

day 4 - 28 June 2004.txt

COMMISSION TO INQUIRE INTO CHILD ABUSE

HELD AT 145-151 CHURCH STREET, DUBLIN
ON MONDAY, 28TH JUNE 2004 - DAY 4

BEFORE

MR. JUSTICE SEÁN RYAN

CHAIRPERSON OF THE INQUIRY

ORDINARY MEMBERS:

DR. IMELDA RYAN, Consultant Child and Adolescent
Psychiatrist
MR. FRED LOWE, Principal Child Psychologist

I hereby certify the
following to be a true
and accurate transcript
of my shorthand notes in
the above hearing.

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MEMBERS OF THE COMMISSION PRESENT

REGISTRAR TO INVESTIGATION COMMITTEE: MR. BRENDAN REIDY

COUNSEL FOR THE COMMISSION: MR. NOEL McMAHON SC
MR. FRANK CLARKE SC
MS. KAREN FERGUS BL

Instructed by: MS. FEENA ROBINSON

FOR THE DEPARTMENT OF HEALTH: MR. SEAMUS O' TUATHAIL SC
MR. DAI THI MacCARTHAIGH BL

Instructed by: MR. P. SPILLANE
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1 THE HEARING RESUMED, AS FOLLOWS, ON MONDAY, 28TH JUNE
2 2004
3
4 THE CHAIRMAN: Good morning.
5 MR. McMAHON: Good morning, Chairman and
6 Members of the
7 Investigation Committee. This morning we are
8 continuing with our hearings into the emergence of
9 child abuse as an issue in Irish society. This
10 morning we will hear from Ms. Mary McLoughlin, who is
11 Principal in the Childcare Legislation Unit of the
12 Department of Health & Children since the year 2000.
13 The Childcare Legislation Unit is the unit in the
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14 Department with responsibility, amongst other things,
15 for dealing with adult victims of past abuse in
16 residential institutions. She has carried out
17 considerable amount of research in preparing a
18 response to the questions raised by the Investigation
19 Committee's letter dated 20th May 2004. I do not
20 propose going into the detail of that letter, you
21 will recall that Mr. Clarke went through it in great
22 detail at the beginning of last week's hearings.

23 THE CHAIRMAN: Yes.

24 MR. McMAHON: Ms. McLoughlin is in a
25 position to address the
26 Committee in relation to the questions posed by the
27 Committee in that letter. Ms. McLoughlin, please.

28

29

1 MS. MARY McLOUGHLIN HAVING BEEN SWORN WAS EXAMINED,
2 AS FOLLOWS, BY MS. FERGUS

3

4

5 1 Q. MS. FERGUS: Good morning,

6 Ms. McLoughlin.

7 Mr. McMahon has already introduced you. You have a
8 prepared a statement for the Investigation Committee
9 in response to the request of the Committee on
10 20th May 2004, and your going to deal with the timing
11 and manner in the awareness of knowledge of

12 allegations of child abuse as an issue in Ireland
13 from the Department of Health's perspective?

14 A. That's right.

15 2 Q. Perhaps before going into your statement, you might
16 want to explain to the Investigation Committee the
17 distinction in functions of the Department of Health
18 with responsibility for developing overall policy in
19 the Health Boards?

20 A. Across the health services generally and particularly
21 in the social services, the services are provided on
22 the ground currently by the Health Boards, not by the
23 Department. Before the Health Boards were set up in
24 1970, it would have been by the local health
25 authorities under the Public Systems Acts and the
26 Health Acts, so the Department's role is very much a
27 development of policy. Now currently it would be in
28 monitoring what goes on, there was probably less of
29 that pre-1970.

1 3 Q. You are not in a position then to give any evidence
2 as to the state of knowledge of Health Boards with
3 regard to emergence of child abuse?

4 A. No, no.

5 4 Q. In 1984 statutory responsibility transferred from the
6 Department of Education to the Department of Health
7 with respect ... (INTERJECTION)?

8 A. For the schools, yes.

9 5 Q. For the schools and childrens' homes. You have

10 identified a number of sources which have developed
11 the Department's understanding of the issues of
12 physical and sexual abuse which you say influenced
13 practice on the ground. Perhaps you might like to
14 take us through those sources, starting maybe with
15 the international sources?

16 A. Internationally there was really no evidence of any
17 general knowledge of the existence of child abuse, it
18 would have been an issue that every so often a child
19 would die or be injured, but there wasn't any
20 perspective that it happened in any persistent way
21 until, I would say, the 1960's and the key factor
22 there was the identification of the battered baby
23 syndrome, which was two paediatricians in America, in
24 Denver who identified this as a common problem rather
25 than a once in a while problem. From the 1960's on,
26 particularly in the UK, there were a number of
27 investigations of children who died, and I think that
28 brought the whole concept that it happened regularly
29 to children into the public domain and, therefore,

1 informed policy. The first big UK investigation was
2 a child called Maria Caulwell, who was murdered by
3 her stepfather. That really, I think, seems to have
4 been the first awareness of any significant problem
5 of abuse as an overall syndrome rather than just a
6 one-off.

7 6 Q. With regard to sexual abuse and the international

8

scene?

9

A. That would have been about ten years later or

10

15 years later and it arose with the growth of

11

knowledge of the issue of rape and assault of women

12

in the US and the establishment of rape crisis

13

centres. It was found very quickly that while they

14

were set up to deal with the current problems of rape

15

of women, an awful lot of the women going to them

16

were women who had been abused as children. The same

17

pattern happened here when we established rape crisis

18

centres, that an awful lot of the clients were

19

actually women who had been abused as children, and I

20

think that led to a recognition that it clearly was a

21

widespread problem and not a one-off problem.

22

7 Q. These reports you suggest influenced the practice on

23

the ground in the Department in the development of

24

policy?

25

A. Yes.

26

8 Q. With regard to the Department of Health itself,

27

perhaps you might outline the general state of

28

knowledge as it emerged with regard to child abuse?

