

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

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1921, ON 17 FEBRUARY 2017

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

HELD IN DUBLIN CASTLE
ON MONDAY, 5TH FEBRUARY 2018 - DAY 59

59

Gwen Malone Stenography
Services certify the
following to be a
verbatim transcript of
their stenographic notes
in the above-named
action.

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1 THE HEARING RESUMED, AS FOLLOWS, ON MONDAY, 5TH MARCH,
2 2018:

3
4 CHAIRMAN: I understood there were travelling
5 difficulties, so I sat a wee bit late. I think we are 10:11
6 all right now.

7 MR. MARRINAN: Yes, sir. Sergeant Maurice McCabe,
8 please.

9
10 SERGEANT MAURICE MCCABE, HAVING BEEN SWORN, WAS 10:11
11 DIRECTLY EXAMINED BY MR. MARRINAN:

12 1 Q. MR. MARRINAN: Sergeant McCabe, if you wouldn't mind
13 giving a brief history and summary of your career in An
14 Garda Síochána to date, please?

15 A. Yes, Mr. Chairman. I joined An Garda Síochána in 10:12
16 August '85. I passed out in January of '86. I was
17 stationed in Drogheda until '88. I went to Dundalk
18 then until '89. I went to Bailieboro then as a garda
19 from '89 up until 2000, and I got promoted in that year
20 and I went to Clones until October 2004. I came back 10:12
21 to Bailieboro then up until the 23rd July '08 and I am
22 in Mullingar since, on the Traffic Corps.

23 2 Q. And you will appreciate that you are going to be giving
24 evidence now over matters that span a timeframe of
25 almost just over ten years. 10:13

26 A. Yes.

27 3 Q. I intend to move fairly speedily through some key
28 events on which the Chairman has already heard evidence
29 of and there doesn't appear to be any dispute in

1 relation to the matters, and I hope to be able to focus
2 on matters which the Tribunal will hear for the first
3 time or where there is a dispute on the facts, do you
4 understand?

5 A. Okay, I do. 10:13

6 4 Q. But at the same time, I don't want in any way to cut
7 you off from making any point that you wish to make in
8 relation to any of the key events.

9 A. Okay.

10 5 Q. And in order to ensure that we don't miss any of the 10:13
11 key events, I will just simply highlight various dates
12 when issues and matters occurred, and if you wish to
13 expand in your evidence on what the Tribunal has
14 already heard, feel free to do so, all right?

15 A. Okay, thank you. 10:14

16 6 Q. And to that end, we are just going to focus in the
17 first instance on a complaint that had been made that
18 we have already heard of, by Ms. D on 5th December of
19 2006. The complaint that she made to Sergeant Fraher.
20 You are familiar obviously with that -- 10:14

21 A. I am.

22 7 Q. -- and with the investigation that was conducted by
23 Inspector Cunningham, isn't that so?

24 A. Yes.

25 8 Q. I think Inspector Cunningham interviewed you, isn't 10:14
26 that right?

27 A. He did, yeah.

28 9 Q. And you answered the questions that were asked -- that
29 he asked of you, is that right?

1 A. I did, Chairman, yes.

2 10 Q. And I think that you cooperated with that, that
3 investigation?

4 A. I did.

5 11 Q. There was a background in relation to the allegation 10:15
6 that had been made by Ms. D, and that concerned an
7 incident that had occurred on 11th January of 2006
8 following a funeral.

9 A. Yes.

10 12 Q. And the Tribunal has heard evidence in relation to that 10:15
11 matter, but that was a matter that was exercising your
12 mind considerably at that time --

13 A. Yes.

14 13 Q. -- is that right?

15 A. That's correct. 10:15

16 14 Q. Now, you will appreciate that the investigation that
17 was carried out by Inspector Cunningham, as he then
18 was, had to be done independently of you, is that
19 right?

20 A. Yes, that's correct. 10:15

21 15 Q. And indeed, would you accept that it would have been
22 entirely improper of him to have informed you of
23 matters as they unfolded during the course of the
24 investigation?

25 A. Yes, Chairman. 10:15

26 16 Q. But that included also whatever inquiries he had made
27 in relation to the background circumstances that may
28 have influenced the making of the complaint by Ms. D?

29 A. Yes, Mr. Chairman.

1 17 Q. Because you see, we know that on 19th February 2007
2 Inspector Cunningham completed his file and sent it to
3 the Director of Public Prosecutions and in his remarks
4 that he made in relation to the background his
5 recommendation was: 10:16
6
7 "Taking all matters into consideration, including the
8 question of whether the event, if it happened,
9 constituted a breach of the criminal law, it is felt
10 there is no ground for a criminal prosecution." 10:16
11
12 You weren't aware at the time that that was his
13 recommendation, isn't that right?
14 A. No, I wasn't.
15 18 Q. He also sent a copy of that covering letter and the 10:16
16 file to Chief Superintendent Rooney, again with that
17 recommendation. That is a matter you weren't aware of
18 at the time?
19 A. No, I wasn't, Mr. Chairman.
20 19 Q. On the 27th February of 2007, after examining the file, 10:17
21 Chief Superintendent Rooney stated that he did not
22 propose to initiate a disciplinary investigation
23 against you but he sent a copy of the investigation
24 file to HRM?
25 A. Yes. 10:17
26 20 Q. And at the time, were you advised by Chief
27 Superintendent Rooney of that decision that he had
28 made?
29 A. No, Mr. Chairman, I think I was advised after that. It

1 came down from HRM up to the superintendent's office in
2 Bailieboro, advising me, in relation to the discipline.

3 21 Q. When was that?

4 A. I think it was the summer of '07.

5 22 Q. Right. And we know that on the 1st March 2007,
6 Mr. Rory Hayden, the State solicitor, forwarded the
7 file with the following comments. I quote from his
8 report:

10:17

9
10 "I do not think any case arises for a prosecution due
11 to a number of inconsistencies in the file and the
12 strain and credibility of Ms. D with the allegation
13 itself unclear and even on Ms. D's account the incident
14 amounted to horseplay and no more."

10:18

15
16 Were you made aware of those observations that had been
17 made at that time by Mr. Hayden?

10:18

18 A. No, I wasn't.

19 23 Q. The matter was then with the Director of Public
20 Prosecutions for consideration from the 1st March of
21 2007, and the Director gave directions fairly speedily
22 in the matter, and on the 5th April of 2007, the DPP
23 gave directions, they are set out at volume 2 of the
24 material at page 698. I don't intend to open it, but
25 the operative portion of the direction concludes:

10:18

10:19

26
27 "Even if there wasn't a doubt over her credibility, the
28 incident that she describes does not amount to a sexual
29 assault or indeed an assault."

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That direction was given on the 5th April of 2007. On the same day, did you have a conversation with Mr. Rory Hayden, the state solicitor?

A. On the 5th? 10:19

24 Q. Yes.

A. No, it was on the 11th April.

25 Q. On the 11th April?

A. Yes.

26 Q. And will you just tell us, was that conversation over the phone or was it in person? 10:19

A. No, it was -- Judge, I was at home and I got the phone call early that morning, I think it was half nine, I was in bed actually, and he outlined that it was back and he read the DPP's directions over to me. 10:19

27 Q. Did he read the entirety of the directions?

A. No, all he read was, the -- in relation to the screen grab, you know the screen grab that is here of the directions.

28 Q. Yes. All right. Well, perhaps we could have page 698 up on the screen. Do you see that? Obviously, you weren't shown a copy of this at the time, sure you weren't? 10:20

A. Yeah, that is what he read out to me, Chairman.

29 Q. Right. Did he read the entirety of that? 10:20

A. He did, all of that, yeah.

30 Q. All right. And how did you feel at that time?

A. I felt great. I was extremely happy. About 20 minutes after the phone call I rang him back, just to ask him

1 if he'd outline the directions to me again and I made
2 notes in relation to it. And I went to work after
3 that.

4 31 Q. And you refer to work; were the station party in
5 Bailieboro aware of this allegation made against you? 10:21

6 A. Yes, they were, yeah.

7 32 Q. Did anybody offer you any support at that time?

8 A. I got great support.

9 33 Q. Who were you getting support from?

10 A. All the senior management of Cavan-Monaghan. After the 10:21
11 issue arose in December they rang me and they were, you
12 know, they were just saying to me that, you know, there
13 is nothing there, Maurice, you know, absolutely, but I
14 had to wait until I was interviewed to see that. But I
15 had great support; Colm Rooney, all the superintendents 10:21
16 and the inspectors and the guards in Bailieboro.

17 34 Q. So there was no -- you have heard the expression, it's
18 been used a few times in the Tribunal up until now,
19 that there is no smoke without fire. There wasn't any
20 sense of that in the station party in Bailieboro or 10:22
21 amongst senior management, is that right?

22 A. I didn't think so, I didn't think so.

23 35 Q. Were you told at that time by Inspector Cunningham of
24 the directions that had been given by the Director of
25 Public Prosecutions? 10:22

26 A. No, I didn't at that stage.

27 36 Q. On the 23rd April, 12 days later to your conversation
28 with Mr. Hayden and 18 days after the direction had
29 been given, did you have cause to phone Inspector

1 Cunningham?
2 A. I did. I rang him on the 23rd April because I had been
3 working with him for -- since the 5th April, I think,
4 before that, and I asked him if the DPP's directions
5 had come back. He said yeah, that they had come back, 10:23
6 and they were positive.
7 37 Q. When you say he said that they were positive, what did
8 you -- what did you take that to mean?
9 A. I did take that I was cleared.
10 38 Q. And did he indicate to you that he was going to discuss 10:23
11 the matter with you later on?
12 A. He did, yes.
13 39 Q. Well, did you advise him that you had been told of the
14 Director's directions?
15 A. No, I didn't. 10:23
16 40 Q. Why was that?
17 A. Because I didn't -- I didn't like to hang the State
18 solicitor, Rory Hayden. I felt I didn't want to --
19 41 Q. So were you feigning then that this was coming fresh --
20 A. Yes, I was. 10:23
21 42 Q. -- to you? Now, we know on the 24th April of 2007,
22 Superintendent Cunningham, Inspector Cunningham as he
23 then was, informed the D family and he has stated that
24 he attempted to meet you but you refused to meet with
25 him on that day, is that right? 10:24
26 A. It would be, yeah, indirectly it would be.
27 43 Q. Will you explain that?
28 A. Well, I was working with him since the 5th April and I
29 was working with him every day, we were at lunch and

1 coffee and court, and I did feel that if he had the
2 directions earlier, I should have been told. And I was
3 annoyed at the fact that I had to ring him on the 23rd,
4 looking for the directions.

5 44 Q. So can we just be clear about this: On the 23rd April, 10:24
6 you received or you are told that these are, the
7 directions are positive as far as you are concerned --
8 A. Yes.

9 45 Q. -- by Inspector Cunningham, and you feign a reaction to
10 that as though you had heard it for the first time? 10:25
11 A. Yes.

12 46 Q. And then the following day, Inspector Cunningham,
13 having informed the D family, asked to meet with you --
14 A. Yes.

15 47 Q. -- to tell you the directions in person, and you 10:25
16 refused to meet with him, is that right?
17 A. Indirectly I did, yes.

18 48 Q. And then two days later, did you have a meeting with
19 Chief Superintendent Rooney?
20 A. I did, Mr. Chairman. I met Chief Superintendent Rooney 10:25
21 on the 26th April. I sought a meeting with him, and I
22 met him in Monaghan, and I conveyed my annoyance, just
23 to the fact that I had to ring Inspector Cunningham in
24 relation to the directions.

25 49 Q. What was his reaction to that? 10:25
26 A. He was 100 percent positive, he just said he would
27 inform Inspector Cunningham was there and he would look
28 it up and get back to me.

29 50 Q. And then on the 8th May of 2007, you, along with

1 Sergeant McArdle, who was a welfare officer at the
2 time, met with Inspector Cunningham, is that right?

3 A. That's correct.

4 51 Q. And why were you accompanied by Sergeant McArdle?
5 A. I was accompanied by her, you see -- she was the 10:26
6 equality officer and a welfare officer, and she was an
7 AGSI member, so I just brought her along for support.

8 52 Q. As far as you were concerned at that stage, had this
9 become a major issue?

10 A. Which issue? 10:26

11 53 Q. The fact that Inspector Cunningham hadn't informed you
12 until you phoned him on the 23rd?

13 A. It wasn't a major issue, Chairman, but I was annoyed of
14 the fact that I had to ring him for them.

15 54 Q. Well, had you any problem with Inspector Cunningham up 10:27
16 until then?

17 A. No.

18 55 Q. Why did you then perceive this to be in some way
19 something nasty that he had done to you?

20 A. It wasn't that it was something nasty. I was working 10:27
21 with him for a fortnight or more before the directions,
22 before I rang him on 23rd, and I was annoyed with him,
23 the fact that I had to ring him for them, because it
24 was an important issue in my life.

25 56 Q. Very well. And what did he inform you then at that 10:27
26 meeting?

27 A. He informed me that the DPP's directions had come back
28 and that there was no crime at all.

29 57 Q. Did he also mention that you had been exonerated by the

1 directions of the DPP?

2 A. At that stage he didn't, but I pressed him a little bit
3 further and then he told me I was exonerated.

4 58 Q. And did you ask him had the D family been informed of
5 the directions? 10:28

6 A. I think I did.

7 59 Q. well, in particular --

8 A. I think I did, yes.

9 60 Q. -- did you ask him whether they had been informed of
10 the full content of the letter? 10:28

11 A. Yes, that's correct, that's correct.

12 61 Q. And why were you anxious that they should be informed
13 of the full content of the letter?

14 A. Because I had the full content of the letter and I was
15 quite happy with it, it exonerated me 100 percent. 10:28

16 62 Q. So was it, were matters let lie then at that stage --

17 A. That's correct.

18 63 Q. -- after the 8th May?

19 A. That's correct.

20 64 Q. And you had no further issues arising out of this at
21 that juncture, is that right? 10:28

22 A. No --

23 CHAIRMAN: Mr. Marrinan, we haven't heard yet whether
24 Inspector Cunningham said the D family had been read
25 the letter out, that was the question you asked and we 10:29
26 got slightly diverted there.

27 A. Sorry, what was the question again?

28 65 Q. MR. MARRINAN: I had asked you whether or not you had
29 asked Inspector Cunningham whether the D family had

1 A. That's correct.

2 76 Q. -- at Bailieboro courthouse. Would you just describe
3 very briefly what happened on that day?

4 A. What happened, Chairman, was, I was in court, at the
5 start of court with Inspector Cunningham. I think the 10:30
6 papers say that it's Superintendent Clancy, but it
7 wasn't Clancy that was doing the court, Cunningham was.

8 77 Q. That is the detail.

9 A. Inspector Cunningham.

10 78 Q. But just tell us generally. 10:30

11 A. Just, sorry. I would say two minutes before the court
12 started, I saw [name redacted] -- sorry, Ms. D.

13 CHAIRMAN: Okay, don't worry. Look, these mistakes
14 will happen. So, we will change the transcript, don't
15 worry about that, and the direction is, and I am making 10:31
16 this direction, that the names of the D family, Mrs. D,
17 Ms. D, Mr. D, the rank of Mr. D, shall not be reported,
18 otherwise it's contempt of the Tribunal. I think the
19 newspapers understand that and they are very willing to
20 cooperate, so don't worry about the mistake. 10:31

21 A. So we seen her in court and she looked over at me and
22 walked over to me, and Inspector Cunningham seen her
23 and he had investigated the case and he advised us, so
24 he said leave the court and she left the court after,
25 I'd say, about two or three minutes. 10:31

26 79 Q. And was anything said by her to you?

27 A. No, there was nothing said.

28 80 Q. Was there any incident of any note?

29 A. No, there wasn't.

1 81 Q. So it was her mere presence there, is it, that you felt
2 in some way threatened by?
3 A. Intimidated.

4 82 Q. Intimidated. Right. And then two days later there was
5 an incident in Bailieboro Garda Station, is that right? 10:32
6 A. Yes, that's correct.

7 83 Q. Just tell us what happened then.
8 A. Well, I was walking up the town and I seen the Ds' car
9 pulled up and Ms. D hopped out of the car and walked
10 over to me. I didn't want a confrontation, so I walked 10:32
11 to the station, I went inside. I learned then, earlier
12 she had been in the station in Bailieboro.

13 84 Q. Was there any sense - because we have heard some
14 evidence in relation to this - that you had been chased
15 into the station by Ms. D? 10:32
16 A. No, I wouldn't --

17 85 Q. Mrs. D?
18 A. I wouldn't use the word chase, no. I wouldn't use it.
19 I was almost at the station.

20 86 Q. Well, did she follow you to the station? 10:32
21 A. She did follow me to the station, yeah.

22 87 Q. Yes. And did you have to lock yourself behind a door?
23 A. No, I hadn't. I walked into the station.

24 88 Q. And how did you feel about this at the time?
25 A. I felt it was awful, do you know? I couldn't 10:33
26 understand it.

27 89 Q. And in terms of, again, support from your colleagues,
28 they had no reason to change their mind --
29 A. No.

1 90 Q. -- in relation to you, did they?
2 A. No, none.
3 91 Q. And were they still supportive of you?
4 A. They were. Some of them were.
5 92 Q. Well, were there some that weren't at that time? 10:33
6 A. There was a few that weren't, I'd say, a handful.
7 93 Q. Were these ordinary guards or were they management?
8 A. Ordinary guards.
9 94 Q. Now, we know from evidence that has already been heard
10 by the Tribunal that there was an investigation into 10:33
11 this and that both Ms. D and Mrs. D were cautioned?
12 A. That's correct.
13 95 Q. Were you aware of that at the time?
14 A. I was.
15 96 Q. And I think they heeded the caution, there was no 10:34
16 further incident?
17 A. That's correct, Mr. Chairman, yes.
18 97 Q. And is it right to say that after that date, on the
19 17th October of 2007, you had no further problems at
20 all -- 10:34
21 A. No.
22 98 Q. -- from either Mr. D, Mrs. D or Ms. D, is that right?
23 A. No, none.
24 99 Q. And again, at that juncture were you happy to let
25 matters stand? 10:34
26 A. I was.
27 100 Q. So if we can just sort of get a flavour of how things
28 stood in 2007 for you and just to summarise that:
29 That you had had an allegation that had been made

1 against you which you denied, it had been investigated
2 speedily by Inspector Cunningham, you had got
3 favourable direction from the Director of Public
4 Prosecutions which exonerated you, is that right?

5 A. Yeah. 10:35

6 101 Q. You were upset that Inspector Cunningham hadn't advised
7 you of that immediately and you had brought it to the
8 attention of Chief Superintendent Rooney in April, but
9 you had let matters stand then and you were happy to go
10 about your duty and then we had these two incidents, 10:35
11 one after the other, on 15th and 17th October of 2007
12 that brought this back into the spotlight --

13 A. That's correct.

14 102 Q. -- but you were happy that the matter was properly
15 investigated, is that right? 10:35

16 A. That's correct.

17 103 Q. Okay. Now, on the 15th November of 2007, I think that
18 you wrote to Superintendent Clancy pointing out defects
19 in the investigation file with regard to the
20 investigation of the Lakeside Manor assault incident? 10:36

21 A. That's correct, yes.

22 104 Q. That had occurred on 14th of April of 2007?

23 A. Yes.

24 105 Q. And you were concerned about a neglect of duty or
25 inexperience on the part of the investigating garda, is 10:36
26 that right?

27 A. Yes.

28 106 Q. This complaint that you made on the 15th November of
29 2007 to Superintendent Clancy, this wasn't related to

1 anything else, is that right?

2 A. No, it wasn't. I was asked to do the court files for
3 Virginia court, I think the sergeant was maybe off or
4 off sick, so it just -- all it meant was getting all
5 the files together, having a look at them and bringing 10:37
6 them to the superintendent, and when I read this file,
7 I seen all the defects on the file.

8 107 Q. Yes. Now, on the 27th of November of 2007
9 Superintendent Clancy responded to it, and he agreed on
10 review of the matter that the investigation was 10:37
11 unsatisfactory and he requested to meet with you, is
12 that right?

13 A. That's correct.

14 108 Q. And that was with a view to hearing the complaint that
15 you had to make in relation to the investigation file? 10:37

16 A. That's correct, yes.

17 109 Q. And then on the 28th of November, the following day,
18 there was a meeting between yourself and Superintendent
19 Clancy and the investigating garda, we will call him
20 garda A, isn't that right? 10:37

21 A. Yes.

22 110 Q. And he was being called to account for his handling of
23 the case, is that right?

24 A. That's correct.

25 111 Q. Where did that meeting take place? 10:37

26 A. It took place in superintendent's office.

27 112 Q. And how long did that meeting go on for?

28 A. Oh, probably 20 minutes, half an hour. I can't recall,
29 I wouldn't be able to know exactly now.

1 113 Q. The following day, on the 29th November, there was a
2 further conference between yourself and Superintendent
3 Clancy and garda A, isn't that right?
4 A. I take it that is right now, if you say that.
5 114 Q. Yes. And I think that garda A was in fact reprimanded 10:38
6 for the defects in the investigation?
7 A. Yeah, he was, slightly.
8 115 Q. Well, I suppose this is perhaps an incident where you
9 have an ordinary and proper communication with your
10 superintendent, pointing out a concern that you had in 10:38
11 relation to the investigation of an assault, isn't that
12 right?
13 A. Yes.
14 116 Q. And the superintendent responds appropriately by
15 looking into your concerns, and then speaking in your 10:39
16 presence with the investigating member and matters were
17 ironed out, I suppose, were they?
18 A. Yeah, matters were almost ironed out, I think.
19 117 Q. And that the investigating member is reprimanded for
20 the defects in his investigation and those were the 10:39
21 matters that you were concerned with, isn't that right?
22 A. Yeah, well, I didn't use the word reprimanded. I think
23 I used the word that he got off lightly or something to
24 that effect.
25 118 Q. All right. Well, it almost ironed out the concerns 10:39
26 that you had, is that right?
27 A. Almost, almost.
28 119 Q. Yes. Now, again matters stood until the 28th January
29 of 2008, when you wrote to Superintendent Clancy

1 raising a number of concerns about the standards in
2 Bailieboro Garda Station?

3 A. That's correct.

4 120 Q. Isn't that right?

5 A. Yeah. 10:40

6 121 Q. And if we could look at volume 2, at page 445.

7 A. Yes.

8 122 Q. And that is a letter to you from -- from you to
9 Superintendent Clancy in Bailieboro Garda Station,
10 dated the 28th of January 2008, and then: 10:41

11

12 "I list a number of issues that need to be addressed at
13 Bailieboro Garda Station."

14

15 And then you point out a number of matters, such as: 10:41

16

17 "Members not turning up for duty on time, members not
18 turning up for duty at all, members not signing on or
19 off in the diary, members not doing foot patrol,
20 investigation files not being done, investigation files 10:41
21 very poor, incidents not being investigated, members
22 constantly hanging around the station, public offices,
23 reading paper and watching television on duty, calls
24 not attended to, Garda members making out duty detail,
25 members not performing the duty they are detailed for, 10:41
26 summonses not being followed up, warrants not executed,
27 no briefings, no supervision on a 24-hour bases, crime
28 unit not performing public order at weekends, no
29 guidance to junior members, members non-performance,

1 clique forming, coffee/tea breaks constantly, very
2 unprofessional approach to incidents by --"

3
4 Is that "probationary Gardaí"?

5 A. Yes.

10:42

6 123 Q. "-- reported incidents to Gardaí not created on Pulse."

7
8 And you say:

9
10 "The above are some of the issues and are quite serious
11 and I can stand by anything I have mentioned. I have
12 tried and attempted to address all the issues, but I am
13 failing through no fault of my own. The above seems to
14 be the acceptable standard in Bailieboro and I am
15 receiving no help addressing same. I cannot put up
16 with the situation any longer and under the Health and
17 Safety Act I request an hour meeting with you at your
18 convenience to discuss the matters to see what process
19 you can put in place to deal with the issues. It is
20 unfair on probationers that these low standards are
21 being accepted, are not being dealt with and that they
22 are being trained into this system at low standards."

10:42

10:42

10:43

23
24 And I think that you sign off on that letter on that
25 day. Obviously that is quite a long and serious list
26 of complaints that you have, that you were sending in
27 to the superintendent at that time. Just so that, to
28 put things again in perspective because it's not
29 unimportant in terms of what is to come later on,

10:43

1 particularly in relation to the O'Higgins Commission
2 investigation in 2015, at that juncture. When you have
3 given your long list of complaints, there are no
4 issues, as far as you are concerned, with the D family
5 and with the directions of the Director of Public 10:44
6 Prosecutions, isn't that right?

7 A. In relation to this?

8 124 Q. At this stage.

9 A. Oh, no, there is none, no. No.

10 125 Q. And this letter that you sent on the 28th January, had 10:44
11 you discussed any of these matters before you sent this
12 letter, had you discussed them with Superintendent
13 Clancy?

14 A. I wouldn't have discussed all of those but I
15 certainly -- I certainly would have discussed off and 10:44
16 on issues and cases, especially after the weekends.

17 126 Q. Well, what led you to believe that you weren't getting
18 the cooperation and assistance that you needed in
19 addressing these issues?

20 A. Because, as I said to Superintendent Clancy at the 10:44
21 meeting and he agreed, that he was away a lot and I
22 seemed to be doing all the work and he did acknowledge
23 that he was away a lot and that he'd help me in
24 relation to this.

25 127 Q. What meeting is this that you are referring to? 10:44

26 A. This meeting here.

27 128 Q. This is --

28 A. On the 28th.

29 129 Q. Yes. So you actually met him, it's just not a letter,

1 you didn't just send in the letter?

2 A. No. I gave it to him on the 28th, I was in his office,
3 and I asked him to read it.

4 130 Q. Yes. And then, did you have a discussion with him?

5 A. We did, yeah. We had a discussion for an hour or more, 10:45
6 in relation to all the issues.

7 131 Q. And did you get the feeling that he was going to
8 address the issues and concerns that you had at that
9 stage?

10 A. I did. 10:45

11 132 Q. And did you leave the meeting satisfied that the
12 matters were going to be addressed?

13 A. I was happy that I brought the issues up to him.

14 133 Q. Now, on the 12th February of 2008, you wrote again to
15 Superintendent Clancy about the Cootehill assault where 10:46
16 you complained of a poor use of a period of detention
17 of the suspect and the non-availability of CCTV
18 footage, short interviews during the course of the
19 Section 4 detention and no informal identification of
20 the suspect. Again, why were you writing to the 10:46
21 superintendent at that time?

22 A. In relation to what you have just said?

23 134 Q. Yes.

24 A. I was doing the file obviously, either for court or
25 preparation for court, and I read the file and I 10:46
26 highlighted all the defects on the file.

27 135 Q. I see. And then on the 25th February 2008, you again
28 wrote to Superintendent Clancy, but this time it was
29 about the behaviour of Mr. D and a number of incidents,

1 and we just better look at that. Again it's volume 2
2 and it's at page 447, if we could have that up on the
3 screen.

4 CHAIRMAN: Could I just intervene for just a second,
5 Mr. MARRINAN? Sergeant, you will be aware that a lot 10:47
6 of this is redacted, it's blacked out. It's to do with
7 things that I am not investigating and things that may
8 have happened when people may have had too much to
9 drink or in the context of a barbecue, and that kind of
10 thing. 10:47

11 A. Absolutely.

12 CHAIRMAN: So I don't think there is any need to go
13 into that unless a pressing case is made for it.

14 A. I absolutely agree, Chairman.

15 136 Q. MR. MARRINAN: No, I mean, I am referring you to the 10:48
16 letter, it's a three-page letter.

17 A. It is.

18 137 Q. It refers back to the investigation by Inspector
19 Cunningham, isn't that right?

20 A. That's correct, yeah. 10:48

21 138 Q. And it refers to incidents in relation to Mr. D, is
22 that right?

23 A. That's correct, yeah.

24 139 Q. And concerns that you have about his behaviour towards
25 you, isn't that right? 10:48

26 A. Yes.

27 140 Q. Amongst other matters?

28 A. Yes.

29 141 Q. But to some extent, it puts into historical context,

1 going from the summer of 2004 up until the allegation
2 that was made against you in December of 2006 by
3 Ms. D --

4 A. Yes.

5 142 Q. -- of your interaction with Mr. D, isn't that right? 10:48
6 A. That's correct.

7 143 Q. And goes back to the incident that I referred to at the
8 very beginning in relation to --

9 A. Yes.

10 144 Q. -- the incident involving the suicide? 10:49
11 A. Yes.

