

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

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1921, ON 17 FEBRUARY 2017

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

HELD IN DUBLIN CASTLE
ON MONDAY, 9TH APRIL 2018 - DAY 62

62

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 ON MONDAY, 9TH APRIL 2018,
2 AS FOLLOWS:

3
4 MR. MCENROY: Judge, I apologise for interrupting.
5 Just, could I indicate that I am very grateful for the 09:59
6 correspondence we received and to indicate that I am
7 instructed to appear on behalf of Mrs. Taylor. Thank
8 you, Judge.

9 CHAIRMAN: Thank you. Maybe the right thing to do then
10 is to ask, if there is anybody here representing 09:59
11 anybody who we haven't seen before maybe they would be
12 so kind as to just identify themselves and please say
13 who they are representing, who they are instructed by,
14 etcetera.

15 MR. HARTY: May it please you, Judge. I appear, 09:59
16 instructed by Peter Connolly Solicitors, on behalf of
17 Mr. John Wilson in relation to the limited matters
18 which are in today, I understood.

19 JUDGE: Okay, thank you, Mr. Harty.

20 MR. MEEHAN: Yes, Judge. My name is Gerard Meehan, you 10:00
21 have seen me before, I am led by Patrick McCann and
22 instructed by the Chief State Solicitor's Office. I am
23 instructed to make an application for representation on
24 behalf of Mr. Brian Purcell, former Secretary General
25 of the Department of Justice. I think the Tribunal has 10:00
26 written to Mr. Purcell and told him he is a C witness
27 so perhaps the application is not strictly necessary,
28 however I just want to formally make the application.

29 CHAIRMAN: No, I will certainly grant that and that is

1 no problem, but it's as well to also just indicate, as
2 you have done, that yes, you want to be here and that
3 you do want to be represented, because otherwise the
4 default position is that I assume you don't but I know
5 you do and you are here, thank you.

10:00

6 MR. MEEHAN: Thank you, Chairman.

7 CHAIRMAN: Is that it then, ladies and gentlemen?

8 MR. MARRINAN: Chairman, the first witness this morning
9 is Deputy John McGuinness, please.

10:00

10
11 DEPUTY JOHN MCGUINNESS, HAVING BEEN SWORN, WAS DIRECTLY
12 EXAMINED BY MR. MARRINAN:

13 1 Q. MR. MARRINAN: Now, I think Deputy McGuinness, you are
14 a member of Dáil Éireann and you were first elected to
15 the Dáil in 1997, is that right?

10:01

16 A. That's correct.

17 2 Q. I think that you represented, and do represent, the
18 constituency of Carlow/Kilkenny?

19 A. I do.

20 3 Q. And I think that you were first elected to the
21 constituency in 1997, is that right?

10:01

22 A. That's correct.

23 4 Q. And you were re-elected in 2002, 2007, 2011 and 2016,
24 is that right?

25 A. Yes.

10:02

26 5 Q. Now, on 15th June of 2011, were you appointed
27 Chairperson of the Public Accounts Committee?

28 A. Yes, I was elected to that position.

29 6 Q. And I think that you took up that role and the Public

1 Accounts Committee is required to examine and report to
2 the Dáil on reports of the Comptroller and Auditor
3 General?

4 A. That's correct.

5 7 Q. Who at that time was Mr. Séamus McCarthy, is that 10:02
6 right?

7 A. Correct.

8 8 Q. And I think in relation to that, at meetings of the
9 Public Accounts Committee was Mr. McCarthy always in
10 attendance? 10:02

11 A. Yes.

12 9 Q. Was he effectively a permanent expert witness?

13 A. Yes. He would sit beside me at the Public Accounts
14 Committee meetings and report on his findings.

15 10 Q. Now, as you know, principally you are here to give 10:02
16 evidence in relation to events that occurred on the
17 23rd of January 2014, after the Public Accounts
18 Committee had a hearing and then the following day on
19 24th January of 2014, you are aware of that?

20 A. Yes. 10:03

21 11 Q. Could you just help us before we come to deal with it,
22 in relation to your knowledge and of Sergeant Maurice
23 McCabe as of January 2014?