29

A. Well, it certainly seemed going back through the

1

early reports and through the files and in talking to

2

people who were able to assist me from their direct

3

knowledge, that the only consciousness of abuse was

4

mainly of neglect, of physical and emotional neglect,

5

and it was always within families. There was a

6 concept that a deprived family led to stress and
7 could lead to poor parenting and to physical abuse.
8 Reference has been made a number of times in evidence
9 to, say, the Kennedy Report or the Tuairim Report,
10 but there is very little evidence in those of any
11 consciousness of anything other than neglect as an
12 abuse. The concept of child abuse as we know it now
13 does not appear until the 1980's really, the mid
14 1970's to the 1980's.

15 9 Q. I think there was a member of your Department, Augusta
16 McCabe, and her thesis?

17 A. Yes.

18 10 Q. Perhaps you could expand a little bit on that, it was
19 entitled "The Inspection of Boarded Out Children".

20 A. Yes.

21 11 Q. What was gleaned in the Department from that thesis?

22 A. The thesis was only prepared in 2000, but it is a
23 very useful summary of attitudes. It is very much
24 focused on boarded out children, what we would today
25 call "foster children". She follows the development
26 of policy and, again, she focuses very much on
27 neglect. She covers the poor relief laws and the
28 establishment of the workhouses. Quite early on it
29 was identified that workhouses were not appropriate

1 places, particularly for small children. The idea of
2 boarding out children with families came from that
3 recognition that large institutions were not

4 appropriate places for small children. There were, I
5 think, a total of four inspectors in the Department
6 of Education and Augusta McCabe would have been the
7 last one. One lady in particular, Fidelma
8 Clandillon, did inspections over a very long period.
9 She would have been, I suppose, very well known
10 within the sector, but her inspections were all of
11 foster children. Again, her focus was primarily on
12 neglect, on issues like whether children had enough
13 to eat, whether they were properly dressed, whether
14 they were getting education, that was the focus. Her
15 role was very much in relation to boarded out
16 children, not to schools or homes, or industrial
17 schools or orphanages.

18 12 Q. Did the Department of Health have any function in
19 relation to the inspection of industrial schools as
20 far as you are aware?

21 A. No, any inspection would have been of certified
22 schools and some of the industrial schools which were
23 certified would have been inspected by the local
24 health authorities, not by the Department.

25 13 Q. Going on then, you have identified a number of other
26 reports through to the Kennedy Report in 1970.

27 THE CHAIRMAN: Sorry, Ms. Fergus, could I
28 intervene and just ask a
29 question. Ms. McLoughlin, the health authorities

- 2 right?
- 3 A. Effectively, yes.
- 4 14 Q. THE CHAIRMAN: I take it whatever
5 information is available,
6 non-Departmental official information, the Health
7 Boards should have that information?
- 8 A. I would imagine so or possibly some of the local
9 authorities.
- 10 15 Q. THE CHAIRMAN: At some appropriate time we
11 should be approaching them
12 to see what is in their files and records?
- 13 A. And they would certainly ... (INTERJECTION).
- 14 16 Q. THE CHAIRMAN: Not necessarily at this
15 phase, but at some stage?
- 16 A. They would have a better knowledge of on the ground
17 developments than, say, somebody in the Departments.
- 18 17 Q. THE CHAIRMAN: Can you help us, and
19 perhaps you can't, but in
20 what circumstances would the health authorities,
21 let's say to go back to that time before the Health
22 Boards were set up, in what circumstances would they
23 be inspecting, what was their inspection role?
- 24 A. They had a role to certify schools which were
25 approved for the taking in of children, so there
26 would have been institutions in general orphanages,
27 certified schools and some of the industrial schools
28 were certified by the health authorities as well as
29 by the Department of Education.

- 1 18 Q. THE CHAIRMAN: So a child could get into
2 an industrial school
3 through, let's say, the courts system?
4 A. Yes.
- 5 19 Q. THE CHAIRMAN: That is one way?
6 A. Yes.
- 7 20 Q. THE CHAIRMAN: My understanding is that
8 would be under the care or
9 control of the Department of Education?
10 A. Yes.
- 11 21 Q. THE CHAIRMAN: Whereas if a child went in
12 by a different route, the
13 health authority route ... (INTERJECTION)?
14 A. Could have a role.
- 15 22 Q. THE CHAIRMAN: That would be under that
16 authority's capacity to
17 certify and inspect for that purpose?
18 A. Yes. Most of the health authorities' homes would not
19 have been the industrial schools, but I think there
20 would have been some children who went in under that
21 system.
- 22 23 Q. THE CHAIRMAN: My impression from
23 Dr. O'Sullivan's evidence
24 was that the number of residents of children in the
25 institutions went down very dramatically in respect
26 of the courts or education route, if you like, but it
27 may have increased by referrals from the health
28 authorities, do you know anything about that?
29 A. I don't. In fact, I suppose from what I have read

1 and from talking to people, my impression would be
2 that there was a much greater focus on boarding
3 children out and on fosterage, the family location.
4 There would still now be residential care for certain
5 children, but that has never been the focus, the
6 majority of children have always been in families.

7 THE CHAIRMAN: Thanks very much indeed.

8 24 Q. MS. FERGUS: Maybe we will go back to
9 the Cussen Report, which is
10 one of the earlier ones you identified. Perhaps you
11 might like to tell us a little bit about that and if
12 it has any influence.

13 A. Both Cussen and Kennedy were reports to the
14 Department of Education rather than the Department of
15 Health. What I was looking for in the statement was
16 where there were major milestones, the extent to
17 which abuse of any kind featured in the consideration
18 of the conclusions. Cussen, in fact, although it
19 suggests some improvements to the system,
20 particularly in relation to children getting a better
21 education or being placed in apprenticeships, in fact
22 says that it is a great system and that it should be
23 more used. So I had not come across that until I did
24 this research. Then Kennedy some years later
25 obviously took a very different focus.

26 25 Q. I think in 1938 a district report of the National
27 Society of Prevention of Cruelty to Children, you
28 identify that?

29 A. day 4 - 28 June 2004.txt
Until the 1980's, the majority of social work on the

1 ground was provided in fact by the ISPC and before
2 that the NSPC, which goes back to the end of the
3 19th Century. Again, it is clear both from the
4 records and from Augusta McCabe's thesis that the work
5 of the society was very much about neglect and about
6 children in deprived families. Many of the children
7 who were placed in care would have been placed
8 through referral by an ISPC social worker, so the
9 NSPC at the time would probably have been the only
10 group consistently looking at the issue of children.
11 Some of their annual reports are interesting. Again,
12 their perspective is very much that it is neglect
13 that is the problem and I suppose at a time of
14 significant poverty, that is understandable.