12 145 Q. which we all know about and there is no need to open
13 up, isn't that right?

14 A. That's correct.

15 146 Q. So where did this come from all of a sudden at that 10:49
16 stage?

17 A. Exactly, and that is -- it came all of a sudden. So
18 Superintendent Clancy asked me if I would do a document
19 in relation to the history I had in relation to Mr. D,
20 and he would ask that the directions of the DPP be 10:49
21 given to me and to Mr. D.

22 147 Q. When did this become an issue again for you?
23 A. Well, it didn't become an issue for me. And I mean, he
24 just asked me to do it. He felt sorry for me, I think,
25 over -- after the whole incident but he asked me to do 10:49
26 it, which is on record at the O'Higgins Commission, I
27 think, as well. He asked me to put a good case
28 forward, and he would do what he was able to do.

29 148 Q. If we just go to page 449.

1 A. Yes.

2 149 Q. And the last paragraph there:

3

4 "I am a very dedicated member of An Garda Síochána and
5 each officer I have worked with can vouch for this. I 10:50
6 am married with five children and this scurrilous
7 allegation has ruined my life forever. I am a
8 completely changed person in that I don't trust anyone
9 any more. I urge you, if you can, to ask the Director
10 of Public Prosecutions to allow the full DPP directions 10:50
11 to be conveyed to me and the other party, in particular
12 Mrs. D, in this particular case, due to the fact that
13 all parties work in close proximity and I would really
14 appreciate it, that is all I am asking."

15 10:51

16 And then, the final:

17

18 "All I seek is fairness and the decision of the outcome
19 of the investigation to prevent further attacks on me."

20 10:51

21 I'm just not clear in terms of the chronology that we
22 have gone through where this comes from and where this
23 letter fits into the story that has unfolded so far?

24 A. Yes, I understand.

25 150 Q. So could you just perhaps explain that to the Chairman, 10:51
26 as to where this comes. It seems to come as a bolt out
27 of the blue --

28 A. It does.

29 151 Q. -- in terms of what we have just gone through?

1 A. I agree with you.

2 152 Q. Do you understand?

3 A. Yes, yes.

4 153 Q. Because we were back talking about the two incidents on
5 the 15th and 17th of October -- 10:51

6 A. Yes.

7 154 Q. -- which were properly investigated and a caution was
8 given. And we then dealt with an issue that you had on
9 the 15th November with Superintendent Clancy and the
10 Lakeside Manor assault, and that seemed to be 10:52
11 satisfactorily dealt with, to a large extent. And then
12 a further letter that you wrote on the 28th January and
13 a meeting took place between yourself and
14 Superintendent Clancy discussing the issues that had
15 arisen in relation to Bailieboro. And then another 10:52
16 letter on the 12th February 2008 from you to
17 Superintendent Clancy in relation to the Cootehill
18 assault. But here, we have something that is entirely
19 different in nature.

20 A. Yes. 10:53

21 155 Q. So can you just contextualise this for us so that we
22 can understand where this came from and what gave rise
23 to the writing of this letter?

24 A. Mr. Chairman, at the time Superintendent Clancy asked
25 me if I could prepare a document in relation to all the 10:53
26 trouble that I had with Mr. D. Now, I don't know if I
27 can say that, Superintendent Clancy has, I think,
28 agreed with that, that he asked me to do it.

29 156 Q. Well, it's not so much whether he agrees or disagrees

1 with it, but what was happening either in the
2 station -- between October and 25th February 2008, what
3 was happening either in the station or in your own head
4 that gave rise to your writing this letter?

5 A. Well, I was asked to do it and I did it. I mean -- 10:53

6 157 Q. Well, can you explain in any way why Superintendent
7 Clancy would have been concerned about this issue?

8 A. I suppose we talked about it off and on at our meetings
9 and at lunches and coffee. But he asked me to do it,
10 in relation to this document, and I did it. And he 10:54
11 asked me to put a good case forward in relation to it.

12 158 Q. Well, you see, Sergeant McCabe, I mean, it could be
13 suggested that this perhaps demonstrated in some way
14 that you weren't happy with the DPP directions in 2007
15 and you weren't happy that the Director of Public 10:54
16 Prosecutions had been informed of the full background
17 circumstances giving rise to the allegation that had
18 been made by Ms. D, do you understand?

19 A. I do.

20 159 Q. Is that the case? 10:54

21 A. No, I was completely happy. If you look at the DPP's
22 directions, I mean, I was completely happy. I had
23 them, I was aware of them and I was completely happy.
24 Completely.

25 160 Q. Superintendent Clancy has referred that on the 2nd or 10:55
26 3rd of March of that year, 2008, there was a
27 conversation between you and he and he explained that
28 he couldn't provide you with the Director of Public
29 Prosecutions' directions?

1 A. That was on the 11th March.

2 161 Q. 11th March.

3 A. And he advised me. He said to me, in relation to the
4 minute, I was going to do it for you in relation to the
5 Ds, he says I can't really do it now and I just said 10:55
6 okay.

7 162 Q. Well, if we could just return to that because I am not
8 entirely clear of the position in relation to that. On
9 the 4th March you wrote a letter saying that you were
10 leaving Bailieboro Garda Station, isn't that right? 10:56

11 A. That's correct, yes.

12 163 Q. This is at page 450, if we could have it up on the
13 screen. Again, it's to Superintendent Clancy, it's
14 dated the 4th March of 2008:

15 10:56

16 "I wish to make an application to return to mainstream
17 policing and vacate the position of sergeant in charge
18 Bailieboro Garda Station. I am doing this solely for
19 reasons that you are aware of, as discussed at our
20 meeting on 28/1/2008 --" 10:56

21

22 That is the meeting that we have referred to --

23 A. Yeah.

24 164 Q. -- and opened the list of complaints that you had.

25 A. Yes. 10:56

26 165 Q. "-- and in relation to the lack of management support,
27 the lack of standards, lack of accountability, lack of
28 duty to the public. I have discussed the move with my
29 family and we request an immediate return to mainstream

1 policing."

2

3 And that was your stated position at that time, isn't
4 that right?

5 A. That's correct.

10:57

6 166 Q. why did you decide to do that?

7 A. I think I said on record, it was the assault case
8 involving Aidan Connolly and a statement of withdrawal
9 which he was asked to do and I think -- it was the
10 straw that -- sorry, it was the straw that broke the
11 camel's back for me. I seemed to be looking at every
12 file and I am the only one that is looking at them,
13 getting all the deficiencies in it, so that is exactly
14 what I said.

10:57

15 167 Q. All right. A week later, on the 11th March, you had a
16 meeting with Superintendent Clancy, where you refer to
17 the fact that he told you that he would not be
18 releasing the DPP directions, is that right?

10:57

19 A. That's correct, yeah.

20 168 Q. And there was some suggestion that you might write to
21 the Director of Public Prosecutions --

10:58

22 A. No, that is not true.

23 169 Q. -- yourself?

24 A. No.

25 170 Q. In any event, that was actually recorded, that meeting,
26 by you, isn't that right?

10:58

27 A. It was, yes.

28 171 Q. And you handed a copy of that tape subsequently to the
29 Byrne and McGinn investigation, and I think your typed

1 note of that is at page 1061, volume 4, but the
2 official transcript of Byrne and McGinn is at 1066, if
3 we could have that up on the screen.

4

5 You are familiar with this, isn't that right?

10:59

6 A. That's correct, yes.

7 172 Q. And in terms of the --

8 A. Yeah.

9 173 Q. Yes, in terms of the matters that are raised, could we
10 just go through it briefly because I don't think that
11 we have seen this previously. The audio commences
12 mid-sentence:

10:59

13

14 "-- all the issues in the station --"

15

10:59

16 This is you speaking

17

18 "-- why did you not help me with those? which?"

19

20 Says Superintendent Clancy.

10:59

21

22 "The 21st, remember all the issues that I spoke to you
23 about where you were going to meet all the unit
24 sergeants on the units, you know, the 21 issues."

25

10:59

26 That is a reference to the letter that we have just
27 opened, isn't that right?

28 A. That's correct.

29 174 Q. "Superintendent Clancy: I didn't formalise.

1 Sergeant McCabe: No, January, say the word January.
2 Remember the issues, I spoke to you for two hours over,
3 all the serious issues.
4 Superintendent Clancy: Yeah, I have been working on
5 this but I have not got around to them all, in I spoke 11:00
6 to guards hanging around the station."
7
8 You then said:
9
10 "Yeah, I know, but we only had two briefings with the 11:00
11 units but you undertook to get all the unit sergeants
12 in.
13 Superintendent Clancy: Yes, I haven't got around to
14 that, Maurice, as of yet but I am working on that.
15 Speaking to guards in the station. Is there a problem 11:00
16 with that?"
17
18 And you say:
19
20 "Well, I addressed the issues with you in relation to 11:00
21 it and I asked you for help and I didn't get it."
22
23 And then, some of this is inaudible.
24
25 "If you look at the minute. 11:00
26 Superintendent Clancy: So you are saying I did not
27 give help."
28
29 And then you say:

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"Absolutely.

But sure, I said to you that I was vacating the in charge, it was solely on the basis of lack of standards. I mean, I brought all these to your attention, we went down and briefed the two units and you saw yourself exactly what happened."

11:01

what is that a reference to?

11:01

A. He went down a briefing at 2:00 and we were a good few minutes there, I would say 10 or 15 minutes there before other people who were on at 2:00, they arrived.

175 Q. All right.

11:01

"There was guards and sergeants coming in late. There was no files. They didn't know what they were doing. And then after the second briefing, end of story, never discussed again.

Superintendent Clancy: I am sorry that is the way you feel, Maurice. You are entitled to your opinion."

11:01

You say:

"Right, okay, okay.

11:01

Superintendent Clancy: I don't share your view but I respect your view."

You answer:

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"Right, right.
Superintendent Clancy: I respect your view."

Then you say: 11:02

"I asked you to help in respect of certain members coming in late, going home early and not coming in at all. I mentioned --"

Then there is a name mentioned. 11:02

"-- to you three or four times, and the only response you had was there was extra people going in the crime unit and he is going to have to come in. 11:02

Superintendent Clancy: Have to?"

That's a question. You reply:

"Yeah. That is what you told me -- you said to me. 11:02
You know, I mean, all I wanted was help. On the 28th January I looked for help. If I can't run the station unless I have the support of the superintendent. And I had to bring these issues up to you, serious, serious, serious issues. 11:02

Superintendent Clancy: Maurice, that is your opinion. I can't change your views, if that is how you feel."

And you say:

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"But come here, you asked me, excuse me, explain how you helped me.

Reply was largely inaudible.

11:03

I have addressed issues of crime and I will give you one example I can think of, do you want me to do the sergeant's job as well?"

11:03

You respond:

"No, but I told you that I had tried and had failed and I wanted help and you said that you would arrange for all the unit sergeants in here --"

11:03

And then you are interrupted.

"I asked you to arrange that meeting."

11:03

You respond:

"No, you asked your clerk to arrange the meeting. Superintendent Clancy: Oh, was it the clerk?"

11:03

And you say:

"Yes, yes."

1 And then, something was inaudible. The superintendent
2 continues:
3
4 "-- and they were not all available. It was on a
5 Tuesday morning that we were arranging it." 11:03
6
7 You say:
8
9 "So we are just going to leave it up in the air and not
10 deal with it. 11:04
11 Superintendent Clancy: No, no, I agree with you,
12 Maurice, and I --"
13
14 That is inaudible.
15 11:04
16 "Why was it not done, I mean?"
17
18 You ask.
19
20 "Why did you not do it?" 11:04
21
22 Superintendent Clancy says.
23
24 "I did all I could."
25 11:04
26 You respond. Then Superintendent Clancy:
27
28 "Could you not all sit down together around the table?"
29

1 "But the meeting was the main thing. Things haven't
2 changed."

3
4 And then, there is a long reply that is inaudible. And
5 then you continue: 11:05

6
7 "If you take the Mr. R file, I am at you for five
8 months about that file, that we are going to be in
9 serious trouble."

10 11:05

11 He responds:

12
13 "No, that's being -- it's being investigated."

14
15 You say: 11:05

16
17 "Only because they threatened to go to the Ombudsman.
18 I mean, it's not acceptable that files coming in nine
19 or ten months, is it, but that seems to be the standard
20 here. 11:06

21 Superintendent Clancy: But who is this charge of the
22 files?"

23
24 You respond: 11:06

25
26 "Well, you should be, because I said to you, but I
27 failed through no fault of my own and all I said to you
28 was please help. And you did say to me I just want to
29 got back to my notes."

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I don't know what that means.

"You did say to me that you were aware it was happening, that you were away a lot but you would deal with the issues and you would help me. And I do, you know, I left your office fantastic, a load off my mind. Superintendent Clancy: This is in relation to what now, in relation to what issues?"

11:06

11:06

And then you respond:

"My minute of the 28th January with the 21 points on it. You told me it was happening, you were aware it was happening and that you were away a lot and that you hadn't time to deal with them. But you would deal with them.

11:06

Superintendent Clancy: Didn't I deal with some and I will deal with the rest when I got around to them. And I have been speaking to the sergeants individually which is my first approach."

11:07

And you say:

"In relation to all those points I addressed? Superintendent Clancy: In relation to a whole range of issues."

11:07

Then you say:

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"I'll tell you, this is how I feel and I'm not going to beat around the bush. It's constructive dismissal, if you know what I mean. If you know what that means. I was forced out of my position as a result of my employer, and that is constructive dismissal. I have every incident which I discussed with you in relation to A, B, C, D, E, going back to the last couple of months.

11:07

Superintendent Clancy: So, so you are keeping a book on me, so?"

11:07

You respond:

"No, no, no, absolutely not. I said to you, look, I said to you please -- I said to you please address the crime unit at the weekends. And it's criminal, I mean, it's criminal.

11:08

Superintendent Clancy: Wait now, if you have something to say that there is a crime, report it.

11:08

Sergeant McCabe: If it's a what?

Superintendent Clancy: You said it's criminal, what? What is criminal? It's a figure of speech?"

Superintendent Clancy asks. Then you respond:

11:08

"It's a figure of speech. I am just saying that it's not fair to us to come in for eight hours while other people are not coming in and you are aware of it and I

1 can't -- it's very unfair for me to run the station --"
2
3 And then there is a knock on the door of the room.
4
5 "-- when I haven't the backing of the superintendent." 11:08
6
7 And then something inaudible and you say:
8
9 "All right."
10 11:09
11 And that is the end of the meeting. Sorry to have to
12 read all that out, but I don't think we have heard that
13 before. And that is a recording of your meeting with
14 Superintendent Clancy of the 11th March. And it seems
15 to be a fairly extensive discussion in relation to the 11:09
16 21 points that you had raised in your letter of the
17 28th January and arising out of your meeting with
18 Superintendent Clancy. But there is no reference there
19 at all to the Ms. D matter.
20 A. I see that now, Judge. There is a portion of this 11:09
21 which is missing.
22 176 Q. That it's missing?
23 A. Yeah, it's missing. I have it.
24 177 Q. Was this at the commencement of the interview or was it
25 at the end -- 11:09
26 A. It was at the very start of the interview.
27 178 Q. All right.
28 A. And I gave all the tapes over to the O'Higgins
29 Commission. But there is a portion of that which is

1 missing, which is in relation to the Ms. D case.

2 179 Q. And that discusses the Ms. D case?

3 A. It does, yeah.

4 180 Q. And what is said?

5 A. Exactly what is said is, in relation to -- sorry, in 11:10
6 relation to Superintendent Clancy says to me in
7 relation to the D case, do I remember he was going to
8 do this for me and get the directions and I says yes, I
9 do. Well, he says, I can't do it now. And I says, oh
10 why? He says, I just feel I can't. And I just said, 11:10
11 okay.

12 181 Q. All right. But then there is a discussion that goes on
13 that is totally divorced from the Ms. D case?

14 A. This one here?

15 182 Q. Yes. 11:10

16 A. Yes.

17 183 Q. And it's a discussion in relation to your concerns in
18 relation to the policing in Bailieboro and his failure
19 to deal with the concerns that you had expressed to him
20 on the 24th January, is that right? 11:10

21 A. Yes.

22 184 Q. Which led to your letter of the 4th March setting out
23 why you were leaving Bailieboro --

24 A. Yes.

25 185 Q. -- is that right? But in any event, as things 11:11
26 happened, on the 18th of March of 2008, Superintendent
27 Clancy left Bailieboro, is that right?

28 A. That's correct.

29 186 Q. And Inspector Cunningham took over --

1 A. He did.

2 187 Q. -- as the acting superintendent --

3 A. That's correct.

4 188 Q. -- isn't that right? And one of the first things that
5 Inspector Cunningham says that he did on the 19th 11:11
6 March, that he went to you and asked you to change your
7 mind about leaving?

8 A. Okay.

9 189 Q. Is that right?

10 A. Yeah, well, what happened was, I was finishing that 11:11
11 evening at 5:00 and he arrived in my office at a
12 quarter past four and he asked me would I reconsider in
13 relation to DIC, that's in charge, and but he says I
14 would have to put it in writing. And I didn't want to
15 put it in writing because if I put it in writing I felt 11:12
16 that I was ignoring all the issues and what I reported.
17 So I just said, I can't put it in writing.

18 190 Q. Just in relation to the complaints that you had raised
19 with Superintendent Clancy prior to his departure on
20 the 18th March, were these matters that you had 11:12
21 discussed with, for instance, Inspector Cunningham or
22 with other sergeants in the Garda station?

23 A. Is this in relation to all the files that were --

24 191 Q. Yes, the 21 issues that you had and that you had
25 conveyed to Superintendent Clancy on the 24th January? 11:12

26 A. Yeah. But in relation to one aspect of it was in
27 relation to the crime unit, I hadn't any control over
28 the crime unit, and that was my issue.

29 192 Q. You see, I suppose one of the issues is that you

1 didn't, you didn't in fact leave for Mullingar until
2 the 23rd July of 2008?

3 A. That's correct.

4 193 Q. So you remained on in Bailieboro?

5 A. I did. I had a couple of investigation files that I 11:13
6 had to do and I did them.

7 194 Q. Well, I'm just wondering, and I am trying to get a
8 flavour for this in terms of staying on in Bailieboro,
9 were the station party there aware of the fact that you
10 were expressing concerns about their performance in the 11:13
11 Garda station?

12 A. Yes, yes.

13 195 Q. And how did they react to that?

14 A. Well, I mean, it went around like wildfire that I was
15 leaving the IC position, it went around like wildfire 11:13
16 all over Cavan-Monaghan because it was never done
17 before, but I just said I can't stay here.

18 196 Q. Well, I mean, when you say it went around like
19 wildfire, was it on the basis that you were complaining
20 about the standards of policing in Bailieboro Garda 11:14
21 Station, that this is the reason that you had stood
22 down as the Member-in-Charge and sought to be
23 transferred from Bailieboro?

24 A. I'd say it was a bit of both, yeah.

25 197 Q. Well, what do you mean a bit of both? I have only 11:14
26 actually referred to one thing there.

27 A. That it was the standards in Bailieboro but it was also
28 the fact that I was leaving as sergeant in charge.

29 198 Q. But the reason you were leaving as sergeant in charge

1 was well-known; was because you were unhappy with the
2 standards in Bailieboro?

3 A. Well, a lot of people didn't know that. I'd say the
4 station party in Bailieboro did and a few friends of
5 mine in Cavan-Monaghan were aware that I was leaving as 11:14
6 a result of not getting assistance.

7 199 Q. Well, we will just deal with the station party in the
8 first instance in Bailieboro.

9 A. Mm-hmm.

10 200 Q. When I say a station party, how many guards would there 11:15
11 be in Bailieboro?

12 A. There was --

13 201 Q. At that time?

14 A. There was about six sergeants and there was about 18
15 guards or 20 guards. 11:15

16 202 Q. Yeah. And then the inspector?

17 A. No --

18 203 Q. No inspector?

19 A. No, no inspector.

20 204 Q. And the superintendent? 11:15

21 A. The superintendent, yeah.

22 205 Q. Were any of them giving you any support?

23 A. Yeah, there was a few giving me support.

24 206 Q. Well, did they come forward and agree with you?

25 A. They did. 11:15

26 207 Q. At that time?

27 A. Well, it's not that they came forward, but they agreed
28 with me, I was right.

29 208 Q. But they may have said well, look, you know, Maurice,

1 you are right, but it's one thing to say that but it's
2 another thing to say look, I will support you with this
3 and I will go with you to the superintendent because I
4 am concerned about shoddiness around the Garda station
5 and people not clocking in on time, did anybody offer 11:16
6 to come forward?

7 A. Well, they didn't offer to come forward but they did
8 support me in the fact that I was right just to leave
9 it.

10 209 Q. Because if we just move on then, because on the 21st 11:16
11 March of 2008 you made a report in writing, and I don't
12 intend to open it or go through it in any detail, but
13 it concerned colleagues in the Garda station and their
14 inappropriate use of the Internet, you know the
15 incident I am referring to? 11:16

16 A. Yeah, I do, yeah.

17 210 Q. And that complaint was made to Inspector Cadden, is
18 that right?

19 A. Yes.

20 211 Q. Was Inspector Cadden in the station party? 11:16

21 A. He was Cavan. He was in Cavan.

22 212 Q. And he was assigned to investigate this incident?

23 A. He was.

24 213 Q. And then on the 28th April of 2008, you made a formal
25 complaint to HRM and that concerned allegations of 11:17
26 harassment, bullying, discrimination and victimisation
27 which you said you felt at the hands of Superintendent
28 Clancy, and that was contrary to the bullying and
29 harassment policy in An Garda Síochána. And along with

1 that complaint, which is in Volume 2 at page 451, if we
2 just have that up on the screen, it's part of a
3 statement there that we will see, and I don't intend to
4 open this up, it's there if any of the other parties
5 wish to pursue any of the matters, but it extends to 15 11:18
6 pages, and it concludes:

7
8 "I now wish to make a formal complaint of harassment,
9 bullying, discrimination and victimisation against
10 Superintendent Michael Clancy/Garda Management. I also 11:18
11 wish to appeal the decision to redeploy me to shift
12 work as and from the 5th May of 2008."

13
14 And whilst that is a complaint against Superintendent
15 Clancy, it also contains complaints about the low 11:18
16 standards in Bailieboro, including the Lakeside Manor
17 assault and the dangerous driving at the Lakeside Manor
18 and what was later to become known as the Cafolla
19 incident, isn't that right?

20 A. That's correct. 11:19

21 214 Q. So these matters were set out in your statement. And
22 on the 2nd May, Assistant Commissioner Catherine Clancy
23 requested a firm recommendation from Chief
24 Superintendent Grogan, who had been asked to look into
25 the matter, as to how the complaints should be dealt 11:19
26 with, and those are the complaints set out in that
27 letter of the 28th April of 2008. And on the 9th May
28 of 2008 Chief Superintendent Grogan advised that given
29 the serious nature of the allegations an investigation

1 under the bullying policy was inappropriate and he
2 requested that an external chief superintendent should
3 be assigned to investigate what he considered to be the
4 serious complaints, isn't that right?

5 A. That's correct. 11:20

6 215 Q. And then on the 13th May of 2008, Assistant
7 Commissioner Derek Byrne appointed Chief Superintendent
8 McGinn to investigate the complaints, and that that was
9 the genesis, as it were, of the McGinn investigation,
10 as it then was, isn't that right? 11:20

11 A. That's correct.

12 216 Q. And on the 30th May, you supplied Chief Superintendent
13 Terry McGinn with a number of complaints in the form of
14 a 20-page statement which was witnessed by Inspector
15 Finan and was taken by Superintendent McGinn, and that 11:21
16 is at page 466 of Volume 2. If we just have that up on
17 the screen?

18 A. Yes.

19 217 Q. And again that stretches to 20 pages, it's actually
20 dated the 30th May, and it sets out a large number of 11:21
21 the complaints that you had.

22 A. Sorry, Mr. Marrinan, I think that's a witness statement
23 in relation to a complaint that I didn't make, I think
24 it was in relation to --

25 218 Q. Very well, right. Okay. It was your previous 11:21
26 statement that you had made then in relation to the
27 complaints?

28 A. Yeah.

29 219 Q. But you cooperated with Chief Superintendent Terry

1 McGinn, is that right?

2 A. That's correct.

3 220 Q. And you made a number of statements to her. There is
4 one on the 10th June of 2008, it's at Volume 2 at page
5 486. If anybody wishes to open it later on, they can. 11:22
6 But that concerns primarily the complaint that we
7 referred to earlier on that had been made to Inspector
8 Cadden and the inappropriate use of the Internet by
9 colleagues in Bailieboro Garda Station. And then, a
10 further lengthy statement that you made to Chief 11:22
11 Superintendent McGinn, this is at page 489 of the
12 material, and we now know that you then moved on the
13 23rd July of 2008 to Mullingar, isn't that right?

14 A. Yeah.

15 221 Q. Now, just in relation to the beginning of the 11:22
16 investigation by Chief Superintendent McGinn, were
17 there any allegations that you included at that
18 juncture that related to the Ms. D investigation?

19 A. No.

20 222 Q. Or were there any allegations that were made against 11:23
21 Mr. D in particular?

22 A. No.

23 223 Q. Were there any allegations that were levelled against
24 Inspector Cunningham at that juncture?

25 A. I'm not too sure if -- I can check the statement if you 11:23
26 wish, and just go through it.

27 224 Q. Well, I thought you might be familiar enough with it,
28 as to whether or not Inspector Cunningham was included
29 in any of the allegations that had been made. If you

1 are not, you can look at it again and we can come back
2 to it.

3 A. Yeah.

4 225 Q. We won't delay on it. So that brings us up to the 24th
5 August of 2008, and a meeting that you had with 11:24
6 Inspector Cunningham, 25th August?

7 A. 25th.

8 226 Q. Sorry, yes. We have heard a lot about this meeting.
9 A. We have.

10 227 Q. And you have been here when evidence has been given in 11:24
11 relation to it. If we could just perhaps have Volume
12 4, and if we go to 1099. These are the notes of
13 interview taken by Superintendent Noel Cunningham in
14 the presence of Sergeant Yvonne Martin at Mullingar
15 station, and this concerns your meeting -- the meeting, 11:25
16 as far as you were concerned, was to deal with the
17 allegations that you had made against Mr. D that we had
18 referred to earlier on, isn't that right?

19 A. Yeah, but I didn't make the allegations, it was the
20 incidents that I had in relation to Mr. D. And, as I 11:25
21 said, at that meeting I dealt with all those incidents
22 at the time.

23 228 Q. The notes read:
24
25 "want to seek advice from association and solicitor re 11:25
26 making a statement because they -- you highlighted
27 these incidents to me in 2006 at the time of the Ms. D
28 investigation and believed that they were to be
29 included in the file to the DPP." [As read]

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So that's you referring to the matters --

A. The file.

229 Q. -- and that you had referred him to them when you had been interviewed by him --

11:26

A. Yes.

230 Q. -- back in 2007, is that right?

A. That's correct.

231 Q. "I informed Maurice McCabe that I am unaware -- I am aware of some of the details but not all that are included in the minute of the 25th February of 2008 to Superintendent Clancy."

11:26

Is that right, that in fact some of those may have been matters that you didn't highlight to him back in 2007 when he was speaking to you?

11:26

A. Well, you can see at the meeting we were kind of at odds in relation to it but he accepted that I had -- I had brought a number of those incidents to his attention in 2006 and '7.

11:27

232 Q. "Sergeant McCabe states as follows: "In relation to the rest of the issues raised by me in my minute to Superintendent Clancy on the 23rd February 2008, as sergeant in charge of Bailieboro Garda Station, I dealt with these issues with Mr. D in relation to a disciplinary context and I warned him in relation to his behaviour and it stopped and the relevant superintendents were informed by me that I dealt with these issues as I did with other members which was my

11:27

1 role and responsibility. I don't want this matter
2 coming back to me, I don't want the State causing me
3 further ill health, I just want these matters ended
4 today as I thought it was in May of 2007 when I
5 received the directions of the DPP in relation to the 11:27
6 investigation into the allegation made by Ms. D.""
7

8 And that is his note of the meeting.

9 A. Yes.

10 233 Q. The transcript of that is at page 1070 of the material, 11:28
11 and this was a transcript that you made available to
12 the O'Higgins Commission, is that right?

13 A. That's correct.

14 234 Q. And if we could just, I am not going to open all of 11:28
15 this, we have been through it, it's been gone through
16 before at length, but if we could just look at the
17 introductory remarks. You ask:

18 "Well, what's this about, Noel?

