 5 Q. And did you take away the Ms. D file? 10:03
11 A. No, we didn't.

12 6 Q. Did you ever take possession of the Ms. D file and
13 bring it to Blanchardstown or anywhere else for the
14 purpose of your review?

15 A. No. We would have read through it on the day that we 10:03
16 were there. Any ex-reference files we would have gone
17 through on that day.

18 7 Q. Okay.
19 A. They weren't our business. It wasn't our role to have
20 those files on our site. 10:03

21 8 Q. Okay. And just to be clear then, you didn't go to
22 Monaghan and do a similar review of the CSA file that
23 related to Ms. D there?

24 A. No.

25 9 Q. And you never saw that? 10:03
26 A. No.

27 10 Q. Okay. And perhaps there may be some confusion about
28 the nature of your review, so I'm just keen to clear
29 that up. Did you, on the day that you reviewed the

1 Ms. D file, did you take note of what was on it?

2 A. The audit form I spoke about yesterday, that was
3 furnished in some of the documents, Chairman, I think
4 they were in Volume 9, it was were the files had been
5 copied, there's a handwritten document audit and I 10:04
6 think I raised a few queries in terms of Ms. D's file
7 there, in terms of perhaps a credibility assessment not
8 being on file. There just being a plain
9 straightforward no prosecution from the DPP, sometimes
10 I suppose we would ask for further clarification around 10:04
11 that from the Gardaí as to what the reason for the no
12 prosecution was. There were a couple of other things
13 on that audit file.

14 11 Q. Yes. We will come to that. And that's on the Maurice
15 McCabe file? 10:04

16 A. That's correct, yes.

17 12 Q. Okay. We will come to that, obviously. Another
18 important question: did you -- I quoted the last
19 answer to you here, you say "*So it's to take note of*
20 *what information is on file*". Did you document what 10:05
21 was on the Maurice McCabe file when you received it
22 from Cavan?

23 A. Well, when I reviewed it on the day that I was
24 allocated to it, I wouldn't have documented exactly
25 what was there, but I would have taken note of it in 10:05
26 terms of when I read through the file, what was there.

27 13 Q. Okay. It's just yesterday you made reference to some
28 documents that you hadn't seen?

29 A. Yes, that's correct.

1 14 Q. Which now appear to be on the file?
2 A. That's correct, yes.
3 15 Q. And can you account for that in any respect?
4 A. I can't, no.
5 16 Q. When you're conducting an audit or a review, would it 10:05
6 not be commonplace to make an immediate contemporaneous
7 note of what you have been given, as it were, document
8 by document?
9 A. I suppose within social work departments the standard
10 practice is if you are aware that a file is going to be 10:06
11 transferred out of your office and you're aware that
12 another team is going to be taking over, you ensure
13 that everything is on file. The teams that we would
14 have visited would have been aware that we were coming
15 to take the files, so we would make sure that the files 10:06
16 were up-to-date, that everything is on file, so we
17 would have trusted that everything that should be on
18 file was on file.
19 17 Q. Okay.
20 A. So to answer your question in terms of would we 10:06
21 document it, clearly no.
22 18 Q. So obviously best practice would be an expectation
23 based upon an instruction, perhaps, that everything
24 should be on the file?
25 A. Definitely, yes. 10:06
26 19 Q. And then obviously you made them aware that you were
27 going to be looking at this file and you expected that
28 they would have everything on the file that was
29 relevant?

1 A. That's correct, yes.

2 20 Q. Okay. Now we had -- at the time the Tribunal rose
3 yesterday, I had been asking you about a note, which
4 was a handwritten note on the Ms. D file. It's to be
5 found at page 256, and it preceded the minutes of the 10:07
6 meeting that we looked at yesterday of the 21st April
7 2007, where it was recorded on the case management
8 meeting that there was no prosecution as a result of
9 the file having been sent to the DPP. But this is a
10 handwritten note, we think it's from Ms. Emer O'Neill. 10:07
11 I hope it's on screen there.

12 A. Yes, it is.

13 21 Q. And it's dated 24/4/07, and the fourth line down it
14 says:
15
16 *"4:15 phoned Ms. D. Mrs. D said that Garda Inspector
17 Noel Cunningham called out to their house today,
18 informed herself and Mr. D that DPP have come back and
19 said there would be no prosecution in relation to
20 Ms. D's statement she made in relation to Maurice 10:08
21 McCabe. Reason/explanation according to Mrs. D -
22 statement not enough for criminal prosecution."*
23

24 Then she is quoted as making a comment there. But do I
25 understand that you never saw this? 10:08

26 A. I don't recall seeing that, no.

27 22 Q. Okay. It appears, therefore, it's twice in the file,
28 in which it's noted the DPP's decision, and does that
29 affect your view as to the correctness of the review

1 that you had engaged in?

2 A. I suppose in my review I -- like, if it's on the file
3 and I didn't see it, that explains why I have in my
4 review that we didn't see, or I didn't see that a
5 criminal offence had not taken place, but I don't 10:08
6 recall seeing that. I would have recorded on the audit
7 that that was the purpose of doing it, but if it was on
8 the file I missed it.

9 23 Q. All right. And in terms of the purpose of your review,
10 I was asking about this yesterday, you may recall, and 10:09
11 I think you want to clarify perhaps what the purpose of
12 the review was?

13 A. Yeah. My sense from the Tribunal is that mine was a
14 formal internal review of everything that had gone
15 wrong. I suppose the role of SART was to look at how 10:09
16 the case had been managed in terms of assessing the
17 allegations. So the review was to look at what had
18 happened in terms of how the case had been managed by
19 the Cavan team in line with our Section 3 policies in
20 responding to allegations. It wasn't to look at the 10:09
21 overarching picture in terms of everything that had or
22 hadn't been done by staff, looking at staff issues or
23 personnel issues.

24 24 Q. Yes.

25 A. If that makes sense. 10:09

26 25 Q. Yeah.

27 A. I know there is an internal review that's been directed
28 by Jim Gibson, as far as I'm aware, and that would be
29 the more formal review for somebody to do that is more

1 experienced than me.

2 26 Q. Yes, yes. And is that concluded?

3 A. I don't know. Linda Creamer, the service director,
4 will be able to answer to that, Chairman.

5 27 Q. Yes. She will be giving evidence today. So obviously, 10:10
6 on the one hand, there is a wide variety of different
7 processes that can happen in relation to any
8 particular -- I mean, you obviously weren't conducting
9 a disciplinary review?

10 A. No, no. 10:10

11 28 Q. You weren't conducting a file management review?

12 A. No, no.

13 29 Q. You weren't conducting a look-back sort of
14 retrospective inquiry into what errors have been made
15 or how they could have been avoided. You were looking 10:10
16 at it from the point of view of progressing an
17 unallocated retrospective disclosure case?

18 A. That's correct, yes.

19 30 Q. And nothing more?

20 A. That's correct, yes. And I suppose the purpose of it 10:10
21 was trying to identify how the social worker managed to
22 get to a point of sending a letter to Maurice McCabe
23 with the wrong information in it, given the information
24 that was on file.

25 31 Q. Or ought to perhaps have been on file? 10:11

26 A. That's correct.

27 32 Q. So, I mean, it follows from that, that whatever
28 conclusion you come to wasn't designed to either reveal
29 or conceal any errors that weren't relevant to your

1 review about progressing the unallocated case in this
2 instance?

3 A. No.

4 33 Q. Well, perhaps we could have a look at the file as the
5 Tribunal had received the full file in the form in 10:11
6 which it was in, in this year. Could we go to, it's in
7 volume 9, it's 2016 edition of the file, if I could put
8 it that way, commencing at 2309. I hope you see that
9 on the screen there?

10 A. Not just yet. The wrong number is on -- 10:12

11 34 Q. 2307, I beg your pardon, perhaps. That's the file
12 cover, is that correct?

13 A. My recollection is that the cover was a pink file, but
14 I can't be a hundred percent sure on that, we did take
15 a lot of files, but it is quite possible that it was 10:12
16 blue.

17 35 Q. Okay. The next page was stapled to the inside of the
18 cover. It's got only the details recorded on top
19 there. Was that of any concern to you in your review?

20 A. No. 10:12

21 36 Q. Okay. The next page is 2309 and I think this is your
22 review?

23 A. That's correct, yes.

24 37 Q. Signed off by your team leader?

25 A. Yeah. 10:13

26 38 Q. Perhaps we'd look at that. It states at the top that
27 it has a two-fold purpose, in fact, in this case. It's
28 to assist the legal in their response to McCabe's legal
29 team and outline how the case has been managed since

1 re-opening.

2 A. Mm-hmm.

3 39 Q. And just in terms of the referral to the legal team,
4 did you conduct any interviews or consult formally or
5 otherwise with anyone who had dealt with the file? 10:13

6 A. No.

7 40 Q. Okay. It's not immediately clear when the first
8 contact made by, as it were, management in Cavan was
9 with a legal team or otherwise, but did you consider
10 the speediness of the response of local management to 10:14
11 Mr. McCabe's solicitors as an issue for you at all?

12 A. Most definitely, yes.

13 41 Q. Can you help the Tribunal in terms of the file relating
14 to Sergeant McCabe? When was the first contact made by
15 management, as it were, with the legal side of Tusla, 10:14
16 to seek assistance or otherwise, without going into any
17 advice?

18 A. My understanding is that when we took files from the
19 local areas our -- my team leader, Lisa O'Loughlin,
20 arranged a sit-down meeting with our legal 10:14
21 representative, Tara Downes, to go through and address
22 some of the issues that she had noticed on file, to get
23 her advice. It was very early stages of us setting up
24 this team and getting our heads around the policy and
25 how we should be implementing it. I think there's a 10:15
26 note on the file. That meeting might have taken place
27 around the end of July, is my understanding.

28 42 Q. Okay.

29 A. I can't recall exactly the date.

1 43 Q. All right. Anyway, it's several months, obviously,
2 after Mr. Costello's first letter?
3 A. That's correct, yes.

4 44 Q. Okay. And you say:
5
6 *"On reviewing the file that led to --" sorry, just go*
7 *back to the first sentence, you use the word*
8 *"re-opening" there.*
9 A. That's correct, yes.

10 45 Q. What did you mean in that sense? 10:15
11 A. Well, the allegation had come forward and was brought
12 to the attention of the HSE Social Work Department back
13 in 2006, so, to me, it was re-opening that issue again.

14 46 Q. Okay.
15 A. Because there was no new information in terms of what 10:15
16 had been said in 2006, according to the referral that
17 was correct, that came in.

18 47 Q. Yeah. So, I mean, it just raises two questions. Was
19 it part of your review to determine whether a file
20 should have been opened on Mr. McCabe or Sergeant 10:16
21 McCabe back in 2006? Because are you referring to the
22 re-opening of Ms. D's case and her file, or are you
23 implying that a file should have been created back in
24 2006 in relation to Sergeant McCabe?

25 A. Like, I'm not implying that the file should never have 10:16
26 been opened back in 2006. What it is is that the
27 matter concerning the allegation was re-opening,
28 Chairman, and that, to me, to my recollection, Maurice
29 McCabe had never been approached or didn't know

1 anything about it. I don't know -- I don't know, I
2 don't think a file was open on him back in 2006.

3 48 Q. Yes.

4 A. The man was never approached in terms of the
5 allegations that were made then. So, I suppose, 10:16
6 managed -- you know, probably since the matter
7 re-opening, probably could have been a better turn of
8 phrase.

9 49 Q. Yeah. You see, that's what I am wondering. Obviously
10 the file was actually created in relation to 10:17
11 Sergeant McCabe in 2013, and you're not referring to
12 the re-opening of any part of that file at different
13 stages between then and 2016?

14 A. No, no.

15 50 Q. There's no suggestion it was closed at any stage in 10:17
16 that period, and it wasn't closed until after your
17 review, isn't that correct?

18 A. The 2013 file?

19 51 Q. Yes.

20 A. It was never closed, no evidence on the file that it 10:17
21 had closed.

22 52 Q. The bullet-points that you say were established. You
23 say:

24

25 *"with regard to the allegation made by Ms. D in 2006,* 10:17
26 *the HSE Social Work Department at that time did not*
27 *complete a child protection investigation into the*
28 *allegations made by Ms. D."*

29

1 was that your view of the state of affairs as you found
2 it?

3 A. Yeah, that's correct. A child protection investigation
4 would gather information from all relevant parties,
5 being the person who is making the allegations -- 10:18

6 53 Q. Okay.

7 A. -- and those --

8 54 Q. But is it clear from what you said to me that you
9 reached that conclusion without either taking away
10 Ms. D's file, the '05 file, and without taking away the 10:18
11 CSA file and never reviewing it?

12 A. Well, I had viewed Ms. D's file and had seen that it
13 had closed and seen that Mr. Maurice McCabe had never
14 been contacted in relation to the allegations, so that
15 is not a complete child protection investigation, in my 10:18
16 view.

17 55 Q. Yeah. It's just I am concerned to understand how you
18 think you could establish that without, in fact, having
19 seen the CSA file, taken possession of it or even
20 reviewing it? 10:18

21 A. I didn't know that file existed.

22 56 Q. Sorry, okay. And Mr. Cunningham or Mr. Lowry never
23 drew your attention to that?

24 A. Sorry, Chairman, my screen has gone blank.

25 57 Q. Perhaps if we get that back. 2309. 10:18

26 **CHAIRMAN:** Is volume 9 there in front of you?

27 A. Yeah.

28 **MR. MCGUINNESS:** If you would prefer to follow it on
29 paper.

1 A. Yeah, it might be easier, thanks.

2 58 Q. Please do so. It's two-thirds of the way into the
3 volume, 2309. The second sentence in the bullet-point
4 then:

5 10:19

6 *"There is no evidence on the file to indicate that they*
7 *met with Mr. McCabe to discuss what had been alleged*
8 *and to subsequently give him an opportunity to respond*
9 *to what had been alleged."*

10 10:19

11 And I think that is factually correct?

12 A. That's correct, yes.

13 59 Q. But isn't it also correct to acknowledge that there
14 was, in fact, no evidence on file that there were any
15 child protection concerns made known by the HSE to
16 Sergeant McCabe at that point in time?

17 10:20

17 A. That's correct, yes.

18 60 Q. Or indeed until he received the letter from
19 Ms. McLoughlin in early January 2016?

20 10:20

20 A. That's correct, yes.

21 61 Q. The next bullet-point:

22 10:20

23 *"A standard report was then received by the Child and*
24 *Family Agency in August 2013 which outlined allegations*
25 *made by Ms. D of historical child sexual abuse. It*
26 *would appear from the file the case remained on a*
27 *waiting list unallocated following that referral."*

28 10:20

29 Now, are you referring to the written report there?

1 A. The written report by Ms. Brophy?

2 62 Q. Yes.

3 A. Yes.

4 63 Q. You seem to be, as it were, I don't mean gliding over
5 it, but you haven't drawn a distinction between what 10:20
6 was in fact her report as made to Ms. Tinnelly and as
7 corrected at that stage. You do go on to refer to it.
8 But you do say in the next bullet-point:
9

10 *"The referral made in 2013 contained information that 10:21*
11 *was not correct and which was subsequently amended by*
12 *the referral made in 2014 and forwarded for the*
13 *attention of the Social Work Department. Accordingly,*
14 *the case remained unallocated."*

15 10:21

16 Can I just raise this issue with you: You've seen the
17 intake form signed off by Ms. McGlone on the 9th
18 August?

19 A. Yeah.

20 64 Q. And she put *"Duty to notify query previously known"*. 10:21
21 Was it part of your function to consider whether the
22 issue of duty notifying the guards should ever have
23 arisen at all?

24 A. I think I recall saying yesterday there was no Garda
25 notification on file, so I would expect if a Garda 10:22
26 notification had been made, that that would be on file,
27 particularly in a case like this where the allegation
28 is made against a garda, I think it's something that we
29 need to deal with sensitively and my understanding from

1 the file was that a decision perhaps had been made in
2 the meantime, that wasn't documented on the file, not
3 to proceed with a Garda notification, because that's
4 dissemination of information to an employer before
5 somebody has even an opportunity to respond to the 10:22
6 allegation that is made.

7 65 Q. Yes. But I'm perhaps asking you to address a different
8 issue. If, as you make clear in bullet-point 2, that
9 it contained allegations of historical child sexual
10 abuse and if the Gardaí had previously notified the HSE 10:23
11 of that and if the Gardaí had investigated from the
12 point of view of their concerns to a conclusion, that
13 there would be no prosecution, would you agree that
14 there was no obligation or need to refer the matter to
15 them at all? 10:23

16 A. Oh, I'd agree, yes.

17 66 Q. Your third bullet-point is:

18
19 *"The file was reviewed on the 7th May 2015. A decision*
20 *was made to respond to the referral received in line 10:23*
21 *with the aforementioned policy. This led to*
22 *Ms. McLoughlin's correspondence to Mr. McCabe on 29th*
23 *December 2015."*

24
25 Now, we'll come back to it obviously when we look at 10:23
26 the later documents, but you make no reference at all
27 to any of the draft Garda notifications or to the
28 signed one that is on this file that was sent, which
29 was erroneous. Were you aware of any attempt to or

1 draft that was produced in order to notify the guards
2 on the basis of the erroneous complaint?

3 A. I was aware from the intake form and I think there
4 perhaps was a draft that was unsigned that contained
5 wrong information, that possibly was on file. But 10:24
6 there was no signature, there was no date on it, but
7 there was no other Garda notifications on file.

8 67 Q. But just we will come to the actual document in a
9 minute, but did you not see a version that was, in
10 fact, signed by Mr. Deeney and seems to have been dated 10:24
11 2nd May?

12 A. For the purposes of this Tribunal I have seen it, but I
13 didn't see it at that time.

14 68 Q. And are you saying it wasn't on the file?

15 A. I am, yes. 10:24

16 69 Q. Have you concerned yourself about how it came to be on
17 the file then as presented to the Tribunal or when it
18 came back on the file or where it was?

19 A. We would send the files back to the local areas for
20 archiving, and I note that there's a Freedom of 10:25
21 Information request, so perhaps the file, anything that
22 was relevant to the file was put on it at that point.
23 I can't -- I can't answer that question.

24 70 Q. Okay.

25 A. I don't know. 10:25

26 71 Q. Well, I mean, I am concerned to establish did you, in
27 fact, send the file back from your office to Cavan?

28 A. We did, yes.

29 72 Q. And do you know when that was done?

1 A. It would have been after we made a decision to close
2 the file, in September.

3 73 Q. So it's after September 2016. The next bullet-point:
4

5 *"There is no evidence on file to indicate Ms. D was met 10:25*
6 *with by the Social Work Department to corroborate the*
7 *information received in 2013 and subsequently amended*
8 *in 2014. Ms. McLoughlin's letter to Mr. McCabe*
9 *detailed information that was contained in the initial*
10 *referral in 2013. It is not clear whether 10:26*
11 *Ms. McLoughlin relied on that referral information as*
12 *opposed to the amended information sent in 2014. It is*
13 *also not clear why a decision to proceed with the*
14 *allegation was made without cooperation and*
15 *corroboration of the alleged victim and without having 10:26*
16 *formed some opinion with regard to the credibility of*
17 *the allegation that was referred."*

18
19 Now, in terms of your review, you have said it is not
20 clear whether Ms. McLoughlin relied on that as opposed 10:26
21 to the amended information. Did you not consider if
22 this was a mystery or something that lacked clarity,
23 that you should perhaps speak to her and find out how
24 she had included that, in fairness to her?

25 A. My team leader, I don't know if she spoke with 10:26
26 Ms. McLoughlin, but I didn't.

27 74 Q. Okay.

28 A. If you are making a decision to proceed, you document
29 it on the file.

1 75 Q. Okay. Another matter you don't appear to deal with,
2 certainly insofar as the sequence in here is set out or
3 I think at all, is the issue of the intake forms that
4 Laura Connolly created in relation to the McCabe
5 children. Were they on the file when you got it? 10:27
6 A. I believe they were, yes.

7 76 Q. And is there any reason why you don't refer to it in
8 your review?
9 A. Well, they don't concern what our role was in terms of
10 the allegation and what we were trying to update in 10:27
11 terms of how the wrong information -- it was a separate
12 issue, I suppose, in terms of the intakes being made,
13 but it wouldn't be unusual to see intakes where
14 allegations of a historical nature are made. I'm not
15 saying it is correct, but it is not unusual to see them 10:28
16 on a file.

17 77 Q. Yeah. I'm not at this moment questioning the issue as
18 to whether they should have been created, but were they
19 not within the scope of your review? Because you're
20 deciding whether and in what manner this unallocated 10:28
21 case should be progressed at the time you get it, isn't
22 that right?
23 A. With regard to the allegation that has been made, yes.

24 78 Q. Yes. And the whole point of it is in the context of
25 child protection concerns? 10:28
26 A. That's correct, yes.

27 79 Q. And in that context, therefore, why do you not include
28 reference to the four intake forms?
29 A. The intake forms are -- my understanding is, the

1 purpose is for just recording basic information that
2 has come in. It would only be at the end of a Section
3 3 assessment that you would make a decision as to
4 whether, or possibly halfway through a Section 3
5 assessment if you become concerned, but with the 10:28
6 information that's on the intake form, you don't
7 proceed with an initial assessment, or you don't open a
8 file, if that makes sense --

9 80 Q. Yes, well I was going to --

10 A. -- in terms of -- 10:29

11 81 Q. -- explore that issue with you. Is it a sort of
12 provisional decision that this may need to be looked
13 at, depending upon the initial assess.

14 A. That's my understanding, yes.

15 82 Q. And is that your understanding of why it might -- those 10:29
16 forms were never in fact signed off by a team leader?

17 A. Possibly, I don't know.

18 83 Q. Okay. Was that within the scope of your review, to try
19 and see what the status of those intake forms were and
20 why they hadn't been progressed in the context of child 10:29
21 protection?

22 A. What we're doing from SART is managing the Section 3
23 assessment and we're very clear with the duty intake
24 teams that they would need to take responsibility for
25 any child protection concerns that are identified 10:29
26 throughout our assessment. So when a case progresses
27 or if there are any concerns, we would feed back to
28 that duty team. At this point, it was not relevant to
29 consider the intake forms.

1 84 Q. Okay. It says:
2
3 *"while it has been presented as information of*
4 *significance from the correspondence of Mr. Séan*
5 *Costello dated 28th January 2015, most likely a typo,* 10:30
6 *meant to be 2016 given the timeline, the DPP directed*
7 *no prosecution and the DPP clearly stated that no*
8 *criminal offence had been described or disclosed*
9 *referring to the allegation made by Ms. D in 2006.*
10 *There is no evidence on file that this information was* 10:30
11 *communicated to the HSE Social Work Department at that*
12 *time by An Garda Síochána. Withstanding that, the HSE*
13 *will continue to have a statutory duty under the*
14 *Children First policy to investigate all allegations of*
15 *child abuse referred to its department."* 10:30
16
17 Again, is that premised upon your understanding that
18 they were never told that there would be no
19 prosecution?
20 A. Sorry, can you say that again? 10:31
21 85 Q. I'm sorry. You're saying there's no evidence on the
22 file that this information was communicated to the HSE,
23 that there would be no prosecution, but I think you're
24 accepting that's not correct?
25 A. Yeah, the specifics in terms of my understanding -- I 10:31
26 didn't see that, that no criminal offence had been
27 described or disclosed. I suppose that's important
28 information for us to consider when we're conducting a
29 Section 3 assessment.

1 86 Q. Okay.

2 A. So I was aware that there was no prosecution, because
3 that's quite clearly documented in the first audit I
4 would have done on the file, but that detail in terms
5 of clearly stated that no criminal offence had been 10:31
6 described --

7 **CHAIRMAN:** I am just wondering about that, Ms. Tobin,
8 because, I mean, I have been told earlier on that even
9 noncontact sexual abuse has to be investigated.

10 A. That's correct, yes. 10:31

11 **CHAIRMAN:** well, it's not a criminal offence, as far as
12 I know, to show a child a pornography film.

13 A. That's correct, yes.

14 **CHAIRMAN:** well, that, nonetheless, has to be
15 investigated. 10:32

16 A. And I suppose that is why I went on to say withstanding
17 that, that we would have to investigate any child
18 protection concerns that come to our attention,
19 Chairman.

20 **CHAIRMAN:** And is that a different thing? 10:32

21 A. With regard --

22 **CHAIRMAN:** Child protection concern is different to the
23 commission of a criminal offence?

24 A. Yes.

25 **CHAIRMAN:** well, they can be the same, usually are, you 10:32
26 are saying, but there can be situations where the child
27 protection concern without a criminal offence?

28 A. Yes, that's correct Chairman.

29 87 Q. **MR. MCGUINNESS:** It's just having regard to the state

1 of your knowledge at the time of your review, you don't
2 appear to have taken any step to communicate with the
3 Gardaí in relation to the basis of the DPP's decision,
4 is that right?

5 A. That's correct, yes. 10:32

6 88 Q. Is there any reason then why you didn't do that in the
7 state of your knowledge at the time?

8 A. There's no reason, no.

9 89 Q. Okay. The next bullet-point, you say:

10 10:32

11 *"It is important to note at this point that a Garda*
12 *investigation and a child protection investigation are*
13 *two separate investigations, although both agencies*
14 *work collaboratively in responding to allegations of*
15 *child abuse. The outcome of one agency's investigation* 10:33
16 *does not dictate the outcome of the other agency's*
17 *investigation. In summary, it is clear that Mr. McCabe*
18 *was not afforded fair procedures with regard to the*
19 *allegation made by Ms. D initially in 2006 and which*
20 *was re-referred to the Social Work Department in 2013* 10:33
21 *as a result of a standard reporting procedure."*

22

23 And I take it you'd accept that that conclusion, that's
24 the responsibility, wholly, of the HSE?

25 A. That's correct, yes. 10:33

26 90 Q. *"The Child and Family Agency under Children First had a*
27 *duty to respond appropriately to all allegations of*
28 *child abuse received into its department, current and*
29 *historical. While it was appropriate to respond to the*

1 concerns that were referred in 2013, given that they
2 were not previously addressed by the HSE Social Work
3 Department, this is an assessment that should have been
4 completed in 2006/2007 when the allegation was first
5 made. The file does not present any evidence of a 10:34
6 credibility assessment with regard to the allegation
7 made in 2006/2007. This should be completed prior to
8 any contact being made with Mr. McCabe in December
9 2015. The case was reviewed by the Sexual Abuse
10 Regional Team in Dublin Northeast which was established 10:34
11 in April 2016 under responsibility for retrospective
12 child sexual abuse cases. The Sexual Abuse Regional
13 Team offered Ms. D an appointment to meet a member of
14 the Sexual Abuse Regional Team to discuss the
15 allegation made." 10:34

16
17 And I think that was part of your responsibility?

18 A. That's correct, yes.

19 91 Q. "The purpose of the meeting was to corroborate the
20 information received and the standard report form 10:34
21 amended version sent in May 2014, to gather further
22 relevant information and assess the credibility of the
23 allegation being made, explain the role of the Sexual
24 Abuse Regional Team and the process the team follows
25 when responding to allegations of abuse to establish 10:35
26 her wish to proceed and engage in the process.

27
28 Ms. D failed to attend her scheduled appointment. She
29 later made contact with the Social Work Department and

1 *advised that she did not wish to pursue the matter*
2 *further."*

3
4 Did you think it appropriate -- I mean, that was, in
5 effect, the first step prescribed by Mr. Deeney in his 10:35
6 five-step process, isn't that right?

7 A. That's correct, yes.

8 92 Q. And did you think it appropriate to proceed beyond the
9 first step when that hadn't proved successful?

10 A. No. 10:35

11 93 Q. *"In the absence of Ms. D's cooperation and the*
12 *inability of Sexual Abuse Regional Team to complete the*
13 *assessment with regard to the credibility of the*
14 *allegation being made, the case will now close to the*
15 *Sexual Abuse Regional Team and the Child and Family* 10:35
16 *Agency.*

17
18 *It should be noted at this point that in the event*
19 *Ms. D comes forward in the future to make a complaint*
20 *with regard to the allegation initially made in 2006,* 10:35
21 *the Child and Family Agency will be obliged to re-open*
22 *the matter and follow the necessary procedures as are*
23 *outlined in the policy previously referred to."*

24
25 Just in relation to the second-last point, is that the 10:36
26 policy of the agency, as it were; that, in the absence
27 of cooperation, a case will be closed, or is that too
28 crude a way of putting it? Obviously a judgement has
29 to be made.