15 26 Q. In 1966 Tuairim, a London based independent policy
16 group, published a report?

17 A. Yes, they were a London based group but they seemed
18 to have been primarily Irish people or of Irish
19 background. They took the view that social policy
20 should be based on research and this was, if you
21 like, their contribution to that research. They
22 looked at the issue of residential care in Ireland
23 and the industrial schools, as a whole, comparing it
24 with the UK and the fact that in the UK there had
25 been a move towards smaller homes where you did have
26 residential care, towards much smaller homes in

27 family type units, a very different structure. I
28 think the Tuairim Report is probably important
29 because it led very directly to the Kennedy Committee

1 and the Kennedy Report, which was very much the focus
2 of change for all of the care system.

3 27 Q. The Kennedy Report, of course, we know specifically
4 dealt with residential institutions?

5 A. It did.

6 28 Q. That was quickly followed by the formation of a
7 pressure group known as CARE?

8 A. CARE, the campaign for the care of deprived children.
9 Both from the files and also from talking to people,
10 it is very clear that they had a very significant
11 effect. They got a lot of publicity and they kept
12 the issue in the public eye in a way that I think was
13 the first time really that there had been that sort
14 of pressure. Again, their focus was on neglect and
15 then to some extent on physical abuse, but primarily
16 neglect. Neglect was very much the key issue for
17 most people.

18 29 Q. I think you acknowledge that following those events,
19 there is an indication on the files and the reports
20 in your Department of a growing understanding of the
21 problem of physical abuse, which you have just said,
22 as an emerging theme?

23 A. Yes.

24 30 Q. I think perhaps we will go on to the setting up of

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25 the task force that followed?

26 A. The task force on childcare?

27 31 Q. Yes.

28 A. It met on and off for about six years and it had

29 various stages, it stopped and started a couple of

1 times.

2 32 Q. Faltered at the start?

3 A. Yes. Again, although there were a lot of

4 disagreements about structures that there ought to be

5 and the way things ought to be done, there is no

6 reference at all to abuse anywhere within the files,

7 it is very much about structures, the resources that

8 would be needed and the sort of resources, not just

9 the quantum, but the professional resources, the kind

10 of training people should get. It was a very

11 significant piece of work in terms of our overall

12 work in childcare, if you like, but not specifically

13 in relation to abuse. Because it is such a key piece

14 of the jigsaw from the childcare point of view, I

15 felt it important to have it in there.

16 33 Q. I think that led to the setting up of a committee of

17 experts on non-accidental injury?

18 A. That arose directly from the case of Marie Caulwell,

19 the child who was killed by her stepfather. It was

20 the first major report published in the UK on a

21 physical abuse case. Clearly it led to both a lot of

22 public concern and Departmental concern, so the

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23 Minister of the day set up a Committee to look at --
24 it was in those days called "Non-Accidental Injury to
25 Children".
26 34 Q. That Committee reported in April 1976?
27 A. Yes, and then that led directly to the first
28 guidelines which are called the "Memorandum on
29 Non-Accidental Injury".

1 35 Q. It was estimated in that report that there were
2 probably three to four hundred cases of
3 non-accidental injury to children every year in
4 Ireland?
5 A. Yes.
6 36 Q. Do you have any idea where they got those figures
7 from?
8 A. As far as I remember, they looked at figures for
9 other countries and extrapolated what the likelihood
10 would be in Ireland. I don't think it was from any
11 significant research within the State.
12 37 Q. THE CHAIRMAN: Sorry, can you give me the
13 date of that memorandum,
14 Ms. McLoughlin?
15 A. The memorandum was 1976, I think. Sorry, 1997,
16 March 1977.
17 38 Q. THE CHAIRMAN: That emerged from?
18 A. From a committee of experts.
19 39 Q. THE CHAIRMAN: Can you tell me something
20 about the committee of

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experts, who were the experts?

21

22 A. I can't remember the individuals, but the Minister
23 appointed them and there were I think a number of
24 people who were involved in social work and some
25 medical personnel. Then there would have been
26 representation from the Department of Health.

27 40 Q. THE CHAIRMAN: So the committee of experts
28 produced some kind of
29 ... (INTERJECTION)?

1 A. They actually produced effectively the memorandum,
2 they produced a report, but the report is reflected
3 very much in the memorandum.

4 41 Q. THE CHAIRMAN: Presumably, before the
5 committee of experts was
6 set up, somebody must have said something to
7 somebody? The Minister didn't just get the idea 'I
8 better set up a committee of experts'?

9 A. No, it came very much from the public and immediate
10 concern about this particular case.

11 42 Q. THE CHAIRMAN: The UK case of the Caulwell
12 Report?

13 A. Yes.

14 43 Q. THE CHAIRMAN: That said we should be
15 doing something about that
16 here?

17 A. Yes, and a very similar process happened in the UK
18 where they did a report, they had a committee and

19 day 4 - 28 June 2004.txt
they set up guidelines.

20 THE CHAIRMAN: Thanks very much.

21 44 Q. MS. FERGUS: Ms. McLoughlin, the report,
22 as you say, led to a
23 departmental document called the "Memorandum on
24 Non-Accidental Injury to Children" which was
25 delivered in March 1977, and I think that was widely
26 circulated?

27 A. It would have been circulated initially to other
28 Government Departments and then to all of the Health
29 Boards.

1 45 Q. If you wouldn't mind opening that document in
2 relation to the introduction, do you have a copy of
3 it there?

4 A. Yes.

5 46 Q. You might just read the first paragraph to us,
6 because I want to highlight the physical abuse aspect
7 of that, please?

8 A.
9 "Most injuries to children are
10 accidental, but some result from
11 deliberate physical ill-treatment. The
12 physical abuse of children is not a new
13 phenomenon and although this memorandum
14 will mainly concentrate on abuse, it is
15 fully realised that this is only a
16 small part of the problem of neglect
and ill-treatment of children, both
physical and emotional. Greater
awareness and discussion of the problem
among health personnel will, it is
hoped, encourage the development of
alert, compassionate and to balanced
attitudes in dealing with the problem."