19 Noel: No, it's about the thing you sent in, Maurice. 11:29
20 I sent it to you, you got it in the post. Yeah."
21

22
23 And then, Inspector Cunningham:

24
25 "Yeah. It's just to investigate that and take a 11:29
26 statement from you in relation to all those, the things
27 that you highlighted to Superintendent Clancy."
28

29 And then you say:

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"Hold on a minute. Do you remember the time of the allegation?"

Inspector Cunningham: which allegation?"

11:29

You respond:

"In relation to Mr. D and I contacted you -- contacted you and you were talking to Maura Lernihan one day on the phone and I spoke to you in the yard, remember I spoke to you in the yard.

11:29

Inspector Cunningham: Go on."

You:

11:30

"For half an hour and I outlined all these things to you and you said, Maurice, in relation to motorists and all that, there is no problem, I will be highlighting all those and I can prove it now."

11:30

And then he responds:

"What I'm saying to you is this: You sent in a report in relation to now -- to now -- to this. Okay, you sent in a report on the 25th to Superintendent Clancy."

11:30

So it's abundantly clear at the outset the issue that concerns you, the reason why he is there, isn't that right?

1 A. Yes.

2 235 Q. If we then go to page 1076. And then this is where you
3 say:
4
5 "Had you known about it Mick Clancy, Mick Clancy told 11:31
6 me if I can put a good case forward he would send the
7 file to the DPP and he will ask that each of the
8 parties get all the full directions."
9
10 Do you see that there? 11:31
11 A. Yeah.

12 236 Q. When was that discussed with Superintendent Clancy?
13 A. In relation to the -- that is the 25th of February.

14 237 Q. All right.
15 A. The minute. 11:31

16 238 Q. That is the portion that is not covered by the tape, is
17 that right?
18 A. Yeah.

19 239 Q. Or is that in March?
20 A. No, it was the 25th February. 11:31

21 240 Q. All right.
22 A. Do you remember, I did the report in relation to Mr. D?
23 241 Q. "Noel: Oh, yes."
24
25 Then you say: 11:31
26
27 "So that is why I done that and I said to Mick Clancy I
28 reported all these in to Noel Cunningham.
29

1 But what I am saying to you is this: This is a written
2 report by you, okay, in relation to and in the
3 beginning you refer to the actual investigation I did
4 and at the end of it you said all you want is to ask
5 the DPP to allow the full DPP directions to be conveyed 11:32
6 to me and the other party, that file in particular to
7 Mrs. D, okay, now I understand that, and that -- and
8 what I'm saying is, in the middle bit is what I have to
9 now pursue."

10
11 And then you answer: 11:32

12
13 "But hold on, I told you that and how come two years
14 later this is coming up at me again. Get Maurice
15 again." 11:32

16
17 He responds:

18
19 "I am here to take how -- how is it get Maurice? It's
20 to take a statement from you." 11:32

21
22 And you respond:

23
24 "Why didn't you say to me, why didn't you say to me in
25 December 2006, why didn't you say to me in December 11:32
26 2006, Maurice, Maurice, lets put this down in writing?"

27
28 And then he responds:

29

1 "what do you mean?

2

3

You say:

4

5

"When I told you all this, all the hassle I had with
Mr. D."

11:33

6

7

8

He responds:

9

10

"Well, I know you told me about certain things and I
know I refer to some of them in my report, but I
certainly do not know or never knew a lot of the things
that are in here, or I certainly -- hold on a second,
that is where it's and now -- where stands and where we
are starting today now is that I have been tasked with
following up these things here. Okay. And the first
way, as you know, in any investigation is a statement
from the complainant, that being you."

11:33

11:33

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20

And you respond:

11:34

21

22

"I am not making a complaint in relation to issues that
I reported nearly two years ago. I am going to get
legal advice it's because very unfair when I reported
these incidents as I set out a motive in relation to
Mr. D, that they suddenly reappear two years down the
line. Hold on the DPP -- well, my solicitor and
myself, I assumed they were on the DPP file."

11:34

23

24

25

26

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28

29

1 247 Q. As far as you were concerned, these weren't fresh
2 allegations that you were making against Mr. D --
3 A. No, no.
4 248 Q. -- or they weren't in fact complaints in the formal
5 meaning of that term, but they were issues that you 11:35
6 thought were important that the Director of Public
7 Prosecutions should have in relation to background
8 information in arriving at a decision as to whether or
9 not to prosecute you, isn't that right?
10 A. Well, it was issues that I reported to Inspector 11:36
11 Cunningham in December '06 and they are issues then
12 that I was advising Mick Clancy -- sorry,
13 Superintendent Clancy asked me would I do a document in
14 relation to the issues that I had in relation to Mr. D.
15 249 Q. You hadn't seen the DPP, the file that had been sent in 11:36
16 to the Director of Public Prosecutions, is that
17 correct?
18 A. No.
19 250 Q. And was the first time that you saw that file when you
20 came to the Tribunal here? 11:36
21 A. It would have been.
22 251 Q. You then continue on at the bottom of page 1077:
23
24 "Mick Clancy told me to put a good case forward and I
25 will tell you what he did tell me, he said, Noel, Noel, 11:36
26 you should have -- Noel should have told you the DPP
27 directions.
28
29 He says that I should have told you. I provided you

1 with the DPP directions."
2
3 And you respond:
4
5 "You did, you did, and I have no trouble with that. 11:37
6 No problem with that."
7
8 Is that right?
9 A. Yes.
10 252 Q. And was that the state of play as far as you were 11:37
11 concerned at that time?
12 A. Well, I am just looking at the top line in relation to
13 "Noel should have told you DPP's directions", I just
14 can't figure out in relation to that sentence. I can't
15 remember, I see it here on the thing. 11:37
16 253 Q. And so, then if we could just move on through the
17 transcript because that matter is discussed and if we
18 could come to page 1087. Just dealing here, you say:
19
20 "well, here's what you are doing, I reported most of 11:38
21 these issues except --"
22
23 Then you refer to one incident.
24
25 "-- in December 2006. I informed my wife and my 11:38
26 solicitor and a best friend of mine and I made notes in
27 relation to this and all the issues, and it was my
28 understanding that they were going to be highlighted on
29 the DPP file for Garda management to know and they

1 would all be fully aware of it and suddenly the
2 opposite has to happen.

3 Inspector Cunningham: But you reported this, Maurice,
4 in February 2008."

5
6 You reply:

7
8 "I didn't write a complaint. I wrote to Mick Clancy on
9 Mick Clancy's advice, highlighting the problems I had
10 with Mr. D. That's what Mick Clancy advised me to do." 11:38

11 CHAIRMAN: Mr. Marrinan, there is a potential danger
12 for confusion, certainly from my point of view. Now,
13 what I understand is being referred to there is the
14 murder by the son, the funeral of the father, the
15 contemporaneous suicide just after there has been the 11:39
16 funeral and the refreshments, the turning up of Mr. D
17 and several other Gardaí to a location where that
18 suicide had taken place, Sergeant McCabe coming along
19 and saying, and I am not judging whether it was so or
20 not, you are drunk and you shouldn't be here, it's not 11:39
21 appropriate, go away, and that being highlighted in the
22 investigation file to the DPP. In fact, it was. And I
23 don't think we are talking about anything different.
24 There can't be that many incidents that we're all
25 getting totally confused. Is my thinking right? 11:39

26 MR. MARRINAN: You are, sir, but there were many more
27 incidents involving Mr. D --

28 CHAIRMAN: Yes.

29 MR. MARRINAN: -- that Sergeant McCabe highlighted.

1 CHAIRMAN: And again, I know Mr. D is represented here
2 and I'm attempting to steer away from that but we have
3 already mentioned the barbecue and there may have been
4 other things as well. But what I understand this to be
5 a reference to is the reference to the suicide after 11:40
6 the funeral of the much liked man who was murdered by
7 his son in the area.
8 MR. MARRINAN: No, I don't understand that to be the
9 position.
10 CHAIRMAN: Is it something different? 11:40
11 MR. MARRINAN: This is referable to the entirety of the
12 matters that are set out in the report sent in by
13 Sergeant McCabe in relation to the activities, if I can
14 put it that way, of Mr. D.
15 254 Q. Is that right, Sergeant McCabe? 11:40
16 A. That seems to be, yes, Mr. Chairman.
17 CHAIRMAN: Well, you would know better than anybody if
18 that is what you are talking about.
19 A. I sent in a report in relation to all the issues that I
20 had in relation to Mr. D. 11:40
21 CHAIRMAN: Yes. No, I got that, and I think I have
22 read the whole thing. Some of it is blacked out.
23 MR. MARRINAN: Yes.
24 CHAIRMAN: So there's lots of incidents there. But
25 this particular thing, it seems to be looking back at 11:41
26 that thing which should be highlighted to the DPP in
27 the report and there was a particular thing highlighted
28 in the report to the DPP. So that's the only reason
29 that I thought it was the same thing. But I appreciate

1 there is maybe four or five or six other things as
2 well, none of which I am entitled to write a word
3 about.

4 A. I think so, Mr. Marrinan, isn't it?

5 255 Q. MR. MARRINAN: Is that right, yes? 11:41

6 A. I think it is.

7 256 Q. It's not just isolated one incident.

8 A. No.

9 257 Q. There were a number of incidents that you brought
10 Inspector Cunningham's attention to in relation to 11:41
11 background information?

12 A. Yeah, that's correct.

13 258 Q. And they are all recorded in the report. I haven't
14 opened the report because there are matters in there
15 that I don't want to go through. 11:41

16 A. Yeah.

17 259 Q. But they are all included in that report that you sent
18 in --

19 A. Oh, the report that I did, yes.

20 260 Q. -- Superintendent Clancy. And then you go on to say -- 11:42
21 Inspector Cunningham says:

22

23 "And so, what do you want?"

24

25 You reply: 11:42

26

27 "All I wanted was for the DPP's directions to be shown
28 to each party.

29 Inspector Cunningham: Is that where this stands now?

1 Are you saying, do you want to make a report or
2 statement to that effect, now to say to me that the
3 reason that you outlined these was in response -- in a
4 request from your then district officer, Superintendent
5 Clancy, to highlight the difficulties that you were 11:42
6 having with Mr. D in order that the DPP should be
7 apprised of it, or whatever, or as a result of which
8 the directions of the DPP should be made known to
9 each?"

10
11 And then you respond: 11:43

12
13 "That's exactly it."
14

15 And that was the position, is that right? 11:43

16 A. I see that, yes.

17 261 Q. And I think, would it be fair to say that Inspector
18 Cunningham, in a report that he did in relation to this
19 matter, reflected that position that is reflected in
20 the transcript? 11:43

21 A. That's correct, Mr. Marrinan.

22 262 Q. Yes.

23 CHAIRMAN: Yes. And, Mr. Marrinan, do you mind me
24 intervening just for one second because I am very
25 confused about one thing. Now, Sergeant, I always 11:43
26 understood that you were making the case that you knew
27 from the State solicitor what the DPP had written in
28 relation to the allegation, the investigation, and you
29 also understood from Noel Cunningham, who was then

1 inspector, and the investigating officer, that he
2 couldn't, if you like, afford the same courtesy to the
3 alleged victim, which is Ms. D, her family, Mr. D,
4 Mrs. D, that he was playing it by the book --

5 A. Yes. 11:44

6 CHAIRMAN: -- so to speak, and all he could say was
7 insufficient evidence or some kind of phrase of that
8 kind --

9 A. Yes.

10 CHAIRMAN: -- which generally tends to be given to 11:44
11 people who complain of a crime and there is no
12 prosecution and that's what they are told.

13 A. Yes, and that is what we -- I have often told people
14 the same.

15 CHAIRMAN: Sure. As you have said, you would know that 11:44
16 as a sergeant, that you couldn't go beyond that. Now,
17 this is not a criticism but it's something I need to
18 know about. For the first time today, as I understand
19 it, you have told me that the idea that the DPP's
20 directions should be read out or given to the D family, 11:44
21 to each side in fact came from Superintendent Clancy
22 and not from you, and that he felt sorry for you.

23 A. That's correct.

24 CHAIRMAN: And that he asked you to make out, the words
25 that had been used before was, a business case, a good 11:44
26 case, is what you said today --

27 A. That's correct.

28 CHAIRMAN: -- about how the DPP's directions ought to
29 be released to the D family and yourself.

1 A. That's correct.

2 CHAIRMAN: Now, this meeting on the 25th August 2008
3 seems to contradict that because it seems to have you
4 saying I want, which is what I had understood up to
5 today, the DPP's directions released to each side 11:45
6 because that will calm the waters, and one of the
7 reasons, as I understand it, you were saying that, was
8 because you had had a great deal of trouble with Mr. D.

9 A. Yes.

10 CHAIRMAN: But I had understood now today that all of 11:45
11 this was in the past. So I can't understand, maybe
12 there is a simple explanation; did Superintendent
13 Clancy come up with the notion you make out a good case
14 for the distribution of the DPP directions or was it
15 you asking him or is there a complete misunderstanding? 11:45
16 Maybe it's just, was he asking you or were you asking
17 him?

18 A. No, Mr. Chairman, I wasn't asking him. He was asking
19 me, and I think -- I think Mr. Smyth said here in
20 evidence the last time he was here, I think he said the 11:46
21 same, he said -- so did Superintendent Clancy, kind of
22 asked or whatever. But in relation to this meeting, I
23 just wanted them to go away. I didn't want to make any
24 complaint in relation to -- in relation to the Ds
25 whatsoever. I wanted to put that behind me and go. 11:46

26 But it was Superintendent Clancy, I mean -- I never --
27 CHAIRMAN: That I can understand, I can understand why
28 you'd say, look, it's all in the past, let's forget
29 about this. And Superintendent Clancy had asked

1 Inspector Cunningham to investigate it and yet, I
2 suppose, again another difficult task that he was
3 given. But I just can't understand how Superintendent
4 Clancy would come up with the notion that out of
5 sympathy for you he wanted you to ask him to write a 11:46
6 letter in relation to why the DPP's directions should
7 be distributed to both sides, that is the bit I can't
8 understand.

9 A. I know, Mr. Chairman, and that is what happened.

10 263 Q. MR. MARRINAN: So there is just a chronology, again if 11:47
11 there are any matters arising out of this that you wish
12 to draw to the Chairman's attention, please do, and
13 stop me, but I am going to go through this fairly -- I
14 think on the 15th September of 2008 you made a
15 complaint concerning bullying and harassment against 11:47
16 superintendent -- against Superintendent Clancy.
17 Sorry, your earlier complaint was out of time and
18 Superintendent Clancy refused to consent to an
19 extension, isn't that right?

20 A. That's correct. 11:47

21 264 Q. And as a result of that, you then pursued your
22 complaint through the Confidential Recipient, is that
23 correct?

24 A. That's correct.

25 265 Q. And then on 14th October, the report that you sent in 11:48
26 to the Confidential Recipient included, amongst the
27 complaints that you made against Superintendent Clancy,
28 also reports in relation to the Kingscourt bus incident
29 and the Lakeside Manor assault, is that right?

1 A. That's correct.

2 266 Q. And arising out of that, I think Brian McCarthy, who is
3 the Confidential Recipient, wrote to the Garda
4 Commissioner and then on the 15th October 2008 you made
5 a complaint against Chief Superintendent Rooney, isn't 11:48
6 that right?

7 A. That's correct.

8 267 Q. Now, the details of that -- which again, sir, I don't
9 intend to open because most of this is merely
10 background information, but for the benefit of the 11:49
11 parties, it's at Volume 2 at page 503. But arising out
12 of making a complaint against Chief Superintendent
13 Rooney, it meant that Chief Superintendent Terry McGinn
14 could no longer investigate these matters, isn't that
15 right? 11:49

16 A. That's correct.

17 268 Q. And on the 6th November of 2008, Assistant Commissioner
18 Derek Byrne was appointed to take charge of the overall
19 investigation in relation to your complaints?

20 A. That's correct. 11:49

21 269 Q. Isn't that right? Now, on the 11th March of the
22 following year, 2009, there was an article in the Anglo
23 Celt on the 11th March 2009, page 208 of the materials.
24 You had -- I am not going to open that, but you have
25 concerns in relation to that and Chief Superintendent 11:50
26 Rooney, isn't that right?

27 A. Yes, that's correct.

28 270 Q. Would you just express those persons that you have to
29 the Chairman?

1 A. Well, I see --

2 271 Q. That you had at the time.

3 A. Yes, Mr. Chairman, at the end of the article, he is on
4 in relation to the Bailieboro investigation and he
5 refers to, I think -- I think the term he used, 11:51
6 absolute rubbish, if you could scroll down.
7 CHAIRMAN: The third-last paragraph says:
8
9 "I have total confidence in the guards in Bailieboro."
10 A. Sorry, I just can't find it. 11:51
11 272 Q. MR. MARRINAN: Is it on the previous page? Page 280,
12 if you scroll back up.
13 CHAIRMAN: Can we go backwards there? Mr. Kavanagh,
14 can you go up a bit?
15 273 Q. MR. MARRINAN: If we just go to page 281, it says: 11:52
16
17 "I recently read reports in the national and local
18 media in relation to policing in Bailieboro and it was
19 absolute rubbish what was in those reports. It was
20 factually incorrect." 11:52
21 A. That's correct.
22 274 Q. That is a quote from Chief Superintendent Rooney.
23 A. Yes.
24 275 Q. And you took issue in relation to that, is that right?
25 A. I did, yeah. I did take issue in relation to it. 11:52
26 276 Q. On the 4th January, I just skipped it, I am sorry, but
27 you handed over to what had now become the Byrne/McGinn
28 investigation, your Brief Proven Facts pertaining to
29 your complaint, isn't that right?

1 A. Yes.

2 277 Q. And these are at Volume 2 at page 544. And again,
3 these matters have already been opened, sir, and I
4 don't intend to open them, but they are there for the
5 parties if they wish to pursue matters arising out of 11:53
6 them. On the 23rd March of 2009, you sent an email --
7 CHAIRMAN: Sorry, Mr. Marrinan, I beg your pardon,
8 just, again, you had asked the question in relation to
9 were you upset by the comment in the Anglo Celt, but
10 because we spent a lot of time actually trying to find 11:53
11 the quote, that wasn't answered. So --

12 A. Yeah, I did, yeah.

13 278 Q. MR. MARRINAN: You were upset?

14 A. I thought it was inappropriate.

15 279 Q. In what way was it inappropriate? 11:54

16 A. Because I felt he was giving the outcome of the
17 investigation "absolute rubbish".

18 280 Q. So on the 23rd March 2009, you sent an email to
19 Minister Ahern seeking an independent person to oversee
20 the investigation into your complaints, and you also 11:54
21 make a complaint in relation to what we have just
22 looked at, Chief Superintendent Rooney's comments in
23 the newspaper on 11th March 2009. That email is to be
24 found at Volume 1 at page 280. And then on 11th May
25 the Minister wrote back saying that the investigation 11:54
26 was a matter for the Commissioner and he wouldn't be
27 intervening, isn't that right?

28 A. That's correct.

29 281 Q. And then there was an incident on the 26th November of

1 2009, there was a further complaint that was made in
2 relation to some images that had appeared on Facebook,
3 isn't that right?

4 A. That's correct.

5 282 Q. And these were -- this was, some derogatory comments 11:55
6 could be attributed to what had been put up on
7 Facebook. Do you wish to refer to these yourself?

8 A. Which incident? Which is it? The rat episode, is it?

9 283 Q. Yes. Have you any difficulty in relation to referring
10 to them? 11:55

11 A. No, I haven't.

12 284 Q. I mean, they are derogatory comments. But this related
13 to a matter that had been put on Facebook referring to
14 "Maurice the Rat"?

15 A. That's correct. 11:55

16 285 Q. In relation to some puppet that was on a counter in a
17 public house, isn't that right?

18 A. Yeah, mm-hmm.

19 286 Q. And it could have referred to you and a reference to
20 you and describing you as being a rat, isn't that 11:56
21 right?

22 A. That's correct.

23 287 Q. And you were concerned about that and I think
24 Mr. Justice O'Higgins later described this as a vile
25 and offensive comment -- 11:56

26 A. Yes.

27 288 Q. -- that had been put on the internet?

28 A. That is what he said, yes.

29 289 Q. So it wasn't really a minor matter. And it was

1 investigated, isn't that right?

2 A. That's correct.

3 290 Q. On the 2nd December of 2009, the file in relation to
4 that was sent to the Director of Public Prosecutions,
5 who directed no prosecution in relation to it. And 11:56
6 then if we move forward to March of 2010, we have the
7 Byrne and McGinn report. And on the 11th October 2010,
8 there was the meeting at the Hillgrove Hotel that you
9 had with Assistant Commissioner Byrne and
10 Superintendent Terry McGinn, isn't that right? 11:57

11 A. That's correct.

12 291 Q. I think that you were informed at that meeting that of
13 the 42 allegations that you had made 11 were upheld, is
14 that right?

15 A. That's correct. 11:57

16 292 Q. And then there was an incident, again which we are not
17 going to go into because it was the subject matter of a
18 complaint made by you?

19 A. That's correct.

20 293 Q. And it was investigated and the file went to the 11:57
21 Director of Public Prosecutions.

22 A. That's correct.

23 294 Q. No prosecution was directed.

24 A. That's correct.

25 295 Q. But you are happy that we would just leave that as it 11:58
26 concluded in that regard?

27 A. I am.

28 296 Q. Yes, the complaint that you made was against an
29 Assistant Commissioner and as a result of that, on the

1 2nd November of 2010, Deputy commissioner Rice was
2 appointed to investigate complaints that you had made
3 through the Confidential Recipient, is that right?

4 A. That's correct.

5 297 Q. And on 15th November 2010 your solicitor wrote to the 11:58
6 Commissioner setting out a number of complaints you had
7 in relation to the manner in which Byrne and McGinn had
8 gone about their investigation, and on the 26th
9 November you had a meeting, a face-to-face meeting,
10 with Assistant Commissioner Rice, is that right? 11:59

11 A. That's correct.

12 298 Q. And Assistant Commissioner Rice then reported on the
13 8th March of 2011 and he concluded that there was
14 nothing wrong in his view with his Byrne and McGinn
15 investigation, is that right? 11:59

16 A. That's correct.

17 299 Q. And you were informed of that on the 7th April of 2011,
18 isn't that so?

19 A. Yes.

20 300 Q. Now, on the 16th June of 2011, I think that you wrote 11:59
21 to the Minister for Justice looking for the
22 establishment of a commission of investigation under
23 the 2004 Act, to look into the allegations that you had
24 made, isn't that right?

25 A. That's correct. 12:00

26 301 Q. And the following month, on the 4th July of 2011, Chief
27 Superintendent Rooney circulated a letter after a
28 discussion that he had with Assistant Commissioner
29 Derek Byrne, isn't that right?

1 A. Yes.

2 302 Q. This is at page 279 of the material, and this was again
3 an article and a matter that you had expressed -- have
4 expressed concern over, isn't that right?

5 A. Yes. 12:00

6 303 Q. And this letter has already been opened, sir, to the
7 Tribunal previously in relation to other matters, but
8 this arises out of a conversation that Chief
9 Superintendent Rooney had with Assistant Commissioner
10 Byrne and he has given evidence in relation to this, 12:01
11 you heard his evidence on the last module, did you,
12 Sergeant?

13 A. I did, Mr. Marrinan.

14 304 Q. And he says that he was informed by Assistant
15 Commissioner Byrne that there was no systemic failures 12:01
16 in the management and administration of Bailieboro
17 district and only a number of minor procedural issues
18 were identified, is that right?

19 A. That's correct.

20 305 Q. And at the conclusion, in the third paragraph, or 12:01
21 second paragraph, Chief Superintendent Rooney, this
22 letter to the superintendent in Bailieboro, states:
23

24 "The investigation concluded that there was no systemic
25 failures identified in the management and 12:02
26 administration of Bailieboro Garda Station. The number
27 of minor procedural issues were identified. On further
28 investigation at local level, no evidence was found to
29 substantiate the alleged breach of procedures. The

1 Assistant Commissioner further concluded that there was
2 no criminal conduct identified on the part of any
3 member of the district force. I would like to
4 congratulate all members who served in Bailieboro
5 district during the period in question. In particular 12:02
6 I wish to thank sergeant Gavigan who provided
7 leadership, enthusiasm and commitment in steering the
8 station party through the crisis that had occurred.
9 The findings of the Assistant Commissioner vindicate
10 the high standards and professionalism of the district 12:03
11 force in Bailieboro. I appreciate the manner in which
12 the members of the district participated in the
13 investigation, were open and truthful in their account
14 of events surrounding the allegations. I hope that the
15 members and their families can now put this difficult 12:03
16 period behind them and continue to serve the public and
17 their colleagues in an efficient and professional
18 manner."

19
20 Now, I think you have pointed out in a statement that 12:03
21 you made to the Tribunal that Assistant Commissioner
22 Derek Byrne, when he was giving evidence before the
23 O'Higgins Commission, accepted that he had got some of
24 the matters that he had reported on wrong, isn't that
25 right? 12:04

26 A. That's correct.

27 306 Q. And I think the issue you take with Chief
28 Superintendent Rooney in relation to this is that Chief
29 Superintendent Rooney appears to have been giving the

1 Gardaí in Bailieboro a totally clean bill of health,
2 isn't that right?

3 A. That's correct.

4 307 Q. And doesn't even reflect what Byrne and McGinn actually
5 found, isn't that right? 12:04

6 A. Yeah, it was a kick in the teeth really, you know.

7 308 Q. And I think that the chief superintendent actually
8 accepts that to be so and did so in his evidence. You
9 do now appreciate that the letter that you wrote in
10 fact reflects what he says Byrne -- Assistant 12:04
11 Commissioner Derek Byrne told him?

12 A. Sorry, just say that again, sorry.

13 309 Q. Do you now accept, having heard the evidence from Chief
14 Superintendent Rooney, that the letter that he wrote
15 reflects what he had been told, or he says he was told, 12:05
16 by Assistant Commissioner Derek Byrne?

17 A. I'm just not too sure on that, Chairman, because after
18 this letter, after I found this letter, we sent a
19 correspondence up to Garda Headquarters. I am too
20 sure -- it should be in the papers somewhere. And they 12:05
21 kind of agreed with the letter as well.

22 CHAIRMAN: Mr. Marrinan, this may be my own
23 imagination, but I have a picture somewhere in my mind
24 of this letter being put on a safety pin on a Garda
25 notice board somewhere or something like that, but I 12:05
26 may be getting that totally wrong.

27 310 Q. MR. MARRINAN: It had been circulated to the station
28 parties, is that right?

29 A. To everybody in Cavan-Monaghan and Sligo.

1 311 Q. Yes.
2 CHAIRMAN: And was it on a station notice board some
3 place?
4 A. I am not too sure, Mr. Chairman, because I wasn't
5 stationed at the time in Cavan-Monaghan. 12:06
6 312 Q. MR. MARRINAN: Now, on something that is entirely
7 different, but on the 1st September 2011 you were
8 interviewed by GSOC in relation to the McGrath case,
9 isn't that right?
10 A. Yeah, I accept -- I am not too sure of the date but if 12:06
11 you say -- yes, I was.
12 313 Q. It appears -- do you know why you were interviewed in
13 relation to that?
14 A. I was interviewed in relation to the McGrath case, I
15 think it was because I was accused of letting him out, 12:06
16 isn't that the --
17 314 Q. Yes.
18 A. Yeah, okay. That's the one. Because I was accused of
19 letting the prisoner, Jerry McGrath, who went on then
20 to commit a vile crime and a murder. 12:06
21 315 Q. And you had been advised that there had been an attempt
22 to incriminate you in one of the -- this was one of the
23 matters that you had made a complaint in relation to,
24 is that right?
25 A. No, this is the thing, you see, I never brought that 12:07
26 case up whatsoever, and the only time I got involved in
27 that case was when I got a call on -- from the
28 Ombudsman - I was in Enniskillen - to tell me that,
29 from his inquiries, that I was responsible for

1 releasing Jerry McGrath in April 2007.

2 316 Q. So this is something that stands alone and entirely
3 separate?

4 A. Yeah.

5 317 Q. But just so that we are clear in relation to that, this 12:07
6 was a matter that was subsequently examined, isn't that
7 so?

8 A. The --

9 318 Q. The McGrath.

10 A. Yes, where I let him out? 12:07

11 319 Q. Yes.

12 A. Or where I am alleged let him out, yeah, and it was
13 found that it wasn't me.

14 320 Q. And you were totally exonerated?