1 A. Yeah, with regard to the information that is on file,
2 sometimes referrals are quite detailed, sometimes there
3 might be historical information that you might be
4 able -- if you are reasonably concerned, you could
5 possibly proceed with, but in this case the information 10:36
6 did not warrant an assessment.

7 94 Q. Right. The last bullet-point, I think that was not
8 included in the final letter to Sergeant McCabe, isn't
9 that correct?

10 A. That's correct, yes. 10:36

11 95 Q. Were you responsible for that letter or did you have
12 any hand, act or part in that?

13 A. I suppose the purpose of completing this form and this
14 review, as we refer to it, was to inform our legal team
15 as to how we would like to respond or for Mr. McCabe to 10:37
16 receive a response, and I expected that they would
17 consider all bullet-points in responding to Mr. McCabe.

18 96 Q. All right. In other words, this was obviously provided
19 for them as information relevant to their response.
20 However they chose to respond thereafter is a matter 10:37
21 for them, is that it?

22 A. Sorry?

23 97 Q. However they chose to respond thereafter was a matter
24 for Tulsa legal?

25 A. That's correct. 10:37

26 98 Q. Page 2312, these are your notes preceding the
27 completion of the review we've looked at, is that
28 correct?

29 A. That's correct, yes.

1 99 Q. At different stages, in chronological order. These are
2 not the notes that you are talking about, that you made
3 when reviewing Ms. D's file?
4 A. No.
5 100 Q. The next document at 2314, is this one of your 10:38
6 documents?
7 A. It's not, no.
8 101 Q. Have you seen that before?
9 A. It was on the file. It's Lisa O'Loughlen's handwriting.
10 102 Q. It's Lisa O'Loughlen's. It's created by her then, is 10:38
11 it?
12 A. That's correct, yes.
13 103 Q. And was that considered by you at the time?
14 A. Yes.
15 104 Q. At part 17 she notes "Action", this is on page 2318. 10:38
16 A. This is a document I was referring to that I completed
17 in the beginning.
18 105 Q. Yes, that's what I was wondering. Is this your
19 handwriting?
20 A. Sorry? 10:39
21 106 Q. Is this your handwriting?
22 A. Yeah, that's my handwriting.
23 107 Q. At 2318?
24 A. Yes.
25 108 Q. 2318? 10:39
26 A. Yes.
27 109 Q. Right. So you record there:
28
29 *"Section 3 initial letter sent by Kay McLoughlin*

1 *"Garda notification corrected in May '14 due to*
2 *misinformation from Rian."*

3
4 Under the heading:

5
6 *"Please Give Reasons: Query regarding files for his*
7 *children."*

8
9 So can you recollect having seen this on the file?

10 A. I don't, no.

11 115 Q. Okay. If it was there, it would appear to be capable
12 of conveying to you that, in fact, a Garda notification
13 had gone out?

14 A. Yeah.

15 116 Q. And had been corrected?

16 A. Yeah, that's correct.

17 117 Q. It also -- it also therefore appears to have been
18 created after the Garda notification had been -- the
19 corrected one had been sent, and therefore in the month
20 or perhaps even much later after the intake files for
21 the children had been signed off by Laura Connolly but
22 not by a team leader. But it seems to be querying, a
23 query regarding the files for his children. Do you
24 recollect any query being considered by you as a result
25 of this?

26 A. Did I query why there would be files on his children?

27 118 Q. Yes.

28 A. I knew there were intakes. I didn't know if there was
29 anything further than an intake.

1 119 Q. Yes.

2 A. As I say, that doesn't necessarily mean that the file
3 would be opened for initial assessment.

4 120 Q. Yes. So just, I mean, just in technical terms, it is
5 correct, I think, that no files were, in fact, ever 10:42
6 opened in relation to the children. The intake records
7 were on Sergeant McCabe's file. May the Tribunal take
8 it you have never, in fact, seen evidence of a file on
9 all or any of the children?

10 A. That's correct, yes. 10:42

11 121 Q. But in terms of the review that you were undertaking,
12 the recommendations here are numbered:
13
14 "1. *Awaiting allocation.*
15 2. *Case discussion to include Rhona or Keara.*" 10:43
16 3. *Contact -- "*
17
18 I think that is "TL" - is that "*team leader contact*
19 *guard re decision 2007 clarification*"?

20 A. I don't know. Sometimes I -- it looks like shorthand 10:43
21 for Garda - gda.

22 122 Q. Are you looking at the handwriting over the figure 3,
23 is it?

24 A. Yeah. Oh, over the figure 3, that took like TL, yeah.

25 123 Q. "*Contact Garda re DPP.*" 10:43
26
27 would that have put you on inquiry that perhaps you
28 might seek clarification from the guards before
29 finishing your report?

1 A. Well, my understanding was that the DPP had directed no
2 prosecution, there was no further clarification needed.

3 124 Q. Okay.

4 A. And Mr. Costello had clearly outlined that in his
5 letter. 10:44

6 125 Q. Yeah. But, you see, you have raised a query on it in
7 your own conclusion, that we have looked at, that there
8 was no evidence on the file that the information was
9 communicated to the HSE at the time by An Garda
10 Síochána? 10:44

11 A. Mm-hmm.

12 126 Q. But were you not concerned to nail that down, as it
13 were?

14 A. Perhaps should have been at the time, but no.

15 127 Q. Okay. The next page is a part of the file. Then there 10:44
16 is the risk escalation report. I think you told us
17 already yesterday you didn't see that. Do you think it
18 wasn't on the file at the time?

19 A. Lisa possibly put it on the file at the time the file
20 was closing and ready for archive. As I explained 10:44
21 yesterday, Lisa would have kept risk escalations in a
22 folder in her office.

23 128 Q. Okay. Page 2325, 6, 7, 8, 9, 10, 2331, they're the
24 file intake referral forms relating to the children.
25 Did you see those at the time? 10:45

26 A. Yes, I did.

27 129 Q. And can you say they were on the files that you were
28 given?

29 A. Yeah.

1 130 Q. 2332, that is the original intake record relating to
2 Sergeant McCabe. Did you see that at the time?
3 A. Yes.

4 131 Q. The next page is just a file cover. Now, at 2337, this
5 is a draft, it would appear, unsigned, dated 2nd May, 10:45
6 of the corrected notification. Did you see that?
7 A. I recall seeing one, one Garda notification that was
8 unsigned and undated. I don't know if it was that
9 particular one.

10 132 Q. Okay. Well, we will come to that. The next one is at 10:46
11 2340, that is dated 2nd May, signed by Mr. Deeney on
12 the 2nd May. It's date-stamped "*Child and Family*
13 *Agency, Social Work Department, Cavan*", and it's also
14 marked -- stamped "*file copy*". Was that on the file
15 when you saw that? 10:46
16 A. No.

17 133 Q. Pardon?
18 A. No.

19 134 Q. Are you sure about that?
20 A. I'm pretty sure, yeah. 10:46

21 135 Q. Okay. The Tribunal has evidence that this, in fact,
22 was sent to the Gardaí in May. Is there any reason why
23 this document which would inform you that Cavan had
24 sent the erroneous allegation on to the guards, wasn't
25 on the file? 10:47
26 A. I can't explain that. I don't know what their practice
27 is. But standard practice is if a Garda notification
28 is made, you put it on the file.

29 136 Q. There's a third document relating to notification 2342.

1 This has no date, no signature and has no other stamp
2 on it.

3 A. Mm-hmm.

4 137 Q. It would appear to be a draft of one of the previous --
5 the previous actual notification sent by Mr. Deeney 10:47
6 which contained the incorrect allegation. Was that on
7 the file when you saw it?

8 A. I think that's possibly what I recall seeing, is that
9 it was undated, excuse me, undated and unsigned. I
10 think that's possibly the one that I saw on the file. 10:48

11 138 Q. Okay. Just so there's no confusion at all in my
12 understanding of your evidence and indeed in your own
13 evidence yourself, you don't think you saw the one at
14 2337?

15 A. No. 10:48

16 139 Q. You're positive you didn't see the one at 1340 signed
17 by Mr. Deeney?

18 A. Yes.

19 140 Q. Without a doubt?

20 A. Without a doubt. I don't recall seeing a signed Garda 10:48
21 notification.

22 141 Q. And you think the one you did see is this undated draft
23 at 2342?

24 A. Yes.

25 142 Q. Okay. The next document, 2344, that is Ms. Dewhirst's 10:48
26 email enclosing a draft, it would appear, as of 30/4 to
27 Linda Dewhirst. The next two pages are just file
28 covers. 2348, this appears to be your case note
29 record, is that correct?

1 A. That's correct, yes.

2 143 Q. And did you put that on the file in this position?

3 A. I did.

4 144 Q. You did.

5 A. It's hard to tell because there's different tabs. 10:49

6 145 Q. Yeah.

7 A. And the tabs are -- I can't really --

8 146 Q. Yes.

9 A. No, I wouldn't have put it in CCS forms, no.

10 147 Q. But you think you did put it in the file? 10:49

11 A. I did, yeah.

12 148 Q. And then you got an email from Julie Flood which
13 proceeds that, 20th August, at 2349?

14 A. That's correct.

15 149 Q. And would you put that on the file? 10:49

16 A. I would, yes.

17 150 Q. These appear to be in the nature of contacts, and some
18 of the preceding documents are contacts as well. 2350,
19 that's dated 15/5/16. Can you recollect whether that
20 was on the file? 10:50

21 A. It was, yes.

22 151 Q. The next page, 2351, it's a record that Ms. McLoughlin
23 has made and she has given evidence about. Was that on
24 the file?

25 A. It was, yes. 10:50

26 152 Q. There's another one from Ms. McLoughlin, 21/1/15, which
27 is, we think, a mistake as to the date. Was that on
28 the file?

29 A. It was, yes.

1 153 Q. And that recorded that Maurice McCabe did not attend
2 the appointment as requested and says "*offer second*
3 *appointment*". There's a note then, 2353, that the
4 Tribunal has evidence about from Ms. Connolly about the
5 intake records and a direction from Eileen Argue. Was 10:51
6 that on the file?

7 A. I recall that being on the file, yes.

8 154 Q. Okay. 2355, there's a note, it's a copy of an email
9 from Laura Brophy in the first instance to Ms. Argue,
10 that Ms. Argue asks Ms. Armitage to print. Was that on 10:51
11 the file?

12 A. I don't recall it being on the file. There's a number
13 of email threads, Chairman, that I saw for the purpose
14 of this Tribunal that weren't on the file.

15 155 Q. Okay. And do you think this is one of them? 10:51

16 A. I think so, yeah. My understanding -- apologies. My
17 understanding of the error being corrected was through
18 the written sent by Laura Brophy.

19 156 Q. Sent by Laura Brophy?

20 A. Yeah. 10:51

21 157 Q. Okay. Is it possible that this and the next email were
22 on the file? 2356 records at the bottom the email from
23 Pamela Armitage to Eileen Argue about Laura Brophy's
24 phone call.

25 A. No. 10:52

26 158 Q. You don't recall seeing that?

27 A. I don't recall seeing that.

28 159 Q. There's a number of sort of file folder bits, and then
29 at 2539 there's the amended report from Ms. Brophy. Do

1 you recall seeing that?

2 A. Yes, I do.

3 160 Q. 2362, that is a file note from Ms. Armitage created
4 after your review had been completed, relating to a
5 Freedom of Information request, isn't that correct? 10:52

6 A. That's correct, yes.

7 161 Q. And the documentation in relation to that goes on to
8 2368. So if we go to 2369.

9 A. Yes.

10 162 Q. I think this is a letter of the 22nd September 2016, 10:53
11 sent to Mr. Costello, Sergeant McCabe's solicitor, and
12 it refers to his letter of the 8th September last. Now
13 that is signed by, is it a Rachel Browne?

14 A. It looks like Rachel Browne to me, yes.

15 163 Q. And that concludes by recording that: 10:53
16
17 *"The agency will not be proceeding with its assessment
18 of the allegation made by Ms. D and in this regard we
19 closed our file. We confirm there are no outstanding
20 allegations or findings recorded against your client 10:53
21 and the agency's file reflects this position."*
22

23 And that was issued presumably as a result of your
24 review?

25 A. That's correct. 10:53

26 164 Q. As signed off by your team leader as well, is that
27 correct?

28 A. That's correct, yes.

29 165 Q. Right. A lot of the rest of the file at this point

1 contains all the correspondence with Mr. Costello that
2 preceded that. Was all of that on the file when you
3 saw it?

4 A. To the best of my knowledge, it was. Probably, I think
5 we would have had to put the correspondence from Kay 10:54
6 McLoughlin on file, I think this was forwarded --
7 because we had the file at that point, if that makes
8 sense. So when we took the file, some of the --

9 166 Q. Yes.

10 A. Like, that would be the end of June, so the July stuff 10:54
11 that would have been forwarded to Kay McLoughlin, she
12 would have forwarded it on to us to put on the file.

13 167 Q. Yes. So, in any event, that sequence of correspondence
14 was on the file or made available to you from
15 Ms. McLoughlin as it was coming in to her? 10:54

16 A. It was, yes.

17 168 Q. All right. 2380, it's a letter from Emer O'Neill of
18 the 3rd February 2016 enclosing Ms. D's statement. Was
19 that on the file?

20 A. It was, yes. I remember seeing Ms. D's statement. 10:55

21 169 Q. Yes. We don't need to go through that. There's a
22 number of drafts of letters prepared by you in relation
23 to Ms. D at 2397, 2398, 2399, isn't that correct?

24 A. That's correct, yes.

25 170 Q. 2403, it's an email from Ms. McLoughlin to Emer O'Neill 10:55
26 in relation to that statement, presumably that was on
27 the file?

28 A. I don't recall it.

29 171 Q. Okay.

1 A. But I'm not going to say it wasn't.

2 172 Q. All right. Okay. There's a draft of the letter that
3 Ms. McLoughlin sent to Sergeant McCabe at 2404. Do you
4 remember seeing that?

5 A. Yes. 10:56

6 173 Q. There's an email from Ms. McLoughlin to Gerry and
7 Seamus, that's Seamus Deeney and Gerry Lowry, dated 7th
8 May. Do you recall seeing that?

9 A. I think that was on the file, yes.

10 174 Q. At 2407 is the letter from Fiona Ward to Eileen Argue 10:56
11 of the 16th May. Do you recall seeing that?

12 A. I do, yes.

13 175 Q. 2408, there's Mr. Deeney's five-step procedures set out
14 to Ms. McLoughlin on the 8th May. Do you recall seeing
15 that? 10:57

16 A. I do, yes.

17 176 Q. 2410, there's a reply from Mr. Lowry in May, thanking
18 Ms. McLoughlin for the update and bringing the matter
19 to his attention, et cetera. Did you see that on the
20 file? 10:57

21 A. No.

22 177 Q. There's Ms. Brophy's letter to Ms. Argue of 14th May
23 2014. Do you recall seeing that on the file?

24 A. I do, yes.

25 178 Q. The next one is 2413, Ms. McGlone's letter to 10:57
26 Superintendent Cunningham of the 15th August. Was that
27 on the file?

28 A. I think it was, yes.

29 179 Q. That was placed on both Ms. D's file as well. Did you

1 note that from your examination of Ms. D's file when
2 you saw it?

3 A. I have no clear recollection of noting that, no.

4 180 Q. All right. And the file appears to conclude with the
5 acknowledgment that was sent to Ms. Brophy in August. 10:58
6 So that's the file as the Tribunal received it. Is
7 there anything that you saw that isn't on this file
8 that you can recollect?

9 A. Not that I can recollect at this moment in time.

10 **MR. MCGUINNESS:** Thank you, Ms. Tobin. 10:58
11

12 **END OF DIRECT EXAMINATION BY MR. MCGUINNESS**

13

14 **MS. TOBIN WAS CROSS-EXAMINED BY MR. MCDOWELL:**

15 10:59

16 181 Q. **MR. MCDOWELL:** My name is Michael McDowell and I'm one
17 of the barristers representing Sergeant McCabe.

18 A. Hello.

19 182 Q. Yesterday you said in evidence that when you saw the
20 file and examined it, you were horrified by the 10:59
21 management or lack of management that it disclosed, is
22 that right?

23 A. That's correct, yes.

24 183 Q. And today as I follow your evidence, it seems that
25 quite important aspects of the file had been -- had not 10:59
26 been forwarded to you when the file was sent to you in
27 SART, is that right?

28 A. That appears to be the case, yes.

29 184 Q. And in respect of the material that you now believe was

1 deleted from the file when it was sent to you by
2 somebody, does that make you more or less horrified
3 about the manner in which the file was handled under
4 Mr. Lowry's management?

5 A. I can't be certain that the file -- I can't comment or 11:00
6 speculate whether the information was deleted or just
7 not put on the file, but either way --

8 185 Q. It's a bit unfair of me to use the term 'deleted'. But
9 not sent forward to you is perhaps a more neutral way
10 of putting it, isn't that right? 11:00

11 A. As I said earlier, standard practice, when you are
12 transferring a file, particularly out of your office,
13 Chairman, you would ensure that everything is on that
14 file that needs to be on the file.

15 186 Q. And you have told the Tribunal -- so, having looked at 11:00
16 the file now and testified about it to the Tribunal, in
17 respect of material that you consider was not sent to
18 you, does that make you more or less horrified about
19 the management of the file under Mr. Lowry's
20 management? 11:01

21 A. It makes me more concerned and more horrified, I
22 suppose, yes.

23 187 Q. Yes. Could I ask you in relation to your function,
24 this was to go through the file for a number of
25 purposes, to review how it had been dealt with, and 11:01
26 secondly, because Séan Costello & Company were writing
27 letters, to get a handle on it from a legal point of
28 view, to see how to manage it in that respect, isn't
29 that right?

1 A. That's correct, yes.

2 188 Q. And can we take it then that you'd have been very
3 careful or as careful as you could be going through the
4 file, I'm not saying this critically of you at all, but
5 looking at it from a legal perspective you really had 11:02
6 to have a good picture of what had happened insofar as
7 the file disclosed any picture to you, is that right?

8 A. Yes.

9 189 Q. And the reason I ask you that is, that when you say
10 that some things were not on the file when it was sent 11:02
11 to SART, it's fairly evident from the report that you
12 did that they couldn't have been on the file at the
13 time or else that you were just skipping through the
14 file, and you say you weren't doing that, you weren't
15 skipping through the file just to get a vague 11:02
16 impression of what was on it?

17 A. Can you give me an example.

18 190 Q. Well, I mean, some of this material that you say today
19 you have never seen before, or you hadn't seen at the
20 time, it couldn't have been there and you just were, 11:02
21 you know, rushing through the file and ignoring it or
22 not picking up on it?

23 A. In my review, I was of the --

24 191 Q. I'm not trying to trap you at all.

25 A. Yeah. 11:03

26 192 Q. I'm just saying --

27 A. For me --

28 193 Q. If this was being looked at from a legal point of view,
29 you wouldn't just have ignored papers that were in

1 front of you, would you?

2 A. No, no.

3 194 Q. No. I'm saying that in your favour.

4 A. Yes. The reason I'm saying I don't recall it is
5 because, to me, it doesn't add up. 11:03

6 195 Q. Yes.

7 A. Because I felt like the case hadn't been managed
8 through the dates --

9 196 Q. Yes.

10 A. -- that were -- or not responded to. So with the dates 11:03
11 that are on those emails, I can't say that I recall
12 seeing them on the file.

13 197 Q. I'm not trying to trap you in any way. What I am
14 trying to underline to establish very clearly, is that
15 when you say that material wasn't on the file when you 11:03
16 were looking at it in SART, your evidence is to be
17 taken as, you know, considered evidence. You are
18 speaking as somebody who was examining it carefully
19 from a legal point of view, isn't that right?

20 A. My practice, I am very careful and I would make sure 11:04
21 that I read everything that is on the file, and given
22 the gravity of what was on the file and the concern and
23 nature, I would have made sure I read exactly what was
24 on the file.

25 198 Q. And it strikes me, and I would ask you whether you 11:04
26 agree with this proposition, that what's quite
27 extraordinary about the file as it now exists and as it
28 was sent to you, is that at no point under Mr. Lowry's
29 management was a single page set out on this file

1 saying this file has gone wrong for the following
2 reasons, these are the mistakes we made, I have spoken
3 to all of the officers, I have now assembled a picture
4 of what happened with this file. There's nothing like
5 that whatsoever on the file, isn't that right? 11:04

6 A. No. I don't believe we would have accepted the file
7 had that been on the file.

8 199 Q. Yes.

9 **CHAIRMAN:** Sorry, how do you mean by that? what do you
10 mean by that? 11:05

11 200 Q. **MR. MCDOWELL:** If there had been a report of the kind
12 I'm talking about, you would have said, what am I doing
13 with this file, is that what are you saying?

14 A. Yeah, I don't think we would have -- at that point we
15 were in the very early stages of SART and we were very 11:05
16 careful about what we were accepting and why we felt
17 that the file needed a response in terms of how
18 interactions had been managed with Maurice McCabe.
19 There's quite clearly, and was clearly, a bigger issue
20 that we weren't made aware of. 11:05

21 201 Q. Yes. I mean, if it was a self-confessed disaster area,
22 you'd have said, why are we being sent this? why don't
23 you deal with it yourselves?

24 A. As we moved through the file, I felt that way, yes.

25 **CHAIRMAN:** I'm sorry, Mr. McDowell, I'm just not quite 11:06
26 understanding the point that is being made. It's my
27 fault, but I don't understand the point you're making,
28 I don't understand the point the witness is making.

29 202 Q. **MR. MCDOWELL:** The Chairman is asking you why you would

1 have been reluctant to take it in in SART if it was a
2 complete disaster area and acknowledged by HSE to be a
3 disaster area. Why would you have been reluctant to
4 take it on then?

5 A. Well, I think with something that's as concerning as 11:06
6 the area manager was aware of, it required a response
7 from someone more senior than myself. I was a
8 basic-grade social worker on the team. And I think it
9 only appropriate, given all the errors that had
10 occurred, that it would be most appropriate for someone 11:06
11 more senior to deal with the matter.

12 203 Q. So you'd have expected somebody senior in your area or
13 in Cavan to have effectively summarised the errors that
14 had been made and acknowledged the need for
15 accountability in respect of that all of that, is that 11:07
16 what you are saying?

17 A. Yes, someone who could provide an appropriate response.

18 204 Q. And it appears that Mr. Lowry was the man in charge of
19 this file, the manager of the process, and there was no
20 evidence on the file that he was, as you saw it, either 11:07
21 admitting that something had gone very, very badly
22 wrong, or accepting his role in that, or anything like
23 that, is that right?

24 A. That's correct.

25 205 Q. Now, could I ask you to go to page 1385, please. 11:07
26 You've probably never seen this document before in your
27 life?

28 A. No.

29 206 Q. But I can tell that you it is a three-page document

1 which is the minute of a meeting of the Gardaí in
2 respect of Mr. McCabe which, according to the minute,
3 took place in Mullingar Garda Station on the 16th July
4 2014. And we're told Assistant Commissioner Kenny was
5 there, Chief Superintendent Sheridan was there, 11:08
6 superintendent McGinn was there and Sergeant Karen
7 Duffy were present at this meeting.
8 **CHAIRMAN:** Mr. McDowell, you did say 1385.
9 **MR. MCDOWELL:** Sorry, 1835, I think.
10 **CHAIRMAN:** You said 1385. 11:09
11 **MR. MCDOWELL:** I am sorry. It's in volume 7, Judge.
12 207 Q. This document records the actions being taken in the
13 summer, or proposed to be taken in the summer of 2014
14 in respect of the cut-and-paste error as it had
15 emerged. 11:10
16 A. I can only see the top part of that document.
17 208 Q. It's meeting --
18 **CHAIRMAN:** You can open it up. It's probably better if
19 you just take out volume 7.
20 A. Can I? 11:10
21 **CHAIRMAN:** If you look there beside you. It's pretty
22 close to the end, about a quarter of the way from the
23 end. 1835.
24 A. Thank you, Chairman.
25 209 Q. **MR. MCDOWELL:** You have it now, have you? 11:10
26 A. Yeah.
27 210 Q. And Assistant Commissioner Kenny is recorded as saying:
28
29 *"We need to deal with this matter given the people*

1 *involved. It's unbelievable that the HSE completed the*
2 *referral via copy and paste. He outlined that he*
3 *doesn't accept that the referral passed through three*
4 *different people in the HSE and it was not noticed.*
5 *Chief Superintendent Sheridan outlined that the* 11:11
6 *counsellor completed the referral and that the names*
7 *were only changed by the HSE and the details of the*
8 *incident were forgotten, overlooked and had passed*
9 *through a few hands before it was picked up."*

10
11 Now, they go on then to discuss Garda involvement, but
12 at the bottom of the next paragraph is a statement:

13
14 *"The incident was not recorded on the PULSE system and*
15 *the matter was not referred to the HSE."* 11:11

16
17 That was the state of mind of the Gardaí, that the HSE
18 had not been involved at that stage. But you know that
19 the HSE was informed back in early 2007, isn't that
20 right? 11:11

21 A. Of the allegation?

22 211 Q. Of the original allegations?

23 A. Yes.

24 212 Q. So you go on then two paragraphs down:

25
26 *"Chief Superintendent Sheridan outlined that the*
27 *injured party went for counselling in August 2013, at*
28 *which stage he was an adult. He outlined that no*
29 *referral was made to the HSE in 2006 and 2007, nor did* 11:11

1 *any meeting take place with the HSE in 2006/2007."*

2

3 Of course, we know that that's completely wrong now,
4 isn't that right?

5 A. Well, the HSE were aware of the allegation. 11:12

6 213 Q. Yes. And that they were interacting with the guards
7 and they had -- they were corresponding with
8 Superintendent Cunningham, seeking reports from him;
9 that's right, isn't it?

10 A. Yes. 11:12

11 214 Q. It then says:

12

13 *"Chief Superintendent Sheridan raised the issue of do*
14 *we need to have a meeting with the HSE now? Assistant*
15 *Commissioner Kenny outlined that he had concerns that* 11:12
16 *the injured party went for counselling and a referral*
17 *was made -- the HSE, and a referral was made then to An*
18 *Garda Síochána. He outlined that he was of the view*
19 *that this referral should be dealt with as a new*
20 *referral, that we can't just take it as the same* 11:13
21 *incident."*

22

23 So that's the way they're thinking of it, even though
24 he was aware for two months that it was the same
25 incident. Isn't that right? It appears so. 11:13

26 A. That's what appears from the document.

27 **MR. O'HIGGINS:** Chairman, I wonder just in relation
28 from this witness's point of view, these are notes
29 dealing with a meeting that took place in respect of

1 which evidence is going to be given, I understand, next
2 Thursday, or certainly next week, from the three
3 persons concerned, or possibly the four persons
4 concerned. And I just wonder from the point of view of
5 this witness, is there any value and what is the
6 purpose of putting to this witness --

11:13

7 **MR. MCDOWELL:** There is some value in it.

8 **MR. O'HIGGINS:** Just, if I may. I might just finish
9 out the point before --

10 **CHAIRMAN:** I am imagining where the question is going
11 to go, and perhaps my imagination is more vivid than
12 yours, but I think we may get there. And insofar as it
13 is irrelevant and this is a witness commenting on, you
14 know, internal Garda matters, I'm just going to ignore
15 it. But if we get to a question that is important, I
16 will hear that, and if we don't get to it, I understand
17 your objection, I note it.

11:14

11:14

18 **MR. O'HIGGINS:** May it please you, Chairman.