17

18 47 Q. Thank you. What Departments received a copy of that
19 document?

20 A. The Department of Education, the Department of
21 Justice and the Department of Finance, I think. It
22 may, in fact, have been circulated more widely when
23 it went to Government, but certainly those
24 Departments specifically got copies.

25 48 Q. When did the Departments receive that?

26 A. I would imagine around March 1997, it would be the
27 norm to circulate them almost immediately.

28 49 Q. Is there any reference made to sexual abuse in that
29 document?

1 A. No, none whatsoever. Again, the focus is on physical
2 abuse, plus neglect which was still very much in
3 peoples' minds.

4 50 Q. Did that document provide a checklist to assist in
5 identifying and investigating what steps should be
6 taken in dealing with such cases?

7 A. It did, quite a long list. As you say, they are all
8 physical, they are all references to physical abuse.

9 51 Q. Would you mind going through them?

10 A. I think it is quite long.

11 52 Q. The Committee have a copy of the document.

12 A. The Committee do have a copy, yes. I think it is
13 four pages. I am happy to read it if you want.

14 THE CHAIRMAN: I do not think that is

15 necessary, we have it and

16 we can put it on the website.

17 A. Yes.

18 53 Q. MS. FERGUS: The development in

19 the establishment, you

20 identified earlier the rape crisis centres, I think

21 you cite that as important in the background in the

22 emergence of child sexual abuse?

23 A. Yes, again that came across from the files and also

24 from talking to people within the Department when I

25 was preparing the statement who had worked in the

26 childcare area at the time.

27 54 Q. Other than the rape crisis centres, could you maybe

28 outline the other developments and guidelines that

29 were significant in developing policy, particularly

1 in sexual abuse?

2 A. I suppose what you see from then on is a series of

3 guidelines that are developed further and further. I

4 think what influenced them was the growing knowledge

5 in the State generally, but particularly obviously in

6 the Department, because the Non-Accidental Injury

7 Guidelines were revised again in the early 1980's

8 and, again, I think in 1981 and 1983. At the same

9 time the rape crisis centres were being set up and in

10 parallel, if you like, there was the growing

11 knowledge that the rape crisis centres were dealing

12 with a very significant number of people who had been

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13 abused as children. At the time they dealt only with
14 women, but young women were coming forward who were
15 technically still children. So that problem, if you
16 like, awareness of that problem was growing. The
17 1983 guidelines in their introduction make a very
18 brief reference to sexual abuse, to the fact that it
19 exists. They don't add in any way to the list of
20 indicators or anything, but there is a reference to
21 it and that is the first reference in the guidelines.

22 55 Q. I think at this stage or very soon afterwards your
23 Department became the Department with statutory
24 responsibility?

25 A. For?

26 56 Q. For children in schools.

27 A. Yes, in 1984.

28 57 Q. And institutions?

29 A. Yes, in 1984 we took over responsibility for the

1 schools, but it was, as with the rest of the
2 services, it was then assigned to the Health Boards,
3 but, yes, that was the position.

4 58 Q. THE CHAIRMAN: Ms. McLoughlin, at the
5 policy level we have, first
6 of all, the memorandum in 1977?

7 A. Yes.

8 59 Q. THE CHAIRMAN: Dealing with physical and
9 other forms of abuse,
10 including neglect and mentioning emotional abuse,

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isn't that right?

11
12 A. That's right.

13 60 Q. THE CHAIRMAN: But specifically not
14 mentioning sexual abuse at
15 all?

16 A. Yes.

17 61 Q. THE CHAIRMAN: Okay. Then 1983 is the
18 next one, is that right?

19 A. Yes, they were revised in 1980.

20 62 Q. THE CHAIRMAN: I am sorry, 1980.

21 A. And then 1993, but 1980 were just practical
22 amendments and learning as they went on.

23 63 Q. THE CHAIRMAN: We can take the memo as
24 being a sort of guidelines
25 type document?

26 A. Yes, we think of them as guidelines, yes.

27 64 Q. THE CHAIRMAN: So some amendments in 1980,
28 but not a new edition?

29 A. No.

1 65 Q. THE CHAIRMAN: Just a new publication with
2 one or two changes?

3 A. Yes.

4 66 Q. THE CHAIRMAN: Then in 1983 we had
5 something like a new
6 edition, is that right?

7 A. Yes, in the opening paragraph of the 1983 guidelines,
8 it says that the guidelines are concerned with the

9 problem of non-accidental physical injury, including
10 injuries arising from sexual abuse. That is the only
11 reference, there is nothing backing that up, if you
12 like, later on, but it is specifically mentioned for
13 the first time.

14 67 Q. THE CHAIRMAN: I understand.

15 Ms. McLoughlin, if you can,
16 can you help me with this; is that the committee of
17 experts or another committee of experts reassembling,
18 or is this something coming from the Department
19 itself?

20 A. I am not sure absolutely, but I think it was from
21 within the Department. I suppose it would be the
22 norm that you would go over guidelines and revise
23 them from time to time.

24 THE CHAIRMAN: Of course, I understand.

25 A. I can certainly check that.

26 68 Q. THE CHAIRMAN: I am intrigued is there a
27 reference in the Department
28 to why we are now introducing the consequences of
29 injuries from sexual abuse, whereas we hadn't got it

1 before? Obviously, we all know that there was a
2 growing level of knowledge, but I am just wondering
3 what the basis for that was more specifically, if it
4 is possible to say more specifically?

5 A. I don't know that it is possible to say more
6 specifically. There would have been just a growing

7 knowledge, and the child sexual abuse working party
8 which started its meetings in 1983, also arose out of
9 that general understanding, but it wasn't that there
10 was a specific case or even a series of cases. I
11 think it is true, certainly at present relationships
12 with the Health Boards and the voluntary agencies
13 would involve quite a lot of networking, so it may be
14 that on the ground things were being said by people
15 working closely with families and that sort of thing,
16 but it was all more nebulous, it wasn't that there
17 was some specific.