15 A. I was totally exonerated. 12:08

16 321 Q. Now, the next event is the 12th January of 2012. You
17 made an allegation against Commissioner Callinan under
18 the (Confidential Reporting of Corruption or
19 Malpractice) Regulations 2007?

20 A. That's correct. 12:08

21 322 Q. And that allegation was clearly set out, and it
22 concerned placing assistant commissioner Callinan -- or
23 Commissioner Callinan had placed Superintendent Clancy
24 on a list for promotion, isn't that right?

25 A. That's correct. 12:08

26 323 Q. And that was sent on the 23rd of January 2012 by
27 Mr. Oliver Connolly. And this can be found at volume 2
28 at page 546.

29 CHAIRMAN: Mr. Marrinan, that particular complaint, was

1 that framed in terms of mere negligence or was it a
2 corruption allegation?

3 MR. MARRINAN: It is -- if I can put it this way, sir:
4 if it was a statement of offence, it would appear as
5 corruption. If there were particulars of offence on
6 the indictment, it would be negligence. 12:09

7 324 Q. MR. MARRINAN: The letter, in any event, is at page
8 546.

9 A. Yes.

10 325 Q. And it's from Oliver Connolly and it's on your
11 instructions, and it reads: 12:09

12
13 "Dear Minister,

14
15 In accordance with the procedures set down in the Garda 12:09
16 Síochána (Confidential Reporting of Corruption or
17 Malpractice) Regulations 2007, I enclose a confidential
18 report which I received at 4:15 p.m. today in relation
19 to a complaint against Commissioner Martin Callinan
20 made under the Charter of the Garda Síochána 12:10
21 Regulations 2007. I am obliged, as confidential
22 recipient, to bring the report to your personal
23 attention. I am also obliged to protect the identity
24 of the confidential reporter subject to those specific
25 circumstances as provided for under Regulation 9, and, 12:10
26 accordingly, I redacted the relevant personal details
27 on the face of that report."

28
29 And then if we turn over the page, at page 547, these

1 concerned -- it is:

2

3 "Re: Wrongdoing and malpractice in Cavan-Monaghan
4 division."

5

12:11

6 And these concern some matters that were already the
7 subject matter of complaints that you had made, isn't
8 that right?

9 A. Yes.

10 326 Q. We can see there, for instance, the 30th April 2017,
11 the taxi driver incident where a lady was abducted.
12 And we go on through page 248; again, similarly, these
13 were matters that had been dealt with. Then at page
14 549 you say:

12:11

15

12:11

16 "The above are only a few of a catalogue of failures
17 involving Superintendent Clancy. These incidents,
18 along with many more relating to him, were
19 investigating by Assistant Commissioner Derek Byrne,
20 and Byrne, despite upholding the serious one, came to a
21 decision that the complaints against Superintendent
22 Clancy were not substantiated in any way and he made no
23 adverse findings against Clancy. Alarminglly,
24 Commissioner Callinan and Deputy Commissioner Rice
25 agreed with Byrne. However, it may be the case that
26 Derek Byrne hid evidence, material and certain findings
27 from his superiors because he was the Commissioner in
28 charge of the region at the time of the wrongdoing and
29 received a bonus."

12:11

12:12

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That is a fairly serious accusation to level at the assistant commissioner, isn't that right?

A. Yeah, it is. Sorry, was it 549?

327 Q. This is the bottom of page 549, just going into -- the last paragraph, and just going into 550. 12:12

A. Yes, sorry, Mr. Marrinan, what was your question?

328 Q. I am pointing out to you that that is a fairly serious accusation to make against the assistant commissioner?

A. Well, if you look at the letter which was sent out to everybody in Cavan-Monaghan, July '11, and it said that it was approved by Assistant Commissioner Derek Byrne and the Garda Commissioner, and it was coming out to me, or to everyone else, saying, nothing to see here. And it was amazing. And, you know, I mean, I couldn't see the insight into that letter. It's just -- it was a serious letter, and that is what I was going on. 12:13

329 Q. Okay. And you say that justifies you in making a complaint that "Derek Byrne hid evidence, material and certain findings from his superiors because he was the Commissioner in charge of the region at the time of the wrongdoing and received a bonus." 12:13

A. Well, just in relation to that, Mr. Marrinan, I mean, I go back to the letter again. Like, the letter just said it was approved by everybody all the way up, that there was no issues in Cavan-Monaghan or in Bailieboro, and I took it, you know, are they serious, they are actually saying this? 12:14

330 Q. Well, in any event, that was a matter that wasn't

1 substantiated, isn't that correct?

2 A. Yes.

3 331 Q. You then go on to say:

4

5 "I found it hard to understand that the Commissioner of 12:14

6 An Garda Síochána has rewarded Superintendent Clancy

7 and placed him on a promotion list for the rank of

8 chief superintendent. One of the incidents alone is

9 enough to question Superintendent Clancy's suitability

10 for his present rank, let alone promotion." 12:14

11

12 You then go down to the last paragraph on page 550 to
13 state:

14

15 "I now wish to make a complaint against Commissioner 12:15

16 Martin Callinan. I make it under the Charter of the

17 Garda Síochána (Confidential Reporting of Corruption or

18 Malpractice) Regulations 2007. Code 91(1)(d) states:

19 'Promotion lists list the most suitable eligible

20 superintendents in the service.' 12:15

21 It is my belief that Commissioner Callinan should have

22 known of the malpractice, some of which is listed

23 above, and has made a serious error of judgement by

24 placing Superintendent Clancy on a promotion list. The

25 evidence is clear and it is corruption as defined by An 12:15

26 Garda Síochána Charter on Confidential Reporting."

27

28 So, yes, that goes in then -- yes, we know that on the

29 24th January, that complaint that was contained and set

1 out in the confidential recipient's letter to the
2 Minister was forwarded by Mr. Brian Purcell of the
3 Department to Commissioner Callinan, inviting a
4 response, and he responded on the 27th January in
5 relation to the matter, and a letter was sent on the 12:16
6 3rd February 2012 when the Minister then wrote to
7 Mr. Connolly stating that there was no evidence to
8 support further action, in response to the report that
9 had been sent in that I just opened. Now, on the 9th
10 February of 2012 you met with Mr. Connolly in a cafe to 12:17
11 discuss the Minister's response, isn't that right?

12 A. That's correct.

13 332 Q. And a transcript of that is to be found in volume 2 at
14 page 552 of the material, because you taped the
15 conversation, isn't that right? 12:17

16 A. That's correct.

17 333 Q. And I don't intend to open the transcript. It's there
18 if any of the parties wish to make whatever use of it
19 that they wish. But I think that one of your major
20 concerns at that time was that the response in the 12:18
21 Department had been to refer the matter to the
22 Commissioner, is that right?

23 A. That's correct.

24 334 Q. Even though you had made the complaint to the
25 Department? 12:18

26 A. That's correct.

27 335 Q. And that was the kernel of that particular issue, is
28 that right?

29 A. That's correct.

1 336 Q. And I think that Mr. Connolly can be seen, during the
2 course of discussions with you, pointing out to you
3 that you were only making an allegation of negligence
4 against Commissioner Callinan, is that right?
5 A. That's correct. 12:18

6 337 Q. And that your allegation, in fact, fell short of making
7 an allegation of corruption --
8 A. It did.

9 338 Q. -- in the normal sense in which that word is used,
10 isn't that right? 12:18
11 A. Yes, it did.

12 339 Q. And he dwells on that for some period of time. The
13 following day, following on from that, on the 10th
14 February, disciplinary proceedings were commenced
15 against you in relation to the Fr. Molloy case, isn't 12:19
16 that right?
17 A. That's correct.

18 340 Q. And that concerned the missing computer. Can you
19 just -- can you just give us a flavour at this
20 particular juncture in time in terms of how your life 12:19
21 was and what was going on. First of all, were you
22 getting any support for what I will describe as your
23 crusade, but I don't want to overdramatise it, but you
24 had made complaints against, initially, your
25 superintendent and then the chief superintendent and 12:19
26 then the assistant commissioner and eventually to the
27 Commissioner and then had gone to the Minister. To
28 what extent were you at that point in time in the
29 public eye?

1 A. I don't think I was in the public eye around that time,
2 but I was working in Mullingar on the traffic corps.

3 341 Q. Yes. Well, just first of all deal with being in the
4 public eye. Do you recall, were you in the public eye
5 at all? 12:20

6 A. I was -- I think I was outed in 2014. I may have been
7 in the public eye in '12 or 13, but I wasn't
8 identified, but I think I was identified in January
9 '14, I think, by accident.

10 342 Q. Okay. Well, I'm dealing with up to January of 2012. 12:20

11 A. Okay.

12 343 Q. And we will be moving on to 2013, 2014 and 2015.

13 A. Okay.

14 344 Q. But as of January 2012, when you are now -- you now
15 made a complaint against Commissioner Callinan, I am 12:21
16 asking you do you have any recollection whether or not
17 you were in the public eye at that time?

18 A. I don't think I was.

19 345 Q. And had you courted in any way media attention?

20 A. No, I had not at that stage, no. 12:21

21 346 Q. Was it something that you were desirous of?

22 A. No, it wasn't at the time. I just was in Mullingar, in
23 the traffic corps, happy, working every day.

24 347 Q. Well, when you say you were happy, I mean, was that
25 your state of mind at this time? 12:21

26 A. Yeah, it was, because what happened really in relation
27 to the Oliver Connolly thing, I didn't go to him, he
28 indirectly came to me, so when he came back to me and
29 said there is nothing to see here, I might have sent

1 him an email or two after that, but that was it.

2 348 Q. But this all stemmed from complaints that you had
3 originally made back in January of 2008 to
4 Superintendent Clancy --

5 A. Yes. 12:22

6 349 Q. -- in relation to policing in Bailieboro Garda Station.

7 A. Yes.

8 350 Q. How were your colleagues responding at that time to
9 what was going on?

10 A. Well, in relation to my colleagues in Mullingar, were 12:22
11 100 percent. I worked with a group of 10 guards in the
12 traffic corps, and some days or some weeks I'd just
13 forget about the issues. We were working, we were
14 fairly busy.

15 351 Q. And you'd obviously met with Chief Superintendent Terry 12:22
16 McGinn in the early stages because she had taken
17 statements from you?

18 A. Yes, yes.

19 352 Q. And we know that you had a meeting with Assistant 12:23
20 Commissioner Byrne that turned sour, to put it mildly.
21 But had you met with Commissioner Callinan at that
22 stage?

23 A. No, I have never met with him.

24 353 Q. And were there any procedures or structures put in 12:23
25 place to offer you support as somebody coming forward
26 making complaints within An Garda Síochána?

27 A. No, at that time there weren't. We had a welfare
28 officer that is in every division and I would meet him
29 off and on just for a cup of coffee, but there was

1 nothing in place in 2012.

2 354 Q. And your senior management were obviously aware of the
3 fact that you had raised these issues and that they had
4 been the subject matter of an inquiry --

5 A. Yeah. 12:23

6 355 Q. -- by Byrne and McGinn. Did they also become aware of
7 the fact that you had made a complaint against
8 Assistant Commissioner Byrne and then Commissioner
9 Callinan?

10 A. I'm not too sure, but I'd say they would have had. 12:24

11 356 Q. I am trying to get a flavour of whether you felt at the
12 time -- you were getting support at home from your
13 wife, were you?

14 A. Yeah, and all my family.

15 357 Q. You have five children, is that right? 12:24

16 A. Five.

17 358 Q. What ages are they now?

18 A. The youngest is 10. [Name redacted] is, what, she is
19 13. I have a son who --

20 CHAIRMAN: Just, this may be known. It could be that 12:24
21 people, I don't know, take umbrage at your kids, or
22 whatever, so maybe it's better to just leave their
23 names out of it.

24 A. Give the ages, yeah. Well, are 10, 13, the next is 19,
25 the next is 22 and the next is 23. 12:25

26 359 Q. MR. MARRINAN: And was everything good at home between
27 you and your wife Lorraine, yes?

28 A. Yes.

29 360 Q. And you were getting support insofar as those that were

1 old enough to support you, were supporting you, is that
2 right?

3 A. Yeah, and they never got any slagging at school or any
4 comments, never. Even up to today, they haven't, which
5 is good. 12:25

6 361 Q. Yes. Well, while we are on that, I mean, even up until
7 today, and obviously you were to become much more
8 prominent in the years after the events that I have
9 just gone through with you, but while we are on the
10 topic, up until today have you received any hate mail? 12:25

11 A. Never one, never once. I have got email -- or I have
12 got emails and letters and cards from everybody around
13 the country. I would say there is about three or four
14 hundred. I can't reply to them all, naturally - well,
15 I haven't replied to any. But I haven't got any hate 12:26
16 mail, not one.

17 362 Q. And in terms of colleagues at work, again have they
18 been supportive?

19 A. Oh, completely supportive in Mullingar, completely.

20 363 Q. I mean, people might be a bit surprised to hear that, 12:26
21 in the sense that there may be a feeling out there that
22 if you speak out against the force, that you will be
23 isolated and alone if you do so?

24 A. Yeah.

25 364 Q. What do you say about that? 12:26

26 A. Well, you certainly are isolated and alone, not -- I
27 work with 10 guards, and they are 100 percent to me,
28 they know how I work and they treated me 100 percent.
29 But there are an element that would just blank you, not

1 speak to you. The culture is there that it is
2 extremely hard to speak out.

3 365 Q. well, have you experienced that, being blanked by --
4 A. Oh, I have, I have.

5 366 Q. Can you give us an instance or an example of that? 12:27
6 A. well, I can give you a lot of them. I mean, I don't
7 want to identify anybody or any place, but there would
8 be often places that I wasn't welcome at all.

9 367 Q. So perhaps people who might have a shallow or
10 superficial information in relation to what you were 12:27
11 actually about, may respond that way, is that what you
12 are saying?
13 A. Yeah, but I think the penalty points, I think that
14 really hit hard with everybody in the force; in other
15 words, I shouldn't -- I shouldn't have brought it up. 12:27

16 368 Q. well, that is an issue that you did, you did bring up?
17 A. I did, yeah.

18 MR. MARRINAN: We will be moving on to that shortly. I
19 don't know whether that is an appropriate time, sir?
20 CHAIRMAN: Yes. Thank you very much. We will just 12:28
21 take a break then for an hour.
22
23 THE HEARING ADJOURNED FOR LUNCH
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25 12:28
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1 THE HEARING RESUMED AFTER LUNCH AS FOLLOWS:

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369 Q. MR. MARRINAN: Sergeant McCabe, we'd got to the point in 2012 where disciplinary proceedings were commenced against you on the 10th February 2012 in relation to the missing computer in the Fr. Molloy case?

13:34

A. Yes.

370 Q. Again, this is a matter which the O'Higgins Commission examined and you were totally exonerated?

A. That's correct.

13:34

371 Q. But somehow or another, this complaint was made against you on the 10th February 2012, is that right?

A. That's correct, Chairman, yeah.

372 Q. Nine days later, on the 19th February, I think that you gave a dossier to Micheál Martin, TD, is that right?

13:35

A. Yes.

373 Q. And that was subsequently given to the Taoiseach, Enda Kenny?

A. That's correct.

374 Q. In February 2014?

13:35

A. Yeah.

375 Q. We'll come to that timeframe in due course. On the 9th May of 2012 you made a complaint again to the confidential recipient, Mr. Connolly, concerning the Minister and the manner in which he referred his complaint to the Commissioner, but that also contains allegations against the Commissioner. Perhaps we could have volume 4, page 1102, on the screen, please. That is a letter -- or an email from you to Oliver Connolly,

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and:

"I refer to the above and to my previous complaint made to you on the 23rd January of 2012. I attach a report addressed to you and I would ask that the report be given to the Justice Minister, Alan Shatter, without any changes. I have no issue with my identity being known by him."

13:36

A. Yeah.

376 Q. And then if we go on to the next page, page 1103, is the report, which is marked "private and confidential", and it's:

13:36

"Re: Recent complaint made to you regarding allegation of corruption and malpractice."

13:36

And before lunch we had spoken about the fact that the allegation that you made of corruption at that juncture really amounted to negligence on the part of -- alleged negligence on the part of the Garda Commissioner.

13:37

A. Yes, Mr. Marrinan.

377 Q. But this seems to be going a lot further, and we will just have a look at it in relation to it. On the second page, at page 1104, you say:

13:37

"I made a complaint to the Minister against Assistant Commissioner Derek Byrne and against the Garda Commissioner. I made the complaint under the Confidential Reporting of Corruption. I was guarded,

1 however, with Commissioner Callinan because he may not
2 have been showed the evidence of the corruption. When
3 the Minister received my complaint you sought a report
4 from the persons I had complained of, the Commissioner.
5 By doing this, it is my opinion that he has put the 13:37
6 whole confidential reporting system into question. How
7 can any member of An Garda Síochána make a complaint
8 against a senior officer, or the Commissioner, when the
9 result is asking that particular officer in question to
10 investigate himself? It is my belief that the Minister 13:38
11 acted in an inappropriate way. It was wrong of him to
12 request a report from the persons I had complained
13 about. It defies logic and is not fair and not in
14 keeping with natural justice and fair procedures. He
15 should at least have requested to see the evidence on 13:38
16 file. His actions are in total contrast in his speech
17 on the Morris Tribunal."

18
19 You then quote from that. Then the next paragraph:

20 13:38
21 "The Commissioner has avenues open to him if I am
22 making or have made allegations, reports or any
23 statements which are false or misleading. As stated
24 before, he may not be aware of the malpractice, but
25 Assistant Commissioner Derek Byrne is fully aware of 13:38
26 it. Assistant Commissioner Byrne was the regional
27 commissioner in charge at the time of the malpractice
28 and he was tasked with investigating the allegations.
29 He covered up the malpractice and I can prove it. Each

1 and every allegation I have made is backed up with
2 documentary evidence, victims' evidence and accounts.
3 It is peculiar that Assistant Commissioner Derek Byrne
4 and retired Chief Superintendent Colm Rooney are the
5 only two persons who are holding the party line of no 13:39
6 evidence and thorough investigation. Every other Garda
7 officer has described the corruption as shocking. I
8 state once again the evidence relates to corruption as
9 defined under the Confidential Reporting Charter,
10 perverting the course of justice and attempting to 13:39
11 pervert the course of justice on a massive scale. I
12 simply ask for the Minister or his officials to look at
13 the evidence on the investigation files and they will
14 see what occurred in Cavan-Monaghan. Minister Shatter
15 is being fed false and misleading information and I can 13:40
16 make a sworn statement or affidavit to that effect if
17 they so wish. My allegations of serious corruption,
18 malpractice, gross dereliction of duty and perverting
19 the course of justice and involves senior Garda
20 management -- and involves cover-up by senior Garda 13:40
21 management. I simply ask for one meeting with the
22 Minister or his officials and they will see for
23 themselves that each and every one of my allegations
24 are true."

25
26 we will see there that the allegations have become more
27 serious, isn't that right?

28 A. That's correct.

29 378 Q. But nothing seems to have changed factually between

1 382 Q. And maybe related to that, in December of 2012 your
2 access to Pulse was restricted, is that right?

3 A. That's correct.

4 383 Q. If we then move through into 2013. Some five months
5 later, on the 15th May 2013, Assistant Commissioner 13:43
6 O'Mahony found no evidence to suggest any criminality,
7 corruption, deception or falsification in relation to
8 your allegations on the fixed charge penalty notices,
9 is that right?

10 A. Yes. 13:43

11 384 Q. You point out in the statement that you made to the
12 Tribunal, and it's correct to say that the O'Higgins
13 Commission examined 182 of the Pulse incidents that you
14 had referred to in your complaints and were examined by
15 Assistant Commissioner O'Mahony, and found the vast 13:44
16 majority of the complaints were borne out, at least in
17 part, is that right?

18 A. Em, yeah.

19 385 Q. Now, again later in the summer of 2013, the Comptroller
20 and Auditor General issued his report on the accounts 13:44
21 in the public services. His report is of 2012, but it
22 was issued on the 27th September of 2013, and chapter 7
23 dealt with the issue of the fixed charge note assist,
24 isn't that right?

25 A. That's correct. 13:45

26 386 Q. Had you input in relation to that?

27 A. I had.

28 387 Q. What was the nature of your input?

29 A. I went to the C and AG in relation to the documents I

1 had, in relation to the loss of money.

2 388 Q. And then in January of 2014 you handed over material to
3 Mr. McGuinness, is that right?

4 A. That's correct, yes.

5 389 Q. And this was in the run-up to the Public Accounts 13:45
6 Committee meetings, isn't that right?

7 A. That's correct.

8 390 Q. Now, prior to you giving evidence, which you ultimately
9 did on the 30th January of 2014, were you warned
10 against giving evidence? 13:45

11 A. I wouldn't say warned. What happened was, a few days
12 before I was due to give evidence, it appeared that I
13 wasn't going to give evidence in relation to the PAC.
14 I think there was a number of TDs, I think it was four
15 to nine, against me giving evidence. So when it became 13:46
16 public, I got -- I was brought into an office one
17 morning in Mullingar and they just said I was a valued
18 employer [sic], and the issues I brought were good --

19 391 Q. Well, when you say "they just said", who do you mean?

20 A. Well, it was a letter down, so it was, from Garda 13:46
21 Headquarters, but I'm not too sure who was the author
22 of the letter. I wasn't given a copy, but I could take
23 notes.

24 392 Q. And what did it say? Sorry, I interrupted you.

25 A. It said that I was a valued employer, I brought my 13:46
26 concerns, I -- there was all the avenues open to me and
27 support, and all like that.

28 393 Q. And?

29 A. And that was it, really.

1 394 Q. And did it make reference to giving evidence at the
2 Public Accounts Committee?
3 A. I'm not too sure if that first letter did. But on the
4 following day when I was going to give evidence, I
5 think they voted, I think the same again, four to nine 13:47
6 in favour of me giving evidence. I was brought in on
7 the morning before I gave evidence, saying that I would
8 have to consider my position in relation -- that if I
9 gave evidence. I was allowed take notes in relation to
10 that circular. 13:47
11 395 Q. So this is the morning of the 30th January you're
12 referring to, is it?
13 A. It could be the morning of the 30th or the 29th.
14 396 Q. All right.
15 A. But -- 13:47
16 397 Q. We know that on the 23rd January of 2014 Commissioner
17 Callinan testified before the Public Accounts
18 Committee, where he made a remark concerning your
19 behaviour and another person's behaviour at the time.
20 And perhaps we'd just have that up on the screen at 13:48
21 page 1107 of volume 4. Have you got that? If you
22 scroll down to the end. This is a transcript of the
23 proceedings at the Public Accounts Committee meeting.
24
25 "Mr. Martin Callinan: I see the point about the 13:48
26 concept of the Garda investigating the Garda. That is
27 why we have an inspectorate examining the system and an
28 Ombudsman examining how we do our business. I find
29 there is a certain irony in that the very person

1 charged with policing the security of this State, the
2 person we all put our trust and belief in on a daily
3 basis, the man responsible for all these serious
4 matters is the very person who stands accused by the
5 deputy's submission of not being open and transparent 13:49
6 or producing a report as such. I find that
7 extraordinary. I do respect the notion that Gardaí in
8 certain circumstances should not be investigating one
9 another. That is why we have the Ombudsman Commission
10 to deal with those cases. Clearly, here, however, we 13:49
11 have two people out of a force of over 13,000 who are
12 making extraordinary and serious allegations. There is
13 not a whisper anywhere else or from any other member of
14 the Garda Síochána, however, about this corruption,
15 malpractice, and other charges levelled against their 13:50
16 fellow officers. Frankly, on a personal level, I think
17 it is quite disgusting. That said, I have openly
18 admitted here to the Committee that there were
19 difficulties within the system and that we have
20 addressed them. That is where the deputy and I will 13:50
21 agree to differ, with the greatest of respect. I do
22 respect what the deputy is saying to me."

23
24 Now, how did you feel, in the first instance, when you
25 heard that remark? 13:50

26 A. Well, I listened to the whole lot of it, I watched it
27 at home, and I thought the morning part was great, but
28 when I heard that, I just, you know...

29 398 Q. Well, I don't know, so could you tell us and help us?

1 A. Well, you know, can I explain it in a long-about way?

2 399 Q. Yes, of course.

3 A. The issue that I brought forward in relation to penalty
4 points, it was on the practice, what was happening.
5 And a guard in Mullingar made a complaint to me that he 13:51
6 had a car stopped and the driver was arrogant, he
7 issued a fixed charge notice, but some inspector then
8 in another part of the country hit the button,
9 terminated it. And when I looked it up, I could see a
10 pattern of the same driver was caught a number of times 13:51
11 around the country, and a certain inspector was hitting
12 the button and pressing it. Now, if I was to do it
13 over again, I would never, never have highlighted the
14 penalty points, because it was that and that stage
15 when, you know, when I got -- I started to get all the 13:52
16 hassle. And I think that Martin Callinan -- sorry,
17 assistant -- or ex-Commissioner Martin Callinan, as I
18 said before, I think after that comment I think the
19 flood gates were opened, you know. It was hard to
20 take. It's extremely hard to take. 13:52

21 400 Q. We know that it got -- was given a great deal of media
22 attention.

23 A. That's correct.

24 401 Q. And it was highlighted. The following day, on the 24th
25 January, it's agreed that Mr. John McGuinness, TD, met 13:52
26 Commissioner Martin Callinan in a car park in Bewley's
27 Hotel on the Naas Road. The content of that discussion
28 and what was actually discussed is very much at issue.
29 But had you any inkling that you were being discussed

1 in a car park --

2 A. Never.

3 402 Q. -- on the Naas Road --

4 A. No.

5 403 Q. -- by the Garda Commissioner? 13:53

6 A. No, Mr. Chairman, never.

7 404 Q. And by the Chairman of the Public Accounts Committee?

8 A. No.

9 405 Q. And then on the 26th January of 2014, Gerald Kean,
10 solicitor, was a guest on an RTÉ radio programme and 13:53
11 stated that you hadn't cooperated with an internal
12 inquiry team. Do you remember hearing that on the
13 radio?

14 A. I do, yeah. I was working when I heard it.

15 406 Q. And for reasons that may not be apparent to you at this 13:53
16 juncture, but the Tribunal is focusing on this
17 particular radio programme and the background to it,
18 but what was your response when you heard the
19 suggestion being made that you hadn't cooperated with
20 the internal inquiry team? 13:54

21 A. It was a Sunday, I was on duty, I was working in the
22 patrol car, and I heard it on the radio, I was on my
23 own. I pulled in, I was very annoyed, and I rang the
24 programme, and I just said, you know, that is wrong.
25 And they asked me would I go on the programme, and I 13:54
26 says I can't, I'm a serving member, but that's wrong,
27 what has been said. And --

28 407 Q. I think that subsequently you wrote a letter to
29 Mr. Kean, isn't that right?

1 A. I did, Chairman.

2 408 Q. And I think that he responded likewise to you, isn't
3 that right?

4 A. That's correct, Chairman.

5 409 Q. And you've supplied the Tribunal with a copy of the 13:54
6 letter that he sent to you, isn't that right?

7 A. Yeah, I have.

8 410 Q. All right. And as I've already indicated, on the 19th
9 February 2014 the Taoiseach, Enda Kenny, was given the
10 dossier by the leader of the opposition, Mr. Micheál 13:55
11 Martin. On the 24th February 2014, there was a news
12 item brought to the two o'clock news by Mr. Paul
13 Reynolds, and this stated that the Garda Commissioner
14 had said that you had refused to meet Assistant
15 Commissioner O'Mahony? 13:55

16 A. That's correct.

17 411 Q. And that's not the position, isn't that right?

18 A. No, it never was, no.

19 412 Q. I think the position is that Assistant Commissioner
20 O'Mahony, even though he was tasked with investigating 13:56
21 the fixed charge penalty notice, never made any
22 arrangement to meet with you --

23 A. Never.

24 413 Q. -- in his investigation in relation to that?

25 A. No, never, Chairman. No. 13:56

26 414 Q. And then on the other hand, perhaps, you had never
27 sought him out either?

28 A. No.

29 415 Q. And why had you not sought him out?

1 A. Well, I was waiting for him, and as soon as I heard
2 that he was finished, I rang him, and I got a call back
3 from him, and I just said to him, why did you not
4 interview me? I was the person who had complete
5 knowledge of the system and why did you not interview 13:56
6 me? And he did say to me, well, he says, I can send
7 down two officers to interview you. But I says, well,
8 you know, what's the point, because it's finished.

9 416 Q. But again, you were concerned about this reference to
10 failing to cooperate with the Assistant Commissioner 13:56
11 O'Mahony?