19 215 Q. **MR. MCDOWELL:** At the top of the next page there's a
20 statement attributed to Assistant Commissioner Kenny:

11:14

21
22 *"Safety issues don't appear to be on the HSE's radar."*

23
24 And two paragraphs down -- one paragraph down:

25
26 *"Chief Superintendent Sheridan said that if there are*
27 *safety issues, An Garda Síochána didn't do anything for*
28 *the last six or seven years and Superintendent McGinn*
29 *raised the issue that the suspect" -- I presume he's*

11:14

1 referring to my client as that -- *"has access to kids*
2 *in relation to his job. Is there a risk?"*

3
4 The reason I am asking you is, if you come to the last
5 page: 11:15

6
7 *"Chief Superintendent Sheridan outlined that he would*
8 *liaise with the HSE to establish what their*
9 *intentions/strategy is."*

10 11:15
11 Right. In any of your investigations did you find any
12 attempt by the Gardaí to interact with the HSE to
13 determine what they were doing with the file from June
14 2014 onwards? Is there any trace of any inquiry made
15 by the Gardaí of the HSE as to what was happening with 11:15
16 this file?

17 A. No.

18 **CHAIRMAN:** And forgive me, I'm not getting that point.
19 Maybe if you go on a bit.

20 **MR. MCDOWELL:** Sorry, no, I am saying that on a number 11:16
21 of occasions in this document it is stated -- for
22 instance, at the bottom of page 1836, Judge.

23 **CHAIRMAN:** Yes.

24 **MR. MCDOWELL:** *"Assistant Commissioner Kenny raised the*
25 *question: what would we do if this was a new referral?* 11:16
26 *Superintendent McGinn outlined that a criminal*
27 *investigation would commence and An Garda Síochána*
28 *would meet with the HSE."*

29

1 And on the next page:
2
3 *"Superintendent McGinn outlined that the suspected*
4 *offender was not arrested at the time and this may be*
5 *an issue."* 11:16
6
7 And he's talking about other concerns, obviously, at
8 that point.
9 **CHAIRMAN:** well, he was met and interviewed.
10 **MR. MCDOWELL:** Yes, he was of course. 11:16
11 **CHAIRMAN:** Yes.
12 **MR. MCDOWELL:** But, I mean, I take what Mr. O'Higgins
13 is saying, this is for another witness to deal with.
14 **CHAIRMAN:** Sure.
15 **MR. MCDOWELL:** But the paragraph that we're dealing 11:16
16 with here:
17
18 *"Chief Superintendent Sheridan" --*
19
20 It's the fifth paragraph on the last page. 11:16
21
22 *" -- outlined that he would liaise with the HSE to*
23 *establish what their intention/strategy is."*
24
25 And did you find any evidence that they had done 11:17
26 anything of the kind?
27 A. No.
28 216 Q. And if you look at the last paragraph:
29

1 *"Assistant Commissioner Kenny outlined that he will*
2 *make contact with Mr. Ruane and that Chief*
3 *Superintendent Sheridan will liaise with the HSE to*
4 *establish what their intention/strategy is."*

11:17

6 Is there any evidence anywhere that that was done,
7 right up to -- on the file or when it went to SART?
8 Did anybody from the Gardaí at any point --

9 A. There's no evidence on the file.

10 217 Q. **CHAIRMAN:** At the same time, Mr. McDowell, it is seven
11 years since the allegation, and I don't know how long
12 files are kept, but this strikes me as being
13 floundering around and wondering what's going on?

11:17

14 **MR. MCDOWELL:** well, indeed. But, you see, Judge --

15 **CHAIRMAN:** And at some stage there is a communication,
16 isn't there, to the effect we've investigated this
17 already, because it is sorted out, and I'm not sure of
18 the date, but Assistant Commissioner Kenny is written
19 to and it is said, look, this is what has happened in
20 this case.

11:18

11:18

21 **MR. MCDOWELL:** Yes.

22 **CHAIRMAN:** Somebody eventually gets the file. I don't
23 know whether it was buried at the bottom of Monaghan
24 Garda Station or something like that, do you know?

25 **MR. MCDOWELL:** well, the interesting point, perhaps,
26 Judge, in relation to that is that Superintendent
27 Sheridan, who attended that meeting, if the Tribunal
28 looks at page 1723 of that volume --

11:18

29 **CHAIRMAN:** Yeah, yes.

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"She has not outlined that we may be obliged to investigate in the future if the complaint comes forward."

11:22

That was a view of yours, that if Ms. D came again, there could be a complaint, isn't that right?

A. The frustrating part of our --

224 Q. Or a professional investigation, rather?

A. Well, the frustrating part -- I think it is really important; the letter, to me, lacked a certain level of transparency.

11:22

225 Q. Yeah.

A. Because I suppose --

226 Q. It was saying it's all over, wasn't it?

11:22

A. Yeah. And I think it was really important for Mr. McCabe to know that if a further referral came in in relation to that matter, we would have to --

227 Q. And you would, in fact, put that in writing in the document that Mr. McGuinness was asking you to do, your very last bullet-point in your SART review document was:

11:22

"It should be noted at this point that in the event Ms. D comes forward in the future to make a complaint with regard to the allegation originally made in 2006, the Child and Family Agency will be obliged to re-open the matter and follow the necessary procedures as outlined in the policy previously referred to."

11:22

1 A. That's correct.

2 228 Q. So that was your state of mind, and your email is
3 saying: by the way, the letter doesn't reflect that
4 possibility?

5 A. I was quite frustrated because it didn't reflect an 11:23
6 awful lot. It didn't answer the questions that were
7 asked of us from Mr. McCabe's solicitors.

8 **MR. MCDOWELL:** Yes. I think I will leave it at that.
9 Thank you.

10 **CHAIRMAN:** Maybe you would help me by summarising the 11:23
11 point you wanted to make there, and given that it's
12 only a point for investigation --

13 **MR. MCDOWELL:** No, it's just that this witness had, in
14 her SART review, said that the procedures hadn't been
15 complied with and if a fresh referral was made, it 11:23
16 should be understood that nothing -- that in closing
17 off the investigation, it was without prejudice to the
18 possibility that it might be reopened at some point in
19 the future, and she had noted that down carefully.

20 **CHAIRMAN:** Yes. 11:23

21 **MR. MCDOWELL:** And she was, she was -- I don't think I
22 am being unfair to you, you were expressing surprise
23 that the letter wasn't being transparent on that point?

24 A. That's correct, yes.

25 **CHAIRMAN:** On what point, Mr. McDowell? I'm sorry, I 11:24
26 am a bit dense this morning, but I'm just not getting
27 it.

28 **MR. MCDOWELL:** Sorry, Judge, that this witness had, in
29 her SART review, concluded it by saying:

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"In the absence of Ms. D's cooperation and inability" -- this is on page 1458, Judge -- "In the absence of Ms. D's cooperation and the inability of the SART team to complete an assessment with regard to the credibility of the allegation being made, the case will now close to the SART and the Child and Family Agency."

So this was, the curtain was coming down.

CHAIRMAN: Yes.

MR. MCDOWELL: But she was making the point in the next bullet-point:

"It should be noted at this point that in the event that Ms. D comes forward in the future to make a complaint with regard to the allegation made in 2006, the Child and Family Agency will be obliged to reopen the matter and follow necessary procedures as outlined in the policy."

CHAIRMAN: Yes.

229 Q. **MR. MCDOWELL:** And you were surprised that that wasn't flagged up to Sergeant McCabe in the draft letter?

A. Yes, that's correct.

230 Q. Bringing everything to an end?

CHAIRMAN: well, I mean, I suppose that's a potential problem. Indeed, it seems Assistant Commissioner Kenny seems to make the same point at the meeting at page 1836.

MR. MCDOWELL: Yes.

1 **CHAIRMAN:** *"what will we do if this is a new referral?"*

2 **MR. MCDOWELL:** Yes.

3 **CHAIRMAN:** I mean, I don't know.

4 **MR. MCDOWELL:** well, I mean, we will deal with
5 Assistant Commissioner Kenny when he's giving evidence, 11:25
6 and I don't want to -- I just wanted to highlight that
7 there seemed to have been a high-level decision in An
8 Garda Síochána to find out what the Child and Family
9 Agency was doing in respect of child protection issues,
10 and there seemed to be a resolve to contact them and 11:25
11 find out what they were up to, because they were
12 mystified as to where it had gone in respect of
13 protecting children, and there seems to be no trace of
14 any follow-up by them thereafter. That is all I am
15 saying. 11:26

16 **CHAIRMAN:** Sorry, Mr. McGuinness.

17 **MR. MCDOWELL:** On this matter.

18 **MR. MCGUINNESS:** He is only asking the witness about
19 this file.

20 **CHAIRMAN:** It's the file again. Right. 11:26

21 231 Q. **MR. MCDOWELL:** Sorry, there is one thing, and
22 Sergeant McCabe just wanted -- on the file it noted
23 that he had failed to attend a meeting, but, in fact,
24 he had -- his solicitor had written saying he wouldn't
25 be attending the meeting, isn't that right? 11:26

26 A. That's correct, yes.

27

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

29

1 **CHAIRMAN:** That is the famous first response, I'm not
2 going to your meeting.

3 **MR. MCDOWELL:** Sorry, Judge?

4 **CHAIRMAN:** It's the famous first response to the
5 letter. 11:27

6 **MR. MCDOWELL:** Yes. But, I mean, in handwriting
7 Ms. McLoughlin had written down "*failed to attend*
8 *meeting*".

9 **CHAIRMAN:** Oh, yes, it's the same meeting.

10 **MR. MCDOWELL:** Same meeting, yes. 11:27

11 **CHAIRMAN:** Lack of meeting.

12 **MR. MCDOWELL:** Lack of meeting, yes.

13 **CHAIRMAN:** Thanks. Is there any other questions for
14 Ms. Tobin? Mr. McDermott?

15 **MR. O'HIGGINS:** Just one matter of clarification, but, 11:27
16 in fairness to the witness, it's of no certain or in
17 relevance to her, but in relation to the matters that
18 have been raised by Mr. McDowell, it is our
19 understanding that there are, in fact, matters on file
20 indicating that Chief Superintendent Sheridan requested 11:27
21 his clerk to make contact with the HSE and he did make
22 contact with the HSE, and that is on file, and we are
23 happy to deal with that at the appropriate time.

24 **MR. MCDOWELL:** I'm sorry, I stand corrected if that is
25 the case. If there is some other evidence -- 11:27

26 **CHAIRMAN:** If there is, maybe now is the time so I can
27 just make a note of the page, Mr. O'Higgins. Your
28 microphone isn't on. Would you mind pressing it.

29 **MR. O'HIGGINS:** I think the relevant documents,

1 Chairman, from the perspective of that inquiry, is page
2 347, which is a communication from Pat O'Connell,
3 Inspector Pat O'Connell to Fiona Ward, where he refers
4 to previous telephone conversations regarding Ms. D and
5 requests that she would contact him. That's page 347. 11:28
6 And then there's a --
7 **CHAIRMAN:** Just let me get it out, if you don't mind.
8 So it is Patrick O'Connell, Garda.
9 **MR. MCDOWELL:** But Fiona Ward is, as I understand it,
10 she's in Rian, is she not? 11:28
11 **CHAIRMAN:** well, it says "HSE" here.
12 **MR. MCDOWELL:** Yes, but, in fact, it is the Rian
13 service.
14 **MR. O'HIGGINS:** Which is part of the HSE.
15 **CHAIRMAN:** I mean, I suppose the point is, are they 11:29
16 looking for information.
17 **MR. MCDOWELL:** She was in charge of counselling, not
18 child protection.
19 **CHAIRMAN:** Let's see what it says. It just says:
20 11:29
21 *"I refer to our conversation regarding Ms. D and I*
22 *would appreciate if you would give me a call at..."*
23 The number. So I presume they actually do answer the
24 letter.
25 **MR. MCDOWELL:** Ms. Ward was in the Rian Counselling 11:29
26 Service.
27 **MR. O'HIGGINS:** Yes.
28 **MR. MCDOWELL:** She was not a child protection officer
29 at all.

1 **MR. O'HIGGINS:** Yes, but insofar as the point was made
2 that there was a criticism to be made of Chief
3 Superintendent Sheridan for not following up on the
4 meeting in Mullingar, that seems to be misplaced.
5 Because if one looks then at page 349 there's further 11:29
6 treatment of the inquiries Inspector Pat O'Connell was
7 requested to make, where there is a note on page 349 of
8 what appears to be Fiona Ward's note of her
9 conversation with Inspector O'Connell.
10 **CHAIRMAN:** Okay. Will we go on to that then? 11:30
11 **MR. MCDOWELL:** Again, Chairman, I was talking about
12 following up with the HSE about what they were doing
13 about child protection.
14 **CHAIRMAN:** I know, I appreciate that, Mr. McDowell.
15 But as we know from this Tribunal, I suppose 11:30
16 information can come from various sources, and the
17 question is, are they looking for information or did
18 they not want information.
19 **MR. MCDOWELL:** Yes.
20 **CHAIRMAN:** So, I'm sorry, you were referring to that, 11:30
21 Mr. O'Higgins, what, at that stage?
22 **MR. O'HIGGINS:** It's a little bit difficulty to read,
23 Chairman, but at page 349 there's the handwritten note
24 of the telephone conversation, it appears to read
25 "*spoke to Pat.*" 11:30
26 **CHAIRMAN:** "*Email to contact Patrick O'Connell.*"
27 **MR. O'HIGGINS:** Sorry, from the top "*Email to*
28 *contact*" --
29 **CHAIRMAN:** "*Phone call to Patrick O'Connell. Spoke to*

1 they were forwarded on, Laura Brophy forwarded them on
2 to Fiona Ward. And then page 353 indicates that Fiona
3 Ward sent them on to Pat O'Connell, and on page 353
4 there's an email from Fiona Ward to Inspector O'Connell
5 and it outlines:

11:32

6
7 *"Further to our telephone conversation regarding your*
8 *query as to what, if any, action has been taken by the*
9 *HSE in relation to Ms. D's case, as I mentioned, the*
10 *National Counselling Service made a report of*
11 *retrospective abuse to Tusla Social Work Department.*
12 *It is the role of the Social Work Department to assess*
13 *what, if any, risk arises from the allegations made.*
14 *As such, the Social Work Department (see contact*
15 *details below) are best placed to advise you on what*
16 *action has been taken regarding the report."*

11:33

11:33

17
18 That is the end of that email. It's our understanding
19 that further inquiry was not made, but of course we
20 don't formally act for Inspector O'Connell, but I can
21 indicate to you, Chairman, that the firm instruction of
22 An Garda Síochána, the three officers who participated
23 in the Mullingar meeting is that the realisation was,
24 this was not a fresh matter, there was no decision made
25 to initiate a re-opening of the 2007 investigation and
26 there was no decision made to initiate a fresh criminal
27 investigation into the 2003 referral relating to the
28 entirely incorrect detail concerning a rape allegation.
29 **CHAIRMAN:** The 2006 referral?

11:33

11:33

1 warts, all of the defects, all of the incompetence
2 showing clearly and plainly?

3 A. Yes, Chairman.

4 233 Q. **CHAIRMAN:** Pardon?

5 A. Yes, Chairman. 11:35

6 234 Q. **CHAIRMAN:** why do you think that happened?

7 A. I don't know if it was through intention. I can't
8 explain it. Stuff wasn't put on the file when it
9 should be. It's not unique to this case,
10 unfortunately. There would be stuff missing from 11:35
11 files, not unique to the Cavan region. People fail to
12 put things on file. Unfortunately, the things that
13 weren't put on this file were quite significant.

14 235 Q. **CHAIRMAN:** well, you know the phrase 'covering yourself
15 in paper'?

16 A. Yes. 11:36

17 236 Q. **CHAIRMAN:** Sometimes covering yourself in paper can
18 mean removing paper that would be embarrassing, and is
19 that what you are talking about here?

20 A. I don't know whether it was just professional 11:36
21 negligence to not put it on the file or whether it was
22 intentional, I can't comment. I don't know the people
23 in Cavan well enough in terms of their professionalism,
24 in terms of how their practice is on a day-to-day
25 basis. I just know from my own practice if a file is 11:36
26 transferring out of the region, particularly out of
27 your office, no matter where it is going, if it's going
28 to a new team, if you are going from a duty team to a
29 child protection team to a children in care team, you

1 make sure everything is on that file that needs to be
2 on file, and anything that you come across in the
3 meantime you forward on to the team that has that file.

4 237 Q. **CHAIRMAN:** well, there are perhaps two aspects to this.
5 The worst aspect would be a cover-up? 11:37

6 A. Yes.

7 238 Q. **CHAIRMAN:** The second aspect, perhaps not as bad, would
8 be an instinctive reaction to circle the wagons and to
9 pretend that things weren't as bad as they were, or, in
10 other words, to pretend to yourself as opposed to other 11:37
11 people, and I don't know where you place this
12 particular incident on that or maybe you have another
13 category that you see as probable in this context?

14 A. I really don't know. I think it's really poor
15 management of the file. I think it should have been 11:37
16 allocated perhaps to someone to deal with straightaway
17 when it came through the door. We would consider any
18 allegations against a member of An Garda Síochána, a
19 teacher, someone in our own organisation, the need for
20 that to be dealt with extremely sensitively. And I 11:38
21 know our practice now in SART, if such referrals come
22 in, they're immediately allocated and responded to.

23 239 Q. **CHAIRMAN:** Okay. Thanks, Ms. Tobin.

24 A. Thank you.

25 11:38

26 **THE WITNESS THEN WITHDREW.**

27

28 **MR. MARRINAN:** Sir, the next witness is Linda Creamer,
29 please. This is in volume 10, sir, page 3063.

1
2 MS. LINDA CREAMER, HAVING BEEN SWORN, WAS DIRECTLY
3 EXAMINED BY MR. MARRINAN:
4

5 CHAIRMAN: Is it *Kray-mer* you pronounce it? 11:39

6 MR. MARRINAN: Yes, *Kray-mer*.

7 CHAIRMAN: So that is the second mispronunciation.

8 240 Q. MR. MARRINAN: I think that your professional
9 qualifications are that you qualified with a bachelor
10 of social science, a national qualification in social 11:39
11 work in 1998, is that right?

12 A. I did, indeed, yes.

13 241 Q. I think in 2008 you qualified with a master's in
14 business administration in the National College of
15 Surgeons? 11:39

16 A. Yes, that's correct.

17 242 Q. And I think you have been working with the HSE/Tusla
18 since 1998, initially as a professional qualified
19 social worker and then you progressed to team leader,
20 is that right? 11:39

21 A. Yeah, team leader, then principal social worker. Area
22 manager to service director now.

23 243 Q. And I think that you currently hold the position of
24 service director for Dublin Northeast?

25 A. Dublin Northeast, that's correct. 11:40

26 244 Q. Now, in that regard you once held the role that
27 Mr. Lowry had as area manager, isn't that right?

28 A. I did indeed, for many years, yes.

29 245 Q. And I think that subsequently, from July of 2015, he

1 was reporting to you, is that right?

2 A. That's correct, yes.

3 246 Q. And I think that that's the time when you took up your
4 post as service director for the Dublin Northeast, is
5 that right? 11:40

6 A. That's correct.

7 247 Q. And even though its title states the Dublin Northeast,
8 it includes Cavan-Monaghan?

9 A. Cavan-Monaghan and Louth-Meath.

10 248 Q. I think that during the course of your role as the 11:40
11 service director, you identified difficulties within
12 the region in relation to the management and assessment
13 of what is called the retrospective sexual abuse
14 allegations under the Tusla Policy and Procedures for
15 Responding to Allegations of Abuse and Neglect 2014? 11:41

16 A. Absolutely, yes.

17 249 Q. I think that that is September 2014, isn't it?

18 A. Yes. I can just clarify that, as an organisation,
19 Tusla did an audit in 2015 around all unallocated cases
20 across the country and the numbers were significantly 11:41
21 high, but, out of that, we identified the number of
22 retrospective cases and it was at that point we decided
23 that we would take them out of the general unallocated
24 cases and look at them specifically under the Section 3
25 Act, the Section 3 policy. 11:41

26 250 Q. Those guidelines, and the Tribunal has been provided
27 with a copy of them, and indeed they were put to
28 Mr. Lowry when he was giving evidence?

29 A. Yes.

1 251 Q. He indicated that in relation to some of them he didn't
2 agree --

3 A. That's correct.

4 252 Q. -- with the procedures. Was there debate at the time?
5 A. There's definitely some debate in the operational side 11:42
6 of the house. In terms of, we had implemented -- it
7 was implemented overnight by email and that was
8 absolutely incorrect and there wasn't proper training
9 provided for the staff. But from the very start we
10 were doing it with all CSA cases and all serious 11:42
11 physical abuse cases. Where the challenge was and
12 debate was, where it fits in with the neglect cases.
13 And that's an ongoing debate.

14 253 Q. So, I mean, I suppose the guidelines and the policy
15 document that was published by Tusla for the benefit of 11:42
16 its managers and for staff --

17 A. Yeah.

18 254 Q. -- and for their guidance, it wasn't simply plucked out
19 of the air; presumably there was some discussion in
20 relation to the policies over a period of time? 11:43

21 A. The policy was developed over a period of time,
22 certainly. It was a result of a lot of the cases being
23 managed under the Barr judgment but done very
24 inconsistently and the procedure wasn't followed
25 correctly, which wasn't fair to the people we were 11:43
26 working with. But certainly we needed a consistent
27 approach to how we were working with these cases.

28 255 Q. And one might assume that the better practices that had
29 been in existence up until then --

1 A. Yes.

2 256 Q. -- were incorporated into the document?

3 A. Absolutely.

4 257 Q. And were there any particular areas that were
5 identified as problematic in relation to retrospective 11:43
6 allegations of sexual abuse?

7 A. Well, the difficulty was at the time, and to
8 acknowledge the front-line staff, given the demands in
9 the services certainly they were left and they did
10 drift and that's consistent across the country as we 11:43
11 have identified recently. But in relation to how it
12 should be done, the Barr judgment was there previously,
13 the letter to the person of concern was there
14 previously, it should have been done, that's not
15 anything new. Confirm doing a credibility assessment, 11:44
16 meeting the complainant, that's not new, that would be
17 something that we would do all the time. And this
18 procedure was to support --

19 258 Q. Well, that is what I was going to come to. I mean,
20 it's all good and well to say that new procedures come 11:44
21 into play in September 2014?

22 A. We would have certainly done it previously.

23 259 Q. Yeah, that they're not implemented consistently across
24 the HSE divisions or Tusla divisions, but a lot of
25 these practices were in place already? 11:44

26 A. They were. Certainly in my experience on any team that
27 I managed and certainly I did five years in Mountjoy
28 Square as team leader, I would expect that the
29 complainant would be brought in and interviewed.

1 260 Q. well, in a general way in terms of how a referral is
2 dealt with --

3 A. Yes.

4 261 Q. -- once it's allocated, I might return to that shortly,
5 but once it is allocated to a social worker, it would 11:45
6 appear, and it's highlighted in the policy document of
7 2014, that the most important part of the whole
8 procedure is the initial assessment of the allegation,
9 is that right?

10 A. Well, if you get past the preliminary inquiry part. 11:45
11 You know, you do a preliminary inquiry and then you'll
12 decide at that point if you need to do an initial
13 assessment.

14 262 Q. well, you don't move on if it is determined that it is
15 unfounded? 11:45

16 A. That it is unfounded or that there isn't any
17 credibility in it.

18 263 Q. And the first step in relation to that initial
19 assessment is to meet with the complainant?

20 A. Absolutely, yes. 11:46

21 264 Q. And we know that that wasn't done --

22 A. That's correct, yes.

23 265 Q. -- in the case --

24 A. On this occasion.

25 266 Q. And it wasn't done over a period of three years when 11:46
26 there were perhaps opportunities when that first step
27 could have been undertaken?

28 A. Yes.

29 267 Q. Is that right?

1 A. In my experience, certainly there are times when you
2 wouldn't interview the complainant, but that would
3 depend on the allegation. Where you have something
4 really serious, that you would do a joint interview
5 with the Gardaí. 11:46

6 268 Q. There is absolutely no reason that has been offered to
7 the Tribunal and none from practice that you would be
8 aware of --

9 A. None --

10 269 Q. -- as to why the complainant wouldn't have been met 11:46
11 within the first instance as part of proper procedures,
12 is that right?

13 A. In the first instance back in 2006. When we're working
14 with teenagers, again I'm saying this in a general
15 sense, that when we're working with teenagers, we need 11:46
16 to meet with them and see what's going on with them,
17 and particularly young teenagers, they've a lot of
18 challenges in life, they're going to secondary school,
19 they've a lot of changes, they're coming to terms with
20 their sexuality, so we would spend a lot of time 11:47
21 getting to know them and then dig deep into their
22 allegation then, you know.

23 270 Q. Well, can the Tribunal take it that in terms of the
24 procedure that was in existence certainly in 2013, that
25 the preliminary step before any action is taken is that 11:47
26 the complainant would be met with as part of a process
27 for assessing the credibility of the allegation?

28 A. Absolutely, yes.

29 271 Q. So, in any event, a problem had been identified by you

1 in relation to the implementation of the guidelines of
2 2014?

3 A. That and the number of unallocated at the time was over
4 500 retrospective.

5 272 Q. I think the management team decided at that stage to 11:48
6 establish the Sexual Abuse Retrospective Team?

7 A. Yes.

8 273 Q. which are referred to as SART, is that right?

9 A. That's correct.

10 274 Q. And that that was set up with a view to ensuring that 11:48
11 there would be consistent implementation of the policy?

12 A. That's correct.

13 275 Q. How was that to be achieved by SART?

14 A. Well, we had the policy, and what we wanted them to do
15 was really to review all the files - when I say review 11:48
16 the files, again, you know, in social-work spiel, it's
17 basically doing a chronology of all the files, identify
18 what has been done and if there's any gaps or any
19 concerns.

20 276 Q. Was it envisaged that SART would take all the 11:48
21 retrospective abuse cases --

22 A. No.

23 277 Q. -- that were in --

24 A. They wouldn't have enough resources to do that. But
25 they would have oversight of all the files throughout 11:48
26 the region. A lot of those files, you know, of the
27 500, were shut down very, very quickly because there
28 was no further work to be done, so they brought it to a
29 manageable caseload.

1 278 Q. I am not really understanding what SART was about --
2 A. Okay.

3 279 Q. -- Ms. Creamer. Was it a general review that was to
4 take place by SART or was it specific to files that had
5 been troublesome? 11:49

6 A. No. It was a general review of unallocated cases,
7 because we needed to know what the content of the
8 unallocated cases were, prioritise them in terms of
9 getting them allocated and getting them worked as
10 quickly as possible. 11:49

11 280 Q. And they weren't to review all the unallocated cases
12 that existed, for instance, in Cavan-Monaghan?

13 A. In relation to the region, absolutely, they were
14 reviewing all the unallocated cases.

15 281 Q. All the unallocated cases? 11:49

16 A. Yeah, of which there was over 500.

17 282 Q. So they were set up and then there was to have been a
18 review of all files, including Ms. D's file?

19 A. Yeah, including all files, yes.

20 283 Q. And how was the request put in to Cavan-Monaghan? Were 11:50
21 they just simply asked to produce a list of all
22 unallocated cases?

23 A. Yeah, I meet my management team every month, and as
24 part of the development of this team this was done at
25 these meetings, so all the area managers, four of which 11:50
26 I have, were aware of what we were doing, and in terms
27 of supporting the team, developing their processes and
28 procedures, they were working alongside me with the
29 team to do that, so all the area managers were aware

1 that SART would look at their unallocated cases,
2 identify where gaps were if work hadn't been done.
3 They would take as much as possible and allocate it
4 within the team itself with their new resources, but
5 they wouldn't be able to meet the demand of them all, 11:51
6 but that they would be reallocated back into the areas
7 but would have oversight by the SART team. So the SART
8 team would be developing an expertise around the
9 management of the policy and monitoring that the work
10 is getting done. 11:51

11 284 Q. Sorry, so if I understand you correctly, the procedure
12 was to be, and we will deal with Cavan-Monaghan,
13 Mr. Lowry was part of your management team, isn't that
14 right?

15 A. He was indeed, yes. 11:51

16 285 Q. And this matter had been, as you say, discussed with
17 him at management meetings?