18 69 Q. THE CHAIRMAN: So a relevant official in
19 the Department would not
20 actually think of putting a specific report or
21 memorandum on file, it would simply be that there was
22 a growing awareness so that when it came to this,
23 somebody is going to say, 'oh, we better include
24 sexual abuse', something like that?

25 A. Something like that, yes.

26 70 Q. Sorry, you were going to tell us about the 1983
27 working party, is that correct?

28 A. It was just the coincidence, if you like, of the
29 Irish Association of Social Workers held the first

1 conference in Ireland in early 1983, and it was the
2 first conference on child sexual abuse, but the 1983
3 guidelines had already been issued or they coincided
4 very closely, so they did not lead directly to any

5 significant change. That working party met over
6 quite a long period again and I think by the time its
7 report was published in 1989, to some extent events
8 had takeover taken it.

9 71 Q. MS. FERGUS: I think that working party
10 had received a grant?

11 A. They did receive a grant from the Department of
12 Health, yes.

13 72 Q. Of £25,000 at the time?

14 A. Yes.

15 73 Q. THE CHAIRMAN: The Association of Social
16 Workers had a conference in
17 1983?

18 A. That's right, and one of the needs identified out of
19 that conference was that there needed to be a study
20 in Ireland of child sexual abuse.

21 74 Q. THE CHAIRMAN: A theme of that was child
22 sexual abuse?

23 A. Yes.

24 75 Q. THE CHAIRMAN: So we can take it that the
25 Association of Social
26 Workers had identified this by 1983 as something
27 major enough to warrant a conference about it?

28 A. Yes.

29 76 Q. THE CHAIRMAN: Coming out of that

1 conference was a
2 recommendation that there should be a working party

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on child sexual abuse?

3

4 A. Yes, and it was actually set up by the Irish Council
5 of Civil Liberties, and a number of the people
6 involved in it were actually people who were also
7 involved in the rape crisis centres, so there was a
8 link in terms of the knowledge on the ground.

9 77 Q. THE CHAIRMAN: Yes. Some of those would,
10 presumably, have
11 contributed to the conference?

12 A. Yes, probably, yes.

13 78 Q. THE CHAIRMAN: All right. That is 1983?

14 A. Uh huh.

15 79 Q. MS. FERGUS: When did that working party
16 publish their report?

17 A. Not until 1989. As I say, in the interim I think a
18 number of other things had happened. There were
19 parallel developments and the guidelines were revised
20 again in 1987, there was quite a lot of activity.

21 80 Q. THE CHAIRMAN: So that report is 1989?

22 A. Uh huh.

23 81 Q. THE CHAIRMAN: But before we get to that,
24 we have the 1987 revision?

25 A. Yes, the 1987 revision and the establishment of the
26 two sexual abuse units for children in two of the
27 Dublin childrens' hospitals.

28 82 Q. THE CHAIRMAN: Maybe you would tell us
29 about that, Ms. McLoughlin?

1 First of all, the revision and then about the two
2 units.

3 A. The units were 1985, well, they started being set up
4 in 1985 and they got set up eventually at the
5 beginning of 1987. They arose because one of the
6 difficulties facing the sexual assault unit in the
7 Rotunda had been the growing number of young people
8 attending and the awareness that many of the women
9 attending had been abused as children and had not had
10 any treatment or counselling, so that led to the
11 recognition and the need to set up something for
12 children.

13 83 Q. THE CHAIRMAN: Sorry, people had been
14 coming to the sexual
15 assault unit?

16 A. Yes, as to the rape crisis centres.

17 84 Q. THE CHAIRMAN: Complaining that they
18 themselves had been abused
19 as children?

20 A. Yes.

21 85 Q. THE CHAIRMAN: That was the complaint that
22 they were bringing, it
23 wasn't that they were coming with some recent thing?

24 A. Obviously some of them were, but I think there are
25 figures there from the rape crisis centres which
26 would reflect very much that; 78% in Dublin were past
27 cases.

28 86 Q. THE CHAIRMAN: So people were going to the
29 rape crisis centres

1 complaining not of a recent episode, but of being
2 troubled or suffering or whatever, having problems
3 arising from a long-standing issue or incident?
4 A. Yes.
5 THE CHAIRMAN: Okay.
6 A. It was probably the first time that they felt there
7 was anywhere they could go.
8 87 Q. THE CHAIRMAN: I understand. The units
9 were set up in 1985?
10 A. The Rotunda was 1985 and the two childrens' units
11 were 1987.
12 THE CHAIRMAN: I know Dr. Ryan has
13 particular expertise in
14 this area.
15 A. So 1985 was the unit in the Rotunda and it was like
16 the Rape Crisis Centre, it was quite quickly -- well,
17 'swapped' is probably not quite the right word, but
18 certainly there was a significant proportion of young
19 people going there and there were concerns about
20 whether it was an adult environment, whether it was
21 an appropriate environment for young people to be
22 examined. A group was set up in 1986 by the
23 Department to discuss what the options were and it
24 resulted in the end that an appropriate setting for
25 children who were victims of sexual abuse would be a
26 childrens' hospital. I think people felt very
27 strongly that the environment was very important, so
28 they opened in Temple Street and in Crumlin, in 1987
29 I think.

- 1 88 Q. MS. FERGUS: Did new updated child abuse
2 guidelines issue around
3 that time?
- 4 A. They did, in 1987. These, I suppose, were the
5 precursor of the guidelines we would have today in
6 that they were considerably broader both in how to
7 identify abuse, but also in how to manage it. They
8 focused very much on the need for inter-agency and
9 inter-professional cooperation, which was something
10 that had probably been lacking from the earlier
11 guidelines.
- 12 89 Q. THE CHAIRMAN: These new guidelines are
13 dated 1987?
- 14 A. Yes, 1987. There had been a group, a working group
15 and it was the Department, the Health Boards,
16 psychiatric services, paediatric hospitals, the GPs,
17 quite a wide ranging group. They identified a range
18 of issues and, in particular, as I say, previously I
19 suppose it had been primarily social workers and then
20 to some extent the Guards who had an involvement with
21 child abuse, and the 1987 guidelines recognised that
22 there were a lot of other people who were the first
23 port of call with the health services, like GPs and
24 public health nurses, so their role is flanked very
25 clearly. It is probably the biggest change.
- 26 90 Q. MS. FERGUS: I think your Department
27 then produced a Bill in
28 1985?