12 A. Yes, Mr. Marrinan.

13 417 Q. And arising out of that broadcast by Mr. Reynolds I
14 think the following day, we will find it at page 361 of
15 the material, which is the first page of volume 2, and 13:57
16 this is a statement that you issued, isn't that right?

17 A. That's correct.

18 418 Q. You start off by saying:
19
20 "My attention has been drawn by members of the media 13:57
21 today to a statement or press release that appears to
22 have been released to the media earlier today in
23 relation to me. The unheaded statement or press
24 release is, I regret to say, both gravely misleading
25 and false. It suggests that the Garda Commissioner 13:57
26 wrote to me 14 months ago and told me to cooperate with
27 the investigation into the allegation that penalty
28 points had been cancelled, claims that the Commissioner
29 issued a direction to me to cooperate with the

1 investigation being carried out by the assistant
2 commissioner and directing me to bring any information
3 or concerns I had to the inquiry team. It goes on to
4 say that the Garda Síochána is a disciplined force and
5 that members are required to comply with directions 13:58
6 issued by the Commissioner, implying that I wrongly
7 failed to comply with the Commissioner's directions to
8 cooperate. The statement further suggests that I did
9 not comply with the Commissioner's direction during a
10 period when I was on sick leave and that I did not 13:58
11 contact the assistant commissioner until April 2013, by
12 which time the investigation had been completed. I was
13 never directed by the Commissioner to cooperate with
14 the O'Mahony investigation, as alleged."

15
16 And you then go on to point out to other issues that
17 arise from that. But clearly, you had reacted to the
18 broadcast of the Commissioner's stated position on
19 the --

20 MR. GILLANE: Chairman, I am slow to interrupt. Just 13:59
21 in relation to this, sorry to interrupt Mr. Marrinan,
22 that document was referred to as a document that came
23 into being the day after the broadcast. It is actually
24 the same day.

25 MR. MARRINAN: well, that is very helpful. Thank you. 13:59

26 MR. MARRINAN: Thank you.

27 CHAIRMAN: well, it was after the broadcast, but it
28 could have been that day, do you think that's right?

29 A. Yes, it was that night.

1 CHAIRMAN: So you reacted pretty quickly?
2 A. Yeah, that's right.
3 419 Q. MR. MARRINAN: It was that night?
4 A. It was that evening, yeah.
5 420 Q. But prompted by the broadcast, isn't that right? 13:59
6 A. Yes.
7 421 Q. Two days later, on the 27th February 2014, the
8 government announced its decision to hold a review of
9 the allegations that had been made by you, isn't that
10 right? 14:00
11 A. That's correct.
12 422 Q. And that was something that you welcomed at the time?
13 A. I did.
14 423 Q. And then on the 12th March 2014 the Garda Inspectorate
15 report on the fixed charge processing system was 14:00
16 published, is that right?
17 A. That's correct.
18 424 Q. And on the 24th March of 2014, arising out of issues
19 concerning the communications and the recording of
20 communications in a Garda station in Cork, Assistant 14:00
21 Commissioner Callinan resigned. Unknown to you, on the
22 8th March 2014 we know that Ms. D gave an interview
23 with Paul Williams, journalist with the Irish
24 Independent I think at the time. You're aware of that
25 now? 14:01
26 A. I see that, yeah.
27 425 Q. And you became aware on the 12th April of 2014 when an
28 article was published by Mr. Williams, isn't that
29 right?

1 A. That is correct.

2 426 Q. The first of a series of articles. The first one is at
3 volume 2 at page 391, followed up by a second one on
4 the 15th April at page 568, followed up the following
5 day by another article on the 16th April at page 570, 14:01
6 and subsequently on the 3rd May 2014 at page 572. I
7 don't intend to open those articles, the Tribunal has
8 them, they have been referred to previously, indeed by
9 Mr. Williams, who is the author of them, and we have
10 examined them, and I don't see any need to go through 14:02
11 them. What was your reaction when you read the story
12 as it unfolded in the newspapers?

13 A. Well, up to this point, all I saw was the two articles.
14 I never saw the other two until here. And it was -- I
15 knew exactly who he was pointing at. Pointing at me. 14:02

16 427 Q. Yes. And did others that you knew also know that it
17 was pointing --

18 A. Yeah, they did, yeah, yeah.

19 428 Q. Well, did anybody say anything to you?

20 A. Oh, yeah, I got text messages and phone calls in 14:03
21 relation to the colleagues at work.

22 429 Q. Well, were these supportive?

23 A. Oh, they were, yeah, they were totally supportive.

24 430 Q. Would you get any that weren't supportive?

25 A. Oh, you would, yeah, absolutely. 14:03

26 431 Q. No, it's not a matter you would. Did you?

27 A. No, I didn't get any, no.

28 432 Q. You didn't?

29 A. No.

1 433 Q. Right. Okay. So how did your wife and family feel
2 about it?

3 A. Sure, it was awful. I mean, I have been cleared,
4 completely, and I should have been left alone.

5 434 Q. And in any sense did you think it was strange that 14:03
6 perhaps at the height of your involvement in all these
7 issues, that this matter should resurface?

8 A. Yeah, I did.

9 435 Q. What were your feelings about it?

10 A. Well, I knew, I can't prove it, but I knew it was in 14:03
11 relation to what I was doing, in relation to penalty
12 points.

13 436 Q. Was this sort of a feeling that it was there to stop
14 you in your tracks, as it were?

15 A. Yeah, or payback, something like that. But it was -- 14:04
16 it was hurtful.

17 437 Q. If we could just go back to perhaps 2007. As you say,
18 you had been notified that there was to be no
19 prosecution.

20 A. Yeah. 14:04

21 438 Q. You sat here during the month of July in relation to
22 the Tusla module.

23 A. I did.

24 439 Q. And I have no intention of opening up any of the
25 material that we went through at that stage. 14:04
26 A. That's good.

27 440 Q. But you heard a great deal of evidence in relation to
28 meetings that took place at that time, where the Ms. D
29 case was discussed, isn't that right?

1 A. That's correct.

2 441 Q. By the HSE?

3 A. That's correct.

4 442 Q. And on the 10th October of 2007, Rhona Murphy, who
5 was -- I think she may well have been a principal 14:05
6 social worker, informed Mary O'Reilly, Reilly, who was
7 the acting principal social worker, that she was
8 closing the file and that Sergeant McCabe had not been
9 met with by the Social Work Department as per HSE
10 guidelines and that she would be grateful if this was 14:05
11 dealt with as soon as possible. Her case review
12 recommended the closure of the case, concluding that
13 the allegations of sexual abuse -- the allegation of
14 sexual abuse was inconclusive. Had you been contacted
15 by anybody in the HSE? 14:06

16 A. When? Back in '07?

17 443 Q. Yeah.

18 A. No. I had never.

19 444 Q. There is a suggestion at that time that there was a
20 reluctance by the HSE to finally dispose of this matter 14:06
21 because you had attended as a liaison officer on behalf
22 of the Gardaí at a number of meetings prior to 2007 and
23 into 2008?

24 A. I heard that.

25 445 Q. Do you recall having the role of Garda liaison officer 14:07
26 at that time?

27 A. No, no, I don't.

28 446 Q. Do you recall having attended meetings --

29 A. I had.

1 447 Q. -- nonetheless?
2 A. Yeah, I had.
3 448 Q. Were these in relation to individual cases that you
4 were handling at the time?
5 A. That's right, that's right, that I had myself. 14:07
6 449 Q. And again, the Chairman has heard evidence in relation
7 to this, and that it can be the liaison officer who
8 attends the appointed member of An Garda Síochána, or,
9 alternatively, the member who actually has carriage of
10 the case. You believe you were there and attended on a 14:07
11 number of occasions, having carriage of the case?
12 A. That's correct.
13 450 Q. And at any time, and you know the personnel who were
14 involved and who were involved at that time - Mary
15 O'Reilly was one of them; Eileen Argue, I think, may 14:07
16 have been, and Mr. Lowry - do you recall them being on
17 the -- attending meetings?
18 A. Well, I saw the documentation where they had attended
19 the meeting, but I wouldn't have recognised them again
20 and I wasn't sure if they were there or not, but I seen 14:08
21 it on the documentation, but I wouldn't recognise them.
22 I didn't recognise them here at all when they came in.
23 451 Q. And insofar as there was a reluctance to engage with
24 you or to deal with the case because of the fact that
25 they knew you, nobody at any time approached you? 14:08
26 A. No.
27 452 Q. So there matters rested, as far as you were concerned,
28 with the -- and as far as you were concerned, the HSE
29 had no carriage of this case at that juncture at all?

1 A. That's correct.

2 453 Q. But did that not surprise you in itself?

3 A. It didn't at the time, actually. I never thought of
4 it.

5 454 Q. Were you not familiar with an obligation on the Gardaí 14:09
6 to refer such matters of child protection to the HSE
7 once they were reported?

8 A. Absolutely, Mr. Marrinan, but I didn't think of it at
9 all.

10 455 Q. Now, we know as well that Mr. Séan Guerin, Senior 14:09
11 Counsel, examined policing in Bailieboro in early of
12 2014. I think you attended a number of meetings with
13 him, is that right?

14 A. I did, that's correct.

15 456 Q. And Ms. D at the same time, on the 29th April 2014, 14:10
16 made a complaint in relation to the investigation of
17 her allegation to GSOC, isn't that right?

18 A. That's correct.

19 457 Q. Were you aware of that at the time?

20 A. No, I wasn't. I was aware a year later. 14:10

21 458 Q. Well, there were a number of events that occurred that
22 I think that you were unaware of at that time. On the
23 30th April, Laura Connolly, who is a social worker,
24 dipped into the filing cabinet and happened, per
25 chance, to take out the Ms. D file from the filing 14:10
26 cabinet. You've heard that now in relation --

27 A. I have.

28 459 Q. You've heard that on the 17th May, a day after
29 Mr. Guerin had -- his report recommended the

1 establishment of a commission of investigation, an
2 incorrect notification alleging effectively rape
3 against you, was received by Superintendent Leo McGinn,
4 isn't that right?

5 A. That's correct.

14:11

6 460 Q. The same day, the Minister for Justice resigned, and,
7 three days later, you met with Assistant Commissioner
8 Kenny, when he advised you that your access to Pulse
9 was being restored --

10 A. That's correct.

14:11

11 461 Q. -- isn't that right? Now, if we can just move forward
12 in time to the 16th July of 2014, and just to go back
13 to -- you've heard this evidence in relation to Tusla,
14 and the referral and Ms. Keara McGlone's letter to
15 Superintendent Cunningham in August 2013?

14:12

16 A. That's correct.

17 462 Q. You weren't aware of any of these matters --

18 A. No, I wasn't.

19 463 Q. -- were you? The first you became aware of any of the
20 HSE or Tusla's involvement or dealing with your case
21 was when these matters broke in 2017, is that right?

14:12

22 A. That's correct, January '17.

23 CHAIRMAN: Was it '17? It was '16.

24 A. Yeah, it was '16, Chairman, in relation to the letter.

25 CHAIRMAN: It was in around New Year's Day '16.

14:13

26 A. Yeah, but it was only after the FOI that we got in
27 January of '17 that we were able to see everything.

28 CHAIRMAN: Well, you saw a pattern of documents,
29 perhaps.

1 A. We did.

2 CHAIRMAN: But all you knew was the accusation?

3 A. Yes, Mr. Chairman.

4 CHAIRMAN: Yes.

5 464 Q. MR. MARRINAN: Your knowledge was restricted in 14:13
6 December, which I'll come to, 29th December of 2015
7 when you received the letter?

8 A. We received it on the 5th January '16.

9 465 Q. Or, yes, you received it on the 5th January. It was
10 dated the 29th December. 14:13

11 A. It was dated the 29th.

12 466 Q. From Kay McLoughlin?

13 A. That's correct.

14 467 Q. But your knowledge was restricted to what was in that
15 letter and what subsequently you were advised, but you 14:13
16 didn't become aware of the background and circumstances
17 of the HSE and Tusla's involvement in relation to these
18 matters until 2017, is that right?

19 A. That's correct.

20 CHAIRMAN: I think you're on 16th July 2014, is that 14:14
21 right, Mr. Marrinan?

22 468 Q. MR. MARRINAN: And I think the position is -- sorry,
23 sir -- I think the position, Sergeant McCabe, is that
24 you don't want to be in a position to where you're
25 commenting in relation to any individual evidence that 14:14
26 has been given and that transpired at the Tribunal's
27 hearing in July of this year, is that correct?

28 A. That's correct.

29 469 Q. Because that's all it would be on your part, would be

1 comment?

2 A. Yes.

3 470 Q. But you don't wish to engage in that, is that your
4 stated position?

5 A. I don't think I, no, I wish to engage in that. 14:14

6 471 Q. Now, you are now aware that there was a meeting on the
7 16th July 2014, the second Mullingar meeting, if I can
8 put it that way, that Assistant Commissioner Kenny
9 attended with Chief Superintendent Sheridan and
10 Superintendent Leo McGinn and Inspector Duffy. But 14:15
11 following on from that, on the 7th August 2014, you had
12 a face-to-face meeting with the Garda Commissioner, or
13 the Acting Garda Commissioner Nóirín O'Sullivan, and
14 Assistant Commissioner Kenny, is that right?

15 A. Yes, that's correct, Mr. Costello and myself. 14:15

16 472 Q. And I think that Superintendent Barry O'Brien was
17 nominated to liaise with you, is that right?

18 A. He was, that's correct.

19 473 Q. If we just move then to the 1st October of 2014, and
20 it's in volume 4, page 1110. This is an email from you 14:16
21 to the Garda Commissioner. You say:

22

23 "I refer to my email two weeks ago and to our meeting
24 with you on 6th August 2014. You may recall at the
25 meeting that Mr. Séan Costello, solicitor, clearly 14:16
26 emphasised the day-to-day abuse I was receiving at work
27 and the hostile work environment, and he did ask how
28 you would deal with this. He received no assurances on
29 this point.

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Garda management in Mullingar are not dealing with this constant abuse, the latest being on the 24/9/2014, which was a nasty development. Why is it still continuing two months on from our meeting?"

14:17

What are you referring to there as being the nasty development?

A. Em, I think the nasty development was where I looked for a file, I had to issue summonses within the six months and I looked for the file and I was told it wasn't there, but it was there. I think that's it at the moment, but I can clarify it.

14:17

474 Q. "Today, I have asked the Minister for Justice if she will meet with me to hear the forms of abuse I am receiving just for doing my job."

14:17

And I think that that meeting with the Minister for Justice took place on the 13th October of 2014, is that right?

14:18

A. That's correct.

475 Q. You were well received by the Minister?

A. Absolutely, we were.

476 Q. And I think it fair to say, having seen minutes of the meeting, that she was well disposed towards you?

14:18

A. She was.

477 Q. And was anxious to deal with your concerns, is that right?

A. Yeah, she was, yeah.

1 478 Q. If we then move forward to the 15th January of 2015,
2 there was a meeting between yourself, along with
3 Mr. Costello and Assistant Commissioner Twomey and
4 Chief Superintendent McLoughlin, and that's at page
5 1117 of the material. You will see there it's headed: 14:18
6
7 "Minutes of meeting at Arran Quay on the 15th January
8 2015 at the offices of Costello solicitors, 12:15pm."
9
10 Then: 14:19
11
12 "The main issue discussed concerned the working
13 environment that the member finds himself in and his
14 view of a lack of meaningful local intervention and
15 support." 14:19
16
17 There were then other matters that were considered.
18 A. Yeah.
19 479 Q. And then at page 1118:
20 14:19
21 "Finally, the Commissioner is fully supportive of
22 Sergeant McCabe and is determined to provide a proper
23 working environment for the member. This has been
24 demonstrated by the unprecedented attention she has
25 given to the case and to Sergeant McCabe, and the 14:19
26 structures she has put in place to date outlines this."
27
28 You see that?
29 A. I do.

1 480 Q. I suppose since Commissioner O'Sullivan took up the
2 role as Acting Commissioner, she had engaged with you,
3 isn't that right; she had a one-to-one meeting with
4 you?
5 A. She had, yeah. 14:20

6 481 Q. And there were also other structures being put in
7 place --
8 A. That's correct.

9 482 Q. -- to support you, isn't that right?
10 A. That's correct. 14:20

11 483 Q. And here we have this meeting with the Assistant
12 Commissioner and Chief Superintendent McLoughlin, who
13 seemed to be, to some extent, cementing what might be
14 termed new relations with senior management, is that
15 right? 14:20

16 A. That's correct.

17 484 Q. And then on 21st January 2015 you sent an email to the
18 Minister for Justice:
19
20 "Dear Minister Fitzgerald, 14:21
21
22 I refer to previous correspondence in this regard. Can
23 I put the following on record:
24
25 I feel that I have been left with no choice but to make 14:21
26 contact with you again. My everyday working conditions
27 become almost impossible to tolerate. I have been in
28 contact with Garda authorities in relation to them
29 providing me with a safe environment to work, but it

1 seems, as per a telephone call last evening, that they
2 are very unwilling to help. I receive constant phone
3 calls from management, checking in or ticking boxes,
4 but absolutely no solutions. You will probably inquire
5 as to what support I am getting and you will be advised 14:22
6 that I am getting all the support and services which
7 are available in An Garda Síochána. It will be similar
8 to the advices which were given to the previous
9 Minister for Justice, which turned out to be untrue.

10
11 I will not be contacting your office again, to be
12 honest. I see no change in anything. The harassment
13 under the present management has increased to a stage
14 that I have to take forced annual leave.

15
16 It would be worth reading a recent report from the
17 chief medical officer in An Garda Síochána who met with
18 me at his request. It says it all."

19
20 Again, that seems to be a change in tone to perhaps the 14:23
21 progress that one might have thought was being made?

22 A. That's correct.

23 485 Q. Was this referable to what you regarded as local
24 harassment as opposed to harassment by senior
25 management? 14:23

26 A. Yeah, local.

27 486 Q. Right. How were you at this time in terms of your own
28 personal situation?

29 A. Em, it was hard to take.

1 487 Q. Pardon?
2 A. It was difficult to take. Em, I mean, at that stage I
3 didn't care who was blanking me or who was parking
4 close beside me or what they were shouting or roaring
5 out a window, but there were a few incidents that were 14:23
6 a bit nasty.

7 488 Q. And I think that one of the incidents that you were
8 concerned about was an article that was published in
9 the Anglo-Celt and the Garda Review, is that right?
10 A. That's correct. 14:24

11 489 Q. That was on the 4th January 2015, you emailed the
12 Commissioner's office in relation to that. In
13 particular in relation to the Garda Review, what was
14 your concern there?
15 A. I read it and it pointed towards me; it was more or 14:24
16 less saying we want our day, we want our say.

17 490 Q. Well, I suppose that, you know, I mean, everybody can
18 be the subject of criticism by their peers from time to
19 time?
20 A. True. 14:24

21 491 Q. That's perfectly normal?
22 A. Yes.

23 492 Q. Is your complaint that this was being done by the GRA,
24 as it turned out, at the time?
25 A. Yes. 14:24

26 493 Q. And so that was your concern --
27 A. Yes.

28 494 Q. -- that arose at the time? All right.
29 A. There was that and there was a bulletin as well.

1 495 Q. Then on the 12th February 2015 - again at Volume 4,
2 1121 - you had a meeting with the Commissioner, isn't
3 that right?

4 A. That's correct.

5 496 Q. And Assistant Commissioner Twomey was there, along with 14:25
6 Assistant Commissioner Fanning, again Chief
7 Superintendent Tony McLoughlin, Mr. Ken Ruane was
8 present and the Commissioner's private secretary,
9 Superintendent Frank Walsh, and you were there with
10 Mr. Costello. I will just read the opening remarks at 14:25
11 that meeting by the Commissioner:

12

13 "She welcomed all present and made the necessary
14 introduction, said it was useful to meet because
15 engagement needs to continue. Said Sergeant McCabe's 14:26
16 input into the fixed charge penalty system report was
17 very useful and thanked him for that. The
18 recommendations are being put in place. We are trying
19 to resolve the workplace issues and know that you are
20 engaging with Chief Superintendent Barry O'Brien. 14:26
21 There is an external mediator now available to advise
22 on all matters. You can avail of that. We are trying
23 to ensure a positive working environment. All here are
24 and will remain available to tease out any issues or
25 problems. Also, the welfare services remain available 14:26
26 to you. I appreciate that it is not easy for you or
27 your family. The Executive Director of Human Resources
28 and People Management was also to be here to assist,
29 but had to send his apologies. He is also available to

1 assist. This is the purpose of the meeting today."

2

3 Mr. Costello then goes on to talk about that you're
4 working in a --

5 A. Yeah.

14:27

6 497 Q. -- toxic environment at the present time. But these
7 seem to be -- all the issues seem to be, to a large
8 extent, thrashed out there, and there's a considerable
9 level of communication between the Garda Commissioner
10 and yourself --

14:27

11 A. Yes.

12 498 Q. -- isn't that right?

13 A. That's correct.

14 499 Q. At page 1123, before she left the meeting, she says --
15 referring to procedures that have been put in place,
16 she says:

14:27

17

18 "These take time. We want to progress them in the
19 interests of Maurice and all others concerned. Fintan
20 Fanning is new to this. Maybe Séan, Maurice, Tony --"
21 that's Tony McLoughlin "-- and Ken --" that's Ken
22 Ruane "-- would outline what the next steps are and how
23 to take it forward. The external mediator is there if
24 you want. That offer is on the table. If you can sit
25 down and work out the next steps, work through the
26 process."

14:28

14:28

27

28 So this is all a positive?

29 A. Yeah, totally.

1 500 Q. And, I mean, you have two assistant commissioners and
2 the Garda Commissioner at this meeting?

3 A. Yeah.

4 501 Q. They are taking your position very seriously, would you
5 agree with that? 14:29

6 A. I would, yes.

7 502 Q. And structures are being put in place to deal with the
8 issues that you have outlined of bullying, of
9 harassment and perhaps the feeling that you haven't
10 been listened to up until this juncture, isn't that 14:29
11 right?

12 A. Yes.

13 503 Q. This was followed up on the 25th February, you had a
14 meeting with Mr. John Barrett in the Shangan building,
15 and we have had this material opened up already. I 14:30
16 don't intend to open it up. It's at page 1229, for the
17 benefit of anybody who wishes to open it up for their
18 own purposes. And the previous day, you had emailed
19 the Commissioner and the Minister about an article that
20 had appeared in the Garda Review, which we've referred 14:30
21 to, and the Irish Independent, and your email to them
22 both is at page 1128.

23 A. Yes.

24 504 Q. And again, I don't intend to go into the complaint that
25 you had at the time; you've already dealt with it. And 14:30
26 then on the 6th March of 2015, you had a meeting in
27 your home with Chief Superintendent McLoughlin and
28 Chief Superintendent O'Brien?

29 A. Yeah.

1 505 Q. And this is in volume 4, page 1135, if we could have it
2 up on the screen, please.

3
4 "This is a general introduction and query on how
5 sergeant was doing recently. Indication that there was 14:31
6 an incident recently similar to the computer incident
7 in Bailieboro where there was an attempt to wrongfully
8 accuse sergeant, but there was nothing to it. Wouldn't
9 elaborate on that in front of his wife but would do so
10 again with Chief Superintendent O'Brien. Work 14:31
11 environment is still an issue. Can't go to court.
12 Goes out on patrol -- goes out in patrol car to get
13 away from the station."

14
15 You were still having trouble at this time in the 14:32
16 station, isn't that right?

17 A. Yeah, I think it was almost finished.

18 506 Q. Then, further down, we note that communication channels
19 will be kept open and further discussions will be held
20 with you. 14:32

21 A. Yeah.

22 507 Q. That you agreed to explore and engage in the mediation
23 process that was being set up.

24
25 "It was explained that Mr. Kieran Mulvey was to be 14:32
26 engaged and involved in the process, terms of reference
27 to be defined and agreed with Mr. Mulvey, but he would,
28 for example, examine the situation and recommend
29 possible solutions and/or lessons learned."

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Do you see that?

A. Yes.

508 Q. And that seems to have been discussed.

14:32

"Sergeant McCabe expressed satisfaction with the involvement of Mr. Mulvey," who was an external arbitrator effectively in the circumstances, isn't that right?

A. Yeah. Well, I never was introduced to him. But after that meeting, things started to get better. 14:33

509 Q. "Discussion was held on the seminars that were about to begin in Mullingar and nationwide. The objectives were outlined as primarily an opportunity to brief all personnel on the policies and the organisation on dignity at work. The seminars would reinforce the Commissioner's policy and demonstrate her willingness to ensure a safe working environment for all members. An important aspect was the facilitation of the seminars by an independent expert in the area, Dr. Gerry McMahon, who will outline the best practice. Sergeant McCabe welcomed the seminars and hoped they would make a difference. It was clearly outlined to Sergeant McCabe and his wife that the Commissioner was totally committed to her responsibilities under the Protected Disclosures Act. However, in relation to recent articles, including the Garda Review, it is apparent at this stage that the Commissioner has no responsibilities to fulfil in relation to the 14:33

1 publication and the perceived impact on Sergeant
2 McCabe. Firstly, it is unlikely that Sergeant McCabe
3 was penalised by them. Secondly, the role of the GRA
4 is outlined in the Garda Síochána Act and their actions
5 protected by the protocols agreed by them and the 14:34
6 Minister. Therefore, it is unlikely that the
7 Commissioner has any recourse in this regard, but
8 formal advices are awaited."
9

10 So again, an extremely positive meeting, is that right? 14:34

11 A. That's correct.

12 510 Q. And then on the 24th March you had a meeting with
13 Mr. John Barrett in Navan, is that right?

14 A. That's correct.

15 511 Q. Again, this was with a view to him dealing with any 14:35
16 issues that could perhaps arise and were a matter of
17 concern to you. And then I think if we could turn to
18 page 1153, this is an email from the Garda
19 Commissioner -- sorry, from the Minister for Justice.
20 I think that she had asked to be updated by the Garda 14:35
21 Commissioner in relation to what structures were being
22 put in place for you. And the letter from the Garda
23 Commissioner to the Minister, or it's addressed to the
24 Secretary General, can be seen in the same volume at
25 page 1140 and it goes through to 1151. 14:36

26 A. Yeah.

27 512 Q. That is an 11-page letter. It's already been opened to
28 the Tribunal, and merely confirms a lot of the
29 structures that have been put in place. And arising

1 out of -- having received that, the Minister writes:

2
3 "Dear Sergeant McCabe,

4
5 I promise to respond to your recent email 14:36
6 correspondence raising workplace concerns relating to
7 protected disclosures which you made under the
8 Protected Disclosures Act 2014.

9
10 As you know, I asked the Garda Commissioner, as your 14:37
11 employer, for the purpose of the Act, for her response
12 to your concerns. The Garda Commissioner informs me
13 that she has written to you direct, advising you that,
14 in addition to the measures which she has already
15 taken, she has asked an independent workplace relations 14:37
16 expert, Kieran Mulvey, to examine your concerns and
17 make recommendations on how they might best be
18 addressed. I'm very pleased that Mr. Mulvey has
19 accepted this invitation and that a person of his
20 stature and expertise will now see how best your 14:37
21 concerns might be resolved.

22
23 I very much hope that this intervention will lead to
24 the resolution of outstanding difficulties and enable
25 you to continue to contribute effectively in the vital 14:37
26 work of the Garda Síochána."

27
28 And that is signed by the Minister. And then you
29 respond to that the following day, and this can be

1 found at page 1154:

2

3 "Dear Minister Fitzgerald,

4

5 I have been kept updated by the Garda Commissioner with 14:38
6 the work and developments as outlined by you. I am
7 happy to say that things are going well at work due to
8 the positive leadership by the new management in
9 Mullingar.

10

14:38

11

12

13

14

The roll-out of the seminars has started a change of
attitudes for the better. It's great being able to say
for the first time in years that I am happy going to
work.

15

14:38

16

17

18

19

I wish to acknowledge your personal input into sorting
out my work environment and thank you very much for all
your help. It is very much appreciated by myself and
Lorraine.

20

14:38

21

22

Your sincerely,
Maurice McCabe."

23

24

25

That's obviously quite a considerable change in your
attitude in a relatively short period of time?