18 A. Several times.

19 286 Q. So the procedure for SART was that they were --

20 A. Initially, they were to review all the unallocated 11:51
21 cases, shut down what needed to be shutdown, because
22 there was no further work to be done, and action or
23 identify gaps on cases where the work wasn't done and
24 what needed to be done next, and in as far as possible
25 they would allocate them within the SART team or they 11:52
26 might allocate them back out within the region to the
27 duty social work teams. And they would have
28 oversight --

29 287 Q. If you could just stop there and bear with me for a

1 moment because I want to be very clear in relation to
2 this. Cavan-Monaghan --

3 A. Yes.

4 288 Q. -- were handing over all their unallocated cases of
5 retrospective abuse to SART? 11:52

6 A. That's right.

7 289 Q. SART were then going to review those files?

8 A. That's correct.

9 290 Q. If they could identify files that should be closed,
10 they would do so? 11:52

11 A. They would do so.

12 291 Q. And no further action would be taken. And if there
13 were other files identified where there had -- there
14 was work to do, they would then identify that work and
15 refer it back to Cavan-Monaghan for the social workers 11:52
16 to deal with those?

17 A. On some cases, yes.

18 292 Q. Yes.

19 A. But then the SART team would have oversight of those
20 actions. 11:53

21 293 Q. And that they would have oversight of them. Was it
22 ever envisaged that SART would actually conduct the
23 inquiries themselves?

24 A. Oh, absolutely, on some files.

25 294 Q. On some files? 11:53

26 A. They allocated within their -- they had four social
27 workers. They had been allocated cases within those
28 four.

29 295 Q. So in any event, when you were discussing this at these

1 meetings, how often did you have the meetings?

2 A. I have management meetings once a month and I meet my
3 area managers once every six weeks on a one-to-one.

4 296 Q. Had Mr. Lowry informed you about the Ms. D file and the
5 problems that attached to it? 11:53

6 A. No. Unfortunately not. He didn't. There were plenty
7 of opportunities for him to do that, but no. He
8 hadn't. He hadn't discussed the case with me at all.

9 297 Q. The file was handed over, we're not clear, and I don't
10 expect you to know whether or not the complete file was 11:54
11 handed over to SART, but if documentation was withheld
12 for improper reasons I presume you would be very
13 disappointed in that?

14 A. Well, yes. Absolutely. It's totally unacceptable. We
15 transfer files quite a lot from one part of the service 11:54
16 to the other, and everything should be on those files.
17 It should be a full comprehensive file.

18 298 Q. And indeed we have heard from Ms. Tobin this morning
19 indicating that it is proper practice and best practice
20 that the entire documentation on a file would be 11:54
21 included when it was handed over and particularly from
22 one region to another?

23 A. Absolutely. From one team to another. Absolutely.

24 299 Q. Have you wondered why Mr. Lowry may not have discussed
25 with you the significant problems and errors, and 11:55
26 litany of errors --

27 A. Yeah.

28 300 Q. -- that had arisen in relation to the Maurice McCabe?

29 A. I have wondered and I am very, very disappointed and

1 it's shameful, the evidence that has been presented
2 this week, and I have no explanation for it. I
3 certainly meet my managers very often. Like, an area
4 manager is a very responsible job. It's a very high
5 level job and you would expect that your managers and 11:55
6 your principal social workers are able to implement our
7 guidelines, such as Children First, effectively, and
8 share information. Like, at our one-to-one meetings
9 we'd have quite a comprehensive agenda, it would range
10 from budget management, to staff management, but it 11:55
11 does get into case specific, and I certainly would be
12 in conversations with my area managers around different
13 cases, specifically around we'll say the District
14 Court, when they're particularly challenged on certain
15 areas, and I would certainly talk about complaints and 11:55
16 I talk about any kind of case reviews that we might be
17 engaged in. So it is a very comprehensive agenda, and
18 since this happened, this case has never been put on
19 that agenda.

20 301 Q. Well, I mean it could have been put on the agenda in 11:56
21 the first instance because it was a case that
22 ultimately ended up with high priority from SART, isn't
23 that right?

24 A. It did. And certainly of the cases that went to SART I
25 had risk escalations, one of which this case was. I 11:56
26 had several -- 30 risk escalations on the reviews of
27 those files. At my level, I suppose I'm looking more
28 at the themes related to the risk escalations and data
29 breaches, like putting information on the wrong form or

1 a file being left in a bathroom or letters going to the
2 wrong address, data breaches. Those kind of things are
3 always brought to my attention. On this occasion it
4 wasn't. And I saw it as information that had gone on
5 the wrong form. 11:57

6 302 Q. Yeah. Well, it's perhaps a little bit more significant
7 than that?

8 A. Oh, it is. It is now. Yes.

9 303 Q. I think that SART, one of the reasons -- and we can
10 come to it and I will open it, I would prefer to deal 11:57
11 with it in a general way for the moment.

12 A. Yes.

13 304 Q. We can be more specific by reference to the documents,
14 but I don't think there's any need for that. But one
15 of the reasons that it became high priority when the 11:57
16 matter was reported to you in September 2016 by
17 Ms. O'Loghlen was because of the nature of the case --

18 A. Yeah.

19 305 Q. -- the fact it was Maurice McCabe and the fact that
20 there was a lot of media attention -- 11:57

21 A. Yeah.

22 306 Q. -- in relation to Maurice McCabe, isn't that right?

23 A. Yes, that's correct. But again, I didn't know the
24 actual allegation. The actual mistake that was
25 written, I didn't know that at the time, but -- 11:57

26 307 Q. Well, I appreciate that but I'm not really dealing with
27 that.

28 A. Okay.

29 308 Q. I'm just dealing with the referral from -- in the first

1 instance the referral from Mr. Lowry of the file to
2 SART.

3 A. Yeah.

4 309 Q. One might have expected that in circumstances where the
5 case was causing enormous problems -- 11:58

6 A. Yes.

7 310 Q. -- you're aware of the fact that Kay McLoughlin sent a
8 letter to Sergeant McCabe dated 29th December 2015?

9 A. I'm very aware of that. And even the timing of it is
10 totally unacceptable. 11:58

11 311 Q. Yeah. You're also aware the response now from that
12 came from Sergeant McCabe and from his solicitors?

13 A. Absolutely.

14 312 Q. And you're aware of the discovery by Kay McLoughlin of,
15 as I have described it, a litany of errors and she was 11:58
16 indeed part of that herself --

17 A. Yes.

18 313 Q. -- and I think acknowledged that, is that right?

19 A. Yes.

20 314 Q. And it would appear that it's not just really a matter 11:59
21 of cut and paste.

22 A. No.

23 315 Q. These errors stem from a failure of people to actually
24 sit down and review a file from cover to cover, isn't
25 that right? 11:59

26 A. That's correct.

27 316 Q. And it perhaps shows a practice within Tusla at the
28 time of maybe just scanning files as opposed to
29 actually getting down into them and reading them, isn't

1 that right?

2 A. well, on this occasion that's absolutely what has
3 happened here. But my expectation from my staff, and
4 certainly my principal social workers, who manage the
5 duty service, is that they know those files back to 11:59
6 front.

7 317 Q. Yeah. And they brief theme into their allocated case?

8 A. But even if they're on a waiting list and a principal
9 social worker is managing a waiting list they should
10 know what is in the content of those files. 11:59

11 318 Q. Indeed. And it would appear that 2015, when Kay
12 McLoughlin came upon the case and discussed it with
13 Mr. Deeney --

14 A. Yes.

15 319 Q. -- and also Mr. Lowry -- 12:00

16 A. Yes.

17 320 Q. -- that they had a five-point plan as to how to
18 proceed, is that right?

19 A. They did.

20 321 Q. And it appears that she took on the task of 12:00
21 investigating the referral, isn't that right?

22 A. Yes.

23 322 Q. And on the face of it, it would appear, even though
24 Mr. Lowry was quarreling with the use of the term
25 allocation, but it would appear that in reality she had 12:00
26 been allocated to deal with the case by Mr. Lowry and
27 Mr. Deeney, isn't that right?

28 A. well, absolutely. But she would have responsibility
29 for the waiting list. Principal social worker again is

1 a very high grade and she would have responsibility for
2 the waiting list. whether you want to use the word
3 allocated or not --

4 323 Q. Leave aside the issue of waiting list --
5 A. Yes. 12:00

6 324 Q. -- I mean, this case had been actioned on.
7 A. It had been actioned on by Kay.

8 325 Q. We know that a letter had been sent to Ms. D?
9 A. Yes.

10 326 Q. And we know that a letter had been sent to Sergeant 12:01
11 McCabe?
12 A. That's correct, yes.

13 327 Q. So effectively the case in reality had been
14 allocated --
15 A. That's correct. 12:01

16 328 Q. -- to Kay McLoughlin, is that right?
17 A. Yes, I accept that, yes.

18 329 Q. And so, you know, it wasn't really a matter for SART at
19 all because this was a case that in reality had been
20 allocated to Kay McLoughlin. It had got to a stage 12:01
21 there were solicitors letters coming in and it had got
22 to a stage where an apology had been sent to
23 Sergeant McCabe?
24 A. Yes.

25 330 Q. So really, this wasn't an unallocated case for SART to 12:01
26 be dealing with --
27 A. No.

28 331 Q. -- isn't that the reality?
29 A. Yes. The reality is, this case should never have ended

1 up with SART. It wouldn't be my expectation that our
2 frontline staff are involved in legal letters. That is
3 an area manager's responsibility.

4 332 Q. So in reality here this case should never have been on
5 the list from Cavan-Monaghan -- 12:02

6 A. It never should have been on the list.

7 333 Q. -- going to SART?

8 A. Absolutely not.

9 334 Q. And Mr. Lowry would have known that?

10 A. In my opinion Mr. Lowry absolutely would have known 12:02
11 that, yes.

12 335 Q. So really what was happening here was the case was
13 being -- I use the expression, had become a hot potato
14 and it was being handed over to SART with a view to,
15 perhaps a fresh view of the whole matter, I don't know. 12:02

16 A. Well, they believed that SART had more skills and more
17 specialist skills than they have, which on my view, and
18 would be the view of my own management, would be that
19 the principal social worker and the area manager should
20 be well able to manage a file like this. 12:03

21 336 Q. So, insofar as handing it over for that reason, that
22 would not be a valid reason to hand it over?

23 A. That would not be a valid reason.

24 337 Q. Right. So, then one comes to the actual handing over
25 of the file? 12:03

26 A. Yes.

27 338 Q. Would you have expected in the circumstances, and
28 bearing in mind the history of the McCabe file, that
29 somebody in Cavan-Monaghan, probably Mr. Lowry, if not

1 Ms. McLoughlin, would have either included a report on
2 the file highlighting the difficulties that had
3 occurred up until then --

4 A. Yes.

5 339 Q. -- or had sat down with the new team coming in to deal 12:03
6 with the file and explain to them the problems that had
7 arisen?

8 A. Yeah. I would expect that there would be some sort of
9 due diligence report handed over with the file. Having
10 said that, it shouldn't even have got to that level. 12:04
11 It should have been more towards me. The file should
12 have been discussed with me rather than SART.

13 340 Q. So it would appear from the Lisa O'Loughlen report to
14 you and we have a copy of that and I don't intend --

15 A. Yeah. 12:04

16 341 Q. -- to go through it again, but it would appear that, as
17 the Chairman has used the expression, that it may be
18 the product of a sanitised file, do you understand?

19 A. Yes, I do understand that. Yeah.

20 342 Q. Because we have already highlighted certain aspects of 12:04
21 the form where the report from Lisa O'Loughlen perhaps
22 identifies a statement made by Ms. D in 2006 to the
23 Gardaí as being the reason for the problems on the
24 file. But we know that that is not so?

25 A. Yeah. No. I don't think there's something -- my 12:05
26 opinion is that I don't believe there is something
27 sinister going on. I do believe that it is
28 incompetence in terms of the governance of the file.

29 343 Q. And perhaps an effort to cover up that incompetence?

1 A. Well, an effort to pass it on to somebody else to take
2 responsibility, yeah.

3 344 Q. So, in any event, you receive a report in September of
4 2016 --

5 A. Yes. 12:05

6 345 Q. -- in relation to the matter, isn't that right?

7 A. That's right.

8 346 Q. And that's in the risk escalation report --

9 A. Format, yes.

10 347 Q. -- that was prepared by Lisa O'Loghlen. 12:06

11 A. Yeah.

12 348 Q. As I said, I don't see any reason to open it. The
13 Tribunal already has it. As far as matters are
14 concerned we know the history of the matter is that
15 subsequently Sergeant McCabe was written to, that there 12:06
16 were attempts made to contact Ms. D and to engage her
17 in the process and effectively the file was closed,
18 isn't that right?

19 A. That's correct.

20 349 Q. Had anybody, at the time that that happened, identified 12:06
21 to you the problems that had arisen during the course
22 of the Maurice McCabe file?

23 A. No. Not the extent of the problems, no. Other than
24 the fact that it had drifted over time and that this
25 wrong information was circulated. But I didn't have 12:06
26 the detail of the wrong information unfortunately.

27 350 Q. Was there any internal review at that juncture?

28 A. At that -- No, we have done an internal review, which
29 was just completed last week, and that's under our Risk

1 Management Policy, and it is, it started around April
2 time.

3 351 Q. April of this year?

4 A. April of this year, yes. But no, I hadn't initiated a
5 review, because I hadn't got the full picture of the 12:07
6 extent of the difficulties on the file. I was looking
7 at the 30 risk escalations that I had and in terms of
8 the learning from them.

9 352 Q. Okay. Just, if you could be shown page 530 please.
10 This is a letter to the Tribunal. I think that you -- 12:07
11 A. Could you go back up, please?

12 353 Q. -- you attended a meeting, you see at paragraph 1 there
13 on the 13th February 2017?

14 A. That's right. That was soon after the Prime Time
15 programme. 12:08

16 354 Q. And Josephine McGuinness, who is the business manager,
17 Jim Gibson, who is the chief operating officer, was in
18 attendance --

19 A. Yes.

20 355 Q. -- as was Gerry Lowry? 12:08
21 A. That's correct.

22 356 Q. And Tara Downes from Tusla legal, is that right?
23 A. That's correct.

24 **CHAIRMAN:** I'm sorry, Mr. Marrinan, it must be a -- 530
25 is a letter from Arthur Cox in mine. 12:08
26 **MR. MARRINAN:** Yes.

27 **CHAIRMAN:** Is it?

28 **MR. MARRINAN:** If you look at paragraph 1, sir.

29 **CHAIRMAN:** Oh, I see.

1 **MR. MARRINAN:** Yeah, I will just check it now, sir.
2 Ms. Leader is going to check the actual date.
3 **CHAIRMAN:** Maybe the witness will go through her week,
4 that particular week it might help, Mr. Marrinan, I
5 don't know. 12:09
6 **MR. MARRINAN:** Do you --
7 A. Yeah. What day is the 13th February? I know the Prime
8 Time was on the Thursday evening.
9 **MR. MARRINAN:** It's actually the 9th February --
10 A. Okay. 12:10
11 362 Q. It was aired. So it's 9th February that it's aired and
12 this meeting arose out of the Prime Time programme, is
13 that right?
14 A. Yes, and it was about --
15 363 Q. And prior to the 9th February you hadn't heard of any 12:10
16 difficulty?
17 A. No, I heard from -- I did know through the risk
18 escalation that the wrong information was put on, on
19 file, the detail of that wrong information I didn't
20 know until the Prime Time. I didn't know about all the 12:10
21 other errors, like notifications being sent and files
22 being opened on children of Mr. McCabe.
23 364 Q. Just if could just be very clear in relation to it so
24 there is no misunderstanding. The risk escalation --
25 A. Was in August. 12:10
26 365 Q. -- document is page 511.
27 A. Yeah. It was in August. Early August. Yeah.
28 **CHAIRMAN:** So, you were getting that off the
29 television. But there was just one thing,

1 Mr. Marrinan, if you don't mind, there's been a -- it
2 could be a different of description, but it's always
3 been said there was no files opened on the McCabe
4 children.

5 A. Sorry, yes. The intakes. But even the fact that 12:11
6 intakes were opened on the four children is
7 unacceptable.

8 **CHAIRMAN:** It means that the next step is they become
9 part of a file for the child.

10 A. Well, no. The children wouldn't have come into this at 12:11
11 all, you know, in general practice and the way my
12 expectations would be about how cases like this are
13 managed we wouldn't have got as far as -- without
14 talking to Mr. McCabe first, we would never do any
15 intakes on the children, unless we had a serious 12:11
16 founded risk.

17 **CHAIRMAN:** Unless it was kind of red light stuff.

18 A. Red light, and we had founded the -- we had done the
19 assessment and we had come to a conclusion of founded,
20 then we have a child protection concern and we need to 12:12
21 ensure the children are protected. But that would not
22 happen without talking to the person of concern.

23 366 Q. **MR. MARRINAN:** If you look at page 511 there.

24 A. Yeah.

25 367 Q. This is the "*Serious Incident other Than HIQA and Risk* 12:12
26 *Escalation*"?

27 A. Yes.

28 368 Q. I think that this was prepared by Lisa O'Loghlen --

29 A. That's correct.

1 369 Q. -- is that right?
2 A. Yes.
3 370 Q. And it's dated 2nd August 2016?
4 A. Yes.
5 371 Q. At page 513, at the bottom there. We heard from the 12:12
6 last witness, Ms. Tobin, that her understanding was
7 that she was -- she wasn't as such reviewing the errors
8 on the file. And that would appear to be the
9 situation, isn't that right?
10 A. That is correct. 12:13
11 372 Q. So is it the situation that as far as Lisa O'Loughlen is
12 concerned -- unfortunately she's not available to give
13 evidence to the Tribunal at the moment.
14 A. No.
15 373 Q. And won't be until September some time. But is it the 12:13
16 situation that this report is put in with this heading
17 of "*Serious Incident and Risk Escalation*" as a result
18 of what they had discovered by doing a review of the
19 file?
20 A. Yes. 12:13
21 374 Q. All right.
22 A. And it would be on file. And what she is drawing my
23 attention to is lack of fair procedure, which was on a
24 lot of the risk escalations at the time, and the
25 incorrect information. But the detail of the incorrect 12:13
26 information I didn't have.
27 375 Q. So is it Lisa O'Loughlen who has escalated the risk --
28 A. To me.
29 376 Q. -- within the service as a result of what she has seen

1 from reviewing the file and the history of the case?

2 A. That's correct, yes.

3 377 Q. But it didn't come from Cavan-Monaghan to be reviewed
4 in that context?

5 A. No. 12:14

6 378 Q. It became as a normal file?

7 A. It became -- yes.

8 **CHAIRMAN:** It came as a SART file, I presume.

9 A. Well, it came to the SART team, yeah, from the
10 unallocated. 12:14

11 **CHAIRMAN:** It came as 'This is a SART'.

12 A. Yes.

13 **MR. MARRINAN:** Yes.

14 379 Q. Page 513, "*Describe any internal/external
15 investigations, investigation reviews initiated to
16 date,*" it says: 12:14

17

18 "*SART completed the audit in 2016 and considered it a
19 high concern given complex legal issues and Detective
20 Sergeant McCabe's profession and high media profile.*" 12:14

21

22 Do you see that noted there?

23 A. Yes, I do indeed, yes.

24 380 Q. And then the next paragraph Ms. O'Loghlen highlights:

25 12:15

26 "*Fair procedures have not been followed and our
27 investigation ten years ago proceeded without ever
28 meeting Detective Sergeant McCabe and with no formal
29 closure. Again we wrote to Detective Sergeant McCabe*

1 *December 2015 despite re-opening the file in August*
2 *2013 and wrong information was given and Ms. D was not*
3 *met with. It is likely Detective Sergeant McCabe has a*
4 *strong argument that procedures have been dealt with*
5 *inappropriately."*

12:15

6
7 Isn't that right?

8 A. Yes.

9 381 Q. And then: *"Anticipated completion date for overall*
10 *management of serious incident.*

12:15

11 *SART has allocated the case high priority and so will*
12 *endeavour to contact alleged victim August 2016."*

13 A. Yes.

14 382 Q. Isn't that right?

15 **CHAIRMAN:** Mr. Marrinan, I'm sorry for interrupting you
16 but the whole point about contact the alleged victim
17 then is the verification process, is it?

12:16

18 A. On this occasion it was to start at the beginning.

19 **CHAIRMAN:** Start from scratch?

20 A. Start from scratch, which has happened on many of the
21 other files as well. And start, and bring in the
22 complainant and listen to what they have to say and
23 make a judgment on it.

12:16

24 **CHAIRMAN:** Okay.

25 383 Q. **MR. MARRINAN:** And I wonder in the context and
26 circumstances of the Maurice McCabe file and its
27 history going back to 2007 --

12:16

28 A. Yes.

29 384 Q. -- and the failure of Ms. D to engage with Tusla, and

1 we know that she didn't engage in 2015, when prompted
2 by Kay McLoughlin --

3 A. Yeah.

4 385 Q. -- whether in fact it was appropriate or whether this
5 was material a step that was taken in the knowledge 12:17
6 that Ms. D was not going to engage with the service, is
7 there any element of that in it?

8 A. No. I think it is simply just because it was so badly
9 managed, there were so many errors in it, we did want
10 to inform Mr. McCabe of what was going on and that his 12:17
11 file -- his name was actually on a file and that we
12 wanted to bring her in and start at the beginning, do
13 some level of a credibility assessment.

14 386 Q. There again, if we can look over the next page, page --
15 sorry the previous page, page 502 it says: 12:17
16
17 *"SART sought legal advice on this matter given the case
18 was investigated ten years ago approximately but the
19 information is scant and now Ms. D has come forward
20 again given Detective Sergeant McCabe received a lot of 12:18
21 media attention in recent years as Garda
22 whistleblower."*

23
24 Have you any idea or were you able to ascertain where
25 that piece of information came from? 12:18

26 A. The piece around the fact that Garda McCabe was a
27 whistleblower?

28 387 Q. No. Where, a suggestion that Ms. D came forward again
29 as a result of Detective Sergeant McCabe receiving a

1 lot of media attention?

2 A. I think that's an assumption.

3 388 Q. That's just merely an assumption?

4 A. Yeah. I can't answer really, yeah.

5 389 Q. And then the last three lines there: 12:18

6

7 *"Tusla legal have advised SART to seek to meet Ms. D to*

8 *assess whether her disclosure is credible to proceed*

9 *the matter to investigation."*

10 12:18

11 And then:

12

13 *"Tusla legal will respond with Sergeant McCabe's*

14 *people."*

15 12:19

16 A. Again, I have to confirm that that is the legal advice

17 on many of these cases. As I say, this is not the only

18 one that was risk escalated. And we did have to start

19 the beginning.

20 390 Q. So, having received that report the case was 12:19

21 ultimately, or the file was ultimately closed, but in

22 circumstances where that report doesn't highlight the

23 difficulties --

24 A. No.

25 391 Q. -- in any meaningful way -- 12:19

26 A. No.

27 392 Q. -- that had arisen, in the McCabe file, isn't that

28 right?

29 A. That's correct. Now again, you know, these cases,

1 A. Yes.

2 403 Q. Are there any aspects of the evidence that has emerged
3 that you're concerned about and that you're surprised
4 at, other than the matters that you've already outlined
5 to far? 12:23

6 A. Well, very few surprises in it, in the sense that, you
7 know, I was asked to prepare, so I had seen the emails
8 from, you know, one senior manager to the other, where
9 I was concerned. I suppose if I wanted to add
10 something to it, and it's not really a concern, 12:23
11 Chairman, but it's just to put into some sort of
12 context the duty system around the country at the time
13 and in terms of what some of the frontline staff are
14 dealing with. I'm not sure that that has been caught
15 as well as it could be, in the sense that they are 12:23
16 coming on duty for that week and they would have the
17 files that are unallocated, but they also have
18 allocated themselves, which cases could blow up and
19 they may be distracted to go and do something there.
20 But the other thing is, the high priority coming in the 12:24
21 door is very significant. You know, if a Public Health
22 Nurse, for example, walks into a house and we have a
23 three-year-old in a cage that needs an immediate
24 response. We have a lot of difficult teenagers who are
25 suicidal. That needs an immediate response. You could 12:24
26 have a young girl, which would be very high priority,
27 you know, at a sex education class in school come in
28 and says 'My Daddy does that to me three times a week,
29 I didn't know that that was wrong'. So that is the

1 kind of calibre of stuff that is coming in to them on a
2 daily basis. They have to deal with that while on duty
3 and they also have to go to court while on duty to take
4 those children into care or, you know, to do whatever
5 is next, and set up a case conference. So although 12:24
6 this file was in the unallocated drawer, and I know
7 what you're saying, it just got plucked out, which is
8 unacceptable, but I can see how it drifted on duty.
9 What I don't accept is that the management of the
10 waiting list should have known what was in on those 12:25
11 files. And a case such as this, which such
12 sensitivity, should have been taken out and allocated
13 as a priority within the service. When these kind of
14 cases -- these are sensitive -- you know, the fact that
15 Sergeant McCabe was in the Gardaí, but we have cases 12:25
16 where staff of our own have allegations made against
17 them, certainly with teachers or many high profile
18 people within the community, that would be on the media
19 as well, when those cases come in, there is a
20 nervousness around them, there absolutely is, and there 12:25
21 is a head in the sand behaviour at some time not to
22 deal with it because it is so sensitive and it could
23 blow in the media. But the reality is, the management
24 should take them out and allocate them to a senior
25 practitioner on the team to get the work done and to 12:25
26 see the file through from beginning to end. This is a
27 36-page file, the work could have been done very
28 quickly. But in the context of the responsibility for
29 the frontline workers I can see how errors are made

1 because it is such a fast pace. But I don't accept it
2 at the management level.

3 404 Q. You perhaps understand the nuisances within the service
4 better than anybody because of your experience. From
5 your knowledge of the file, the history of the file and 12:26
6 from the evidence that you have heard at the Tribunal
7 of Inquiry, are you happy to exclude the possibility of
8 any Garda interference externally applied to the
9 management of the file?

10 A. To be honest with you, it would be easier if I could 12:26
11 say that that is what I believe is happening, but it's
12 not what I believe is happening. I believe it to be
13 completely and absolutely incompetence.

14 405 Q. Sorry?

15 A. I believe it to be incompetence on the management of 12:27
16 the file. I don't believe that there is collusion.

17 406 Q. So what you are saying effectively is that you would be
18 more than happy to blame an external agency but it's
19 your own agency that is actually responsible?

20 A. Well, I would like to think that we could -- This to me 12:27
21 is a file, people have seen it as a file, they have
22 taken on tasks as it as a file, I don't see that they
23 have a face behind it, that this is a person with a
24 family and it wasn't seen like that, it was just seen
25 as a file with a task as opposed to the human nature of 12:27
26 it, which is extremely disappointing.

27 407 Q. Just one matter, final matter, Ms. Creamer, you
28 provided a statement to the Tribunal, it's page 3063
29 and it's dated 10th July --

1 A. Yeah.

2 408 Q. -- earlier this week, Monday, and in it you don't refer
3 to the fact that you believed that this was an
4 inappropriate referral from Cavan-Monaghan to SART?

5 A. No. 12:28

6 409 Q. Has this arisen as a result of the evidence as it has
7 unfolded?

8 A. No, no. To be honest I just did that because I knew I
9 would have the opportunity to talk through my concerns.

10 410 Q. Well, it may well be that if you have any additional 12:28
11 evidence that you think might assist the Tribunal in
12 its work you might put pen to paper and provide an
13 additional statement to the Tribunal --

14 A. I will indeed, yes.

15 411 Q. -- should that arise, okay? 12:28

16 A. Yes.

17 **CHAIRMAN:** Okay. well, it is 12:30, why don't we break
18 for an hour then.

19

20 **THE HEARING THEN ADJOURNED FOR LUNCH** 12:28

21

22

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29

1 A. Are you asking me if Ms. Brophy was saying that to
2 Ms. D?

3 417 Q. Well, you saw her evidence, that she contacted Tusla to
4 ask would -- if she referred it, what would the
5 consequences be. 13:33

6 A. Yes, she did.

7 418 Q. And one of them would be that it would be referred to
8 the Guards, there would be a reference to the Guards,
9 because everybody assumed it hadn't been done before or
10 she thought it hadn't been done before, isn't that 13:33
11 right?