29 A. In 1985 a Bill called the "Care and Protection Bill"

1 was drafted. It was the first piece of draft
2 legislation that referred specifically to sexual
3 abuse as a ground of abuse on which a health board
4 could legitimately take a child into care. There was
5 a change of Government and there had also, I think,
6 been a lot of discussion around the Bill. It was
7 published as a Bill, but when the Government fell, it
8 was changed or it was redrafted, if you like, and it
9 became the Childcare Bill in 1988. That eventually
10 resulted in the 1991 Act, which was the first really
11 significant change in the legislation since 1908, so
12 it was a very major piece of legislation.

13 91 Q. Was that produced by your Department?

14 A. Yes.

15 92 Q. Both the 1985 and the later ones?

16 A. Yes, the Department would have the responsibility for
17 producing legislation.

18 93 Q. THE CHAIRMAN: So, Ms. McLoughlin, in 1985
19 the Bill is produced?

20 A. Yes.

21 94 Q. THE CHAIRMAN: That is the first statutory
22 reference to sexual abuse,
23 is that correct?

24 A. Yes, that's correct.

25 95 Q. THE CHAIRMAN: The context of that was
26 that if sexual abuse was

27 established, that would be a reason for taking
28 children into care?

29 A. Not if it was established, if somebody had a concern

1 about it.

2 96 Q. THE CHAIRMAN: Sorry, it would be a
3 reason?

4 A. Up to then the reasons that social workers could take
5 children into care or into a place of safety would
6 have been largely around neglect or physical abuse,
7 and this is the first time that that specific
8 reference ... (INTERJECTION).

9 97 Q. THE CHAIRMAN: Presumably before that, if
10 somebody had concerns about
11 sex abuse, they would have put it under the heading
12 of physical abuse, I suppose?

13 A. Probably.

14 98 Q. THE CHAIRMAN: I am not saying there is
15 anything wrong with that.

16 A. I think social workers on the ground had to face a
17 lot of those kind of decisions.

18 99 Q. THE CHAIRMAN: Of course, they would have
19 described it, and not
20 inaccurately I assume, as physical abuse, but now it
21 is specifically referred to and identified here as a
22 particular issue?

23 A. Yes, and I think part of that was the growing
24 understanding that it was an issue that people -- one

25 of the reasons that it would have been defined as
26 physical abuse would have been a reluctance to talk
27 about it, and I think this reflects the growth of an
28 ability within the State to talk about the issue.

29 100 Q. THE CHAIRMAN: Yes, for one reason or

1 another, that went on to
2 the back burner for a while and came back in in a new
3 form?

4 A. Yes, as the 1988 Bill, which eventually became the
5 1991 Act.

6 101 Q. MS. FERGUS: Prior to that, but
7 eventually published in
8 1990, the Attorney General requested the Law Reform
9 Commission to formulate proposals?

10 A. That's right, on sexual abuses generally, not
11 specifically, but they did specifically produce a
12 report or part of the report was about sexual abuse
13 of children.

14 102 Q. THE CHAIRMAN: Which report was that?

15 A. It was a Law Reform Commission report, published in
16 1990.

17 103 Q. MS. FERGUS: Requested in 1987 by the
18 Attorney General?

19 A. The Attorney General asked in 1987.

20 THE CHAIRMAN: Ms. Fergus, what was the
21 general heading? I know
22 sexual abuse was part of it.

23 MS. FERGUS: I actually will have to
24 look at the appendices.
25 104 Q. THE CHAIRMAN: We can check it up. Do you
26 have the name of the
27 report, Ms. McLoughlin?
28 A. I think it is called "Sexual Offences Generally",
29 they tend to say it is the review of.

1 THE CHAIRMAN: Okay.
2 105 Q. MS. FERGUS: Moving on then to another
3 matter, the Kilkenny Incest
4 investigation.
5 A. Yes. I think there were a number of reports in the
6 mid to late 1990's that had a very significant effect
7 on the Department and also on the knowledge of people
8 in the State. I think really until the Kilkenny
9 incest case, there was a huge reluctance to accept
10 that this could happen, not out of malice, but that
11 people did not believe that children could be treated
12 in this way. Kilkenny was the first State Inquiry,
13 any significant Inquiry into both physical and sexual
14 abuse. It was a familial case, not an institutional
15 case. If you remember there was a huge amount of
16 public attention and media attention, and it is still
17 one that people not working in the area will still
18 remember, so it had a very profound effect in terms
19 of publicising the issue.
20 106 Q. I think the Madonna House investigation was the next

21 one?

22 A. In 1994, yes.

23 107 Q. This was the first investigation of institutional
24 abuse in Ireland?

25 A. Yes.

26 108 Q. Who organised the visit from the Department of
27 Health?

28 A. It was a Department of Health sponsored
29 investigation. I think we did provide you with a

1 copy. It is into abuse that had happened
2 considerably prior to 1994. There are a whole range
3 of issues addressed in it, including things like how
4 the home was managed, the style of management and how
5 that contributed to the fact that the abuse happened
6 and was not discovered. Those findings, if you like,
7 led later on to the development of the kind of
8 guidelines that we have now in residential care. In
9 order to prevent, you need to look at a very wide
10 range of issues, it is not enough just to say
11 'something shouldn't happen' or 'this is how it
12 should be investigated', it was recognised that some
13 of the management and administrative structures had
14 actually contributed to the problems.

15 109 Q. You mention there the guidelines that you have now,
16 what is the most recent?