14:39

26

A. Absolutely, Chairman.

27

513

Q. And does that email reflect your mood at the time and
how you felt you were being treated?

28

29

A. Yeah, absolutely.

1 514 Q. And then at page 1155, this is a letter from you to the
2 Commissioner, referring to a letter dated 20th March:
3
4 "My working conditions have greatly improved due to the
5 change of Garda management in Mullingar and I sincerely 14:39
6 thank you for this."
7
8 So there matters stood, really. There were still
9 matters to be investigated. You still had concerns
10 about the article that had been written in the Garda 14:39
11 Review, isn't that right?
12 A. Yeah. But on the whole, things were good.
13 515 Q. You were hoping to progress your complaint in that
14 regard, and I think the Commissioner had explained that
15 she could have no role or function in relation to the 14:40
16 GRA?
17 A. Yes.
18 516 Q. Isn't that right?
19 A. She did, yes.
20 517 Q. Now, we know that on the 9th February 2015, the 14:40
21 O'Higgins Commission had commenced its investigations,
22 and it commenced its hearing on the 14th May of 2015,
23 and you subsequently gave evidence on the 18th May in
24 relation to the first module and then subsequently on
25 the 25th, the 29th, the 27th, 28th and 29th July and 14:40
26 19th and 22nd October and the 17th of September. One
27 of the first issues that arose was in relation to the
28 Cunningham letter, if I can put it that way, of the
29 Mullingar meeting. And if you could, perhaps just in

1 your own words, first of all, on the second day of the
2 hearings, when the issue arose in relation to your
3 motivation, we know matters blew up at the O'Higgins
4 Commission, Mr. McDowell raised an objection, can you
5 just tell us what it was at the time that you were
6 concerned about? 14:41

7 A. Yes, Mr. Chairman. It was on day 2, ex-Chief
8 Superintendent Colm Rooney was in the witness box and
9 Mr. Smyth was examining him -- cross-examining him in
10 relation to the evidence of Module 1, the Kingscourt 14:42
11 case. And then he asked ex-Chief Superintendent Colm
12 Rooney had he any interaction with me from a certain
13 date, and he said yes, he had, that I went to see him
14 at his office in Monaghan and that I wanted the DPP's
15 direction challenged, and I think at that stage 14:42
16 Mr. McDowell intervened at that stage, and, as you
17 politely say it, a row broke out then in relation to
18 what evidence was being given and was it under the
19 terms of reference. And at the end of the argument,
20 anyway, Justice O'Higgins said that we were entitled to 14:43
21 a document which is setting out the integrity,
22 motivation and credibility of me in making the
23 allegations. And it was adjourned then until the
24 Monday 18th.

25 518 Q. And we have the letter from the Chief State Solicitor's 14:43
26 Office, Ms. Creedon, to the Commission, and we have
27 gone through all that, and we have paragraph 19 of that
28 letter, and I don't see any reason why we should
29 revisit it again, unless any of the parties want to

1 revisit it. But one of your concerns, or perhaps the
2 primary concern, was the way that this was being
3 presented to the Commission was that you were
4 ill-motivated and you were pursuing an agenda of your
5 own?

14:44

6 A. That's correct.

7 519 Q. And one can see that as it emerged in the argument.
8 But I suppose, and it's a point that you made to your
9 investigators in relation to this matter, is that it
10 was perhaps entirely legitimate for counsel who were
11 acting on behalf of Superintendent Cunningham or Chief
12 superintendent Clancy or -- Superintendent Clancy or
13 Chief Superintendent Rooney, to cross-examine you as
14 they saw fit in relation to your motives, isn't that
15 right?

14:44

14:44

16 A. Yes.

17 520 Q. I mean, it was open to them, subject to the view that
18 was taken by the Chairman on the issue of relevancy,
19 and the treatment of witnesses who were appearing
20 before him, you would agree that it was entirely open
21 to counsel on behalf of the senior Gardaí to
22 cross-examine you on any issue that they saw fit, isn't
23 that right?

14:45

24 A. Well, I understood I was being cross-examined on all
25 the modules, but I think this incident took a turn on
26 the 18th, Monday the 18th.

14:45

27 521 Q. Well, I mean, it would appear that, from the very
28 beginning, counsel who were acting on behalf of those
29 witnesses was pursuing the issue of whether or not you

1 A. I don't think so.

2 528 Q. Right. We have a letter from you today saying that you
3 weren't shouted at by any of the counsel and in
4 particular Mr. Smyth on behalf of the Garda
5 Commissioner?

14:47

6 A. Well, em, yeah, I would agree with that to some extent.

7 529 Q. Well, what extent do you not agree with it?

8 A. Well, if I can go back to the Friday, can I, Chairman?

9 On the Friday, when all this arose and the row erupted,
10 at the time of '06 when I was being interviewed in

14:47

11 relation to the Ms. D allegation, I had a solicitor in
12 Cavan, I hadn't my legal team. And then in relation,

13 the matter erupted on the Friday, and when -- in the
14 afternoon, ex-Chief Superintendent Colm Rooney arrived

15 out with saying that I was at a meeting with him, I was
16 angry and I wanted the DPP direction challenged. Now,

14:48

17 I was sitting down the back and I knew that, how did I
18 want them challenged? Sure they were fantastic. But

19 the row erupted anyway, and it led then until the
20 Monday morning in relation to the five-page document

14:48

21 from the State solicitor, and it was given to us last.
22 And we had a meeting for about 20 minutes, Chairman, we

23 were asked to go into a room for about 20 minutes, and
24 I read the document, I was last to read the document.

25 And when I saw paragraph 19 and the whole lot, but, I
26 mean, I said to all my legal team, I said all that's

14:48

27 false, but I said I have that -- I have the Mullingar
28 meeting, it's recorded, and I didn't say that. And

29 Mr. McDowell, I remember him saying to me, well, he

1 says, why didn't you tell us? And I says, because it
2 wasn't relevant. This wasn't relevant at all. I mean,
3 I had the phone up in the attic for almost eight years,
4 and I didn't introduce the phone, it was there in my
5 attic, but it was introduced in relation to paragraph 14:49
6 19 then, I had to produce it.

7 530 Q. I will deal with that in a minute. But just to come
8 back to the question that you actually answered -- or
9 that I had asked you to answer, and that was in
10 relation to whether or not you were shouted at by any 14:49
11 of the counsel, and you said in part that's correct,
12 and I asked you in what part was it not correct?

13 A. Well, in part I can say, I think somebody used the
14 "aggressive stance", and I think in part it was used.

15 531 Q. Well, is it right, Sergeant McCabe, I mean, in one way 14:49
16 you could look at this and say it's all right in the
17 cold light of day now to look back on the events and
18 see that the allegation that was put into paragraph 19
19 was an error and it was wrong, and whether it was a
20 deliberate error or not is a matter for the Chairman, 14:49
21 but it was an error and that it was wrong, we can look
22 back on it now and see that. Your point is, that its
23 impact at the time was far greater because it was in
24 this document that was sent in to the Commission and it
25 was suggesting that you had made a complaint against 14:50
26 Superintendent Clancy to pursue your own agenda, is
27 that right?

28 A. Yeah, well, I think it was more than that really,
29 Mr. Marrinan.

1 532 Q. Right. well, then explain it then.

2 A. This one is slightly more. I mean, I read the document
3 on day 3, we read it. Then we realised -- I realised I
4 had a recording, and I also realised that, how could I
5 ask for the DPP's directions to be challenged or 14:50
6 changed or clarified when I had them perfectly? And
7 that knocked me back, because I just said to myself, my
8 God, only that I had that recording. Because as
9 Mr. Smyth said here a week ago or two weeks ago,
10 Chairman, and I hope I'm quoting him properly, he said 14:51
11 it wasn't an error for "against" and "to", he says it
12 was their directions.

13 CHAIRMAN: Yes, but unfortunately -- I mean, I have had
14 a look at this stuff recently. If you actually read
15 the notes taken by Annmarie Ryan, it says different. 14:51

16 A. Okay, Judge.

17 CHAIRMAN: It says "to", it doesn't say "against".

18 A. Yeah, the notes, I saw that too. Sorry.

19 CHAIRMAN: You know. So, I mean, what happened -- I
20 mean, I got a letter this morning from your solicitor 14:51
21 saying that any statement made by you to the effect
22 that you were shouted at was an error made by somebody
23 in the office. It was up on the screen, everybody saw
24 it, it was, you know, discussed here. I mean, there
25 may be bigger fish to fry than this. 14:51

26 A. Okay.

27 CHAIRMAN: Could be. I don't know. But, I mean, I
28 don't know if you are saying now that anybody shouted
29 at you. On two occasions, transcripts have been looked

1 at, I think maybe you were given a disk of every one of
2 your actual appearances, every single day, the audio of
3 it. The word "shouting" was used twice. Mr. Smyth
4 apologised to you, saying, I have to shout because I
5 have been asked by the Chairman to keep my voice up, 14:52
6 but don't take it as aggression or anything like that.
7 And you said, look, that's fair enough. And then there
8 was another occasion the same thing happened. Those
9 are the only two occasions when the word "shouting" or
10 "shout" was ever used in the transcript. And from what 14:52
11 I heard of it, everyone was behaving themselves. Okay,
12 you can understand the row erupting on the Friday and
13 everyone getting a bit heated. But are you upset about
14 that? I mean, is that something you're worried about?

15 A. In relation to the row? 14:52

16 CHAIRMAN: Well, anything really. That is what
17 Mr. Marrinan is asking you. Is there anything there
18 that happened that you're worried about, you know?

19 A. Yeah, well in relation to the five-page document, I
20 mean, that was incredible. It put us on our toes, it 14:52
21 put me on my toes. That if I hadn't got a recording of
22 that meeting, would that ever have been changed? And
23 then, Mr. Chairman, then, in relation then to each of
24 the modules, every module I was being kind of attacked,
25 so to speak, in relation to -- like, in relation to -- 14:53
26 Jerry McGrath was one case that I didn't highlight and
27 I wasn't involved in it, and it was only until I was
28 accused of letting Mr. McGrath out. But you can see
29 that I was being blamed for everything, on the

1 transcripts. I was getting, I was getting all the hard
2 questions.

3 533 Q. MR. MARRINAN: If we can just come back to, I had made
4 a general statement that you thought that it was
5 perhaps fair game if you were to be subjected to 14:53
6 cross-examination on behalf of, and I named the senior
7 Gardaí. One of the issues that you do take issue with,
8 and it's the main issue, I think, is that this was
9 being done on behalf of the Garda Commissioner who was
10 there representing the force, is that right? 14:53

11 A. That's correct.

12 534 Q. And therefore, there was some judgment that was made
13 here that you ought to be challenged in relation to
14 your motivation, on behalf of the organisation rather
15 than on behalf of individual gardaí, and you found that 14:54
16 very difficult to accept?

17 A. It's not that I found it difficult to accept. In
18 relation to day 3, I mean, from us looking at the notes
19 now, they were asked over the weekend to make sure that
20 this document is correct in every sort of instance. 14:54
21 They were asked to do that. And it turned up that it
22 was wrong. And, I mean, if you look -- if you look,
23 sorry, Mr. Marrinan, if you look at the other
24 paragraphs where I wanted the DPP's directions
25 changed or challenged or that I wasn't happy with the 14:54
26 DPP's directions, I was thrilled, thrilled with the
27 DPP's directions, absolutely thrilled with them. Why
28 would I go and ask the DPP to challenge that actual
29 direction? And just, Mr. Marrinan, just one thing:

1 when I gave my evidence on Monday afternoon, I
2 disclosed for the first time that I had got the
3 directions off the Chief State Solicitor, Rory Hayden,
4 and that was first time I ever disclosed that in the
5 witness box. And then on day 4, ex-Chief 14:55
6 Superintendent Rooney, he was allowed back up in the
7 box and he had to say that I didn't say what I said.
8 And in relation to the last question, Mr. Gillane asked
9 him, just for completeness he said to him, something
10 along this basis, that I said that the meeting happened 14:55
11 in April and is that correct, and ex-Chief
12 Superintendent Rooney said, well, if Sergeant McCabe
13 says it happened in April, I've no issue with that.
14 That's nearly correct, Judge. So --
15 CHAIRMAN: Yes, but Mr. Murrinan is asking you -- if 14:56
16 you forgive my intervention now. I suppose I always
17 turn back to this particular page and I ask myself,
18 okay, I'm not trying to second-guess anything that
19 happened before the O'Higgins Commission. There's the
20 report. Now, as to whether, you know, any aspects of 14:56
21 the media didn't deal with the actual report correctly
22 when it came out or not, that is another term of
23 reference, but it is for later in the day. I know
24 Mr. Murrinan is going to be bringing you there and
25 you're going to tell us your reaction to the reports on 14:56
26 the particular day when the thing came out, in March
27 2016, the leaked version. But I'm supposed to look at,
28 not did Mr. Justice O'Higgins do a good job, did Chief
29 Superintendent Rooney say something that was

1 inaccurate, did Superintendent Cunningham make a
2 mistake, were two different words used inconclusively,
3 was the letter effectively, when you actually read it
4 in detail, a load of rubbish, because it doesn't make
5 any sense? 14:57

6 A. True.

7 CHAIRMAN: Yes. What I am actually asked to
8 investigate in relation to this and what you are being
9 asked about is, did Commissioner O'Sullivan ever try to
10 challenge you on the basis that you had sexually abused 14:57
11 children --

12 A. No.

13 CHAIRMAN: -- on a number of occasions. "No" is the
14 answer to that. And then the second thing is, was
15 there anything then that was inappropriately relied 14:57
16 upon by Commissioner O'Sullivan to discredit you? Now,
17 that is the question. Do you think there was anything
18 relied on by Commissioner O'Sullivan inappropriately to
19 try and discredit you before the O'Higgins Commission -
20 because you were there, I wasn't - by Commissioner 14:57
21 O'Sullivan? That is the question.

22 A. Yeah, that is the question.

23 CHAIRMAN: Yes.

24 A. Yeah, well, we had asked -- we had asked -- or sorry
25 I'm not being -- 14:58

26 CHAIRMAN: No, I know you're not, that is fine.

27 A. We actually asked Mr. Smyth was this happening on
28 Commissioner O'Sullivan's instructions. Now, he came
29 back, I think, twice, and said, yes, they were. Now, I

1 mean, I always got on with ex-Commissioner O'Sullivan,
2 I supported her when she was appointed. But I was
3 taken aback at the letter which was written, as you
4 said, Judge, it's nonsense. But then, and if you wish
5 me just to go through a little thing -- or I don't plan 14:58
6 to waste, but then in all the other modules they were
7 kind of saying, Maurice, it's your fault, Sergeant
8 McCabe, it's your fault, Sergeant McCabe, it's your
9 fault. And it was hard, it was hard. Every single
10 month, had to be on the ball to see was there anything 14:58
11 else coming up. And then when I would try and defend
12 myself, I'd be criticised.

13 CHAIRMAN: Yes. No, I get that. But, I mean, you
14 know, a lot of court cases are about what evidence have
15 you got to back this up? Are you making this 14:59
16 allegation? And if you don't have anything to back it
17 up, well why did you make it in the first place? If
18 you look at the actual outcome where the Judge says,
19 look, you've got a tendency to exaggerate but you're a
20 man of integrity. 14:59

21 A. Yeah.

22 CHAIRMAN: And vis-à-vis the particular instance that
23 you complained of, well I can tell you I read those and
24 I was horrified by what went on.

25 A. Mm-hmm. 14:59

26 CHAIRMAN: Similarly in relation to the Pulse.

27 A. Records.

28 CHAIRMAN: And the, what do you call it, the penalty
29 points thing. Again, I just thought, what kind of a

1 police force have we got? I mean, you may say I went
2 through that and that was a public service, or we may
3 spend a lot of time talking about what Assistant
4 Commissioner Rooney said or didn't say. But as far as
5 I can see in the O'Higgins report, you were completely 14:59
6 vindicated. Now, I don't know whether you look at it
7 like that, or whether we have to go back and parse and
8 analyse every phrase that everybody used.

9 A. No. Well, I'll tell you, Mr. Chairman, if I can say
10 this: I accept the O'Higgins report absolutely 100%. 15:00
11 So if we can move on. You know, I do accept it. And I
12 see what you are saying, Mr. Chairman.

13 535 Q. MR. MARRINAN: Well, you see, I suppose one of the
14 issues is that we're acutely aware of the fact that, in
15 each module, that there was an attempt made to cast the 15:00
16 blame on you.

17 A. Okay.

18 536 Q. Right. That is not lost on us.

19 A. Okay, well that's grand.

20 537 Q. So we are in a position where we have examined all the 15:00
21 transcripts, all the cross-examination and all the
22 evidence. So there's no issue in relation to that.

23 A. Okay.

24 538 Q. But come back to the core of this, all right. One of
25 the points that Mr. McDowell raised when the issue 15:00
26 broke on the second day, on the Friday, was that he
27 wanted to know that these questions were being asked on
28 behalf of the Garda Commissioner, and we have had all
29 the evidence in relation to getting the further

1 instructions to ensure that these were the
2 Commissioner's instructions to attack your motivation,
3 all right. Now, that included, at various stages,
4 words such as integrity, your bona fides, whether you
5 were acting out of mala fides, that included all those 15:01
6 matters, but fundamentally, even though there seems to
7 be some issue with this in relation to the Commissioner
8 in broadening this concept or attaching an
9 interpretation on it that is lost on me, but your
10 motivation and why you were doing this was to the fore 15:02
11 in the first module, isn't that right?

12 A. This was in the first module, yes.

13 539 Q. Yes. And your motivation was being questioned by
14 counsel who was saying that they were acting on behalf
15 of the Garda Commissioner? 15:02

16 A. Yes.

17 540 Q. Therefore, your motivation was being questioned and
18 called into question --

19 A. Yeah.

20 541 Q. -- by the force as a whole? 15:02

21 A. Yes.

22 542 Q. All right. And we have evidence in relation to all the
23 developments that had occurred since the beginning of
24 January, your meeting with Assistant Commissioner
25 Twomey and Chief Superintendent McLoughlin, and then 15:02
26 the 22nd -- or the 12th January, your meeting with the
27 Commissioner herself, and your letter to the Minister
28 and how things were going so well, the intervention of
29 Mr. Barrett, and all these matters, you were, for the

1 first time, at this particular moment in time, the
2 happiest in your job for many years?

3 A. Totally.

4 543 Q. By your own account?

5 A. Yeah. 15:03

6 544 Q. And then subsequent to this, from the 18th May, your
7 whole case goes silent, and this is what I am just
8 asking you about, because on the 7th June of 2015 you
9 sent a letter to the -- an email to the Garda
10 Commissioner. If we can have it up, on page 1157. And 15:03
11 this is subsequent to a conversation you had with
12 Superintendent Murray, who had reported to his
13 superior, who had reported to the Garda Commissioner,
14 about the fact that you had felt afraid of the Garda
15 Commissioner. And this is your letter at the bottom, 15:04
16 or your email at the bottom, it's marked "private and
17 confidential":

18

19 "Dear Commissioner,

20 15:04

21 I refer to previous correspondence. As you are aware,
22 my role, rank and work have become extremely difficult
23 due to you. I am very much concerned, as is our
24 family."

25 A. Sorry, what number is that? 15:04

26 545 Q. 1157. It's at the bottom of the page.

27 A. Yeah, sorry. Yes.

28 546 Q. You see there?

29 A. I do.

1 547 Q. "As you are aware, my role, rank and work have become
2 extremely difficult due to you. I am very much
3 concerned, as is our family.
4

5 On another issue, we made a criminal complaint of 15:04
6 harassment to you against two individuals. You did
7 nothing about it. We complained in January 2015 and
8 again a reminder in April 2015, and we were never
9 contacted by anyone about it nor were we ever asked to
10 make a statement about it six months on and we are 15:05
11 still high and dry. I will be addressing this matter
12 in another forum because trust is at issue here."
13

14 Do you see that?

15 A. Yes. 15:05

16 548 Q. "Regards, Maurice and Lorraine McCabe."
17

18 So, I mean, Mr. McDowell made the point when this issue
19 arose, he made it to Mr. Justice O'Higgins, you know,
20 that there was the public face in relation to this, you 15:05
21 had been put on the Professional Standards Unit, isn't
22 that right?

23 A. Yeah.

24 549 Q. And here, in private, at the O'Higgins Commission,
25 there was an attack being made on your motivation at 15:05
26 its lowest, isn't that right?

27 A. That's correct.

28 550 Q. And did you have some sort of sense of betrayal?

29 A. Em, I think the letter on the 18th, it knocked me back,

1 because they were asked by the Chairman, by Justice
2 O'Higgins, to do out in writing what they are planning
3 in relation to my motivation and credibility. So we
4 ended up getting the letter on the Monday morning, and
5 it was, as I said, a nonsense letter, and it was never 15:06
6 brought up again with me in relation to the two
7 meetings.

8 551 Q. Well, we know that from the O'Higgins Commission, from
9 the day that Mr. Justice O'Higgins made his ruling in
10 relation to the relevancy of this matter, that, 15:06
11 thereafter, it was dropped and there was a focus on
12 your role as the member in charge, isn't that right?

13 A. Yeah, more or less.

14 552 Q. Yeah. And the issue of motivation wasn't pursued, in
15 fact? 15:07

16 A. No, it wasn't.

17 553 Q. No. Except ultimately in submissions that were made on
18 behalf of the Garda Commissioner to the O'Higgins
19 Commission?

20 A. Yes. 15:07

21 554 Q. So had you a meeting on the 20th June 2015 with
22 Mr. Barrett and Assistant Commissioner Twomey in Navan,
23 but, other than that, nothing occurs until the 29th
24 December 2015 when a letter is sent to you by Kay
25 McLoughlin, which I will come to now shortly. What 15:07
26 happened to all the -- Mr. Kieran Mulvey and all the
27 arbitration and workplace relations and -- what
28 happened to all that?

29 A. I don't know. I didn't see any of it after that. I

1 never met these people.

2 CHAIRMAN: I think, in fairness, however, Mr. Marrinan,
3 I think you did say in touch with Mr. Barrett, and
4 stayed in touch with him I think, in fact, up until
5 quite recent times; you've had meetings with him, he's 15:08
6 been in your house, etcetera?

7 A. Yeah, I think he has, Mr. Chairman.

8 CHAIRMAN: But it's just, I think, part of the whole,
9 what do you call it, making sure that you're supported,
10 type approach to things. Is it fair to say that -- 15:08

11 A. Yes.

12 CHAIRMAN: -- am I incorrect?

13 A. Yeah, yeah. No, no. Yeah.

14 MR. MARRINAN: Just don't agree for the sake of
15 agreeing. 15:08

16 A. No, no.

17 555 Q. You had a meeting on the 20th June with Mr. Barrett, of
18 2015?

19 A. Yeah.

20 556 Q. And Assistant Commissioner John Twomey? 15:08

21 A. Yeah.

22 557 Q. That was the one in Navan?

23 A. Yeah. I didn't know about that one until you mentioned
24 it. I had forgotten about that.

25 558 Q. Did you have any subsequent meeting between then and 15:09
26 Mr. Barrett?

27 A. I don't think I did.

28 559 Q. Up until --

29 A. I would have to check my records.

1 560 Q. -- 2016?
2 A. I don't think I did, but I would have to check my
3 records.
4 561 Q. Right. You see, you received the letter from Kay
5 McLoughlin? 15:09
6 A. Yes.
7 562 Q. Would you just explain to the Chairman - I don't think
8 you did - the circumstances in which you received that
9 letter?
10 A. Right, Mr. Chairman. It came by registered post. And 15:09
11 I thought actually I was at home, that's in my
12 statement, but I was actually at work, according to
13 Lorraine. And she went in to Ballyjamesduff and
14 collected it and she opened the envelope and she read
15 it out to me. That was the circumstances. 15:09
16 CHAIRMAN: I suppose what Mr. Murrinan is asking you
17 more than anything is, how did you feel?
18 A. Oh.
19 CHAIRMAN: Yes.
20 A. Horrific, horrific. I mean, in relation to the Ms. D, 15:10
21 it was a life-changing matter, but this one was just
22 incredible, to open a letter like that and to be
23 accused of what I was accused of. We didn't know what
24 to do that night. I contacted Mr. McDowell, I think
25 very late on that night, and he asked me to scan it up 15:10
26 to him and then I left it in their hands. And it
27 wasn't until six months that they admitted an error.
28 563 Q. MR. MARRINAN: Well, the letter is in volume 4 at page
29 1039. Again, I'm not going to open it. It has been

1 opened on numerous occasions --

2 A. Yeah, I appreciate that.

3 564 Q. -- before the Tribunal.

4 A. Mm-hmm.

5 565 Q. But this is the offending letter. 15:10

6 CHAIRMAN: Just for the sake of clarity, would you just

7 give me the page number again, please?

8 MR. MARRINAN: 1039, sir.

9 CHAIRMAN: If we could have it on the screen, please,

10 Mr. Kavanagh. 15:11

11 MR. MARRINAN: Volume 4. And if we can just scroll

12 down.

13

14 "The allegations by Ms. D are as follows."

15 15:11

16 Are you all right, Sergeant McCabe?

17 A. Yeah. Which volume?

18 566 Q. Volume 4.

19 A. 1?

20 567 Q. 1039. 15:11

21 A. Sorry, sorry, yes.

22 568 Q. I was just looking at the last paragraph there.

23

24 "On one occasion between 1998 and 1999 at the home of

25 Maurice McCabe Ms. D alleged that Maurice McCabe 15:11

26 sexually abused her. The abuse alleged involved

27 digital penetration and the victim was aged six to

28 seven years old. It is reported that this allegation

29 was investigated by An Garda Síochána some years later.

1 A file was sent to the Director of Public Prosecutions,
2 who directed that no prosecution take place."

3
4 So it's not just, I suppose, the fact that, all these
5 years later, this matter falls to be investigated by 15:12
6 Tusla, but also there is the false allegation there
7 included in that, isn't that right?

8 A. That's correct.

9 569 Q. On the 28th January Mr. Costello wrote back, and his
10 letter is set out at page 1041 to 1043. It's pointed 15:12
11 out in the fifth paragraph down:

12
13 "The allegation is wholly untrue. The incident is
14 alleged to have occurred in 1998 and a complaint which
15 was made in December 2000 was subject to a full 15:13
16 investigation by An Garda Síochána. The file, you are
17 aware, was sent to the Director of Public Prosecutions.
18 What you may not know is that our client, when
19 originally informed of the complaint, insisted that
20 Ms. D be interviewed again in the presence of an 15:13
21 independent social worker and that her allegations be
22 carefully recorded. Both her accounts were sent to the
23 DPP.

24
25 The DPP not merely directed that no prosecution take 15:13
26 place, but you should know that the DPP clearly stated
27 that no criminal offence had been described or
28 disclosed in the complaint. Our client is accordingly
29 astonished to read the allegation now being made. This

1 allegation of digital penetration was never made before
2 and, in fact, a new and entirely false allegation. It
3 can be easily demonstrated that this claim of digital
4 penetration was never made to the Gardaí or to the
5 independent social worker and our client has never
6 heard of any such suggestion until now." 15:14

7
8 That perhaps confirms the fact that in 2014 you were
9 unaware in May that, in fact, it had been referred to
10 the Gardaí and had, the issue had -- 15:14

11 A. Yes.

12 570 Q. -- been then corrected. So if we could just then
13 turn -- yes, there was a broadcast on the 9th May 2016
14 by Paul Reynolds in relation to the Commission
15 findings. Do you recall that? 15:15

16 A. I do, yes, sorry. Yes.

17 571 Q. And what were your feelings when you heard that being
18 broadcast?

19 A. I didn't like the broadcast. I thought it was one way.
20 I thought it wasn't balanced. He was the only one that 15:15
21 did an article of that description.

22 572 Q. Subsequently, it was suggested to you by Mr. John
23 Barrett that that -- you phoned up RTÉ whilst it was
24 being broadcast, is that right?

25 A. I did, yes. 15:16

26 573 Q. To express your concerns?

27 A. Yes.

28 574 Q. And do you recall who you spoke to?

29 A. I don't know who I recalled to, but they said that they

1 were standing by the article or the broadcast.

2 575 Q. You advised our investigators during the course of an
3 interview - this is at Volume 2, page 434, for
4 reference - you made an assertion that you believe that
5 Nóirín O'Sullivan was behind the RTÉ broadcast on the 15:16
6 9th May concerning the O'Higgins Commission report.
7 You claim that John Barrett told you that it would have
8 come from block 1 at the front, Nóirín O'Sullivan's
9 office?

10 A. Yes, that's correct. 15:17

11 576 Q. Is that right?

12 A. That's correct, yeah.

13 577 Q. When did John Barrett say that to you?

14 A. He told us that in our house, me and Lorraine were
15 there when he told us. I would have the date in a 15:17
16 diary, but it was -- well, it was obviously after this,
17 after the broadcast. But he said, it would have come
18 from block 1.