12 A. That's correct.

13 419 Q. And the second point was, though she did know there had
14 been a DPP's investigation and the file had gone to the
15 DPP, and so she must have thought the Guards were 13:34
16 somehow involved, isn't that right?

17 A. Yes.

18 420 Q. And the second point is that Ms. D would have been --
19 would have left the counselling session with the
20 impression that there was to be a process to ensure 13:34
21 that Maurice McCabe was not a risk to children, isn't
22 that right?

23 A. She would have left that -- yes, that would be her
24 understanding of it.

25 421 Q. Yes. 13:34

26 A. The practice in the area at the time.

27 422 Q. And we know that the Rian service never actually got
28 around to offering her counselling until I think it was
29 May of the following year?

1 A. Yes.

2 423 Q. And we know that following what happened on the 12th
3 August 2013, nothing happened on the Tusla side
4 until --

5 A. Correct. 13:35

6 424 Q. -- 30th of April, isn't that right?

7 A. That's correct.

8 425 Q. Can I just ask you in relation to what did happen on
9 30th April, you weren't there, obviously, but
10 Ms. Connolly says that she took down the file and that 13:35
11 she started working on -- she engaged in some way with
12 Eileen Argue, isn't that right?

13 A. Yeah.

14 426 Q. You know that?

15 A. I heard her evidence. 13:35

16 427 Q. And that she was told -- or she decided that she would
17 compose a Garda referral document?

18 A. That's correct.

19 428 Q. And that she would prepare intake documents on the four
20 McCabe children, isn't that right? 13:35

21 A. That's correct.

22 429 Q. Now, I think you have said that that should never have
23 happened?

24 A. In my experience, and certainly managing many social
25 work teams over the last 20 years, we wouldn't do a 13:36
26 Garda notification on somebody who is over 18, nor
27 would we open children's files unless we had a founded
28 outcome.

29 **CHAIRMAN:** Unless we had a which?

1 A. A founded outcome. After the assessment.

2 430 Q. **MR. MCDOWELL:** In other words, unless you had a very
3 clear case, is that what founded outcome --

4 A. A very clear case.

5 431 Q. Yes. So, looking at the apparent decision of Eileen 13:36
6 Argue in consultation with Ms. Connolly on 30th
7 April --

8 A. Yes.

9 432 Q. -- is it fair to say that that was a very unusual step
10 to take in the circumstances? 13:36

11 A. In my experience, that would be a very unusual step to
12 take.

13 433 Q. And we don't know as yet whether it's suggested that
14 Ms. Argue had read the file because she was sent two
15 files, the Ms. D file and the Sergeant McCabe file on 13:37
16 the day, isn't that right?

17 A. Yes.

18 434 Q. We don't know whether as yet -- whether she consulted
19 them?

20 A. No. 13:37

21 435 Q. But can you think of any reason why somebody in her
22 position would authorise Laura Connolly to open files
23 on the McCabe children?

24 A. I genuinely can't understand why that was done, but,
25 you know, in different areas over the years, when we 13:37
26 were in the HSE, did different things, and they set up
27 their own processes, which was one of my challenges in
28 trying to achieve consistency. So that is the only
29 explanation I can give for it. It wouldn't be normal

1 practice, in my view.

2 436 Q. well, I know that the HSE is spread across the country
3 and it isn't a united church, maybe, on all matters of
4 practice.

5 A. Yes. 13:37

6 437 Q. But had you ever come across -- did you ever come
7 across a similar situation before where files were
8 opened in such a rapid decision as that on four
9 children?

10 A. Not as principal social worker or as team leader, no. 13:38

11 438 Q. Because we know that the excuse offered for preparing
12 the Garda reference document was the manuscript writing
13 from Keara McGlone, to Garda notify?

14 A. Yes.

15 439 Q. But there was nothing in it, was there, on the intake 13:38
16 document, which would at that point justify opening any
17 files on the children?

18 A. No. No. That information, the wrong information could
19 have been perceived as a second referral, and you would
20 bring the client -- the complainant back in to discuss 13:38
21 that.

22 440 Q. Yes. And surely, before you opened a file on the
23 McCabe children, you'd require slightly more
24 information than Ms. D's father's casual reference to
25 the number of children in the family? 13:39

26 A. Yeah. Our role is to protect children; we open files
27 on children in line of protecting them. We didn't have
28 any evidence at this point that we needed to protect
29 these children because we hadn't met with Mr. McCabe

1 and we hadn't done an assessment.

2 441 Q. I know that you can't pass judgement on other people,
3 and I am not asking you to do that, Ms. Creamer, but I
4 am asking you to agree with the proposition that there
5 is something strange and highly unusual about the steps 13:39
6 that were suddenly taken on the 30th April in this
7 case?

8 **CHAIRMAN:** 30th April? Year? 2014?

9 **MR. MCDOWELL:** Sorry, 2014, yes.

10 A. Again as I say, to my knowledge it's unusual. Why it 13:40
11 was done, I can't explain. Just within the culture of
12 an area that they developed this practice.

13 442 Q. Well, I mean, did you discover in the SART documents
14 any evidence that this was done in respect of anybody
15 else? 13:40

16 A. No. Other children, no.

17 443 Q. I mean, did it emerge to you as a pattern of kind of
18 unusual behaviour or was of this a one-off, as far as
19 you know?

20 A. In terms of what was risk escalated to me, no, opening 13:40
21 files wasn't part of it, any of them.

22 444 Q. Thank you.

23 **CHAIRMAN:** Mr. McDermott?

24 **MR. MCDERMOTT:** No questions.

25 **CHAIRMAN:** Thank you. Mr. O'Higgins? 13:40

26 **MR. O'HIGGINS:** No questions, Chairman.

27

28

29 **MS. LINDA CREAMER WAS RE-EXAMINED BY MR. MARRINAN AS**

1 **FOLLOWS:**

2 445 Q. **MR. MARRINAN:** To correct one thing Mr. McDowell might
3 have inadvertently put to you. There were no files
4 opened in relation to the McCabe children.

5 **MR. MCDOWELL:** Sorry, I meant -- 13:41

6 A. Yeah. There were no files opened.

7 **CHAIRMAN:** Yeah, no, I understood what you were saying,
8 Mr. McDowell, so don't worry about it.

9 446 Q. **MR. MARRINAN:** And there was no Garda notification in
10 relation to the McCabe children, the Garda notification 13:41
11 was in relation --

12 A. No.

13 447 Q. -- to the allegation made by Ms. D against Sergeant
14 McCabe?

15 A. That's correct. 13:41

16 448 Q. Thank you very much.

17 **MS. CREAMER:** Chairperson, if I could just take the
18 opportunity, it's -- I have been here for the week
19 listening to the evidence and I just want to say that
20 Tusla is in a major transition programme. I am not 13:41
21 making that as an excuse for what has happened, but we
22 genuinely are extremely sorry to the McCabe family. To
23 go through such stress and receive such a letter at
24 such a time - at any time - is completely unacceptable.
25 And we are in the business of putting families together 13:42
26 and supporting families to be together, we are not in
27 the business of trying to destroy families. And stress
28 like this could have gone that route, so I just want to
29 acknowledge Tusla's apology for what has happened to

1 the McCabes and we will cooperate with anything else in
2 the future. Thank you.

3
4 **THE WITNESS THEN WITHDREW**

5
6 **MR. MARRINAN:** Sir, the next witness is Eileen Argue,
7 please. This is in volume 4 at page 1207.

8
9 **MS. EILEEN ARGUE, HAVING BEEN SWORN, WAS EXAMINED BY**
10 **MR. MARRINAN AS FOLLOWS:**

11 449 Q. **MR. MARRINAN:** You have been mentioned in dispatches in
12 the Tribunal and you have, your name has been
13 pronounced *Ar-gay* and *Ar-gue* at various stages by
14 various people, but I think the correct pronunciation,
15 is *Ar-gee*, is that right?

16 A. That's correct.

17 450 Q. Well, we have sorted that out anyway. Would you just
18 tell us what your qualifications are, please?

19 **CHAIRMAN:** I'm sorry?

20 A. It's *Ar-gee*.

21 **CHAIRMAN:** Is it really.

22 A. That is the pronunciation.

23 **CHAIRMAN:** Okay. That is good to know.

24 451 Q. **MR. MARRINAN:** Would you just tell us what your
25 qualifications are please?

26 A. I have a Degree in Social Studies and Social Care from
27 Sligo Institute of Technology since 2003, and I have a
28 Masters in Social Work, which was from the National
29 University of Ireland, Galway, in 2006, after

1 completing my Masters.

2 452 Q. And I think you qualified as a social worker in 2006,
3 is that right?

4 A. That's correct.

5 453 Q. And at that time you started in the Cavan-Monaghan, in 13:44
6 the Child Protection Team in Tusla, is that right?

7 A. That's correct.

8 454 Q. I think you finished there in May of 2014, is that
9 right?

10 A. I finished fully in the first week in June '14 and took 13:44
11 up my new post on 11th June 2014 in a different social
12 work area.

13 455 Q. Yeah, on 11th June you moved to Kilkenny, is that
14 right?

15 A. I moved to South Tipperary but I am presently in 13:44
16 Kilkenny.

17 456 Q. Right. Now, I think during that period of time you
18 were working in both the Monaghan and Cavan offices,
19 isn't that right?

20 A. That's correct. 13:45

21 457 Q. Now, I think you have provided the Tribunal with a
22 great deal of information in your statement, which runs
23 for 30 pages, dealing with how intake records are dealt
24 with and the file management system. We have already
25 heard a lot of this evidence from other witnesses, and 13:45
26 you don't contradict what any of them say in relation
27 to it, so I don't intend to bring you through that
28 evidence, all right?

29 A. That's correct -- that's okay.

1 458 Q. But if I could just firstly ask you in terms of your
2 role during this period of time, you were always
3 working as a social worker, is that right?
4 A. That's correct.

5 459 Q. And there was a period of time I think after Keara 13:45
6 McGlone left the service in February of 2014 when you
7 took up work as team leader, is that right?
8 A. Yes, I took it up in an acting capacity.

9 460 Q. Did you take it up, the role as acting team leader
10 during that period of time? 13:46
11 A. Yes.

12 461 Q. Between February 2014 and when you left in June of
13 2014?
14 A. Yes.

15 462 Q. But other than that, your role was always as social 13:46
16 worker, is that right?
17 A. That's correct.

18 463 Q. And prior to taking up that role -- and we will be
19 focusing on a date in late April of 2014 for the
20 purposes of our work, but tell me, did you know 13:46
21 Sergeant McCabe going back over the years?
22 A. I don't recall if I knew him, but in the course of my
23 work within the Cavan Social Work Department there is a
24 possibility that I may have met him at a meeting or I
25 may have had some contact with him, but I can't recall 13:47
26 if I did or not. But I would accept in the course of
27 my work I could have met him.

28 464 Q. All right. Well, it's a feature of the statement that
29 you provided to the Tribunal, you seem to have very

1 little recollection of these events, is that right?

2 A. That's correct. All the information I would have is
3 based on the review of the file for this process. I
4 can't recall any piece of information specific, apart
5 from reading the file and preparing the statement. 13:47

6 465 Q. Well, if we could just have page 1290 put up on the
7 screen, please. This is a meeting conference on
8 Tuesday, 24th April 2007. I don't expect you to recall
9 every meeting that you had ever attended but you will
10 see that the chairperson is Mary O'Reilly and it lists 13:48
11 the persons who were present, amongst them was Emer
12 O'Neill, who is a senior clinical psychologist, and
13 Orla Curran, who is also a social worker, as you were
14 at the time, but she was attached to the Child Sexual
15 Assault Team, and then we see Mary Tiernan was there 13:48
16 and Rhona Murphy, who is the social worker dealing with
17 the Ms. D file at that time, and also then we see that
18 you are present, all right? Do you see that?

19 A. Yes, I do.

20 466 Q. And if you look down, you will see there under "*Reasons* 13:48
21 *for referral*," and then a bullet-point 2, there is a
22 reference to the "*File returned from the DPP, no*
23 *prosecution*," do you see that?

24 A. Yes, I do.

25 467 Q. And then "*Actions agreed*" and one of the actions, the 13:49
26 first one was that Mary O'Reilly was to contact
27 Catherine Sweeney, who is the principal social worker
28 in Meath, to ask her to nominate a member of her team
29 to deal with Mr. McCabe. Do you see that?

1 A. Yes, I do.

2 468 Q. Do you have any recollection of attending that meeting
3 where Sergeant McCabe was discussed, and apparently it
4 was discussed in circumstances where an investigation
5 of him or a meeting with him by the team in Cavan was 13:49
6 deemed to be perhaps inappropriate and they were trying
7 to get Catherine Sweeney in Meath to meet with Sergeant
8 McCabe. Does that jog your memory in any way as to --

9 A. I would have sat at those meetings on an ongoing basis
10 as a member of the Child Protection Team for 13:50
11 Cavan-Monaghan. I don't recollect any one specific
12 person but any child protection referral at that time
13 would have been discussed in terms of a new referral or
14 any case that was coming back up for a review. So I
15 wouldn't specifically remember a case or a name, 13:50
16 however I would remember attending these because this
17 was a part of our development of service in relation to
18 the Child Protection Team, that we would attend our
19 normal referrals meeting and we would attend this child
20 protection referrals meeting. 13:50

21 469 Q. Yes. We know that, but in terms of -- you see, if I
22 could just please have page 261 brought up on the
23 screen. This is a list that the Tribunal have compiled
24 of child conferences and meetings where Sergeant McCabe
25 was present, and if you could just look there, please, 13:50
26 you will see that the third one down is 31st of October
27 2006. You will see that Gerry Lowry is noted, Mary
28 Tiernan and then yourself, do you see that?

29 A. Yes.

1 470 Q. And then the third paragraph across relates to the CORE
2 team that were assigned to deal with the case. Do you
3 see that?

4 A. Yes.

5 471 Q. And you are mentioned there and Sergeant McCabe is? 13:51

6 A. Yes, I see that.

7 472 Q. Do you see that? Do you have any recollection of being
8 assigned? well, first of all, do you have a
9 recollection of him attending at conferences?

10 A. I don't have a recollection. I would have been 13:51
11 attending conferences on an ongoing basis, so I
12 wouldn't remember every person that would be at them.
13 I definitely recognise the names that are down from the
14 Social work Department in relation to it, but I would
15 have been at case conferences as part of my role within 13:52
16 the Social work Department on an ongoing basis so I
17 can't say that I would remember every single person.

18 473 Q. Ah, well no, I mean, nobody is expecting you to
19 remember every single person, but on 31st October 2006
20 you attended a conference that was chaired by 13:52
21 Mr. Lowry, you were assigned as a CORE team to work
22 with Garda McCabe and the following April you were
23 attending a meeting where Sergeant McCabe is being
24 discussed, and people are trying to -- or certainly
25 there is a suggestion that because it's potentially 13:52
26 embarrassing to the team to interview McCabe, because
27 he has been attending these conferences, that there is
28 an effort to send it to your colleague in County Meath.
29 You have no memory of either attending at meetings with

1 Sergeant McCabe, being on a CORE team with Sergeant
2 McCabe or him being discussed at the meeting in 2007?

3 A. I don't remember the specifics but as I said, in the
4 course of my work I was open to that I may have met him
5 or I may have had some level of liaison with him, but I 13:53
6 can't remember specifically to any particular case.

7 474 Q. If we could just go on to page 262, please, if you
8 could be shown that. There is a meeting on 16th April
9 of 2008. Again Gerry Lowry is chairing it and we see
10 that you are present? 13:53

11 A. Yes.

12 475 Q. You are also on the CORE team, along with Gerry Lowry,
13 Bernie O'Reilly, Mary Tiernan and again Sergeant
14 McCabe, do you see that?

15 A. Yes, I do. 13:53

16 476 Q. And then the following year, on 15th May of 2009, we
17 again see yourself at a meeting chaired by Gerry Lowry.
18 You are on a CORE team along with Gerry Lowry and Mary
19 Tiernan and Sergeant McCabe.

20 A. Yes, I see that. 13:54

21 477 Q. Do you see that? And this doesn't help you or jog your
22 memory in relation to this at all?

23 A. No. These are, I would believe, child protection
24 conferences or child protection reviews, so I
25 wouldn't -- as I said already, I don't recall and I 13:54
26 have no memory of these individual cases in relation to
27 it. I do accept that there is names attached to a CORE
28 group meeting that would have been convened outside of
29 case conferences. But I don't really have a memory of

1 such in relation to any individual meetings or contact
2 with people.

3 478 Q. In April of 2014, were you aware of or had you heard of
4 Sergeant McCabe in the media?

5 A. I would have had -- remembered some mention. I don't 13:55
6 exactly know exactly what the context of the articles
7 or media feeds were, but I do remember hearing some
8 level of information.

9 479 Q. Well, did you know him or the name as being somebody
10 who was involved as, what is described in the media as 13:55
11 a whistleblower?

12 A. I don't remember exactly the content of the material
13 but I do remember there was a mention in the paper, but
14 I don't know exactly in the context of what it was.

15 480 Q. Well, I don't expect you to remember the content of 13:55
16 articles that you have read, but in the general
17 context?

18 A. The general context, as I said, I would have heard his
19 name during that time.

20 481 Q. And when you heard of him in the media and media 13:56
21 reports, did you link that in any way to the Sergeant
22 McCabe who had been attending meetings or at child
23 conferences that you had attended to -- attended at
24 between 2006 and 2009?

25 A. I am not 100 percent sure if I did at that time, but 13:56
26 now looking back on this information I can see, I can
27 see it, but I don't -- I don't know if I would have
28 made that connection at that time, if I would have been
29 thinking in that kind of context of names and

1 associations.

2 **CHAIRMAN:** I suppose, what Mr. Marrinan is asking you
3 is this: There would have been a time when things
4 would be very surprising vis-à-vis allegations of child
5 sexual abuse - for instance, the clergy - but it would 13:56
6 stick in your mind when those ranges were rare, but
7 here you have one in relation to a policeman and he is
8 only down the road, and I suppose that's what is hard
9 to understand; as to why you wouldn't have kind of said
10 to yourself 'oh, now we have a policeman and 13:57
11 furthermore he is down the road, I wonder which one he
12 is' or for an alert to go off in your mind of that
13 variety. Do you see what Mr. Marrinan is getting at
14 there?

15 A. I suppose I came back to the department in May '14, I 13:57
16 wouldn't have been aware of a referral had come in, in
17 relation to Mr. McCabe. I was in the Monaghan Social
18 Work Department before that, so I wasn't actually
19 actively working on cases within the Cavan team or the
20 duty system in Cavan. So, in April if I had heard a 13:57
21 connection I wouldn't necessarily be making any direct
22 connections during that time. It would have been a
23 busy Social Work Department so I am not too sure if I
24 would be putting connections together of something from
25 a previous number of years before that and that current 13:57
26 time. So I can't say I did and I can't say I didn't at
27 that time in relation to now. Looking back it's very
28 hard to say if I did in terms of the lapse of time at
29 this point. But as I said, I did hear his name but I

1 am not saying that I made connections with everyone
2 that I would hear about.

3 482 Q. **MR. MARRINAN:** We come to April, I think the 30th April
4 of 2014. We have heard from Laura Connolly that she
5 was going through the Measuring the Pressure file. Can 13:58
6 you recall and tell us how it was that you came to be
7 dealing with this file, the Maurice McCabe file?

8 A. I can't remember exactly, but what I can say in that
9 time, we would have been reviewing cases on the
10 Measuring the Pressure waiting list, in line with my 13:59
11 principal social worker, and during that time there
12 would have been a particular emphasis of looking at the
13 intake records that were developed on cases that were
14 unallocated. I don't know how -- what kind of system
15 went in, in place in order to look at the particular 13:59
16 files that would have been pulled during different --
17 various times, but during that time it would have been
18 the intake records and what assigned task was put on
19 that intake record that wasn't completed and it was
20 about checking the outstanding tasks that were assigned 13:59
21 in the section, the decision-making section of intake
22 records. On that case, there was, I think "duty to
23 Garda notify" as Ms. McGlone would have put, who was a
24 former team leader, and it was about looking at what
25 was outstanding and completing the tasks. So that 13:59
26 would have been during April 2014.

27 483 Q. Well, was this a task that you carried out in the first
28 instance and then handed over to Laura Connolly or was
29 it a task that Laura Connolly decided to do herself?

1 A. I can't be specific in terms of the sequence, but at
2 that time we would have been reviewing cases from the
3 Measuring the Pressure. A number of cases would have
4 been assigned to the duty system to follow up on
5 outstanding cases. Mr. McCabe could have been in that 14:00
6 at that time, one of those cases that were identified,
7 and would have been within the duty system and would
8 have been un -- non-allocated in the duty system in
9 order to complete a task, which was outstanding. There
10 was numerous cases that would have been reviewed on an 14:00
11 ongoing basis for whether or not the completion of
12 tasks assigned by the team leader in the intake record
13 was completed. So, I am not too sure if that was
14 before the review in April or was that at April, I am
15 just -- I can't recall exactly. But that would have 14:00
16 been one of the outstanding tasks. So it would have
17 been for the duty social worker -- would have worked on
18 a week-to-week basis, a different social worker every
19 week, so it may have been that she went through what
20 was outstanding within the duty tasks that were 14:01
21 assigned on that -- at that occasion.

22 484 Q. She has given evidence, and she is not entirely sure
23 whether or not she just went into the filing cabinet or
24 whether you in fact had assigned this file to her. But
25 if you could just -- if we could have page 1255 on the 14:01
26 screen, please. This is a *Notification of Suspected*
27 *Child Abuse, Garda Notification*. Do you see it?

28 A. Yes, I do.

29 485 Q. This is what we now know to be the incorrect

1 notification, all right?

2 A. Yes.

3 486 Q. And we know that this was compiled by Laura Connolly.
4 Can you see there, there is a Post-it there?

5 A. I can't see. 14:02

6 487 Q. Can you see the writing there?

7 A. Yes, I can see.

8 488 Q. This has been shown to you by the investigators.

9 A. Yes.

10 489 Q. I think the best copy that was available. Could you 14:02
11 read out what is there?

12 A. *"Duty to notify allegations on to An Garda Síochána and*
13 *file in the cabinet"* and then my name *"Eileen"*.

14 490 Q. Yes. 2229. We have actually a colour version, you can
15 see it better there? 14:02

16 A. Yes.

17 491 Q. That seems to be a direction that is given by you,
18 isn't that right, in relation to the file?

19 A. Well, it's a Post-it for duty, so I suppose in relation
20 to it, it was a task that was identified. I am not too 14:03
21 sure whether it'd been put on a notification, I think I
22 did question at the time with the investigators was it
23 there originally, because the notification already had
24 been completed, but that is my handwriting and that is
25 me, my signing of my name. 14:03

26 492 Q. Well, you are making the assumption that the
27 Notification of Suspected Child Abuse notification had
28 already been compiled at that time. There is no doubt
29 that this is a Post-It and it's in your writing, isn't

1 that right?

2 A. That's correct.

3 493 Q. It's on the file, isn't that right?

4 A. That's correct.

5 494 Q. It's done before there is any Garda notification, isn't 14:04
6 that right?

7 A. I would take it that it was, but there is no date so I
8 can't be 100 percent sure but I would take it that it
9 was a direction in my handwriting.

10 495 Q. Well, it had to be before the Gardaí were notified 14:04
11 because it identifies a duty to identify the Gardaí,
12 isn't that right?

13 A. "*Duty to notify*", yes, that's correct.

14 496 Q. To notify, sorry. So this was done before notification
15 was sent to the Gardaí, isn't that right? 14:04

16 A. I would expect it was. But again --

17 497 Q. Well, can there be any doubt about it? I mean, you are
18 hardly going to put a Post-it identifying a duty to
19 notify the Gardaí and ask for it to be put on file in
20 cabinet, if that had already been done? 14:04

21 A. No, I am not disputing that. What I was saying is, I
22 am not too sure was it there or at the start of the
23 file. It is my handwriting, it is a direction in
24 relation to it for duty to complete the Garda
25 notification. 14:05

26 498 Q. Well, it would appear on the face of it, wouldn't it,
27 that this was a direction given to notify the
28 allegations to the Gardaí?

29 A. Yes. And that would be in line with outstanding tasks

1 that was known from the intake record that was
2 incomplete. So that would be following up.

3 499 Q. And that instruction would then be followed up with the
4 notification actually being done, isn't that right, and
5 then sent to the Gardaí? 14:05

6 A. Yes.

7 500 Q. So we know from Laura Connolly that she filled out the
8 notification. Can we take it that in fact this Post-It
9 was on the file prior to her doing that?

10 A. I would expect that it was on the file. I can't be 100 14:06
11 percent certain but I would expect that it was the
12 direction in completing the outstanding tasks that was
13 in connection with the intake record in August 2013.
14 So I expect it was there beforehand.

15 501 Q. So it would appear that this file was on your desk, so 14:06
16 to speak, before it went to Laura Connolly, isn't that
17 right?

18 A. It possibly was, I can't recall exactly, but I can
19 definitely say that was my handwriting on the Post-It
20 with the direction. 14:06

21 502 Q. Yes. No, we know that, but we are just trying to
22 establish when it was that this file was on your desk
23 and whether or not you had referred this file to Laura
24 Connolly to do a notification for the Gardaí. It would
25 appear that that is the situation? 14:07

26 A. It does appear to be way. And, as I said, in reviewing
27 the cases for Measuring the Pressure it was looking at
28 the outstanding tasks, so it more than possibly was one
29 of the cases that were reviewed in that process.

1 503 Q. But if you had reviewed the Maurice McCabe file --
2 well, you must have reviewed the file, isn't that
3 right, at that time, if you were giving instructions?
4 A. I don't recall if I read the file. It more looks like
5 I would have looked at the intake record that was on 14:07
6 file, looked at the task, it wasn't completed and then
7 asked for the task to be completed. I have no recall
8 of reviewing the file, but in line with the intake
9 record and the incomplete task it would be -- it was
10 more likely that at that time that that is possibly 14:07
11 what would have happened. I can't be 100 percent
12 certain on it but that is what I would foresee.

13 504 Q. Well, I suppose the first thing you are going to do is
14 you are going to -- if you are looking at the file you
15 have to go and look for the intake records, isn't that 14:07
16 right?
17 A. That's correct.

18 505 Q. And we know that Keara McGlone did the intake record
19 and she highlighted a duty to notify Gardaí, and that's
20 written on the intake record. But there is also a 14:08
21 letter on the file from Keara McGlone to Superintendent
22 Cunningham, you know that now, don't you?
23 A. I know that now from reviewing the file for this
24 process.

25 506 Q. And that would tend to suggest that there had been some 14:08
26 communication between the Social Work Department and
27 Superintendent Cunningham, isn't that correct?
28 A. That would suggest that.

29 507 Q. And that really needed to be followed up at this

1 juncture because it may well be that Keara McGlone had
2 met with Superintendent Cunningham and hadn't recorded
3 the meeting on the file, she may have overlooked it or
4 otherwise. But looking at the file there had been a
5 reasonable expectation, would there not, that she was 14:09
6 going to meet with the superintendent to discuss the
7 case?

8 A. I don't recall seeing the letter at the time. I seen
9 it in the process of review. There was no amendment of
10 the task that was being requested to be undertaken by 14:09
11 the duty social worker, so we proceeded to complete the
12 outstanding task.

13 508 Q. So, as far as you are concerned, your position is that
14 this -- you would have been going through the Measuring
15 the Pressure, you'd have identified a file, you would 14:09
16 have looked at the file, looked at the intake record,
17 identified a task to be done and you would have sent
18 that to Laura Connolly with the Post-It on it
19 identifying the duty that existed, is that the
20 position? 14:09

21 A. That would be my position, yes.

22 509 Q. And you had absolutely no knowledge of Sergeant McCabe
23 or that this file referred to Sergeant McCabe, is that
24 your position?

25 A. At the time starting in the Cavan Social Work 14:10
26 Department replacing Keara McGlone, I wouldn't have
27 been aware that the file was there until my principal
28 and I would have sat and reviewed the Measuring the
29 Pressure list. At that, we would compile all the cases

1 that are unallocated in the Social work Department. As
2 I stated, I don't know what system was put in place in
3 order to review what certain files there were.