17 A. Children First would be the current guidelines, which
18 were 1999. When there was a review of the 1987

19 guidelines, a number of issues arose. One was that
20 the cross-agency working, although it had been
21 identified as an issue, was not really happening as
22 successfully as it should. That came out also of a
23 number of the reports like Kilkenny that although it
24 was supposed to happen, it wasn't really happening.
25 The guidelines were produced in 1999, but then a
26 significant amount of work went into implementing
27 them. There was cross-training, joint training
28 between the Guards and the social workers, which was
29 very successful and also identified a core problem

1 which was that the Guards had a very hierarchical
2 rigid structure for very good reasons, and social
3 workers had a much more fluid way of working. One of
4 the reasons problems had arisen was that neither of
5 them understand, if you like, the crossover. So
6 Children First identified those kind of issues and
7 actually went out and tackled them. I suppose it is
8 about to be evaluated, but overall I would say a lot
9 more work has gone in to making it happen on the
10 ground than would have been recognised in the past
11 that was necessary.

12 110 Q. There were one or two other matters, the abuse in the
13 Diocese of Ferns is the particular one you mentioned?

14 A. Well, Mr. George Birmingham, Senior Counsel,
15 conducted an investigation on behalf of the Minister
16 to look at what would be the best way of examining

17 the allegations of child sexual abuse in a context
18 where it was not specifically the State organs that
19 were, if you like, being investigated, although there
20 was an involvement obviously. Following his report,
21 he recommended that it be a three party Inquiry with
22 different skills; legal, social work and management.
23 They are currently sitting, Judge Murphy is sitting
24 on that.

25 111 Q. Moving on then to protocols and procedures. You very
26 kindly provide the Investigation Committee with a
27 long list of protocols and procedures that have been
28 developed by your Department. I think perhaps the
29 Investigation Committee are particularly interested

1 in any protocols and procedures that were in place
2 before the issue came into the public arena in the
3 1990's, as you have brought us through. Perhaps you
4 might just deal with that?

5 A. The first procedures really on dealing with abuse
6 would have been that memorandum from 1977.

7 112 Q. The one we have referred to earlier on?

8 A. Yes.

9 113 Q. That is the earliest?

10 A. That is the earliest, yes, and there is no doubt when
11 you go back and look at the papers that an
12 understanding that abuse existed simply was not
13 there. As I say, talking to people who worked in the
14 Department and in childcare in the late 1960's and

15 1970's, it was not an issue on their horizon at all,
16 it simply was not something that was understood. The
17 first guidelines would very much have been that
18 memorandum.

19 114 Q. Obviously, numerous other protocols and procedures
20 have been put in place, is there any particular one
21 you would like to identify that should be marked?

22 A. No, I think the reason they are all in is to show how
23 far things have developed. As I said earlier, it is
24 not enough just to have guidelines on dealing with
25 abuse. The issue of prevention has to be reflected
26 and it is in things like ensuring that management
27 structures are appropriate and that there is not
28 anything that administrative structures do that
29 prevent allegations of abuse being dealt with or that

1 allow abuse to continue. We would currently have
2 guidelines on residential care and foster care. I
3 suppose the big element, and it is not a guideline
4 per se, would be the establishment of the SSI, the
5 Social Service Inspectorate, which actually go out
6 and talk to the children and ensure that the
7 guidelines are being implemented.

8 115 Q. I assume these guidelines are widely circulated?

9 A. They are, and there are childrens' versions of them.
10 The result of the reports are up on the SSI website,
11 so it is a very open system.

12 116 Q. THE CHAIRMAN: Tell us something more

13 about the national
14 inspectorate, Ms. McLoughlin, please.
15 A. The Social Service Inspectorate was set up
16 administratively initially. It is to be set up on a
17 statutory basis shortly. It is something that people
18 like Fidelma Clandillon and Augusta McCabe did the
19 preparatory work for. The role of the Inspectorate
20 long-term is to inspect all social services, but
21 because of the issues that had arisen in childcare
22 about abuse, that is where their initial focus was.
23 They were set up in April 1999 and they do
24 inspections of Health Board residential institutions.
25 I think they have done 90 inspections to date, and
26 they expect by the end of this year to have finished
27 a round of inspections of all of the Health Board
28 institutions. A number of them have been closed or
29 radically changed because of the inspections, they

1 are quite rigorous inspections. They have also
2 worked with the Health Boards to develop guidelines
3 in different areas and the inspections, if you like,
4 would be against those guidelines and other things.
5 Each inspection just goes up on the website, the
6 report, so it is available and it is also provided to
7 the children and to the parents of the children in
8 care.

9 117 Q. MS. FERGUS: It was 1999 before this
10 ... (INTERJECTION)?

11 A. In April 1999 they were set up.

12 118 Q. I think your Department also does research into
13 dealing with abuse?

14 A. On any occasion where we were developing a policy, I
15 suppose there would be research. It wouldn't
16 necessarily be formalised published research,
17 although from time to time it is in the context, say,
18 of looking at the issues of mandatory reporting,
19 there would have been a researcher brought in to do
20 it. I suppose a key part of all Civil Service work
21 is researching what is going on, what is available on
22 the ground and what other countries do, so that would
23 be a part of all policy development.

24 MS. FERGUS: Thank you very much. There
25 may be some questions from
26 the Committee.

27 119 Q. MR. LOWE: When the Non-Accidental
28 Injury Guidelines came out
29 in 1977, could you judge from reading it who was

1 deemed to be the perpetrators of the non-accidental
2 injury; was it parents or was it broader?

3 A. I do not think you could judge per se, but it
4 certainly was familial, not necessarily parents but
5 the uncles, the relatives. That would be my
6 impression from it.

7 120 Q. MR. LOWE: They would have set a
8 mind set which was looking

- 9 for intra-familial physical abuse?
- 10 A. I suppose that would have been the experience of the
11 social workers of the day, that that was where the
12 problems they were seeing were coming from. I do not
13 think it is so much, if you like, that it set a mind
14 set as that it addressed the problem that they saw, I
15 think other problems were out there.
- 16 121 Q. MR. LOWE: So physical abuse by
17 professionals, teachers,
18 etc. was not addressed?
- 19 A. I think that was a much later development, a
20 recognition that that could happen.
- 21 122 Q. MR. LOWE: That is when the sexual
22 abuse guidelines came out
23 in 1987, that included non-familial sexual abuse?
- 24 A. They did.
- 25 123 Q. MR. LOWE: So there was a concept then
26 that children could be at
27 risk both within and outside the home?
- 28 A. Yes.
- 29 MR. LOWE: Thank you.