19 578 Q. All right.

20 CHAIRMAN: But, I mean, apart from somebody just 15:17
21 saying --

22 A. Yes, Judge.

23 CHAIRMAN: I mean, do you think that RTÉ is such a
24 spineless organisation that if block 1 in Garda
25 Headquarters says, oh, here's a really damning report 15:17
26 about our police force, now here's the spin I want you
27 to put on it, say it's all down to the fact that there
28 was no inspector assigned to the district, that they
29 would actually go ahead and do that, do you really

1 think that?

2 A. No.

3 CHAIRMAN: What do you think actually happened? I
4 mean, I suppose in relation to anything that might
5 happen, you know, people have done experiments on this, 15:18
6 you ask, then, people to recount what happened, people
7 will come back with different views, but in relation to
8 something that is a matter of opinion, heaven knows, in
9 the field of law certainly, on any legal problem you
10 may get seven different ones. But what puts this so 15:18
11 outside the pale of an acceptable range of opinion that
12 you think somehow Garda Headquarters might have been
13 involved in it? That is Mr. Marrinan's question, in
14 effect.

15 A. Yeah, well, Mr. Marrinan, I mean, after the broadcast, 15:18
16 it affected us, we thought it was all one-sided, but, I
17 mean, we didn't know anything of who suggested it and
18 we only said in my statement, I only said in my
19 statement exactly how I came to know about it.

20 MR. McDOWELL: Chairman, it might shorten things if the 15:19
21 witness were reminded that this was a leak of a report
22 which had not been published.

23 CHAIRMAN: Yes, I know, but there was many, many leaks
24 unfortunately, Mr. McDowell, and trying to find the
25 source of them fortunately isn't my -- 15:19

26 MR. McDOWELL: No, but the point is that unless it was
27 being suggested that Sergeant McCabe gave this report
28 to RTÉ, somebody must have done it, or somebody must
29 have given that, and this was done in advance of its

1 publication by Mr. Justice O'Higgins.

2 CHAIRMAN: Yes. No, I think we have that. And as was
3 said earlier on, it was early May as opposed to the
4 16th May, which was the official publication of --

5 MR. MCDOWELL: The point I'm making is that this isn't 15:19
6 just a journalistic observation; this is a leak. This
7 is what is called an exclusive.

8 CHAIRMAN: Is it?

9 MR. MCDOWELL: Yes.

10 CHAIRMAN: Does that help, Sergeant? 15:19

11 A. What was said by Mr. McDowell?

12 CHAIRMAN: No, I mean, the fact that it is an
13 exclusive. Now, I'm taking everything with a pinch of
14 salt; in fact, so much salt that you could practically
15 walk through it on the way from here to there. But 15:20
16 taking everything with a pinch of salt, the fact that
17 it's an exclusive, does that help you in -- are you
18 making any assertion at all at the end of the day about
19 this broadcast, apart from the fact that you violently
20 disagree with it and think that it was a bad broadcast? 15:20
21 I mean, are you saying that it's something to do with
22 Garda Headquarters, Nóirín O'Sullivan, the fact that it
23 was a leak, the fact that it was exclusive, the fact
24 that you know presumably that the leak didn't come from
25 you? What have you got to say about it, is really what 15:20
26 Mr. Marrinan is asking you about?

27 A. Right. I'd have to agree with my senior counsel,
28 Mr. McDowell, and what he said there.

29 MR. MARRINAN: It would be very difficult to disagree

1 with him, I suppose, but --

2 A. It was an exclusive. Well, that is true.

3 CHAIRMAN: But at the end of the day, look, this is
4 your opportunity to give evidence, and if you would
5 just hold on a wee minute, please, because we're on 15:21
6 this. And the term of reference is there; I don't know
7 whether we can ever call it up on the screen, can we?
8 Is it possible to get the terms of reference on the
9 screen, Mr. Kavanagh? Anyway, it says I'm required to
10 do the following: 15:21

11
12 "To investigate whether Commissioner O'Sullivan, using
13 briefing material prepared at Garda Headquarters,
14 influenced or attempted to influence broadcasts on RTÉ
15 on 9th May 2016 purporting to be a leaked account of 15:21
16 the O'Higgins Commission report in which Sergeant
17 McCabe was branded as a liar and irresponsible."

18
19 Now, that is what I am looking into. Whether
20 Commissioner O'Sullivan used briefing materials from 15:21
21 Garda Headquarters to influence, or attempt to
22 influence, broadcasters in RTÉ in relation to the leak
23 and effectively put them in a position where they were
24 calling you a liar and irresponsible. So if you have
25 something to say about that, if you have something to 15:22
26 offer, I'm putting it in that way - in other words,
27 it's an open invitation - now is the chance to say it.
28 That is what the purpose of Mr. Marrinan's question is.

29 A. Well, I would have to agree with my senior counsel.

1 Perhaps we could do it in a submission, is that --
2 CHAIRMAN: No. I suppose, at the end of the day, the
3 responsibility that is on me is to say, okay, I'm not
4 allowed to say anything unless there's evidence of it.
5 So do you have any evidence that -- 15:22
6 A. No.
7 CHAIRMAN: -- Garda Headquarters had briefing
8 material --
9 A. No, Judge, I have no evidence.
10 CHAIRMAN: -- that Nóirín O'Sullivan was -- had some 15:22
11 kind of a line to Paul Reynolds or RTÉ or the director
12 general, or whatever, to say, look, brand him a liar
13 and irresponsible, forget about all the incompetence in
14 Bailieboro, just concentrate on Maurice McCabe and say
15 that there should have been an inspector and none of 15:23
16 this would have happened. Do you have any evidence of
17 that?
18 A. I have no evidence, Judge, Mr. Chairman.
19 579 Q. MR. MARRINAN: You see, I am just wondering --
20 MR. MCDOWELL: Chairman, I should say that that will be 15:23
21 our submission. I should say that.
22 CHAIRMAN: That what, there's no evidence?
23 MR. MCDOWELL: No, that this particular report, in the
24 circumstances, was leaked by RTÉ in circumstances from
25 which it can be divined that there was accompanying 15:23
26 documentation directing Mr. Reynolds to take a
27 particular line.
28 CHAIRMAN: Well, divine, I think of divine as being
29 a -- two rods that are joined at a point - a galloon,

1 as my late uncle used to call it, from the Irish
2 language.

3 MR. MCDOWELL: It's not a matter of that, Chairman.

4 CHAIRMAN: But, I mean, I can't act on divination,
5 Mr. McDowell. 15:23

6 MR. MCDOWELL: It's not a matter of that. It's a
7 matter of listening carefully to the tape of the
8 report. It appears that it was done on a
9 question-and-answer document which was given to his
10 interviewers on a number of occasions that day in RTÉ. 15:24
11 We will be asking you to draw that inference at a later
12 stage.

13 CHAIRMAN: Okay, Mr. McDowell, that could well be a
14 fair point, but what Mr. Marrinan was concentrating on
15 was whether Sergeant McCabe himself had any evidence. 15:24
16 Now, in the event -- of course we will look at that
17 when it comes up and we will see what to make of it.
18 For the moment I have no view, as you will appreciate.

19 MR. MCDOWELL: But in the nature of things, obviously
20 Sergeant McCabe would not have evidence of that. It's 15:24
21 a matter of inference from the actual broadcast itself.

22 CHAIRMAN: So the sum of it is that you felt terrible,
23 you rang the broadcaster, the broadcaster said they
24 were standing over it, and you felt this was another
25 blow? 15:24

26 A. I did, Mr. Chairman.

27 CHAIRMAN: Yes. And John Barrett said something to
28 you.

29 A. That it would have come, that's the words he used.

1 CHAIRMAN: Yes. well, there you go.

2 A. Yes. Okay, thanks.

3 MR. MURPHY: Judge, just to flag an objection. I will
4 be objecting to any attempt to make a submission that's
5 based on no evidence, and that is what Mr. McDowell has 15:25
6 just attempted to do.

7 CHAIRMAN: well, it wouldn't be the first time, not in
8 relation to Mr. McDowell, that someone has made a
9 submission with no evidence at all to back it up.
10 Sergeant McCabe has kindly said he has no evidence, and 15:25
11 that's all I'm interested in at the present time.

12 MR. MURPHY: May it please you.

13 580 Q. MR. MARRINAN: In May of 2016, you had a meeting with
14 Mr. McGuinness --

15 A. That's correct. 15:25

16 581 Q. -- TD, in the Merrion Hotel?

17 A. Yes, Chairman.

18 582 Q. Can you tell us about that meeting that you had with
19 him, in your own words, please?

20 A. I'm not too sure if I looked for the meeting or if he 15:25
21 did, or did I text him or did he text me, but we had it
22 in the Merrion Hotel, and we ordered our coffee and
23 we're just sitting down and Mr. McGuinness just said to
24 me, Maurice, you know, I feel I have to tell you this,
25 and then he informed me of what he had to say. 15:26

26 583 Q. Right. well, first of all, let's just get a bit of
27 background. How often had you met Mr. McGuinness
28 before this?

29 A. I met Mr. McGuinness probably twice or three times, I'd

1 say, at the most.

2 584 Q. And where had you met him before?

3 A. I met him at the PAC; I met him in Buswells, that was
4 before the PAC. And I'd have to look at my diary to
5 see did I meet him after that. 15:26

6 585 Q. All right.

7 A. And I'm sorry, but I can bring my diary in the
8 morning --

9 586 Q. Don't worry.

10 A. -- to give the dates. 15:26

11 587 Q. If you can fill in the dates, it's great.

12 A. I will.

13 588 Q. But you had met him once in Buswells hotel?

14 A. Yeah, that was the first time I met him.

15 589 Q. Yes. 15:26

16 A. Just before the PAC.

17 590 Q. And that was just before the PAC, and you gave evidence
18 on 30th January 2014?

19 A. I did, yes.

20 591 Q. And you met him then? 15:26

21 A. On the 30th?

22 592 Q. Yes.

23 A. Yeah, the PAC.

24 593 Q. And then was this then the third meeting that you had
25 with him? 15:27

26 A. It was the third or fourth, I'd say. I don't think I
27 had any more.

28 594 Q. Right.

29 A. But I will know in the morning.

1 595 Q. And can you check from your diary as to the exact date
2 of this meeting --

3 A. Absolutely.

4 596 Q. -- because we are unsure of it.

5 A. I will, absolutely. 15:27

6 597 Q. And so you're having coffee?

7 A. Yes.

8 598 Q. What did you think he was there to discuss? How had he
9 arranged this?

10 A. He just asked me was I free, or I may have asked him 15:27
11 was he free for coffee, but I think he might have asked
12 me, but I can check that out for the morning,
13 Mr. Chairman.

14 599 Q. Right. Well, just go on your recollection for the
15 moment. 15:27

16 A. Yeah.

17 600 Q. What's your recollection?

18 A. My recollection is, I think that it's 50/50, sorry,
19 Mr. Murrinan, at the moment.

20 601 Q. All right. So it could be one or the other, but in any 15:27
21 event --

22 A. I'll clear it up in the morning.

23 602 Q. -- you end up in the -- having coffee?

24 A. Yeah, we did, yeah, we had coffee. And he just told me
25 at the very start, he says I have to tell you something 15:28
26 I feel I should tell you. And I said, go on, tell me.
27 And he outlined what he said -- or, sorry, he
28 outlined --

29 603 Q. Well, tell us.

1 A. Do I have to say it here?

2 604 Q. Yes. Tell us exactly what he said to you that you
3 recall?

4 CHAIRMAN: Have a sip of a water there, it might help
5 you, Sergeant, please. You appreciate sometimes
6 evidence may be difficult to give. So I don't think
7 Mr. McGuinness denies having this conversation with
8 you. So there it is. Would you like to take a
9 ten-minute break?

15:28

10 A. Yes.

15:28

11 CHAIRMAN: Yes. All right. We will do that.

12

13 AFTER A SHORT ADJOURNMENT THE HEARING RESUMED

14 AS FOLLOWS:

15

15:34

16 605 Q. MR. MARRINAN: I think, Sergeant McCabe, we have page
17 429 up on the screen.

18 A. 429, okay.

19 606 Q. Yeah, this is your interview with our investigators.

20 A. Okay.

15:34

21 607 Q. It's in Volume 2.

22 CHAIRMAN: I'm wondering would be it better,
23 Mr. Marrinan, for the moment, just to get the
24 recollection of this, and you could go back to that if
25 you wanted?

15:34

26 MR. MARRINAN: Yes, well perhaps that is probably the
27 best thing to do. I'm just trying to make it easier
28 for you --

29 A. No, that's okay, no, no.

1 608 Q. -- if possible. I know this is difficult for you.
2 A. No, I'm grand.
3 609 Q. Do you recall what it is that John McGuinness said to
4 you?
5 A. Yeah. He told me that he met the former Commissioner 15:34
6 Martin Callinan at the Red Cow Inn, or that pub, and he
7 said that I wasn't to be trusted and he said that I had
8 sexually abused all my children and my nieces. He said
9 to me, I didn't like to tell you before -- you know, up
10 to this point. 15:35
11 610 Q. All right.
12 A. At times I'm glad that he actually didn't. But I asked
13 him what was the circumstances about it, and he said he
14 was asked to meet him at the Red Cow and he said this
15 is what he said. And he also said that he grabbed his 15:35
16 arm as he was getting out of the car and said, it's
17 very serious, it's very serious.
18 611 Q. Could you believe what you were hearing?
19 A. No, I couldn't, no, no.
20 612 Q. How did you feel? 15:35
21 A. I remember driving home that evening, an hour
22 afterwards, and I didn't know which way I drove home,
23 was it the M3 or was it the old road. I didn't say
24 anything until I got home and I told Lorraine, and I
25 was unsure of what to do, and I think later on that 15:36
26 night I rang Mr. McDowell, I think about half ten, and
27 I told him, and he just said leave it with him. And I
28 rang him the next morning, Mr. McDowell, and we spoke
29 about it again and that was it.

1 613 Q. On the 26th May, I think Mr. McGuinness made a
2 statement publicly for the first time about what he
3 alleges was said to him in the car park by former
4 Commissioner Callinan. I suppose you watched those
5 events as they unfolded with interest, yes? 15:37

6 A. I did, yeah, but I switched it off after his speech.

7 614 Q. Then on the 20th June 2016, you received a letter from
8 Tusla -- it's in volume 4 of page 1044 --

9 A. Yes.

10 615 Q. -- and Kay McLoughlin, and this is five months after, 15:38
11 in fact it's six months after the letter that had been
12 sent by Mr. Costello on the 28th January.

13 A. That's correct.

14 616 Q. And this is the first response that you got. On the
15 second paragraph it says: 15:38

16

17 "I acknowledge your client Maurice McCabe's response to
18 the allegations, which is that he deems them to be
19 wholly untrue. I also note from your letter that his
20 employer and family are aware of these allegations. I 15:38
21 acknowledge that the Garda investigated allegations
22 made by Ms. D in 2006. This service was aware of the
23 investigation at that time. Information provided to
24 this service, then known as the HSE, concurs with your
25 client's account in that the allegations arose in the 15:39
26 context of a game of hide and seek. Ms. D alleged
27 Mr. McCabe leaned over her when she was bent over a
28 chair and held her by the waist and, in her words, was
29 humping her. I apologise that a mistake was made in my

1 previous correspondence. I can confirm to you that no
2 allegation of digital penetration has been made in
3 relation to your client. I am not aware of any other
4 allegation made by the complainant regarding a third
5 party."

15:39

6
7 That is signed by Kay McLoughlin. And I think that
8 there's no explanation there at all in relation to how
9 the false allegation made its way into the letter of
10 the 29th December, isn't that right?

15:39

11 A. That's correct.

12 617 Q. And I think Mr. Costello replied on the 20th July, and
13 that's at volume 4 at page 1045. I don't intend to go
14 into that. But you eventually got a letter from SART,
15 at 1051, it's dated 22nd September 2016. This says:

15:40

16
17 "The agency will not be proceeding with its assessment
18 of the allegations made by Ms. D and in this regard we
19 have closed our file. We confirm there are no
20 outstanding allegations or findings recorded against
21 your client and the agency's file reflects this
22 position."

15:41

23
24 So that is some eight months after, nine months after
25 the initial allegations -- or notification was made to
26 you, isn't that right?

15:41

27 A. That's correct.

28 618 Q. So for that period of time you have had that additional
29 matter hanging over your head, on top of the issue that

1 had arisen in relation to Mr. McGuinness, isn't that
2 right?

3 A. That's correct.

4 619 Q. And then you what you perceived to be the unfair
5 reporting, a leaking and unfair reporting by RTÉ of the 15:41
6 O'Higgins report on the 11th May, isn't that right?

7 A. That's correct.

8 620 Q. We now just turn to your protected disclosure and your
9 dealings with Superintendent Taylor. Tell us, what was
10 your first contact or knowledge of Superintendent 15:42
11 Taylor?

12 A. Mr. Chairman, I knew him from the television in
13 relation to, he was the press secretary, and I knew
14 that he was suspended and I knew it had something to
15 do -- in relation to Roma children. 15:42

16 621 Q. And how did you first come into contact with him and
17 think that he had -- maybe had something to say in
18 relation to your position?

19 A. Is it in relation to him or wife first or --

20 622 Q. In relation to you and how he first came in contact 15:43
21 with you?

22 A. Sorry, I came in contact first of all in relation to
23 Mrs. Taylor, is that what you want to hear, or is it
24 just Mr. Taylor?

25 623 Q. Yeah, well, in relation to Mrs. Taylor, how did you 15:43
26 make contact with Mrs. Taylor and why?

27 A. I made contact with Mrs. Taylor. What happened was,
28 there was an article in the Irish Examiner, so Mick
29 Clifford had done an article and he had mentioned

1 something in relation to Superintendent Taylor, and he
2 rang me after the article to say that Mr. Taylor -- or
3 Superintendent Taylor had been on to him. So I asked
4 him if I could get his phone number, and he said, yeah,
5 that's no problem and -- 15:43

6 624 Q. why were you looking for his phone number or why were
7 you anxious to make contact with him?

8 A. well, he was the press secretary, and I was going to go
9 all out to find out what was happening to me. I wanted
10 to know everything and I thought that he would know 15:44
11 something. Sorry, will I keep going?

12 625 Q. well, just go -- it's August or September, I think,
13 that you make contact with Lorraine Taylor, is that
14 right?

15 A. It's not Lorraine. 15:44

16 626 Q. No, sorry, Michelle, Michelle Taylor. I beg your
17 pardon. Michelle Taylor.

18 A. Yeah, it is, yeah. And I met her at the Clarion
19 Hotel -- or the Skylon Hotel in Drumcondra. I met her
20 for the purpose of finding out who is doing all this to 15:44
21 me. We had a copy --

22 627 Q. Could you just go back a minute.

23 A. Yeah.

24 628 Q. I mean, I don't know what Mrs. Taylor has to do with
25 any of this -- 15:44

26 A. Oh, sorry, yes.

27 629 Q. -- or why it would be that you would phone her and not
28 her husband.

29 A. Sorry, so I will fill in that blank.

1 630 Q. So will you just try and fill in that aspect of it?
2 A. I will. I rang Superintendent Taylor and he answered
3 the phone and I told him who I was, and he says I can't
4 talk to you at the moment, I'll talk to you in the
5 morning. 15:45

6 631 Q. What month was this?
7 A. This was in July or August.

8 632 Q. July or August?
9 A. One or the other.

10 633 Q. Okay. 15:45
11 A. So I didn't get a phone call off him in the morning
12 time, so I let it lie. I knew he wasn't going to ring
13 me. But I got a phone call in the afternoon in
14 relation to Mrs. Taylor.

15 634 Q. You got a phone call, you say, in relation to 15:45
16 Mrs. Taylor?
17 A. Sorry, I got a phone call --

18 635 Q. Was it from Mrs. Taylor?
19 A. It was, yes.

20 636 Q. Right. Okay. 15:45
21 A. From Mrs. Taylor. And, Mr. Chairman, I asked her if
22 she wanted to meet and she agreed to meet me.

23 637 Q. Why did you want to meet her?
24 A. Well, I didn't get -- I didn't get a call back off
25 Superintendent Taylor, I got it back off Mrs. Taylor. 15:45
26 And I wanted to find out if they knew or if
27 Superintendent Taylor knew of what was going around
28 about me and all these rumours.

29 638 Q. What led you to believe that he could have?

1 A. He was the press secretary of An Garda Síochána. And I
2 was going all out to find out who is starting these
3 rumours. I owed it to myself, I owed it to my family.

4 639 Q. All right. So why were you focusing on Mrs. Taylor?
5 A. Because I never got a phone call back off 15:46
6 Superintendent Taylor.

7 640 Q. But you could have said, would you get your husband to
8 phone me?

9 A. No. She rang me, and I'm not too sure exactly what she
10 said, it was even a bad place or anything, but we 15:46
11 arranged to meet, and I met her in the Skylon Hotel,
12 probably a week later. We had a coffee, we chatted
13 about children, various things in relation to my job
14 and her job. But I did ask her had she heard any
15 rumours in relation to me. 15:47

16 641 Q. What rumours were you expecting?
17 A. Mr. Marrinan, I was expecting these, what
18 ex-Commissioner Garda Callinan had said.

19 642 Q. What he said to Mr. McGuinness?
20 A. Rumours in relation to me and my children. 15:47

21 643 Q. Okay. So the first time that you met Mrs. Taylor, did
22 she fill you in on anything --

23 A. No, no.

24 644 Q. -- that might be of assistance?
25 A. No, I asked her out straight had she heard any rumours 15:47
26 in relation to me.

27 645 Q. And what did she say?
28 A. She said no.

29 646 Q. Did you ask her had she discussed this with her

1 husband?

2 A. No, I never mentioned -- I asked her if she had heard
3 any rumours in relation to me.

4 647 Q. well, I suppose the reason you're talking to her is
5 because her husband was the Press Officer, or formerly 15:48
6 the Press Officer, and that is the reason that there
7 was this point of contact in the first place, is that
8 right?

9 A. well, it is and it isn't. I wanted to find out who was
10 spreading these rumours about me and my children. I 15:48
11 would have went to the ends of the earth, and that's
12 what I -- and I asked her straight out had she heard
13 any rumours in relation to me, and she said no, she
14 hadn't.

15 648 Q. And then you met her again? 15:48

16 A. Then.

17 649 Q. How did that come about?

18 A. I met her again probably in a week's time -- or it was
19 two weeks' time. Actually, I was up with my bother, I
20 was in the area, he is living in Swords. And we just 15:48
21 met for about ten minutes in the same place again.

22 650 Q. And who made contact with who on this occasion?

23 A. I think I made contact with her.

24 651 Q. why?

25 A. Just because I'd seen her before and I said I'd have 15:48
26 another go and another go and another go.

27 652 Q. And did you think that she might have some information
28 to give you?

29 A. I knew there was something there, but she completely

1 said no, she completely said no. I knew there was
2 something there.

3 653 Q. And yet even though she told you on the previous
4 occasion that she had nothing to offer, she hadn't
5 heard anything in relation to you at all, she agreed to 15:49
6 meet you a second time?

7 A. Yeah, she did, yeah.

8 654 Q. Did you not find that a little bit odd?

9 A. No, I didn't.

10 655 Q. Okay. So you went and met her. Did you meet her in 15:49
11 the same hotel?

12 A. I did, I met her in the same hotel, only for about ten
13 minutes.

14 656 Q. And what did she say to you on that occasion?

15 A. Nothing. It was just ordinary chat, but about family 15:49
16 and Dave is still off and he's still under
17 investigation, but there was nothing else at all.

18 657 Q. Well, we know that you came to meet with Superintendent
19 Taylor on the 20th September of 2016?

20 A. I did. 15:49

21 658 Q. How did that come about?

22 A. I'll tell you exactly how that came about. I was out
23 in the garden and I got a phone call off Mick Clifford
24 again in the Irish Examiner, and he said he had been
25 speaking to Dave Taylor, I'm not sure if it was on the 15:50
26 phone or at his house, but he said to me he is not
27 suspended in relation to the Roma children, he's
28 suspended what he knows about you. And I said, what?
29 He says, on what he knows about you. I said, well, I

1 said, tell me what. No, that's all, he says.

2 659 Q. what did you think that this referred to?

3 A. I knew that he knew something, and I needed to find out
4 who was spreading these rumours about me, and I rang
5 Michelle Taylor and asked if we could meet, and we 15:50
6 arranged to meet on the 20th September at five o'clock
7 in the evening.

8 660 Q. Okay. Just before we come to that, when you rang
9 Michelle Taylor on this occasion, did you tell her,
10 look, I know he has something to tell me because I have 15:51
11 been speaking to Mick Clifford, who has been speaking
12 to Superintendent Taylor?

13 A. I can't fully recall, but I did say I was talking to
14 Mick Clifford.

15 661 Q. well, you see, there had to be some reason why he was 15:51
16 now agreeing to talk to you where he hadn't previously
17 agreed to speak to you?

18 A. Absolutely, yeah.

19 662 Q. well, do you know what --

20 A. I don't, no, no, I don't. 15:51

21 663 Q. And where did you meet?

22 A. What happened was this, Mr. Marrinan: we arranged to
23 meet on the 20th, is that what you said, Mr. Marrinan?

24 664 Q. Yes.

25 A. At five o'clock that evening, and I got a text early 15:51
26 that morning.

27 CHAIRMAN: I'm sorry, the one thing I'm missing is, did
28 you ever actually get, prior to meeting
29 Superintendent Taylor, to speak to him on the phone?

1 A. Never.

2 CHAIRMAN: For the second time?

3 A. Never.

4 CHAIRMAN: So the first was a blank?

5 A. Never. 15:52

6 CHAIRMAN: And you'd the phone call with Mrs. Taylor,
7 you'd the two meetings with Mrs. Taylor.

8 A. Yeah. And the first time I ever spoke to --

9 CHAIRMAN: And you got her to arrange a meeting with
10 him? 15:52

11 A. Yeah.

12 CHAIRMAN: Okay. Thanks.

13 A. And I got a text message at two o'clock on that
14 morning, 2:00am, to say that Michelle Taylor had sent
15 me the text to say that she was in A&E with a family 15:52
16 crisis.

17 665 Q. MR. MARRINAN: Yes. Well, we don't need --

18 A. I'm not going to say what it is.

19 666 Q. We don't need to go into issues.

20 A. And they couldn't meet. So that was it, I accepted 15:52
21 that. But I was meeting my solicitor early that day
22 and I text her at about eleven or twelve o'clock to
23 say, look at, I'm still in the city if you want to meet
24 at five o'clock, and I got a text back later on to say,
25 yeah, okay. So I called to the house at five o'clock 15:53
26 that evening. They gave me the address, and I
27 sat-nav'd it and went out?

28 667 Q. When you got there, who was there?

29 A. Mrs. Taylor and Dave Taylor.

1 668 Q. Were they in the room together with you?
2 A. They were in the room together, yeah. I think their
3 daughters came in a half hour later and just went by
4 the room.
5 669 Q. And will you just tell us what was said then? 15:53
6 A. I went into the house and we had, you know, the use
7 pleasantries, and I said to him, you were talking to
8 Mick Clifford, and he said, yeah, I was. And just with
9 that, he just said to me, look at, I destroyed you.
10 And I says, what do you mean you destroyed me? He 15:53
11 says, I destroyed you. But explain what is it, is it
12 about all these rumours about me? Yeah, he says, it
13 was. And --
14 670 Q. Well, first of all, did he say -- did he say how he had
15 destroyed you? 15:54
16 A. No, at the time he didn't. Afterwards, sorry, you
17 know. I mean, this was the first time. He was on the
18 couch -- he was on the couch. He was then, I would
19 say, in bad shape, but -- and that's not being
20 derogatory to him, to Superintendent Taylor. He 15:54
21 started just to tell me --
22 671 Q. Sorry, what do you mean he was in bad shape? What do
23 you mean by that?
24 A. Well, you could see that he was distressed or stressed
25 or something to that effect, you know. He wasn't as 15:54
26 bright as kind of maybe I was.
27 672 Q. All right. I was just wondering. He hadn't been
28 drinking, or something like that?
29 A. No, he hadn't, no.