4 Mr. McCabe's file appears to be one of the files that
5 would have been reviewed during that time. We would 14:10
6 have looked at the intake record of what was incomplete
7 and then the direction was to complete the outstanding
8 task on it, and that would have been what I foresee
9 would have happened during that time.

10 510 Q. Would you just mind addressing the question that I 14:10
11 asked you, which was: were you aware that this file
12 related to Sergeant McCabe?

13 A. In relation to the intake record, it refers to
14 Mr. McCabe in his occupation and in being a member of
15 the Gardaí. It refers to that in the original intake 14:11
16 record that was completed by the duty social worker in
17 August '13.

18 511 Q. Would you have linked the Sergeant McCabe here to the
19 Sergeant McCabe that you were reading about in the
20 newspapers? 14:11

21 A. I think there would have been definitely correlation at
22 that time in relation to it. And when I was reviewing
23 task completed with my principal social worker I would
24 give her an update in relation to cases that were
25 completed and connections in relation to any case, and 14:11
26 looking at it now, there definitely would be
27 connection.

28 512 Q. And your principal at that time would have been?

29 A. It would have been Louise Carolan. She would have been

1 the duty principal at the time in Cavan-Monaghan Social
2 Work Department for duty in intake and Séamus Deeney
3 would have been responsible for all Garda notifications
4 in Cavan-Monaghan at the same time.

5 513 Q. So in any event, you think that there may -- as you put 14:12
6 it, some correlation between the Sergeant McCabe file
7 that you had taken from Measuring the Pressure and the
8 Sergeant McCabe who was in the media, is that right?

9 A. Looking back at it now, there is definitely a
10 correlation. I can't say if I made the connection at 14:12
11 that moment in time, as I looked at the intake record
12 to complete.

13 514 Q. Ms. Argue, that is what we are interested in; the
14 state of your knowledge at the time. We all know that
15 it was Sergeant McCabe's file that you were dealing 14:12
16 with. What was your state of knowledge at the time?

17 A. In relation to it, on Measuring the Pressure it would
18 have been: His name would have been referred to as
19 Maurice McCabe. At the time that it was reviewed from
20 an intake record it made reference that he was 14:13
21 stationed in the Garda station in Bailieboro at that
22 time. The information that I would have known at that
23 time, he was a member of An Garda Síochána, from the
24 intake record.

25 515 Q. Was there any talk at all in Cavan in the Social Work 14:13
26 Department about Sergeant McCabe, did you hear any
27 rumours or talk or chat?

28 A. I don't -- I wouldn't remember specifically. I covered
29 both Cavan and Monaghan so I was in both departments at

1 both times -- or at different times. So I wouldn't --
2 I wouldn't proceed to say there was any conversation.
3 Conversations tended to be on very much personal issues
4 people would talk about, not particularly what was
5 going on in the newspapers. 14:14

6 516 Q. Was the answer to my question no?

7 A. No, well, I can remember I wouldn't have heard
8 conversations in relation to him during the time that I
9 was there.

10 517 Q. If we could just come back and look at the Garda 14:14
11 notification at page 1255. If you could just go over
12 to 1256, please. You see here that:

13

14 *"Ms. D informed her parents of this alleged abuse when*
15 *she was aged 11/12 years of age. Ms. D made a* 14:15
16 *statement to An Garda Síochána at the time. A file was*
17 *sent to the DPP, however no prosecution was directed."*

18

19 Do you see that?

20 A. Yes, I see that. 14:15

21 518 Q. In the circumstances where that was known and was on
22 the intake record that you have referred to and that
23 you would have examined, would there have been any need
24 in those circumstances to do any notification at all to
25 the Gardaí where they were already aware and had 14:15
26 investigated the same complaint?

27 A. I go back to, the intake record had made the direction
28 for duty to Garda notify and I suppose I looked on the
29 balance of, that was what the direction was by the

1 previous team leader and it was that we completed the
2 task as assigned in relation to that.

3 519 Q. In other words, you didn't read the file, you just read
4 the intake record, is that what you are telling us?

5 A. I would -- I don't -- I can't recall if I read the 14:16
6 file, but I would say that I -- at the start, the focus
7 would be the intake record. But I have no knowledge
8 that I read the file or done any review of the file.

9 520 Q. And in fact, you would have only read one portion of
10 the intake record because there wouldn't have been any 14:16
11 need to notify the Gardaí if there had been a previous
12 investigation and that investigation file had been sent
13 to the director of public prosecutions, who directed no
14 prosecution, sure there wouldn't?

15 A. I suppose I looked -- looking back at the intake 14:16
16 record, it makes reference to that, but equally, the
17 direction on that day by the team leader who was in
18 post was "*duty to Garda notify*" and that was the
19 completion of what was directed at that time.

20 521 Q. In any event, you were then asked by Laura Connolly, 14:17
21 and she seeks further direction from you in relation to
22 whether or not to do intake records in relation to the
23 McCabe children, isn't that right?

24 A. Yes. I seen -- as a part of the investigation I seen
25 the document that I was provided with. I don't recall 14:17
26 giving any direction. But I did see the document in
27 which Ms. Connolly had completed.

28 522 Q. If we could have 1239 up, please. This is a note Laura
29 Connolly, it says:

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"Eileen, have checked system and we have re-read --"

Sorry.

14:18

"-- we have no record of file on Maurice McCabe's two children at the time. Based on Ms. D file I suspect these two children are --"

And then it identifies.

14:18

"I deduce that these two girls are now aged 18-plus, based on notes on Ms. D file. Maurice has two other children now who weren't born at the time of the alleged incident. "

14:18

A. Could you just pull down the screen?

523 Q. Sorry?

A. I can only see the first part.

524 Q. 1239, and then just scroll down on the screen so that you can see that. And then it goes over the page.

14:18

"Deduce that these two children are under 18 years now. How do you want to proceed regarding the McCabe children?"

14:19

Right. So that would confirm that in fact you had dealings with this file and had an involvement in handing it over to Laura Connolly because she is acting

1 on the basis that she is reporting back to you in
2 relation to the file, isn't that right?

3 A. I suppose what she is writing for is looking for
4 direction in relation to how to proceed in relation to
5 following on from the notification. 14:19

6 525 Q. Yes. But in terms of the note itself, it's quite clear
7 that you had already dealt with the file because there
8 is no introduction, she is operating on the assumption
9 that you know about the file and she is reporting back
10 in relation to a search in relation to children, isn't 14:19
11 that right?

12 A. That's what it appears to be, but I feel it would have
13 been still in reference in connection with the
14 follow-up from the intake record, that she would have
15 seen the content of the information and was coming back 14:20
16 then looking for direction. That is the way I would
17 read it in relation to it. I don't recall seeing this,
18 only through the process for the -- for this process,
19 actually.

20 526 Q. In any event, it reads: *"Case direction from Eileen:*
21 *Complete intake records x 4 on the children."* 14:20

22 A. I see that is what it says. I suppose I don't have
23 recall of giving that direction. At the time in our
24 department, the process, the common process for
25 managing similar circumstances and dealings would be 14:20
26 that intake records would be opened on children who
27 were under 18 if there was an allegation received by a
28 parent or carer or someone known to the children who
29 had contact. So, I suppose the policy at that time,

1 which would have been orientated into when I started in
2 the department until I left, was that there would be
3 intake records open on children under 18. We wouldn't
4 open intake records on children who were over 18.

5 527 Q. Why was it done in Sergeant McCabe's case? 14:21

6 A. I can't recall --

7 528 Q. Here we have a direct question that is being asked by
8 Laura Connolly to you, as the team leader. She is
9 asking, look -- she is identifying, first of all, that
10 there are four children, two of them are adults now, 14:21
11 two of them weren't born at the time of the alleged
12 incident, and she is querying whether or not she should
13 be opening intake records, and you are advising her to
14 open intake records in relation to two adults, why are
15 you doing that? 14:21

16 A. I can't recall having any discussion or of seeing of
17 this two-page document before me prior -- prior to
18 looking at it due to the process. It would not have
19 been my practice at that time to open records, intake
20 records on children who were over 18. It was the 14:22
21 practice of the department at that time in that area,
22 in Cavan-Monaghan, to open records, intake records of
23 children who were under 18, who had contact -- there
24 was a parent or carer who had an allegation against
25 them, that was the policy of that department at that 14:22
26 time. I would only be adhering to policy. I do not
27 believe that I would have directed for two intake
28 records to be open on two young people who were over
29 18.

1 **CHAIRMAN:** But somebody did it, you know.

2 A. Sorry?

3 **CHAIRMAN:** Somebody did it. I mean, we have heard lots
4 and lots and lots about policy, procedures, etcetera,
5 but, for that to happen, I am not saying you did, but 14:22
6 somebody had to.

7 A. I can stand by working in that department, that was our
8 procedure from the time I started in 2006 until I left.
9 But on no occasion has files been opened on children
10 over 18. And I certainly do not believe I would give a 14:23
11 direction of that.

12 **CHAIRMAN:** well, unless they are perpetrators
13 themselves I suppose.

14 A. Yes. But a young person who is over 18 who has contact
15 with a parent or person with an allegation, because it 14:23
16 would come under child welfare concern, we wouldn't
17 open it.

18 **CHAIRMAN:** Is there any explanation for it then?

19 A. Like, I have no explanation to give because I don't
20 have any understanding of why that would have happened. 14:23

21 529 Q. **MR. MARRINAN:** So what you are saying is that you doubt
22 Laura Connolly's evidence that you gave this direction
23 to her, even though she has noted it down and provided
24 us with a note of it at the time?

25 A. What I am saying is: I don't recall having a 14:24
26 discussion or seeing this document prior to the process
27 of preparing for this. I don't believe I would give
28 any direction to open a referral on someone over 18 in
29 this case. Equally, the policies and procedures of the

1 department at that time in Cavan-Monaghan was to open
2 intake records on children who were under 18 who had
3 contact with someone who had an allegation against
4 them. And that's what I am clearly saying.

5 530 Q. When did you first become aware of the fact that the 14:24
6 Garda notification was incorrect and tell us the
7 circumstances in which that happened?

8 A. I would have received an email from Ms. Pamela
9 Armitage, who was the social work administrator, who
10 outlined that she had received a phone call from the 14:24
11 psychologist from Rian who outlined that there was
12 factual errors in the record, that she would have sent
13 in the written record. And I would have then
14 subsequently notified it on to the area manager and the
15 two principal social workers and I think that was 14:25
16 roughly around 14th of May, 2014.

17 531 Q. If we could have page 1259 up on the screen. You see
18 there at the bottom there, it's an email from Pamela
19 Armitage to you?

20 A. If you can just bring it down. 14:25

21 532 Q. 14th May 2014 at 11:05 a.m. "Dear Eileen --"

22 A. I actually can't see it. It's not down.

23 533 Q. Can you see it now?

24 A. Yes.

25 534 Q. "Laura Brophy, Rian, just called to say that she has 14:25
26 made an error in a report to us re Ms. D. The line
27 that "this abuse involved digital penetration, both
28 vaginal and anal" is an error and should not be in the
29 referral. It is in fact a line from another referral

1 *on another adult that has been passed in error. Laura*
2 *has apologised and is sending us an amended report as*
3 *soon as possible."*

4
5 what did you believe that this was in reference to? 14:26

6 A. In relation -- this email here?

7 535 Q. Yes.

8 A. In relation to the notification that would have been
9 sent by our department.

10 536 Q. It only refers to Ms. D, that Ms. D's name would have 14:26
11 been there by an initial at that stage, isn't that
12 right, or two initials?

13 A. That's correct.

14 537 Q. How did you know this referred to Sergeant McCabe at
15 all? 14:26

16 A. I suppose during that time when I received the email
17 the common practice in the social work Department, if a
18 call had been received from an agency, the secretary
19 either would have wrote or at times Pamela Armitage or
20 whoever was the secretary at the time would have also 14:27
21 verbally notified us as well. I can't recall if that
22 happened or not. But I remember receiving that
23 information and sending it up. I can't say exactly how
24 I knew it was that, but I suppose from it, I'm
25 considering whether or not I would have had a 14:27
26 conversation with Pamela Armitage after receiving the
27 email, and then sent it up, but I can't be 100 percent
28 sure.

29 538 Q. Because if we then just look above that, some eight

1 minutes later you are sending an email now to Gerry
2 Lowry, copied to Louise Carolan and to Séamus Deeney?

3 A. Yes.

4 539 Q. *"Dear Gerry*
5 *I hope this finds you well. Please see information* 14:28
6 *below. This information is in relation to MMCC."*

7

8 Do you see that?

9 A. Yes, I do.

10 540 Q. Mr. Lowry has told us that he was all too familiar with 14:28
11 the Maurice McCabe file at that juncture and knew
12 immediately who this was a reference to. He also
13 ventured the view that you would have known as well and
14 you would have known that those initials would have
15 meant something to him. Do you understand? 14:28

16 A. Yes, I understand.

17 541 Q. Is that the situation?

18 A. Well, given the fact that I would have made the
19 direction of the file, review that intake record, I
20 would have -- I would have seen the name and the name 14:28
21 of the other person, and yes, I would have known that
22 name from the intake record.

23 542 Q. So *"Allegations were made against him by an adult,*
24 *Ms. D, who alleged that she was sexually abused as a*
25 *child by him."* Where were you getting that information 14:29
26 from?

27 A. I suppose the information we would have received on the
28 intake record would have been characterised under
29 sexual abuse as a child protection concern from the

1 intake record when she made the allegation against him,
2 and I would have notified him of the -- then following
3 on from that, what the Garda notification we sent in
4 relation --

5 543 Q. Sorry, I just want to be clear about this. You don't 14:29
6 know anything about this -- I understand you to say
7 that you knew nothing about this case at all, that the
8 file -- you came across the file in Measuring the
9 Pressure, that you gave it to Laura Connolly to deal
10 with to do a Garda notification. You have doubts 14:30
11 whether or not you gave her the directions in relation
12 to the McCabe children. She then went off and dealt
13 with the matter and you'd no dealings with it at all,
14 and that you hadn't in fact read the file at any stage,
15 you hadn't read the intake record, you had merely 14:30
16 looked at the intake record and seen Keara McGlone's
17 direction to duty Garda notify. Am I right, has that
18 not been the thrust of your evidence?

19 A. No, I would have felt that, in terms of looking at the
20 intake record I would have looked at the subject 14:30
21 content in relation to it and then looked at it. I
22 would have looked at the intake record. I didn't go to
23 just page 2, I would have looked at it, I would have
24 seen the information, looked at it and looked at the
25 direction and then checked whether that had been 14:31
26 completed.

27 544 Q. And then when this lands on your desk you get an email
28 from Pamela Armitage, she refers to an error in a
29 report by Laura Brophy in relation to Ms. D, and at

1 that time you were able to advise Mr. Lowry that this
2 has been an allegation in relation to, you identify
3 Maurice McCabe, you identify that the allegation has
4 been made by somebody who is now an adult and it refers
5 to an allegation when she was a child, and none of that 14:31
6 material is contained in the email that had been sent
7 by Pamela Armitage to you, but you had recalled it and
8 those details from having viewed the intake record back
9 at the end of April, is that what you are telling us?

10 A. I can't recall from the time I got the email, and there 14:32
11 is a short number of minutes in between sending it on
12 to Mr. Lowry, whether or not I looked at that file
13 again, which was in the duty room, and looked at the
14 information and sent it on. I can't say what happened.
15 What I can say is, I received the information and then 14:32
16 I forwarded on the information of what I knew at that
17 time in relation to reviewing the file or from the
18 intake record. I can't say, but what I can say is I
19 notified it on from the information that I received in.

20 545 Q. Well, it's unlikely that you reviewed the file, because 14:32
21 as I indicated the email is sent on some eight minutes
22 after you received the email from Pamela Armitage.

23 A. Mm-hmm. I am not saying I reviewed the file in its
24 entirety. I may have reviewed it or looked at it again
25 in relation to the information that was on the intake 14:33
26 record. But I can't actually say if I did or didn't do
27 that.

28 546 Q. All right. In any event, you go on in your email to
29 say:

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"A Garda notification was forwarded by our department based on the information received from Laura Brophy Rian services. As stated below, Laura Brophy contacted our department today in relation to her referral and the content of same. She advised that there was information provided which did not relate to Ms. D and was in relation to another person against another man and not the man MMCC. This notification needs to be amended as soon as possible and the relevant superintendent needs to be updated with regard to same."

14:33
14:33

So that was sent by you on the 14th of May. You then receive an email from Laura Brophy at page 1260. And this sets out the details and the circumstances. we have already opened it. Do you need to read it there?

14:34

A. Yes, I just will take a moment to read it.

547 Q. We will read it so.

14:34

*"Dear Ms. Argue
I am writing to inform you that it has come to my attention that a report I made to your service on 9th August 2013 contained an administrative error which I wish to address.*

14:34

On page 1 of the original report I sent on behalf of Ms. D under the title "Description of Abuse" the sentence which begins "Ms. D informed me" and ends with

1 *"she said anything" is incorrect information and should*
2 *be disregarded. I have amended the report to include*
3 *the correct information as given to me by Ms. D and I*
4 *have enclosed the correct report with this letter.*

14:35

5
6 *I would like to take this opportunity to apologise for*
7 *this error and any confusion or inconvenience caused.*
8 *I would ask that the original report containing the*
9 *error and any copies made or distributed be retracted*
10 *and replaced with the correct version of the report*
11 *enclosed.*

14:35

12
13 *If you have any further queries in relation to this*
14 *matter, please don't hesitate to contact me."*

14:35

15
16 Do you recall receiving that letter?

17 A. I don't recall seeing it, only at the preparation for
18 this process.

19 548 Q. You have no recollection of receiving the letter at
20 all?

14:35

21 A. No, I don't.

22 549 Q. Do you doubt that you did receive the letter?

23 A. No. I am not saying I didn't receive it, I just can't
24 recall seeing the letter.

25 550 Q. The next action that I want to refer you to is at page
26 1263. And this is from your email address, do you
27 doubt that this is your --

14:36

28 A. No, that is my email address.

29 551 Q. Yeah. And you seem to have some issue with the

1 investigators as to whether or not, in fact, this was
2 your own notification, but I think you accepted that it
3 was, because it was sent from your email address and
4 it's directed to Linda Dewhirst, is that right?

5 A. Yes, that's correct. 14:36

6 552 Q. And it has an attachment, you refer to it:

7
8 *"Dear Linda*
9 *This is an amended Garda notification. Pamela, please*
10 *print a copy for file."* 14:36

11
12 That is a direction that was given to Pamela Armitage,
13 isn't that right?

14 A. That's correct.

15 553 Q. If we turn over to page 1264, this is the amended Garda 14:37
16 notification. If you go to 1265, at the end there, we
17 will see *"The designated social worker with this matter*
18 *is --"* and your name there and your telephone number,
19 isn't that right?

20 A. That's correct. 14:37

21 554 Q. And you are referred to as the *"social work team*
22 *leader"*. Did you prepare that amended Garda
23 notification?

24 A. I would take it, if it was sent from my email account,
25 that I did. I can't be fully certain but I accept that 14:37
26 it was sent from my email account, so more than likely
27 I did complete that, yes.

28 555 Q. That would have entailed studying the file, would it
29 not?

1 A. I can't recall if I studied the file again in relation
2 to it. I just can't actually give any understanding of
3 whether I read the file from page-to-page or whether I
4 read the original Garda notification and the updated
5 information from Ms. Brophy and compiled it from that. 14:38

6 556 Q. This amended Garda notification has the correct
7 description of the alleged abuse?

8 **CHAIRMAN:** It has the threat in it as well, doesn't it?

9 **MR. MARRINAN:** Yeah. If you look at page 1264, you
10 will see: 14:38

11
12 *"This abuse is alleged to have occurred on one occasion*
13 *in 1998 to 1999. Ms. D reports being aged six or seven*
14 *years old at the time of this alleged abuse. Ms. D*
15 *alleges that the alleged perpetrator of this abuse* 14:39
16 *threatened her father if she said anything."*

17
18 Do you see that?

19 A. Yes, I do.

20 557 Q. Where did you get that from? 14:39

21 A. I think that was in the original notification that
22 would have been sent. So the notification that was
23 amended contained the information that was sent
24 previously and then an update of the correct
25 information to reflect the whole information that would 14:39
26 have been sent.

27 558 Q. Ms. Argue, would you accept that this is a very sloppy
28 amendment of the Garda notification?

29 A. In what way?

1 559 Q. In the way that it includes material in it that isn't,
2 in fact, or doesn't relate to Ms. D at all?

3 A. I suppose the Garda notification compiled of the
4 information that was originally sent to show the
5 sequence of -- that this was sent, this was the 14:40
6 amendment that we received and this is the conclusion
7 of that information. So it was showing it from start
8 in terms of the initial referral -- the initial Garda
9 notification.

10 560 Q. Tell me, at that time, were you aware of the 14:40
11 significance of what had happened in terms of a
12 notification had been sent to the Gardaí in relation to
13 Sergeant McCabe, indicating that there was an
14 allegation against him of a rape offence?

15 A. I suppose at the time the Garda notification was sent 14:40
16 by the social worker I didn't have oversight of that
17 notification, so I wouldn't have been aware until -- of
18 everything that was in it at the time because it wasn't
19 sent to me in oversight. In our department at the time
20 the procedures would have been that the person, the 14:41
21 social worker would have completed it, sent it to the
22 administrator and then it went to the principal. So I
23 didn't have oversight of Garda notifications.

24 561 Q. So you also received a letter from Fiona Ward. This is
25 at page 1269, please, on 20th May 2014. It's headed: 14:41
26
27 *"Re: Administrative error on report of retrospective*
28 *abuse pertaining to Ms. D.*
29

1 *Dear Ms. Argue*

2 *It has come to my attention that due to an*
3 *administrative error a report relating to allegations*
4 *of retrospective abuse which pertained to the*
5 *above-named containing incorrect information was sent* 14:42
6 *to your department last August. I have been advised by*
7 *the Regional Data Controller HSE Dublin Northeast to*
8 *request that all copies of the incorrect report be*
9 *returned to me as director of the service as soon as*
10 *possible. I would, therefore, appreciate if you could* 14:42
11 *arrange to have all copies of the incorrect report,*
12 *including any copies made as part of Garda procedures*
13 *in following up on this report.*

14 *I enclose a stamp addressed envelope for return of the*
15 *report."* 14:42

16
17 Did you arrange for that to be done?

- 18 A. I don't have a recall of whether or not the information
19 was sent back or how it was dealt with because at the
20 time I would have notified my area manager and 14:42
21 principals of the concern that had occurred in relation
22 to the Garda notification, and I don't -- I don't
23 recall any instruction or direction to completely -- to
24 send back the information. In matters such as this,
25 given the enormity of the situation I would have, the 14:43
26 normal practice would be to liaise with the principal
27 social worker in relation to looking what the next step
28 would be, but I don't have a recall whether that was --
29 that occurred or not.

1 562 Q. Did you reply to Ms. Ward's letter?
2 A. I can't recall if I replied to her or not.

3 563 Q. Now, prior to that, we know that Laura Brophy had
4 phoned you on the 15th May 2014. Do you recall having
5 a phone conversation with Laura Brophy? 14:44
6 A. I don't recall, but from my review of the file I have
7 seen that she sent me an email and she makes reference
8 to the phone call.

9 564 Q. Well, if we could have page 1270 on the screen, please.
10 It reads: 14:44
11
12 *"Hi Eileen*
13 *Following our phone conversation yesterday, I am*
14 *contacting you to inform you that I had another call in*
15 *relation to the retrospective report which, as you are 14:44*
16 *aware, contains a clerical error.*
17 *I was informed that the superintendent in the*
18 *jurisdiction referred to in the report was not yet*
19 *aware of the clerical error and has been asked to meet*
20 *with the Garda Commissioner in relation to the case. 14:44*
21 *I have agreed to send the superintendent the amended*
22 *report and correct report by registered post today.*
23 *If you have any queries relating to this, please don't*
24 *hesitate to call me."*
25 14:45
26 would that not have indicated to you in the clearest
27 possible terms that, in actual fact, this was quite a
28 serious matter?
29 A. I suppose, when I received the information from

1 Ms. Brophy through Ms. Pamela Armitage I would have
2 notified it to my area manager and principals, given
3 the serious nature of it, and I would have sent it to
4 them.

5 565 Q. Did you have any other dealings with the file at all? 14:45

6 A. I don't recall if I did. My information -- as I said,
7 my contact with the file, I wouldn't have been aware
8 how much contact I had until I reviewed it for this
9 process, so everything is based on what is on the file
10 that refers to myself. 14:46

11 566 Q. There was a question asked in relation to the printing
12 of -- the instruction to Pamela Armitage to print a
13 document and save it to file. You told the
14 investigators that you'd no ink in your printer and
15 that might have been the reason why you did that. Do 14:46
16 you recall saying that to the investigators?

17 A. I do. They asked me, and that is what I could only
18 wonder; if I had no ink I wouldn't have been able to
19 print it. I couldn't recall whether or not that was
20 the case, but generally if I had no ink I would send it 14:47
21 on to the administrators to print for file on all
22 files, not just this file, but all files and they would
23 put it on file for me.

24 567 Q. Pamela Armitage gave evidence to the Chairman also
25 saying and making a reference to the printer being out 14:47
26 of ink. I am just wondering, and it's quite curious
27 that both of you have a recollection of whether or not
28 a printer was working in 2014, May of 2014. Had you
29 discussed this with her at all?

1 A. No. And I didn't say for definite that was the reason,
2 I said that could have been a possibility. At that
3 time, and like every time, in the social work office I
4 continuously run out of ink and I have to send things
5 on to administrators to print it for me. It's a very 14:48
6 basic printer that we all have in relation to Social
7 Work Department in the offices, so that was my only
8 rationale of sending it forward for her to print, that
9 it could have been that I had no ink in my printer.

10 568 Q. So, obviously when Laura Brophy had sent the letter to 14:48
11 you, and asking that the document be returned and that
12 all incorrect notifications and information and the
13 intake record would be removed from the file and had
14 identified the problem, it was your responsibility then
15 to make sure that that happened, is that right? 14:49

16 A. I suppose at that time when I received that information
17 I sent it forward to my area manager and principals
18 looking to seek what they had recommended to do next in
19 relation to it.

20 569 Q. So you are saying that, again, you simply referred this 14:49
21 on to your area manager, Mr. Lowry at that time, is
22 that right?

23 A. That's correct.

24 570 Q. But are you saying that you referred on a decision as
25 to whether or not to check the file to ensure that the 14:49
26 incorrect information was excised from my documents
27 that had been used -- which had used the intake record
28 which was wrong? Were you referring to him to --

29 A. No. I would have been looking at the time that I would

1 have notified on it, the concern of the Garda
2 notification that was sent in relation to the incorrect
3 information. I would have looked in terms of looking
4 for advice of what needed to happen, the following
5 steps needed to be happening in relation to -- in 14:50
6 relation to the file.

7 **CHAIRMAN:** well, can I just intervene for a second, if
8 I might. Let's suppose you have a file on somebody
9 because, let's say, their teenage daughter is out of
10 control, so you have got a file on the family, let's 14:50
11 call it Smith or O'Neill or whatever.

12 A. Mm-hmm.

13 **CHAIRMAN:** And someone sends in an incorrect
14 notification to the effect that the father of this
15 teenage girl has murdered two of his children and then 14:50
16 a wee bit later the social worker emails you and says,
17 well, that is completely incorrect, what was happening
18 was, I was reading *The Irish Times* newspaper and
19 pasting some things in relation to an essay I was
20 creating and this got in by mistake; what possible 14:50
21 direction would you need to remove all references to
22 this father being a murderer beyond receiving the
23 information?

24 A. I suppose I would always look for advice and guidance
25 from either my principal or another person in relation 14:51
26 to something I wasn't 100 percent sure of in relation
27 to. In this case, I wasn't sure if we could just
28 remove the information or should we amend it, remain it
29 and amend it. So I would have looked for advice and

1 guidance in relation to that.