- 1 124 Q. THE CHAIRMAN: Ms. McLoughlin, can I start
2 by asking you when did the
3 Department become the Department of Children?
- 4 A. I think it was at the beginning of the present
5 Government.
- 6 125 Q. THE CHAIRMAN: Am I right in thinking that

7 there was a previous
8 understanding that responsibility for children was
9 spread between a number of different Departments, am
10 I right in thinking that?

11 A. That is still the case. The Minister for Children is
12 the Minister of State at three Departments; Justice,
13 Health and Education, because for a number of years
14 there has been a recognition that there are links and
15 that the links don't always work as well as one would
16 hope.

17 126 Q. THE CHAIRMAN: The idea is to try to
18 integrate the approach by
19 having a Junior Minister who is spread across the
20 three divisions?

21 A. Yes, and the previous Ministers for Children would
22 have had the same arrangement.

23 127 Q. THE CHAIRMAN: Okay. So direct
24 information as to what was
25 happening, leaving aside where the abuse was
26 occurring, but direct information would come,
27 presumably, to the Gardai if they were involved?

28 A. Uh huh.

29 128 Q. THE CHAIRMAN: Or the Health Boards or

1 previously the health
2 authorities if they were concerned with it?

3 A. Yes.

4 129 Q. THE CHAIRMAN: If that happened, is there

- 5 some chain of communication
6 between Health Boards and the Department?
- 7 A. Not on a case by case basis, because the statutory
8 responsibility is very specifically with the Board.
- 9 130 Q. THE CHAIRMAN: I understand that.
- 10 A. It is an informal chain of communication, I think,
11 but certainly you would expect to be aware of what is
12 going generally going on. There are a lot of working
13 groups sitting on the various different aspects and
14 it is in that sort of context.
- 15 131 Q. THE CHAIRMAN: I understand. So
16 information about abuse
17 that might be taking place in an institution,
18 firstly, I suppose that would be the Department of
19 Education, if it was an industrial school?
- 20 A. In the past?
- 21 132 Q. THE CHAIRMAN: In the past, yes.
- 22 A. Yes, yes.
- 23 133 Q. THE CHAIRMAN: Otherwise if it wasn't, it
24 would be coming to the
25 relevant health authority?
- 26 A. Yes.
- 27 134 Q. THE CHAIRMAN: It certainly wouldn't be
28 reporting, I understand
29 that the control wouldn't be there on an individual

1 basis?

2 A. No.

- 3 135 Q. THE CHAIRMAN: Before the Department
4 formulated a policy, let's
5 say, in 1987 and was dealing with sex abuse,
6 presumably there would have been some perhaps
7 informal communications, would there?
- 8 A. I discussed that with some of the people who worked
9 in the Department and certainly one of the ways they
10 knew would have been those informal contacts, but the
11 Boards don't report directly on any individual cases?
- 12 136 Q. DR. RYAN: Does the Department compile
13 annual statistics?
- 14 A. We do compile statistics, yes.
- 15 137 Q. DR. RYAN: They are based on reports
16 from the Health Boards, so
17 there is a reporting in that sense?
- 18 A. There is a reporting in that sense, yes, I am sorry.
- 19 138 Q. THE CHAIRMAN: Would you tell us more
20 about that.
- 21 A. Since the mid 1980's, the Health Boards have
22 collected statistics on children in care rather than
23 specifically children of abuse, and it looks at a
24 range of issues, including the reasons for being
25 taken into care, and some of those reasons would
26 include abuse.
- 27 THE CHAIRMAN: I see.
- 28 A. Some of that information has been provided to the
29 Commission.

1 THE CHAIRMAN: Thanks very much.

2 139 Q. MR. LOWE: Can I take you back to the
3 concept of neglect which
4 you said was the chief concept which motivated social
5 work action in the 1950's and 1960's. Is there a
6 list anywhere of the kind of things which constituted
7 neglect?

8 A. Some of the legislation, including the public
9 assistance legislation would have references to -- it
10 is not that neglect is defined, but the reasons why
11 people would be regarded as destitute or why children
12 would be taken into care.

13 140 Q. MR. LOWE: What sort of things would
14 be in that?

15 A. Some of the moral type; frequenting brothels and
16 being associated with or being found in public
17 houses, those kind of things. Also inadequate food
18 and inadequate clothing. There is no specific list,
19 but those are the types of things.

20 141 Q. MR. LOWE: Inadequate food and
21 clothing would be part of
22 what they are looking for?

23 A. It would have been part of what they looked for, yes,
24 and it would certainly have been a key in the work
25 done by the women who looked at the boarded out
26 children.

27 MR. LOWE: Thank you.

28 THE CHAIRMAN: Thank you very much indeed,
29 Ms. McLoughlin.

1 THE WITNESS THEN WITHDREW

2

3 THE CHAIRMAN: Mr. McMahon, we don't have
4 any other witness today, do
5 we?

6 MR. McMAHON: No, we don't have any
7 further witnesses this
8 morning. Tomorrow it is proposed that we will have
9 witnesses from the Department of Finance and the
10 Department of Justice.

11 THE CHAIRMAN: I hope people will
12 appreciate that

13 ... (INTERJECTION).

14 MR. McMAHON: Sorry, Justice is
15 Wednesday.

16 THE CHAIRMAN: Tomorrow is?

17 MR. McMAHON: Tomorrow is Finance.

18 THE CHAIRMAN: Obviously if we could get
19 everybody in so that we had
20 fuller days, we would all be delighted. When we
21 leave here, we go back to work, as I am sure
22 everybody else does, but we are trying to arrange a
23 situation where we can have a fuller programme of
24 people coming in. If it happens that we finish
25 earlier, that is one of those things. Anyway, we are
26 trying with later witnesses to have as many of them
27 as possible, but we have to accommodate ourselves to
28 the availability of witnesses and what conveniences
29 them and so on. In fact, people have been extremely

1 helpful to us. I wanted to explain just in case
2 people think that we are off for the day to do
3 nothing else, that the opposite is in fact the case.
4 Thank you very much. Very good, 10:30 tomorrow.

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8 THE HEARING WAS THEN ADJOURNED UNTIL TUESDAY,
9 29TH JUNE 2004 AT 10:30 A.M.

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