1 673 Q. So he was sober and he appeared to be some under
2 stress?
3 A. Yeah, yeah, he was. And he just started off. He says,
4 I destroyed you. And I said, what do you mean? And he
5 kept saying, I destroyed you. And I says, I want to 15:54
6 know what you did to me. So I'll take my time, if that
7 is okay with you.
8 674 Q. Yes.
9 A. So he started telling me that he was the Press Officer,
10 which I knew, so I didn't need to know that. But he 15:55
11 said that he orchestrated, he said that there was an
12 orchestrated campaign to attack me and he said it was
13 in the form of whispering, of phone calls, of texts, of
14 text messages. He said he was ordered to do this on
15 the authority of ex-Commissioner Martin Callinan. He 15:55
16 told me that -- he said to me, I never wrote the text
17 messages, he says, all the text -- Martin Callinan, he
18 says, always wrote the text messages, and he says, I
19 was asked just to send them on. And then he told me
20 then that he would always send one to ex-Commissioner 15:56
21 Nóirín O'Sullivan, and that she would always reply, I
22 think the word "perfect". Now, Mr. Marrinan, I'm not
23 saying this in sequence, if you can understand, I'm
24 just saying what --
25 675 Q. Yeah, well, just give us, in the first instance, your 15:56
26 recollection, and then we can explore it a little bit
27 further, because it is quite important.
28 A. Yeah, good. I think it took him half an hour to say
29 that bit, but he got upset then, in relation to what he

1 was telling me, and when he was upset in relation to --
2 Michelle told me, the wife told me that he was with a
3 spiritual person and he had to confess all that he was
4 saying to me, Mr. Chairman. He then started to explain
5 to me a few things, that An Garda Síochána were 15:57
6 obsessed with me. It was bordering on -- I'm just not
7 sure what word he used, but he said it was bordering
8 on -- whatever, he said it was constant obsession.
9 When I'd be on the radio, or if there was an article
10 which had praised me, he would always ring Martin 15:57
11 Callinan to tell him that there was an article here
12 that was praising him, and then he was telling me so it
13 was Martin Callinan would always say back to him, well,
14 you know, do him down, you know, use your phone and do
15 him down, he has to be buried. 15:57

16 676 Q. Did he say how he was to do you down?
17 A. Yeah, he did, and I will just tell you now in one
18 second. Because at that stage then I had a number,
19 Mr. Chairman, of incidents in my head he was saying,
20 but I couldn't just keep them all and I asked him if I 15:58
21 could take a brief note of what he was saying to me,
22 and he said I could. I got the pen and paper off him.
23 And he then explained that he was the press secretary,
24 that everything was going through him. He said Martin
25 Callinan was the main person. He said Martin Callinan 15:58
26 would encourage Dave Taylor to spread the rumours about
27 me, the fact that I had been investigated for a sexual
28 assault, and he was told to down me all the time. He
29 said that -- I didn't ask him in relation to the

1 journalists' name because I didn't want to know who
2 they were, but he did say to me that he would ring them
3 up, and if there was good story about me in the paper,
4 he would always put it bad. He also said that in
5 relation to -- Commissioner Callinan's version was to 15:59
6 always run me down, bring up the alleged assault and
7 always run me down.
8
9 Em, he told me that there was a file in Garda
10 Headquarters on me and he told me it was in the name of 15:59
11 Oisín and he told me that Oisín was a grandson of ex --
12 maybe I'd better not say that, will I?
13 677 Q. Well, it was just a name that --
14 A. Just a name, yeah.
15 678 Q. -- that had been picked out by senior officers? 16:00
16 A. Exactly, thanks. He was a grandson of a senior
17 officer. And that this was on intelligence file. He
18 then told me that there was a person by the name of
19 whoever, that he was monitoring me on Pulse in Garda
20 Headquarters. I wasn't interested in a lot of stuff, 16:00
21 except I did ask him who is spreading these rumours
22 about me? And he said he was, but he was ordered to do
23 it.
24 679 Q. Did he say how he sent the information out?
25 A. Yeah, he did. He said that it would be sent by a phone 16:01
26 call or by a text message.
27 680 Q. Did he say that he had sent text messages?
28 A. He did, he said that he had sent hundreds of text
29 messages.

1 681 Q. who he had sent the text messages to?
2 A. He said that he had sent them to other senior gardaí,
3 he said that he had sent them to journalists.
4 682 Q. The ones that he sent to the gardaí, what was the
5 content of them? 16:01
6 A. It was just in relation to this allegation that was
7 made against me back in '06.
8 683 Q. And the ones that he sent to the journalists?
9 A. He said it was the same. He said that when I'd be on
10 the news, he said that Martin Callinan would compile a 16:01
11 text message and send it, and send it to him and he
12 would send it on. So then --
13 684 Q. When you say "send it on", send it on to who?
14 A. He would send it on to other senior gardaí, he would
15 send it on to ex-Commissioner O'Sullivan, he said, and 16:02
16 he'd send it on to journalists, and he'd send it on, I
17 think it was a number of TDs he mentioned, didn't say
18 who they were. I didn't want to know who anyone was.
19 685 Q. Can I just stop you here in relation to this, because
20 what you're saying is that Superintendent Taylor was 16:02
21 sitting there in his living room, accepting
22 responsibility for disseminating information about you
23 and the previous investigation of you in relation to an
24 allegation of sexual assault. You're saying that he's
25 saying that former Commissioner Callinan was actually 16:03
26 composing these messages that were being sent through
27 Superintendent Taylor and were being sent to other
28 Gardaí, to journalists and also to politicians, you
29 say?

1 A. Mm-hmm.

2 686 Q. Did he say how often this was done or how many text
3 messages were sent?

4 A. He said he sent, the words he used was hundreds of text
5 messages. Then he went on about he met a spiritualist 16:03
6 and he was with the spiritualist a number of times and
7 he confessed to the spiritualist that he had done this.

8 687 Q. How did you feel when you heard what Superintendent
9 Taylor --

10 A. I was furious at him, furious. And I was furious with 16:04
11 him because all he to do was say no, all he had to do
12 was to say to Martin Callinan, look at, I sent a text
13 message, and not send it, you know. He could have
14 stopped.

15 688 Q. Well, just to make it very clear in relation to this 16:04
16 because these are matters that have been -- that are in
17 your protected disclosure and also in
18 Superintendent Taylor's protected disclosure in a
19 different form, substantially different form, and which
20 former Commissioner Martin Callinan absolutely denies 16:05
21 and in circumstances where former Commissioner Nóirín
22 O'Sullivan denies any knowledge of?

23 A. Yes.

24 689 Q. Right. Did he say that she had any role in relation to
25 this? 16:05

26 A. Em, he said that she was the pusher, that's what he
27 called her.

28 690 Q. The pusher?

29 A. The pusher.

1 691 Q. And what did you think that that meant?
2 A. Well, then he just -- all he said was, you know, she
3 was the pusher and she knew everything, everything that
4 was going on.
5 692 Q. How long were you there for? 16:05
6 A. I was there at five o'clock, and I think I left at
7 around eight o'clock. To be honest, I just didn't want
8 to hear any more because I felt that he could have
9 stopped this himself. I did it. I have often said no,
10 I'm not doing that. 16:06
11
12 Then he told me in relation to John McGuinness and the
13 meeting in Dundalk -- sorry, it wasn't -- it started in
14 Dundalk. He told me that it was the first
15 anniversary -- 16:06
16 693 Q. Well, just, if you just wouldn't mind, it was an event
17 that was taking place there?
18 A. Absolutely, yeah. Sorry.
19 694 Q. But there are sensitivities there that the Tribunal
20 have been contacted in relation to. 16:06
21 A. Sorry, Chairman, I completely agree.
22 695 Q. No, no, no, it's not your fault, you're not to know.
23 So there was an event taking place, in any event?
24 A. Yeah. And it was an important event and he said that
25 he left the event to say that he was going to meet John 16:06
26 McGuinness. Sorry, it was ex-Commissioner Callinan, he
27 was going to leave the event and speak to John
28 McGuinness. He said he put back, Dave Taylor -- sorry,
29 Superintendent Taylor said he put back the press

1 conference, he put back the press conference for an
2 hour-and-a-half until ex-Commissioner Callinan came
3 back. He said he arrived back. Then I asked him, was
4 that in relation to me? He said it was. I said, was
5 it in relation to me and my children? He said, it was. 16:07
6 It's difficult and it's hard to accept.

7 696 Q. Okay, then, can you expand on the conversation?
8 A. Yeah. He broke down for a second time only. Look at,
9 I mean, I said, I told him I forgive him, I suppose I
10 wanted to get more information out of him, but then 16:08
11 there came a stage that I had enough information out of
12 him, I didn't want to hear any more. He said that --
13 he said that they used to hate to see me, him and his
14 wife used to hate to see me on the television, hate to
15 hear my name, hate to read articles about me, and 16:09
16 Michelle Taylor then said to me, she says, but, she
17 says, we believed all the allegations that we heard
18 about you. I'm just trying to think of what else.

19 697 Q. Right. Well, you have notes that you provided to the
20 Tribunal. 16:09
21 A. Where are they, Mr. Marrinan?

22 698 Q. They are at page 443.
23 A. On volume 1?

24 699 Q. But thankfully we won't be relying on that page. It's
25 at 444, which are your typed notes. 16:09
26 A. Oh, they're very blank. Sorry. Oh, yeah.

27 700 Q. Are these notes that you made during the course of this
28 conversation?
29 A. Yeah, they are, yeah.

1 701 Q. Are they as comprehensive as you would want them to be?
2 A. It was -- all I wrote down was kind of a word here or
3 there.
4 702 Q. Well, we have John O'Mahony file?
5 A. Oh, yeah. Sorry. 16:10
6 703 Q. And corruption file in crime and security?
7 A. I mentioned that.
8 CHAIRMAN: It's probably important to say that, I mean,
9 anyone who is saying that John O'Mahony had anything to
10 do with any of this was simply picking a name of 16:10
11 someone in relation to --
12 A. Absolutely nothing to do with it. Nothing.
13 CHAIRMAN: I don't want him to get upset about
14 something.
15 A. Yes, absolutely, Chairman. 16:10
16 704 Q. MR. MARRINAN: You have written down "word-bugging,
17 spiritual" and then --
18 A. "She knew everything."
19 705 Q. "She knew everything."
20 "The pusher" - that is a reference to, you say that he 16:11
21 said about Commissioner O'Sullivan?
22 A. Yeah.
23 706 Q. Then there is a reference to Fergus Healy. Do you
24 recall what that was?
25 A. I do, yeah. He said that that was -- he said to me 16:11
26 that after, after the story broke about paragraph 19 in
27 that, you remember the five-page document, he said that
28 they called in Fergus Healy -- sorry, Chief
29 Superintendent Fergus Healy, and they called him in to

1 explain why he hadn't told them at the time that this
2 happened in the O'Higgins Commission. And he said
3 Chief Superintendent Fergus Healy opened his, whatever,
4 opened his book or journal and said, I told you on this
5 day and this day and this day, he said three days, this 16:12
6 and this and this, and he said that Fergus walked out
7 of the meeting. And he informed me, so he did, that
8 Chief Superintendent Fergus Healy then applied for a
9 transfer out of Garda Headquarters up to Navan, Meath.

10 707 Q. Okay. And then we have "bury McCabe". 16:12
11 A. Yeah.

12 708 Q. And then "I forgive him." What is that?
13 A. That's what he was asking me.

14 709 Q. Would you forgive him?
15 A. Would I forgive him, yeah. 16:12

16 710 Q. And were you prepared to?
17 A. Am I prepared to now or at the time?

18 711 Q. No, were you at the time?
19 A. Em, I couldn't, I couldn't.

20 712 Q. Right. Well, you then refer to Dundalk and then again 16:12
21 you've got "she instigate it", is this another
22 reference to Commissioner O'Sullivan?
23 A. Yes.

24 713 Q. And then if we just skip the next one --
25 A. Absolutely. 16:13

26 714 Q. -- we've got: "So gmail stuff about me"?
27 A. Yeah.

28 715 Q. What is that a reference to?
29 A. He said that, I think that -- I'm fairly sure that was

1 in relation to ex-Commissioner O'Sullivan had a gmail
2 account and I might be on it.

3 716 Q. And then "sorry"?

4 A. "So sorry", he said to me.

5 717 Q. We have another issue there that may concern something 16:13
6 we're not concerned with. "Pulse"?

7 A. Yeah.

8 718 Q. "Kieran", what is that? Is that a reference to
9 Mr. Mulvey?

10 A. No, that is the name of the person who was in Garda 16:13
11 Headquarters monitoring me on Pulse.

12 719 Q. All right. And then "Niall Collins", what is that a
13 reference to?

14 A. They said that they were in touch in relation to --
15 with Niall Collins lately in relation to stuff. 16:14

16 720 Q. "Lie and no level, tied her in, SIM card".
17 What is this a reference to?

18 A. Em, he said, he'd said that she would lie - I hate
19 saying this because it's against a person - but he just
20 said that she would lie and there is no level that 16:14
21 she'd go to to lie.

22 721 Q. Okay. And then "Noel -- N under bus". Is that a
23 reference to Noel Cunningham?

24 A. That was a reference to Noel Cunningham, yeah, in
25 relation to paragraph 19 when it went to GSOC. 16:14

26 CHAIRMAN: I am sorry, there is just -- what is jumping
27 out at me is the reference to the SIM card, and I'm
28 wondering was there anything that was jogging your
29 memory about it, just looking at that note?

1 A. In relation to the SIM card?
2 CHAIRMAN: If you can't remember it, don't worry about
3 it. It's more important to be as accurate as you can.
4 A. Yeah. I don't want to -- I think the top one may be
5 associated with the SIM card, "tied her in, SIM card", 16:15
6 but, just as you said, I can't.
7 722 Q. MR. MARRINAN: So you left then, did you? On what
8 terms did you leave?
9 A. I just, you know, I said -- I smiled and said "all the
10 best" and I left, because I'd a meeting later on that 16:15
11 night with my legal team.
12 723 Q. And when you drove away, you were obviously reflecting
13 on what had been said to you. What were the standout
14 points that you recall that were said to you?
15 A. The standout points was that he did this, he said he 16:16
16 did it on the instructions of ex-Commissioner Callinan.
17 He said that ex-Commissioner O'Sullivan was aware of it
18 all. I think the standout points were the fact that he
19 was sending these text messages to people about me. I
20 wouldn't do that to anybody. 16:16
21 724 Q. Well, obviously he was sending them, but according to
22 your evidence he was, on occasions, sending text
23 messages that had actually been drafted by the Garda
24 Commissioner?
25 A. That's exactly what he said. 16:17
26 725 Q. Are you sure about that?
27 A. A hundred percent sure, yeah.
28 726 Q. And that these text messages that had been drafted by
29 the Garda Commissioner had been sent to other gardaí

1 but also to journalists and politicians?

2 A. No, what he said was in relation to -- ex-Commissioner
3 Callinan always compiled the text message and sent it
4 to Mr. Taylor and it was he that would be sending the
5 text messages on. 16:17

6 727 Q. He would forward them on?

7 A. He would forward them on.

8 728 Q. Yes, I beg your pardon. So, in any event, having
9 reflected on it, did you return to see him the
10 following day? 16:17

11 A. I went home that night and I discussed it at home and
12 it was pretty late, and I couldn't get my head around
13 the hundreds of text messages, and I wanted to clear
14 that up in my head, was I listening to this? And I
15 went back to him solely for that purpose the following 16:18
16 morning, for about, I'd say, five minutes, and I told
17 him I wanted just to check was it hundreds of text
18 messages that he had sent, and he said to me it could
19 have been thousands.

20 729 Q. It could have been thousands? 16:18

21 A. Mm-hmm. That is exactly what he said to me.

22 730 Q. At that meeting on the 21st September, how long did
23 that meeting last?

24 A. That meeting lasted five minutes or ten minutes.

25 731 Q. I think that was in his home, was it? 16:18

26 A. I pretended -- yeah. I pretended I was in a hurry,
27 yeah.

28 732 Q. And that only concerned the volume of messages that
29 were sent, is that right?

1 A. Yeah.

2 733 Q. Okay. Then subsequently you made a protected
3 disclosure in relation to this?

4 A. That's correct.

5 734 Q. And if we could just look at this. It's in Volume 1 at 16:19
6 page 244. This is on 22nd September 2016.

7 A. Yes.

8 735 Q. It's from page 244 to 249. If we could just go down to
9 the fourth paragraph on page 244:
10
11 "Last week I learned from a different but equally
12 reliable third party that Superintendent Dave Taylor,
13 who is currently suspended from duty pending
14 investigation of disciplinary charges against him, had
15 stated that the main reason why he was being targeted 16:20
16 was that he knew too much about what Garda Commissioner
17 Nóirín O'Sullivan and ex-Garda Commissioner Martin
18 Callinan had done to me in an attempt to destroy me for
19 reporting wrongdoing."
20
21 Is that right? 16:20

22 A. That's correct.

23 736 Q. The third party was who?

24 A. The third party was Mick Clifford.

25 737 Q. Right. 16:20
26
27 "This information was obviously important to me and I
28 made contact with Superintendent Taylor. I met with
29 Superintendent Taylor and his wife Michelle by

1 arrangement on Tuesday 20th September 2016 at their
2 home. This was the first time I had ever met or spoken
3 to Superintendent Taylor. Our meeting lasted over
4 three hours. Superintendent Taylor spoke at great
5 length of how, when he was made the Garda Press 16:21
6 Officer, he had, in a sustained campaign, destroyed my
7 character and reputation by disseminating false,
8 scurrilous and damaging allegations about me to persons
9 of influence and persons in the media, acting on orders
10 and instructions from Garda management." 16:21

11
12 That reflected what he had said to you, is that right?

13 A. Yes.

14 738 Q. "He stated that he was now being targeted because he
15 knew too much. He outlined to me the following 16:21
16 information, that he was prepared to stand by. He also
17 allowed me to take notes. I have indicated to him that
18 I intended to make a protected disclosure under the
19 Protected Disclosures Act 2014 in relation to the
20 information he gave me." 16:22

21
22 And then the first paragraph of that deals with your
23 conversation in relation to John McGuinness.

24 A. Yes.

25 739 Q. The second paragraph: 16:22

26
27 "Superintendent Taylor stated that Commissioner
28 O'Sullivan would have known about the meeting because
29 Commissioner Callinan always kept her informed of such

1 matters. He stated that anything he knew she knew. It
2 is remarkable to think that Commissioner Martin
3 Callinan would postpone an important press conference
4 to travel to Dublin in an attempt to destroy my
5 character.

16:22

6
7 Superintendent Taylor then informed me of the sustained
8 campaign by ex-Commissioner Callinan, Garda
9 Commissioner O'Sullivan and other senior members to
10 destroy my character. He became upset at this stage.
11 He admitted that he himself was also involved in this
12 campaign to destroy me and the common intention was to
13 "bury McCabe".

16:23

14
15 And you have that in quotation marks.

16:23

16
17 "While I was angry and disappointed to hear of his
18 involvement, I didn't show it, because they had
19 suffered a personal family trauma earlier that morning.
20 He continued by stating that "Commissioner Nóirín
21 O'Sullivan knew everything" and he said that she was
22 "the pusher" in the campaign to discredit me, not
23 Martin Callinan.

16:23

24
25 He said that he, David Taylor, was involved in sending
26 hundreds of text messages about me to the then-Deputy
27 Commissioner O'Sullivan and other senior officers and
28 members of the media. He stated that Commissioner
29 Martin Callinan usually provided the texts of the vile

16:23

1 messages about me and my family and sent them to
2 Superintendent Taylor's mobile. Commissioner
3 Callinan's orders and instructions were to forward on
4 the messages to the above persons, which he always did.
5 Commissioner O'Sullivan usually replied with a one-word 16:24
6 "perfect". He stated that Commissioner O'Sullivan
7 would "go to any level to lie".

8
9 Superintendent Taylor told me that he was so sorry for
10 what he had done to me. He stated that he had 16:24
11 contacted a spiritual person two weeks ago looking for
12 forgiveness. Superintendent Taylor broke down twice
13 and told me that he had destroyed and ruined me. He
14 said this to me on a number of times. He said he
15 "absolutely destroyed" me but he was under instructions 16:24
16 and orders to do so.

17
18 He stated that his three phones were seized from him
19 under warrant and that these phones would show all the
20 text messages he got from Commissioner Callinan and 16:25
21 sent on to Deputy Commissioner O'Sullivan. I could see
22 that he was remorseful for the harm he had caused to me
23 and my family. I told him that I forgave him because I
24 believed his apology to be genuine.

25 16:25
26 He told me there were a number of intelligence files on
27 me in Garda Headquarters and I should look for them
28 under disclosure. There is one file with Crime and
29 Security and another file is on a special computer at

1 Garda Headquarters. He stated this latter file is
2 named Oisin."

3
4 And then he says the reason for the name.

5
6 "Assistant commissioner O'Mahoney carried out what I
7 consider to be a shameful internal investigation into
8 the penalty points issue, a report which was heavily
9 criticised by the Garda Inspectorate. Superintendent
10 Taylor also stated that there was no doubt that my
11 phone had tapped --"

12
13 That should be "was tapped".

14
15 "-- but he was not aware of the present position."

16
17 Is that "my phone had been tapped"?

18 A. Em, I don't think it was "had been". It may have been
19 tapped. Or that -- I just see the error there in it.

20 740 Q. "Superintendent Dave Taylor stated that he received a
21 phone call from Superintendent Noel Cunningham one day.
22 Noel Cunningham is one of the officers who had
23 interviewed me in Mullingar on the 25th August 2008 and
24 who later was prepared to say that I had made certain
25 admissions to him and another Garda officer, that I had
26 admitted acting out of malice in making my complaints.
27 My recording of the interview proved otherwise.

28
29 Superintendent Cunningham had heard on the news that

1 Commissioner O'Sullivan had sent the Mullingar meeting
2 matter to GSOC. When he rang Superintendent Dave
3 Taylor, Superintendent Cunningham was annoyed and said
4 "Nóirín is after throwing me under the bus". This
5 cliché is an expression of betrayal, to pass blame or 16:27
6 to double-cross and appears to show that there is a
7 clear division between Cunningham and O'Sullivan now in
8 relation to the Mullingar meeting and confirms my
9 suspicion that senior management had attempted to set
10 me up at the O'Higgins Commission." 16:27

11
12 This is referred to in your notes, isn't that right?

13 A. Yes.

14 741 Q. Cunningham and the --

15 A. Yeah. 16:27

16 742 Q. "Chief superintendent Fergus Healy attended the
17 O'Higgins Commission each day on behalf of the Garda
18 Commissioner as her liaison officer, to impart the
19 Commissioner's instructions to her counsel at the
20 specific request of counsel for the Commissioner. 16:28

21 Superintendent Taylor stated that when allegations
22 concerning the Mullingar meeting became public Chief
23 Superintendent Healy was directed to attend a hearing
24 to discuss why he did not report the matter to the
25 Garda Commissioner, who was denying publicly any 16:28
26 knowledge of the issue. These public denials were
27 surprising to me as the Commissioner's office received
28 daily transcripts of the Commission's proceedings and
29 as my counsel had specifically requested confirmation

1 that the allegations against me concerning the
2 Mullingar meeting were being made with personal
3 knowledge and instruction of the Commissioner.
4

5 The hearing was attended by the Commissioner's legal 16:28
6 section and other very senior officers. Chief
7 Superintendent Healy was asked why he did not report
8 the matter to the Garda Commissioner. When Chief
9 Superintendent Healy produced three dates in his
10 journal showing that he had reported this, the hearing 16:29
11 was closed. Chief Superintendent Healy informed
12 Superintendent Taylor that he was seeking a transfer as
13 he could not work with Commissioner O'Sullivan. He
14 transferred from HQ to Meath.

15 16:29
16 He stated that there was a person by the name of Ciaran
17 in Garda Headquarters who monitored all my activity on
18 Pulse."
19

20 That is again referenced in your note. 16:29
21

22 "He told me that he was informed by Deputy Commissioner
23 John Twomey that if he (Superintendent Taylor) "slipped
24 out and retired" all this, his discipline charges,
25 would go away and that Deputy Commissioner Twomey could 16:29
26 facilitate it. Superintendent Taylor adamantly refused
27 to adopt such a course.
28

29 The above is what Superintendent Taylor told me in his

1 House in the presence of his wife Michelle. I made
2 notes of the meeting with the knowledge and consent of
3 Superintendent Taylor.

4
5 My reaction is one of fear and worry in relation to my 16:30
6 continued status as a member of An Garda Síochána. I
7 now know for certain what I had long suspected. I was
8 the object of a sustained campaign over eight years in
9 which senior officers of An Garda Síochána set out to
10 vilify and discredit me rather than investigate the 16:30
11 matters which were found by the O'Higgins Commission to
12 be valid and serious complaints.

13
14 I am satisfied that Superintendent Taylor is being
15 truthful in relation to the matters referred to above 16:30
16 and that he is the victim of similar tactics that were
17 used in an attempt to destroy my reputation and to
18 drive me out of the force.

19
20 I am making this disclosure under the Protected 16:30
21 Disclosures Act 2014 as I have a professional
22 obligation and a moral duty to report this.

23
24 I hope I do not get further harassment for doing so.

25
26 I cannot reasonably be expected to serve under Garda 16:31
27 Commissioner Nóirín O'Sullivan.

28
29 Superintendent Taylor has told me he is willing to

1 substantiate all of the foregoing.

2
3 I understand from today's Irish Independent that a
4 report which RTÉ stated was dated June 2016 from John
5 Barrett, Head of Human Resources, was furnished to you 16:31
6 on the 24th August, concerning my status and treatment
7 by the Garda authorities. I am also aware that John
8 Barrett has prepared a further report based on a
9 statement signed by my wife and myself, dated 13th
10 September 2016, which may not have reached you. I 16:31
11 understand from John Barrett that he has recommended
12 that the Callinan/McGuinness meeting be investigated
13 and that ex-Commissioner Callinan be questioned on the
14 matter.

15
16 My dealings with Superintendent Taylor postdate the 16:32
17 meetings I had with John Barrett.

18
19 I regard what Superintendent Taylor has told me as of
20 the utmost gravity because the Commissioner has 16:32
21 constantly pretended to affirm the role of
22 whistleblowers in public, whilst seeking to destroy me
23 in a cowardly and covert manner."

24
25 And then you sign that. Are you prepared to stand over 16:32
26 every word of that protected disclosure?

27 A. Yes.

28 743 Q. You know the importance and significance of this,
29 because the papers have been disclosed to you and you

1 will have seen that Superintendent Taylor's protected
2 disclosure is different in some important respects,
3 isn't that right?

4 A. That's right.

5 744 Q. And you have seen his interview with the Tribunal 16:32
6 investigators --

7 A. I did.

8 745 Q. -- where he says that in fact none of the information
9 was given out by him by text message or email and that
10 all his dealings with members of the media was simply 16:33
11 by word of mouth?

12 A. I saw that.

13 746 Q. And you appreciate that what you say he told you at
14 this meeting on the 20th September is totally at
15 variance with that? 16:33

16 A. I see that.

17 747 Q. And in the light of that, are you still prepared to
18 stand over your account of that meeting?

19 A. Yes. I am. Just to tell you, when I went to my legal
20 team in relation to this, it was them that informed me 16:33
21 we'd have to do a protected disclosure and I remember
22 saying to them, every word has to be correct here.
23 Because there's no way I was going to say something
24 that I couldn't stand over.

25 748 Q. Just give me one moment. And also included in the 16:33
26 material is a letter that you sent to Mr. Justice
27 O'Neill on the 18th November 2016, it's at volume 1 at
28 page 250, and there's a reply from Mr. Justice O'Neill
29 on the 29th November 2016, that is at page 252. And

1 that's where you made a submission to Mr. Justice
2 O'Neill that he should prefer recommending a Tribunal
3 over a Commission of Investigation, isn't that right?
4 A. Yeah.
5 749 Q. Because you wanted these matters ventilated in public? 16:35
6 A. That's correct.
7 750 Q. And on that point, in terms of matters touching on the
8 work of the Tribunal and in particular the media, are
9 you anxious that people will come forward and give
10 whatever information that they have, particularly 16:35
11 journalists, in relation to the issues that the
12 Tribunal has to investigate in its business in the
13 coming months?
14 A. Yes, I would be, Mr. Chairman.
15 751 Q. Are you anxious to get to the truth of the matter and 16:35
16 that all matters should be ventilated in public?
17 A. Yes. Absolutely.
18 752 Q. Thank you for the moment.
19 CHAIRMAN: You think you're finished, Mr. Marrinan?
20 MR. MARRINAN: Yes. 16:36
21 CHAIRMAN: Okay. Thank you very much.
22
23 THE TRIBUNAL THEN ADJOURNED UNTIL TUESDAY, 6TH MARCH
24 2018 AT 10:00AM
25
26
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