2 **CHAIRMAN:** No, but I mean, I think what is perhaps
3 missing here is that, as we know, once the file was
4 created on Sergeant McCabe it was a ticking time bomb.
5 And I have just used the analogy of somebody says you 14:51
6 have a file on somebody already and then someone else
7 mistakenly says that they committed a murder, perhaps a
8 sexual murder of two of their children, that is going
9 to have very serious consequences.

10 A. Yes. 14:52

11 **CHAIRMAN:** what possible direction is needed to say
12 'okay, there is a mistake, let's destroy every single
13 copy that makes any reference to the sexualised murder
14 of children and let's then read the file and make sure
15 there is no implications to this that these mines are 14:52
16 not left in the ground for other people to step on'?
17 That is basically what Mr. Marrinan has been asking
18 you. I am sorry, I have put it in very dramatic terms
19 but it's perhaps understandable.

20 A. I suppose I would have still sought for a direction 14:52
21 from a principal, because I suppose I would want to be
22 clear of what we needed to do in respect of that, but I
23 can't recall if I did anything thereafter.

24 **CHAIRMAN:** Okay.

25 571 Q. **MR. MARRINAN:** Did you make -- there is no record that 14:52
26 you sought a direction. You didn't email Mr. Lowry
27 seeking a direction as to what to do with the
28 documents, isn't that right?

29 A. I don't recall seeing anything and I have no memory if

1 I did or didn't contact him in relation to same.

2 572 Q. Well, you see, you have got a letter from Fiona Ward
3 and it's very clear and it's very clear indicating that
4 the Garda notification is incorrect, that it arises out
5 of an incorrect referral being made in August of 2013 14:53
6 which contained the incorrect information, isn't that
7 right?

8 A. Yes.

9 573 Q. That, the intake record, was also on the file, isn't
10 that right? 14:54

11 A. That's correct.

12 574 Q. So we had a number of pieces of information that were
13 on the file that were potentially incorrect, isn't that
14 right?

15 A. That's correct. 14:54

16 575 Q. We had the intake records in relation to four of the
17 McCabe children which you had directed be done, and
18 they would have been done in relation to the intake
19 record and the referral, isn't that right?

20 A. I still don't -- I still haven't got a recall if I 14:54
21 directed that, but there would have been information in
22 that that wouldn't have been correct.

23 576 Q. So potentially, not only was there the Garda
24 notification but also the written referral had to be
25 changed, the intake record in relation to the McCabe 14:54
26 children had to be changed, isn't that right?

27 A. That's correct.

28 577 Q. And have you any explanation as to why that wasn't
29 done?

1 A. I don't. I can't recall. I actually have no
2 explanation for why that wasn't done.

3 578 Q. Now, I think the investigators also asked you, and we
4 are asking all the witnesses, to whether or not you
5 have any contacts in An Garda Síochána that might have 14:55
6 influenced your decision-making in this process, have
7 you any?

8 A. I would have told the investigators, I have a cousin
9 who is a guard.

10 **CHAIRMAN:** A second cousin? 14:55

11 A. First cousin.

12 **CHAIRMAN:** Oh, sorry.

13 579 Q. **MR. MARRINAN:** And I am assuming that he didn't seek to
14 influence any of the decisions that you made in this
15 case in relation to the McCabe file? 14:55

16 A. It's in relation to a female cousin, and no, I wouldn't
17 have discussed the case with her and nor would she
18 be -- have any contact with me. I wouldn't have
19 contact with her in general, so I wouldn't discuss
20 anything with anyone. 14:55

21 580 Q. And Ms. Argue, just finally in relation to your
22 evidence and your dealings with the Tribunal, you will
23 appreciate that over 30 pages of interview, and a
24 lengthy interview with our Tribunal investigators, you
25 appear to have had virtually no independent 14:56
26 recollection of any of these events whatsoever, isn't
27 that right?

28 A. That's right. I would have said that the information I
29 had would have been from reviewing the file for the

1 process.

2 581 Q. And even today now, in terms of your evidence, it
3 appears that you say that you have absolutely no
4 independent evidence or recollection, should I say, of
5 these events, isn't that so? 14:56

6 A. That is so. I can't remember anything independent from
7 the review of the file. And I have read my statement
8 numerous times, but at no time do I feel that that has
9 triggered or prompted me in any way, but I just
10 don't -- I can't recall information apart from what I 14:57
11 have read on the file.

12 582 Q. Can you offer us any explanation as to why you have no
13 recollection of these events?

14 A. No, I can't. I just don't remember in relation to
15 this. At that time it would have been a busy 14:57
16 department, I have subsequently moved as well, I am in
17 a different -- in a different area with a different
18 team and I can't recall. I just can't remember. I
19 have tried to remember by the reading of the file and
20 also with the reading of my statement but I just can't 14:57
21 recall the information.

22 583 Q. Well, in any event, at the end of May the beginning of
23 June, you left and took up your new role, isn't that
24 right?

25 A. That's correct. 14:57

26 584 Q. Okay. Thank you very much.

27 A. Thank you.

28

29 **MS. EILEEN ARGUE WAS CROSS-EXAMINED BY MR. MCDOWELL AS**

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FOLLOWS:

585 Q. MR. MCDOWELL: Ms. Argue, Michael McDowell is my name and I am one of the barristers for Sergeant McCabe. You made a statement in this matter on 21st March 2017 and -- or on 22nd it's dated, and it's at 1237 in the book. Have you got that? 14:58

A. Yes, I have got that.

586 Q. You say to the best of your memory *"which was assisted on reading the file on the 2nd of March 2017 and on the 20th March 2017, this is an accurate recollection of my contact with this file between the dates of February 2014 and May 2014."* And you recite that: 14:58

"On 30th April Laura Connolly completed and sent an email with an attachment of a Garda notification of Ms. D." 14:58

Was that email sent to you?

A. No, it was sent to Ms. Linda Dewhirst.

587 Q. I see. *"This email is on the file and was sent on the same date, the 30th April 2014, to Ms. Dewhirst, social work administrator. As this file was on the waiting list the procedure at that time in operation in the department was that all notifications to An Garda Síochána would be signed off under the acting social work team leader or the social work team leader due to being unassigned to a social worker. This was the case as my name is printed in typed form on the bottom of the notification and Mr. Séamus Deeney, principal* 14:59

1 *social worker, signed same off."*
2
3 Did you intend by that to convey that you had nothing
4 to do with the Garda notification?
5 A. No. It was in reference to looking at the reviewing of 15:00
6 the file, which I would have seen an email which was
7 sent to Ms. Dewhirst on it that I wasn't copied on.
8 588 Q. Sorry, you knew, when you made this statement in March
9 of this year, Ms. Argue, you knew full well that you
10 yourself had been consulted in relation to this file by 15:00
11 Laura Connolly on that day. Isn't that right?
12 A. When I reviewed those files that --
13 589 Q. Sorry, did you know that you had been consulted by
14 Ms. Connolly on that day, yes or no?
15 A. I don't remember in relation to that. I was asked to 15:00
16 complete a statement from reading the file.
17 590 Q. Yes.
18 A. That is the information that was on the file at that
19 time when I reviewed it.
20 591 Q. And there was a memo, was there not, of an interaction 15:00
21 between yourself and Laura Connolly where she was
22 seeking directions and recording that you gave her
23 directions?
24 A. I don't remember at that time of seeing that or making
25 reference to it. 15:01
26 592 Q. Was that not on the file when you looked at it?
27 A. I can't recall whether that was at that time or maybe I
28 missed it on the file when I was --
29 593 Q. Let's take those two in two steps. It either was on

1 the file or it wasn't?

2 A. I can't recall was it on the file at that time.

3 594 Q. Well, you are not suggesting that somebody removed it,
4 gave you the file to look at and then put it back on
5 again? You are not suggesting that? 15:01

6 A. No, I am not suggesting that.

7 595 Q. So, in all probability it was on the file, isn't that
8 right?

9 A. It possibly was on the file and I may have missed it
10 on the file. 15:01

11 596 Q. In all probability it was on the file, because nobody
12 would take it off the file to show it to you, to show
13 the file to you, isn't that right, unless it was a
14 malicious person?

15 A. I didn't suggest that anyone had took it off the file. 15:01
16 I don't remember, I don't have a recall of seeing it at
17 that time on the file when I was preparing this
18 statement.

19 597 Q. Well, do you think Ms. Connolly may have put it on to
20 the file after you studied it, is that it? 15:01

21 A. No, I am not making any suggestion of that.

22 598 Q. Well then, can we take it -- I mean, the Tribunal has
23 to work on what is probable, Ms. Argue. Can we take it
24 from your evidence that that was probably there when
25 you reviewed this file? 15:02

26 A. Yes, I would accept that.

27 599 Q. And that you must have known that day that you had
28 interacted with Ms. Connolly in relation to how the
29 file was dealt with on that day?

1 A. In relation to --

2 600 Q. How the file was dealt with on that day, you must have
3 known that you had an interaction with Ms. Connolly
4 when you finished reading the file on those two days?

5 A. I read the file in relation to references to me 15:02
6 throughout the file, because I had to collate it in
7 relation to me, I can't recall if I seen that on the
8 file. The probability is that it was on the file, I am
9 not suggesting it was removed from it, but I can't 100
10 percent recall from it. I took it down from what I 15:02
11 seen at that time.

12 601 Q. Well you see, you have told the Tribunal or you have
13 claimed in your evidence that you have a very defective
14 memory in relation to all of these events, you can't
15 remember anything of significance, isn't that right? 15:03

16 A. I can't recall and from reading the file helped me to
17 have the knowledge in relation to completing this.

18 602 Q. And you were reading this file to see what, what -- and
19 we will use the phrase, what contact you had with the
20 file during that period of February to May of 2014, 15:03
21 that was your purpose in reading the file, isn't that
22 right?

23 A. That's correct.

24 603 Q. And are you saying you overlooked a two-page memorandum
25 which was addressed to you on the file? 15:03

26 A. I don't recall seeing it. I must have missed it when I
27 was reviewing the file.

28 604 Q. Well, I have --

29 A. Otherwise I would have referenced it in my statement.

1 605 Q. I have to suggest to you that that is not the case, and
2 I have to suggest to you that the real explanation of
3 the first paragraph in the statement you made on the
4 22nd of March was that you wanted to avoid all personal
5 involvement in this as far as you could and to produce 15:04
6 a misleading account to whoever read your statement?
7 A. No, I don't accept that. I wasn't trying to mislead
8 anyone in relation to my statement.

9 606 Q. So in relation to this issue, and there are many
10 others, Ms. Argue, you are saying now that you read 15:04
11 that file through in all probability but that you are
12 asking the Tribunal to say that you missed the only
13 reference to yourself on the 30th April?
14 A. I can't recall seeing that on the occasion, otherwise I
15 would have completed it as part of my statement. 15:04

16 607 Q. You now accept that you did have an interaction with
17 Ms. Connolly on that day, isn't that right?
18 A. I accept from the information that she has on the file
19 in reference to it, but I can't recall having a
20 conversation or a discussion in relation to it. 15:05

21 608 Q. Sorry, either her note is a fabrication or you had
22 dealings with her in relation to this file on the day?
23 A. I can't recall having a discussion with her on that day
24 in relation to the case.

25 609 Q. But do you -- I asked you, do you now accept that you 15:05
26 must have had dealings with her on that day? She
27 didn't invent a document to get you into trouble, did
28 she?
29 A. No, I am not suggesting that. What I am saying is, I

1 don't recall having a conversation. I have seen it, it
2 was an article that was given to me through the
3 investigation, I have read it, I accepted that
4 document. But I just can't recall on that day did I
5 have a discussion with her or conversation in relation 15:05
6 to the case.

7 610 Q. You can stick to your well worked out mantra that you
8 don't recall things, but I am asking you --

9 **CHAIRMAN:** Mr. McDowell, honestly, seriously, I am
10 afraid I am the one who makes the judgements, not you. 15:05
11 **MR. MCDOWELL:** Very well.

12 **CHAIRMAN:** Mantra is nice, it conjures up images of
13 nice people in saffron robes.

14 **MR. MCDOWELL:** well, Judge, it has been said so many
15 times. 15:06

16 611 Q. Anyway, you can repeat as much as you like here that
17 you can't recall things, but I am asking you do you now
18 accept that you must have had dealings with
19 Ms. Connolly on that day? Now sitting where you are
20 under oath, do you accept that you must have had 15:06
21 dealings with her?

22 A. I do accept it, but I can't recall the exact -- if
23 there was conversation or discussion, I can't recall
24 it. I do accept that this is what she has given in
25 evidence, and this is an article which was generated by 15:06
26 her in relation to it. But I cannot recall any
27 conversation in relation to or seeing this.

28 612 Q. Okay. Now, do you accept as a matter of probability
29 that the Post-It that has been referred to in your own

1 evidence and Ms. Connolly's, was a direction by you to
2 her to do something with the file?

3 A. No, I do accept that Post-It was in my handwriting,
4 signed off by myself, it was a direction in relation to
5 it, and it was for a duty to follow up. 15:07

6 613 Q. Yes. And can you just assist the Tribunal as to how
7 you could have come to write that Post-It?

8 A. In terms of the Post-It, we would have been reviewing
9 cases from the measuring of the pressure and a part of
10 that would have been following through on the direction 15:07
11 that would have been placed already on the intake
12 record. So I would have completed a Post-it with that
13 same direction for it to be completed.

14 **CHAIRMAN:** Mr. McDowell, is there a particular
15 significance you are placing on the Post-It that you 15:07
16 want to put to the witness? Because I am just a wee
17 bit unclear. No, no, don't worry about me, I mean if
18 you just want to ask her.

19 614 Q. **MR. MCDOWELL:** I am suggesting to you, Ms. Argue, that
20 you directed Laura Connolly, via that Post-It, to carry 15:07
21 out a Garda notification in or about the 30th April
22 2014.

23 **CHAIRMAN:** In other words, what Mr. McDowell is saying
24 is the Post-It proves it, that you were the directing
25 mind on that. 15:08

26 A. I am clear that that was a direction for a duty to
27 Garda notify. I am very clear that that was my writing
28 and that was a direction, and that would have been
29 followed from the intake record where it would have

1 been a prior direction and I was seeking for it to be
2 completed and that's what the Post-It would have been
3 making reference to.

4 615 Q. **MR. MCDOWELL:** You were here when Ms. Connolly gave
5 evidence. 15:08

6 A. No, I wasn't.

7 616 Q. You weren't. Well, are you aware that she questioned
8 whether that Post-It might not have referred to the
9 file at all?

10 A. No, I wasn't aware of that. 15:08

11 617 Q. Do you doubt that it was related to the file?

12 A. I can't say for 100 percent that it was relating to
13 that file or not but what I do accept, it was duty to
14 Garda notify the allegations and file in the cabinet.
15 That has a clear correlation with on the intake record 15:09
16 for "duty to notify". There doesn't have a name, there
17 isn't a date, but I can't say one way or the other
18 whether it was for that file or another file, but I
19 accept that it was on that file.

20 618 Q. I see. Now, at page -- 15:09

21 **CHAIRMAN:** Yeah, just a matter of practice and common
22 sense, I mean, I use these things all the time and the
23 small ones, I actually haven't coming across them
24 falling off but the big ones I have never come across
25 them falling off. So, I am not sure that this notion - 15:09
26 and it's not you that floated it, Ms. Argue - that
27 these large Post-Its somehow migrate or flap around
28 like butterflies and flies in files, it just doesn't
29 work for me. So, I think if it's there it's there,

1 unless there is another explanation to offer.

2 A. True. And I suppose I can't say either way but it was
3 on that file, it was the same direction as what would
4 have been on the intake record, so I do accept it was
5 there and it's the same correlation. The only thing I 15:10
6 would say, there wasn't a name or date on it, but I am
7 not saying it fluttered --

8 **CHAIRMAN:** Sure.

9 A. -- in any way.

10 **CHAIRMAN:** I would never put a date on a Post-it, 15:10
11 because otherwise there would be no point in having
12 them. They are to mark out things for yourself, you
13 know.

14 A. Yes.

15 619 Q. **MR. MCDOWELL:** Ms. Argue, I would ask you to go to page 15:10
16 1239 and look at that memo that you say you may have
17 overlooked when you were looking at the file. You
18 would have, I take it, been familiar with Laura
19 Connolly's handwriting.

20 A. Yes. 15:10

21 620 Q. Was there any other Eileen to whom it might have been
22 written?

23 A. No, I believe I was the only Eileen in the Social work
24 Department at that time.

25 621 Q. Yes. So either you just simply passed it by in reading 15:11
26 the file or you didn't realise its significance and
27 didn't read it, is that the point?

28 A. No. I have said, I don't recall seeing it at that
29 time.

1 622 Q. well, it's dated 30/4/14 and it's headed "McCabe
2 children", isn't that right?

3 A. Yes. If you can pull it down, yes. That is the case.

4 623 Q. And she says:
5
6 *"Eileen*
7 *Have checked system, and we have no record of file on*
8 *Maurice McCabe's two children at the time. Based on*
9 *the D file I suspect these two children are [blank] and*
10 *[blank]. I deduce these two girls are now aged 18-plus* 15:11
11 *years based on notes on Ms. D file. Maurice has two*
12 *other children who weren't born at the time of alleged*
13 *incident, [blank] and [blank].*
14 *Laura Connolly."*
15
16 And the next page is:
17
18 *"Deduce that these two children are under 18 years now.*
19 *How do you want to proceed regarding the McCabe*
20 *children?"* 15:12
21
22 Do you accept that she must have had a conversation
23 along those lines with you that day?

24 A. well, what I can say is I don't recall having a
25 conversation with her on this day in relation to what 15:12
26 she has put out there. I just don't have a recall of
27 it.

28 624 Q. And she notes underneath that:
29

1 *"Case direction from Eileen: Complete intake records x*
2 *4 on children."*

3
4 She says she had dealings with you on that day, have
5 you any reason to doubt the correctness of her
6 testimony? 15:12

7 A. It's not that I am doubting her; it's I can't recall
8 myself in relation to having a conversation or a
9 discussion in relation to this case on that date. I
10 just don't have a recall of it. 15:13

11 625 Q. I don't want to get stuck into your powers of recall
12 again with you. I am accepting -- do you accept that
13 you must have had that conversation with her that day,
14 now, looking at that file?

15 A. Looking in relation to what her ending is, is case 15:13
16 direction from Eileen, she is referencing that I gave
17 her direction. I do not have the recall that I had a
18 conversation about direction. I accept that what she
19 has put on it is *"case direction from Eileen"*, I accept
20 she has that on it. But I don't have recall of having 15:13
21 that same discussion in relation to the case.

22 626 Q. Are you some way unwilling to accept that although you
23 have a poor memory, you may have done things on the
24 occasion that other people say you did?

25 A. As I said, I accept that she has referred to case 15:13
26 direction from me. I just can't recall having a
27 discussion with her on that day but I accept that she
28 has said *"case direction from Eileen"*.

29 627 Q. Well, I am going to put it to you that on the

1 assumption that did you have such a conversation, your
2 direction to her was very irresponsible and wildly
3 wrong in the circumstances. What do you say to that?
4 A. In relation to completing of intake records, as I have
5 already stated, the policy at the time in 15:14
6 Cavan-Monaghan Social Work Department was children who
7 were under 18 had an intake record completed in
8 relation to them, and that was the policy and
9 procedures of that time.

10 628 Q. You heard the evidence of Ms. Creamer. 15:14
11 A. Yes.

12 629 Q. And you heard her say that she hadn't come across
13 something like this happening anywhere else. Are you
14 saying this was standard practice in Cavan?
15 A. This was the practice in which I was orientated into in 15:15
16 2006 when I started in the Cavan-Monaghan Social Work
17 Department. That, the practice at that time was: If
18 there was an allegation against someone who was an
19 adult and they had children and the children were under
20 18 intake records were opened. And that was the 15:15
21 practice in which I would have been in that department
22 at that time.

23 630 Q. That was not put by any counsel to Ms. Creamer, that
24 that was a standard practice in Cavan at that time?
25 A. That was the local practice in that department at that 15:15
26 time.

27 631 Q. She expressed the view here to the Chairman that it was
28 very unusual.
29 **CHAIRMAN:** well, there is a divergence in the evidence,

1 in fact, Mr. McDowell. Because, as I understood it
2 from earlier on, the practice in Cavan - and it's only
3 with Ms. Creamer that I am realising it's totally wrong
4 - was once there is an allegation and the person has
5 children you open an intake record, you automatically 15:16
6 set in train these events, you automatically write to
7 the person. Now I have been told something different
8 today, which is: First of all, you have got to verify,
9 which I was wondering about, which I had been told days
10 ago wasn't necessary if someone had made a Garda 15:16
11 statement. I was also told that you bring the person
12 in and verify them, that all these things go back, but
13 I mean --

14 632 Q. **MR. MCDOWELL:** If I continue with Ms. Argue, I accept
15 the point, Chairman, but could I put it to you that for 15:16
16 all you knew Lorraine McCabe and her four children were
17 now living in England and had split up with Maurice
18 McCabe, for all you knew at the time?

19 A. I suppose I refer back to the practice at the time in
20 that department was as I outlined and that was the 15:16
21 practice which was adhered to in this case.

22 633 Q. Well, why was she seeking a direction if that was the
23 practice? If that was the practice why would she come
24 to you and look for a direction on the matter?

25 A. I don't have an explanation of that. What I can say 15:17
26 is, again, that the practice at that time in that
27 department was as I outlined. I can't give an
28 explanation of why she sought direction in relation to
29 this case, but that would have been the practice across

1 the two counties.

2 634 Q. She says that she sent you that note and the two files,
3 left them for you to look at. Do you think that could
4 have happened?

5 A. I can't recall whether or not I looked at the files in 15:17
6 relation to it because I don't recall seeing that note
7 at that time, but I do accept that I gave that case
8 direction to Ms. Connolly in relation to it as
9 outlined.

10 635 Q. Well, could I ask you this: was it the practice, the 15:17
11 normal practice, for somebody to give a direction of
12 the kind you appear to have given here, without looking
13 at the file?

14 A. In relation to the practice, once a referral or a
15 concern came in to our department, intake records were 15:18
16 opened thereafter and it could have been at the same
17 time or it could have been afterwards in relation to
18 children under the age of 18, and that was the -- and
19 that was the practice at the time within that
20 department. 15:18

21 636 Q. I didn't ask you that. I asked you, would it be normal
22 practice for somebody to give a direction of the kind
23 you appear to have given without looking at the file?

24 A. Given that I have explained that that was the practice
25 of the time, if someone is looking for the direction I 15:18
26 would be going back to the practice that was in place
27 at that time.

28 637 Q. Well, would you answer the question now? would it have
29 been normal practice for you to give such a direction

1 without even looking at the file?

2 A. I can't say that I looked at the file or didn't look at
3 the file. I would adhere to the practice in the
4 department at that time and the practice in the
5 department at that time was to open intake records on 15:19
6 children under the age of 18. And that's what
7 Ms. Connolly has referred to; that case direction was
8 to open intake records. I would adhere to the practice
9 at the time in the department.

10 638 Q. And what about children -- sorry, adults over the age 15:19
11 of 18?

12 A. In the case in relation to these children two of them
13 were over 18, I would not believe that I would give a
14 direction for two children over the age of 18 for
15 intake records to be opened on them. 15:19

16 639 Q. But Ms. Connolly records that you gave precisely that
17 direction on the day?

18 A. I suppose from my own normal practice at that time, I
19 wouldn't have opened intake records on children over 18
20 in similar circumstances. 15:19

21 640 Q. Well, would you read what she records you as directing.

22 A. The screen has now gone blank, so --

23 641 Q. It's page 1239 and page 1240.

24 A. I see she has *"Complete intake records on four of the
25 children"*. 15:20

26 642 Q. And she says that was your direction?

27 A. But again, I would refer back to the practice at the
28 time was children under 18. I wouldn't have opened
29 intake records -- my belief of myself wouldn't be that

1 I would open intake records on children who are over
2 18.

3 643 Q. She told you in that memo that two of them were adults.
4 It's written there in plain, big writing.

5 A. I accept it has been written there in relation to four 15:20
6 children, but I still go back to the practice at the
7 time, was children under 18. So I wouldn't see how I
8 would diverge to have intake records open on two older
9 children.

10 644 Q. So are we to take it then that Ms. Connolly 15:21
11 misunderstood you on the day?

12 A. I can't say whether she misunderstood me or not. What
13 I can say is, I will go back to the practice of the
14 time in the department, and I do not have a belief in
15 myself that I would have directed that two children 15:21
16 over 18 in a similar case or in this case would have
17 had intake records open on them.

18 645 Q. But nobody has suggested to Ms. Connolly that she was
19 fabricating this or misunderstanding you. She was
20 clear in her evidence that this was the direction you 15:21
21 gave her and that she noted it at the time. So are you
22 now saying that this record that Ms. Connolly has
23 created is not to be relied on?

24 A. I am not saying that. I am going back to my own point,
25 that I don't -- I didn't have a recall of having a 15:21
26 conversation or discussion about this case. I accept
27 that the case direction is what she has put down that I
28 have given her. However, at that same point, I do not
29 foresee that I would have directed that two children

1 over 18 would have had an intake record open on them.

2 646 Q. So just to be clear about where we are now, the
3 Chairman, as far as you are concerned, is to doubt the
4 truthfulness of the record created by Ms. -- of
5 Ms. Connolly of your conversation? 15:22

6 A. As I don't recall the conversation I had or the
7 discussion I had in relation to the matter, I am going
8 from what I believe in relation to myself. I don't
9 believe that I would direct for two people over 18 to
10 have an intake record open on them. 15:22

11 647 Q. I see. Well now, we know that shortly after these
12 events it became apparent that the Garda referral form
13 was seriously untrue, isn't that right?

14 A. Yes. We were aware that the information was provided
15 to us by Ms. Brophy in relation to the allegations 15:23
16 were --

17 648 Q. At that point, at that point, did it occur to you to
18 have a conversation with Laura Connolly and ask her how
19 this had happened?

20 A. I don't recall if I had, if I thought of that or had a 15:23
21 conversation. Immediately when I received it I went
22 and I notified it on to my area manager in relation to
23 the concern which had occurred.

24 649 Q. Because Ms. Connolly said that nobody ever, ever
25 questioned her about what she had done on 30th of April 15:23
26 until this Tribunal was established.

27 A. I don't recall if I had a conversation with her or not
28 in relation to it.

29 650 Q. But you certainly knew on the 14th May that a fortnight

1 earlier, Laura Connolly had drafted the incorrect Garda
2 referral notification form, isn't that right?

3 A. Well, I knew when I received the information that,
4 first of all, she had completed it and received
5 information, but again, I can't recall if I had a 15:24
6 conversation with her thereafter.

7 651 Q. You must have -- I know, you have a problem with your
8 memory, but would you just come with me this far: That
9 you must have known on the 14th of May that it was
10 Ms. Connolly who generated the Garda notification form 15:24
11 with the allegation of digital penetration in it, you
12 must have known that? Is that not so?

13 A. Looking back at this moment in time, I would take it
14 that it was Laura Connolly that I would have been aware
15 of who had generated it. 15:25

16 652 Q. And at the time, surely -- is there any reason why, at
17 the time, you wouldn't have said 'who exactly filled
18 out this form and at whose direction was it done?'

19 **CHAIRMAN:** well, it seemed to be -- I mean, Laura
20 Connolly, not to be blamed for filling out the form, 15:25
21 seeing as that was the information that came in, you
22 know.

23 653 Q. **MR. MCDOWELL:** I appreciate that, but I am asking this
24 witness: Two weeks later you know that an almighty
25 mess has been reality created for Sergeant McCabe, in 15:25
26 that he has been reported to his own superiors as a man
27 who digitally penetrated the anus and vagina of a young
28 girl, you knew that that was false at the time, and I
29 am just asking you, are you asking this Tribunal to

1 believe that it never occurred to you to go to Laura
2 Connolly and to discuss the circumstances in which she
3 created this Garda notification form?

4 A. I don't recall having a conversation with her. On
5 receipt of the information I followed through to notify 15:26
6 to my area manager because I felt that that was the
7 most appropriate steps taken at that time given the
8 serious nature of it. But I can't recall in the
9 interim period before that or after that did I have a
10 conversation with her, because initially when the 15:26
11 information came in the line that I would have took was
12 to notify the area manager and the principals.

13 654 Q. Yes. So, I mean, I take it she worked in the same
14 corridor as you?

15 A. Yes, we were based in the same office. 15:26

16 655 Q. And you are saying you never mentioned -- you have no
17 recollection of ever mentioning this to her?

18 A. I can't recall if I had a conversation with her or not
19 in relation to this.

20 656 Q. Now, when you realised from the email that came in to 15:26
21 you that something had gone badly wrong, you contacted
22 your area manager, is that right?

23 A. That's correct.

24 657 Q. And did you do it solely by email or did you have a
25 conversation with them? 15:27

26 A. From a review of the file, it appeared to be by email
27 correspondence.

28 658 Q. Because if you look at page 1259, it says: "*Dear*
29 *Gerry, I hope this finds you well.*" That is the first

1 remark on it.

2 A. Yes.

3 659 Q. Now, that's not the kind of email you'd send to
4 somebody who you were going to bump into in the
5 corridor, is it? 15:27

6 A. I would generally put in all my emails "*I hope this
7 finds you well*".

8 660 Q. I see. And you were sending him on Pamela Armitage's
9 email to you, isn't that right?

10 A. That is correct. 15:28

11 661 Q. And we know that Pamela Armitage's email had been sent
12 to you at 11:05 on the morning of the 14th May and that
13 you relayed this on to your area manager, to Louise
14 Carolan, to Séamus Deeney and also to Pamela Armitage
15 on a few minutes later at 11:13, isn't that right? 15:28

16 A. That's correct.

17 662 Q. Now, can I ask you, do you think it is probable or
18 improbable in that time that you had an opportunity to
19 check the files?

20 A. My office would have been in close proximity to the 15:29
21 duty room, it would have been one office in between the
22 two of them, I could have checked the file. I can't
23 say 100 percent because I don't recall whether I did or
24 not. But I would have been in close proximity to be
25 able to check it if I required to. 15:29

26 **CHAIRMAN:** No, I think Mr. McDowell is asking you about
27 the timeframe. It's eight minutes.

28 A. I could have --

29 **CHAIRMAN:** And I know there are some people who sit on

1 their email account all day long and you are probably
2 not one of those. So, let's say the email comes in,
3 you notice it and you are doing something, you've got
4 to open it, so it's probably much less than eight
5 minutes and then you send this on to Gerry Lowry 15:29
6 straight away, I think that is the point that
7 Mr. McDowell is making.

8 **MR. MCDOWELL:** Yes.

9 A. I can't be certain that on that day I wasn't sitting in
10 front of my computer and I just received the email and 15:29
11 I responded there and then and looked at the file.

12 **CHAIRMAN:** But you would have had to go out of the room
13 to get the file.

14 A. I would have went out of the room. We were in close
15 proximity, so I am here [INDICATING] and the duty room 15:30
16 is probably at the Irish flag. It's very close in
17 proximity to my room.

18 663 Q. **MR. MCDOWELL:** But you did -- in the message from
19 Pamela Armitage to you, the redacted and blacked out
20 space conceals the two initials of Ms. D's actual name, 15:30
21 isn't that right?

22 A. Yes, I believe so.

23 664 Q. And I know them, you know them, we needn't deal with
24 them now. But you immediately understood that that was
25 a matter involving Sergeant McCabe, is that right? 15:30
26 A. That's correct. Because I would have made reference to
27 his name in the email to Gerry Lowry.

28 665 Q. Mm-hmm?

29 A. Further up on the email I would have made reference to

1 his initials.

2 666 Q. Did you -- but I mean, once you saw her initials, you
3 knew that this involved Sergeant McCabe, is that right?

4 A. In relation to her, yes. I am not sure if I had a
5 conversation with Ms. Pamela Armitage in between that 15:31
6 or not, but I would have referenced Mr. McCabe's
7 name --

8 667 Q. Yes.
9 A. -- in his initials.

10 668 Q. And you knew at the time that if you used the words -- 15:31
11 or the letters "MMCC" to your area boss he would know
12 immediately what this was all about, isn't that right?

13 A. I believed he would have, yes.

14 669 Q. So had you ever discussed the case with him?
15 A. I am not aware if I did or not. I would discuss my 15:31
16 cases with my principal social worker, who would be
17 supervised by Mr. Lowry.

18 670 Q. But you assumed -- you knew that MMCC would immediately
19 trigger in his mind the thought of Maurice McCabe, is
20 that right? 15:31

21 A. I can't say for 100 percent but I presume that when I
22 put it in initials that I would have been of the belief
23 that he would have.

24 671 Q. And therefore, I have to suggest to you that you were
25 aware that he had background knowledge of this file at 15:32
26 the time?

27 A. I can't say for definite that he did or didn't know,
28 but I would have been -- my line management, would have
29 been my principal social worker who would have been

1 supervised by him. I know they would have had
2 discussions of cases which were on the waiting list, so
3 I would have -- I don't know whether it was a
4 presumption or a belief that he knew the name.

5 672 Q. Are you saying that you would have -- either you 15:32
6 believed that he knew about the background of this file
7 or that you were assuming that Louise Carolan would
8 have informed him of the background of this case at the
9 time?

10 A. I suppose I can't be certain in relation to if he did 15:32
11 or didn't. I can't say if I made an assumption that he
12 would know or not, or a belief that he would know who
13 the initials were.

14 673 Q. But you had a working assumption that he was conversant 15:33
15 with the case and he knew which one it was?

16 A. Yeah, I would have believed that he did.

17 674 Q. And I have got to suggest to you that you would have
18 only made that working assumption if either Louise
19 Carolan or he had somehow intimated to you that they
20 knew about the background to this particular matter. 15:33
21 A. I can't say for definite but as my principal social
22 worker would have been involved in the Measuring the
23 Pressure and of the cases allocated, I would have been
24 of the view that they would have known the cases that
25 were on the waiting list. 15:33

26 675 Q. Well, you heard Mr. Lowry saying that --
27 A. I wasn't here for Mr. Lowry.

28 676 Q. Well, sorry, are you aware that Mr. Lowry gave a --
29 claims to have given a direction to somebody, and he

1 wasn't 100 percent sure who it was, that this case was
2 to be dealt with in the normal way in the context of
3 knowing that it concerned Maurice McCabe?

4 A. I wasn't aware of what he had said.

5 677 Q. Did anybody, did Louise Carolan ever say to you that 15:34
6 there was a direction from the top that this case was
7 to be dealt with in the normal way?

8 A. I don't recall having a conversation in relation to
9 this case or the management of this case.

10 678 Q. Why do you think that this case was dealt with on the 15:34
11 30th April of 2014?

12 A. I don't recall why on that exact date it was dealt
13 with, but at the time the practice would have been
14 reviewing the waiting lists of Measuring the Pressure
15 of cases that were unallocated in the department. I 15:35
16 don't know what the system was in place in order of
17 deciding what case would be the cases that would be
18 taken from the unallocated waiting list and for tasks
19 to be done. I can only be of the view that it was the
20 reviewing of the intake records and outstanding tasks 15:35
21 that were assigned to be completed. But I can't say
22 with any degree of certainty why on that day rather
23 than any other day.

24 679 Q. On the assumption that the Post-It was in fact a
25 direction from you to prepare a Garda notification 15:35
26 form, would you accept that it is more than likely that
27 you were the moving party on the 30th April in getting
28 that file progressed to the next stage?

29 A. I would say more than likely what would have happened

1 in terms of the practice at the time was, we were
2 reviewing cases on the waiting -- the waiting lists
3 through the Measuring the Pressure, and it would have
4 been through the intake records of outstanding tasks.
5 And that file would have been one of the files that had 15:36
6 an outstanding task to be completed. And that's what
7 led to the direction.

8 680 Q. And the direction was that the direction from you, is
9 that right?

10 A. The direction from me was in response of what the 15:36
11 outstanding task was to be completed.

12 681 Q. So now we are agreed on one thing: That you probably
13 read the file, prepared the Post-It and gave it to
14 somebody to complete the Garda notification?

15 A. I suppose I am not saying I read the file. what I am 15:37
16 saying, I am making reference to intake record of the
17 outstanding tasks and I would have checked the Garda
18 notice section, which is the section after the intake
19 records. And the Post-It very clearly refers to a
20 direction for a duty to Garda notify and that would be 15:37
21 the same direction which was outstanding in the intake
22 record.

23 682 Q. Now, when you wrote to Mr. Lowry "*This notification*
24 *needs to be amended as soon as possible and the*
25 *relevant superintendent needs to be updated with regard* 15:37
26 *to same,*" that, I take it you can recall sending that
27 email, can you?

28 A. Yes, that is from my email account so I would accept I
29 sent that.

1 683 Q. Can you recall sending it?
2 A. I can't recall sending it, but I do accept that it's my
3 email account and it is -- it's signed off by me.
4 684 Q. This was a very, very serious matter. And within two
5 weeks its seriousness was very apparent to you and are 15:38
6 you seriously offering as evidence in this Tribunal
7 that you can't now recall the sending of that email?
8 A. I can't recall that I sent it but I accept it, that
9 it's my style in email and it's signed off by me and
10 it's from my email account, I have no difficulty 15:38
11 accepting it.
12 685 Q. And you have no memory of sending it, of alarm bells
13 ringing: this is serious, you know, we have to contact
14 the Gardaí, we have to amend all the files to deal with
15 this issue? You are telling the Tribunal that even 15:38
16 though the matter came to crisis point within the next
17 two weeks, you have no recollection of sending that
18 email?
19 A. I don't recall sending it, but I very much am very
20 clear that I accept that I sent the email. It's the 15:38
21 way I would set up an email. I have signed it off, and
22 I fully accept that that is from my email account and I
23 would have sent it.
24 686 Q. Okay. So we move to the next point, that you receive a
25 letter from Laura Brophy, which is at page 1260. Now, 15:39
26 can you help the Tribunal, do you recall receiving that
27 letter?
28 A. I don't recall seeing that letter prior to the
29 preparation of the -- for this process.

1 687 Q. I see.
2 A. But it shows that it was stamped and received by our
3 department. I can't see the date that it was received,
4 but it's stamped with the stamp that would have been of
5 the department at the time. 15:39
6 688 Q. Do you think you would have noticed that on the file
7 when you examined it?
8 A. In preparation for the Tribunal?
9 689 Q. Yes.
10 A. If it was on the file, I definitely would say I would 15:40
11 have seen it.
12 690 Q. Because the second bullet-point in your helpful
13 statement of the 22nd of March 2017 says:
14
15 *"On 14th May 2014 a letter was received from Ms. Laura 15:40*
16 *Brophy, Rian Service, with regard to the inaccurate*
17 *information on the notification which she sent to the*
18 *Social work Department on the 9th August 2013."*
19
20 why didn't you say, 'it was sent to me'? 15:40
21 A. I don't know why I didn't say that.
22 691 Q. Everything is done in an impersonal way, events take
23 place, but the fact that these emails are being sent by
24 you, to you, letters sent to you, you just simply don't
25 refer to that in your text, isn't that right? 15:40
26 A. Well, the statement is prepared by me, and maybe I just
27 didn't put my name to it, but it is my statement that
28 was prepared for the process.
29 692 Q. Hold on a second. Are you saying that this, the

1 statement of the 22nd of March, was composed by
2 somebody else for you?

3 A. No, I am saying it was composed by me, but I just don't
4 make the reference that I received that letter, but
5 it's -- very clearly, it was sent to me, but I just 15:41
6 didn't make that reference in that statement, but I
7 prepared that statement.

8 693 Q. Well, you do say that, on the same date, an email was
9 received from Ms. Armitage. And then the next
10 bullet-point you say: 15:41
11
12 *"After receiving same, I forwarded the thread of the
13 email and notified Mr. Gerry Lowry."*

14
15 Is that right? So you do accept some involvement in 15:41
16 the matter?

17 A. I do, but I actually can't see my statement at this
18 moment. I just see the letter from Laura Brophy.

19 694 Q. I see. And the next bullet-point says -- this is 1237.
20 The next bullet-point says: 15:41
21
22 *"A Garda notification was sent with regard to the
23 amended information on that date, the 14th May 2014, to
24 Ms. Dewhirst, for same to be provided to Mr. Séamus
25 Deeney for approval."* 15:42

26 A. Yes, I see that.

27 695 Q. Did it ever occur to you to assist the Tribunal by
28 saying, I sat down and I wrote that Garda notification
29 and I am responsible for the -- for its contents?

1 A. I suppose when completing that statement I can see from
2 the statement that I didn't make reference to myself,
3 but it was sent from my account and I would take it
4 that I did send it.

5 696 Q. Do you recall sending it? 15:42

6 A. I don't recall sending it, but it is from my email
7 account, so I would take it that I did prepare it and
8 send it.

9 **CHAIRMAN:** So you sent the amended notification?

10 A. The amended notification. 15:42

11 **CHAIRMAN:** Yes. Obviously that is a good idea, but you
12 left out the thing about the threat to the father in
13 the sense of leaving it out because it says that in the
14 letter from Laura Brophy, but that is wrong, but you
15 did include that in the notification to the guards? 15:43

16 A. I included it from the perspective that that was -- if
17 I was part of the original notification that was sent,
18 so I included all --

19 **CHAIRMAN:** No, but, I mean, she had corrected that.

20 A. Okay. 15:43

21 **CHAIRMAN:** It says "*Description of Abuse*", the sentence
22 begins with "*Ms.*" and then there is a blank. That
23 would have said, actually, Ms. Y, as we are calling
24 her. And then "*informed me*", that goes on to say
25 "*digital penetration with vagina, anus, and ends* 15:43
26 *with... she said anything -- would threaten her father*
27 *if she said anything.*" That is what that means, that
28 bit.

29 A. Okay.

1 697 Q. **MR. MCDOWELL:** Could I ask you, Ms. Argue, do you think
2 it was a very serious matter that an allegation of a
3 rape offence was sent to the Garda superiors of
4 Sergeant McCabe?

5 A. I think it was a very serious child protection concern 15:44
6 that was received, and thereafter, when we received,
7 that it wasn't accurate information. I notified it up
8 on the basis of how serious it was. And in terms of
9 notifying it up, it would have been to my area manager,
10 given how serious it was. 15:44

11 698 Q. Well, I mean, do you believe it was a very serious
12 matter that Sergeant McCabe's superiors had been
13 notified that it was being alleged that he had
14 committed a rape offence?

15 A. Yes, it was a very serious matter. 15:44

16 699 Q. And is there any reason why, because you were involved
17 in the events which led to that notification, why it
18 doesn't stick in your mind?

19 A. I can't say if it's the passage or the absence of time,
20 but I don't recall it, and, as I said from the outset, 15:45
21 my information is based on reviewing of the file.

22 700 Q. Because as I said earlier to you, and again I have to
23 repeat it, within a fortnight a crisis situation had
24 emerged and you were one of the central figures in it,
25 isn't that so? 15:45

26 **CHAIRMAN:** well, I mean, was it a crisis?

27 **MR. MCDOWELL:** well, it was, I presume it was a crisis
28 that they decided -- well, maybe it wasn't a crisis --

29 **CHAIRMAN:** It didn't seem to be treated like a crisis.

1 **MR. MCDOWELL:** No, that is the point.

2 **CHAIRMAN:** I mean, a crisis is kind of people running
3 around and shrieking. There didn't seem to be an awful
4 lot of this happening.

5 **MR. MCDOWELL:** Indeed, Judge. 15:45

6 701 Q. I am describing it as a crisis that your agency
7 realised it had accused a man of rape in the wrong to
8 his own superiors in An Garda Síochána and set in train
9 a series of events which could have been extremely
10 damaging to him. You don't think that is a crisis, do 15:46
11 you not?

12 A. I didn't say I didn't think it was a crisis. I thought
13 it was a very serious incident when it had happened and
14 received information that was sent out, and then when
15 we received that the information was inaccurate, I did 15:46
16 attempt to address it through my area manager and then
17 forward a Guard notification. I am not minimising the
18 level of seriousness that that brought to it.

19 702 Q. I am asking you why none of this sticks in your mind?
20 I presume it was a most abnormal and unusual event? 15:46

21 A. I can't give a recollection why -- I can't give an
22 account why it doesn't stick in my mind in relation to
23 2014, but I can't recall it, and through the process of
24 the Tribunal I have read the file in relation in
25 preparation, but I can't give an explanation why this 15:46
26 information did not stick in my mind from that time.
27 But I have read my statement on a number of occasions
28 in an attempt to try and remember, but I just haven't
29 been able to remember the information, and that's why,

1 in preparation for it, I have read the file, but I just
2 can't give an explanation for that.

3 703 Q. I see. And could it be that somebody somewhere
4 reminded you on the 30th April that nothing had
5 happened with this file for, at that stage, nine 15:47
6 months?

7 A. I would go back to, at that time we would have been,
8 myself and my principal social worker would have been
9 reviewing cases from Measuring the Pressure that were
10 unallocated. I don't believe anyone said to me that I 15:47
11 want you to deal with this file. I believe in the
12 context of Measuring the Pressure and reviewing cases
13 that were waiting allocation, would have been the
14 process in which...

15 704 Q. If you can't recall the events at all, how is it that 15:48
16 you can discount the idea that somebody might have
17 said, the -- 'Nothing has happened on the McCabe file
18 for nine months, what is happening there, Eileen?'

19 A. I can't say one way or the other, but I don't have a
20 recall of someone coming with any regard to a specific 15:48
21 file.

22 705 Q. But you have no recall of anything?

23 A. My recall is not I don't have a recall. I am basing
24 everything on the information that was on the file.

25 706 Q. Yes. So therefore, it's quite possible that somebody 15:48
26 said, 'what has happened to the McCabe file? We have
27 had it since August of last year and nobody in this
28 department has done a tap of work on it or progressed
29 it.

1 A. I suppose as I don't recall it, I can't say if I did or
2 didn't have a conversation with someone who may have or
3 may not have come to me, but what I can say is, during
4 that time we would have been looking at cases and
5 reviewing them. 15:49

6 707 Q. I am suggesting to you that it is not merely possible
7 but quite probable that somebody had a conscience about
8 the state of the -- about the inaction of the file. I
9 am suggesting to you that it's quite possible that
10 somebody actually did jog your elbow on -- on -- in 15:49
11 April of 2013?

12 **CHAIRMAN:** But, I mean, to what effect, is there -- I
13 mean, is there -- is there something here we are trying
14 to uncover, I mean, apart from what we have uncovered
15 already? 15:49

16 **MR. MCDOWELL:** The Tribunal is being asked to accept
17 that this file lay dormant until a random event on 30th
18 April when it just came up again in some way for
19 review, and I am putting to the witness that it's quite
20 possible that somebody said to you, 'what has happened 15:50
21 to the McCabe file? Nothing appears to have happened
22 for the last nine months'.

23 **CHAIRMAN:** Okay.

24 708 Q. **MR. MCDOWELL:** what do you say to that?

25 A. I suppose I go back, I don't have a recall of somebody 15:50
26 approaching me querying about the McCabe file. During
27 that time, we would have been reviewing cases through
28 Measuring the Pressure that were unallocated cases, and
29 that was one of the cases that would have been

1 unallocated.

2 709 Q. But we do know that your area manager regarded the file
3 as one of significance, we do know that Maurice
4 McCabe's name was all over the newspapers in April
5 2014, and I am asking you, is it not entirely possible 15:50
6 that somebody said, 'By the way, what has happened with
7 this significant file? It doesn't seem to have gone
8 anywhere in the last nine months.'

9 A. I can't say whether it was possible or not because I
10 don't recall having a conversation. But my recall is, 15:51
11 is not there in relation to whether or not there was
12 any such person who has come to me and I can't actually
13 say one way or the other. What I can say is, we review
14 cases through Measuring the Pressure of unallocated.

15 710 Q. Ms. Argue, could I just ask you to look at page two 15:51
16 hundred and --

17 **CHAIRMAN:** Just before we go back to that point.

18 **MR. MCDOWELL:** This is my last point.

19 **CHAIRMAN:** I appreciate that, Mr. McDowell. But just,
20 we are talking about the 30th of April and then the 15:51
21 duty social worker in Cavan reviews the Ms. D case, and
22 what you are being asked about is, what inspired that?
23 It's just a couple of random events. So 19th February,
24 the Taoiseach, Enda Kenny, was furnished with Sergeant
25 McCabe dossier by the leader of the opposition; 24th 15:52
26 February 2014, the Government announced its decision to
27 hold a review of the allegations made by Sergeant
28 McCabe; 5th March, Paul Williams went to Ms. D's home;
29 8th March, met and interviewed Ms. D by Paul Williams;

1 24th March, former Commissioner Martin Callinan
2 resigns; 12th April, article by Paul Williams entitled
3 "*Girls wants new probe into alleged sex assault by*
4 *Garda*" is in the *Irish Independent*; 15th April, another
5 article by Paul Williams; 29th April, Ms. D makes a 15:52
6 complaint to GSOC that her original allegation in 2006
7 was never dealt with properly; in other words, that it
8 was a really poor investigation. Now, GSOC said that
9 it wasn't, there was absolutely nothing wrong with her
10 [sic]. And lo and behold, the next day is when there 15:53
11 is this inspiration to pull out the file. So that is
12 basically the context in which Mr. McDowell is asking
13 you.

14 **MR. MCDOWELL:** Yes. And I am adding to all of those
15 circumstances the fact that your area manager, 15:53
16 Mr. Lowry, regarded this as a file of significance, and
17 all of you, at least you and Mr. Lowry and other -- and
18 Ms. Carolan were apparently aware that Sergeant McCabe,
19 the same man who was in the headlines, was the man who
20 was the subject of this complaint. So I am asking you, 15:53
21 in all of those circumstances, is it not entirely, not
22 merely possible but likely that somebody in your
23 organisation realised that nothing had happened with
24 this file for nine months and started the process which
25 leads to the generation of the false Garda report? 15:53

26 A. I can't say one way or the other whether or not a
27 person said to me that they wanted to know what was
28 happening on that file at that time and the length of
29 time. What I can say is, and again it's nearly

1 repetition of, Measuring the Pressure of the
2 unallocated waiting list. I can't say that what system
3 was put in place, that his file was one of the files
4 that would have been reviewed, I can't say because I
5 can't remember, but what I do say is that it was 15:54
6 looking at unallocated cases, and whether it was done
7 in any particular system I can't say for any degree of
8 certainty. But his file was one of files that were
9 pulled. I can't say that they were pulled on the 30th
10 of April, they could have been pulled before that and 15:54
11 just been in the filing cabinet in the duty room in --
12 for duty tasks to be completed, because I can't give a
13 time-line in relation to that. But equally, I can't
14 say that someone, you know, inquired about what is
15 happening that case and where it was at, I can't give 15:55
16 any kind of degree of explanation or certainty on that.
17 **CHAIRMAN:** well, you see, a lot of people, for
18 instance, would read the *Irish Independent*. That is
19 the point that Mr. McDowell is making to you. I am
20 sure the *Irish Independent* would like if everybody read 15:55
21 the *Irish Independent*, but I am sure somebody in your
22 office reads the *Irish Independent*, and, I mean, it's
23 not so difficult to put two and two together because --
24 711 Q. **MR. MCDOWELL:** we do have evidence, Ms. Argue, that
25 Pamela Armitage believed that that file was on your 15:55
26 desk at the time, that she spoke to you about it. And
27 I just wonder, you know, you are an intelligent woman
28 and you knew that Sergeant McCabe's name was in every
29 headline and being talked about on television

1 programmes and the like at the time, and I am just
2 asking you, do you not think that instead of Measuring
3 the Pressure, that a little bit of pressure came in --
4 on you to query why this file hadn't budged in nine
5 months? 15:56

6 A. I can't say whether there was any internal pressure to
7 look at that particular file on that particular
8 time-line.

9 712 Q. Fair enough. If we leave it at that. And can I then
10 ask you simply to look at page 21 -- 208 in volume 1, 15:56
11 please. Well, if we go to 207 to start with. That's a
12 notification of suspected child sexual abuse to a
13 health board, received in Monaghan on 2nd January 2007
14 by the childcare manager, isn't that right?

15 A. That's correct. 15:57

16 713 Q. And it had been sent on the -- from the Gardaí on 6th
17 December 2000, and it went -- left the -- sorry, on
18 18th December 2006 it had left the superintendent's
19 office, apparently. And at page 208, there is a Health
20 Service Executive form in relation to that 15:57
21 notification, isn't that right?

22 A. Yes, there is a standard reporting form.

23 714 Q. Yes.

24 A. It makes reference to Ms. D.

25 715 Q. And at page 210, there is a note -- a contact sheet of 15:57
26 a telephone conversation between yourself and Garda
27 James Fraher of Cavan Garda Station in relation to it,
28 isn't that right?

29 A. That's correct.

1 716 Q. And the purpose was "To clarify the information on the
2 Garda notification received from Garda James Fraher."
3 A. That's correct.

4 717 Q. And you say the outcome of the discussion was you left
5 a message "for Garda Fraher to contact the duty social 15:58
6 worker re Garda notification," and that is your
7 signature on it?
8 A. Yes, that is my signature.

9 718 Q. And you were the duty social worker?
10 A. On that day, yes. 15:58

11 719 Q. So you were involved in this, not merely at the
12 conference in 2006 but you were involved in it before
13 that. You were the person who first dealt with the
14 Gardaí when they put this into the hands of the HSE,
15 isn't that right? 15:58

16 A. I was responding to, more than likely, a task that was
17 assigned on duty to follow up with Garda James Fraher,
18 which would have been completed on the duty day.

19 720 Q. I see. Thank you.
20 **CHAIRMAN:** Are you happy? 15:59
21 **MR. MCDOWELL:** I am finished.
22
23 **END OF CROSS-EXAMINATION BY MR. MCDOWELL**
24
25 **MR. DIGNAM:** One or two questions -- I will take no 15:59
26 more than one minute, Chairman.
27 **CHAIRMAN:** We could sit tomorrow if you like!
28 **MR. DIGNAM:** I will do it in 30 seconds, Judge. I will
29 be very, very brief, Chairman.

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MS. ARGUE WAS CROSS-EXAMINED BY MR. DIGNAM AS FOLLOWS:

721 Q. **MR. DIGNAM:** Ms. Argue, could I ask you to look at page 1222, which is your interview with the investigators. 15:59
And at the very bottom of that page, it's page 16 of your statement, at the very bottom of that page you say that:

"The normal procedures in the Social Work Department at that time were that any referral of serious child protection concerns were notified to the Gardaí through the formal notification process". 15:59

Is that your understanding of the procedures that were in place in 2013 and 2014? 15:59

A. Yes, that would have been the procedures.

722 Q. And that is in Cavan-Monaghan, is that right?

A. That would have been in Cavan-Monaghan, yes.

723 Q. Thank you. 16:00

CHAIRMAN: would you give me that point again, please. The point you are making is, I beg your pardon, what?

MR. DIGNAM: There appeared to be some evidence or some suggestion, Chairman, earlier on today from Ms. Creamer that Garda notifications weren't or shouldn't be sent out as a matter of course. In fact, the evidence that has been given by Ms. Argue, and indeed by Ms. McLoughlin yesterday and I think by Ms. Murphy, although I haven't found the section in the transcript, 16:00

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was that it was almost an automatic step that Garda notifications --

CHAIRMAN: No, I agree, there is contradictory evidence on the matter and there are apparently two sides and apparently regional variations and things. That seems to be the case. Thanks. 16:00

MR. MARRINAN: Nothing arises. Thank you very much, Ms. Argue.

THE WITNESS THEN WITHDREW 16:00

MR. MARRINAN: That concludes the evidence for today, sir. We are very much on schedule. We have occupied -- our witness-list to date is spot on and we finish the first two weeks on schedule. I understand it's 12:00 on Monday? 16:01

CHAIRMAN: Yes, I am afraid it is, and it may be not before 12:00 on Monday, so I think we will try and do four hours straight through, if possible.

THE HEARING WAS THEN ADJOURNED TO MONDAY, 17TH OF JULY 2017, NOT BEFORE 12PM. 16:02

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