24 A. I had met Maurice McCabe the previous -- before that
25 meeting. 10:03

26 12 Q. On how many occasions?

27 A. We were dealing with -- I can't say on the number of
28 occasions, but it was a number of occasions anyway.
29 And I had come into contact with Maurice McCabe from

1 2011 onwards, where the issue of penalty points was
2 being raised and other issues in relation to the
3 workings of the Garda Síochána. And in the context of
4 the Public Accounts Committee hearing we were dealing
5 with the penalty points issue and around that time 10:04
6 Sergeant Maurice McCabe and others were informing us
7 that there was serious issues in relation to this
8 process and that evidence needed to be given to the
9 Public Accounts Committee to highlight this issue and
10 the extent of the issue. 10:04

11 13 Q. And you say you came into contact with him. Had you
12 actually met him personally?

13 A. No, I was contacted by Maurice McCabe originally by
14 telephone, by text, and as the years went by and this
15 issue came to the fore, it was necessary then to meet 10:04
16 with him and to understand the evidence that he had
17 gathered.

18 14 Q. So you first came into contact, as you put it, in 2011,
19 and then subsequently years after you met him. Can you
20 put a time or a date on the first occasion on which you 10:05
21 met him personally?

22 A. I have it in my diary. But -- and I can give that.

23 15 Q. Well, approximately. We can get you your diary.

24 A. 2013, I'm sure I would have met him, and certainly
25 2014. 10:05

26 16 Q. 2013. So had you heard anything in Dáil Éireann at
27 that stage in relation to Sergeant McCabe?

28 A. Well, we were being -- a lot of the members of the
29 Oireachtas were being lobbied in relation to the issue

1 itself. I do know that John Wilson was part of that.
2 But aside from that, then, there was quite a lot of
3 rumour about Maurice McCabe, all negative, to the
4 effect that he could not be trusted and undermining the
5 evidence he was attempting to give. 10:05

6 17 Q. Well, in the first instance he wasn't in fact giving
7 any evidence; he was bringing information to the Public
8 Accounts Committee, isn't that right?

9 A. He was bringing information to the Public Accounts
10 Committee but as part of that process I met with 10:06
11 Maurice McCabe and received from him the evidence that
12 eventually was put before the Public Accounts Committee
13 for examination, and this was the evidence that was
14 examined later by each member of the Public Accounts
15 Committee relevant to the penalty point issue. 10:06

16 18 Q. Yes. These were actual fixed charged penalty notices,
17 is that right?

18 A. There were fixed charge penalty notices. As part of
19 the examination of this issue, I undertook to speak
20 with Maurice McCabe and then later I received the boxes 10:06
21 of evidence from him, showing that abuse was taking
22 place and that there was a loss to the taxpayer in
23 relation to this.

24 19 Q. Yes.

25 A. I then presented that information to the Public 10:07
26 Accounts Committee. The legal section within the
27 Oireachtas took the evidence, they redacted that
28 evidence, and they gave sight of it to the members of
29 the Committee.

1 20 Q. Well, if we could just return back to the issue of
2 Sergeant McCabe being somebody who couldn't be trusted,
3 as said, there wasn't at that stage an intention on the
4 part of the Committee to call Sergeant McCabe as a
5 witness before the Committee, is that right? 10:07

6 A. Sorry, repeat that. There was?

7 21 Q. At that stage, there wasn't an intention on the part of
8 the Committee to call Sergeant McCabe before the
9 Committee to give evidence?

10 A. No, during the lead-up to that decision being taken it 10:07
11 was obvious that Sergeant McCabe and others were
12 highlighting this issue and a number of members of the
13 Oireachtas were raising questions in relation to this
14 matter. And then to complete, I suppose, what was
15 happening, alongside that effort being made by Sergeant 10:08
16 McCabe and others, there was a further effort being
17 made to spread gossip and rumour in relation to the
18 character of Sergeant Maurice McCabe and to insist that
19 he was not a credible individual to be listening to.

20 22 Q. Do you recall where you first heard this rumour from or 10:08
21 the source of it?

22 A. I don't know the source of these rumours because I
23 ignored them. I like to deal with facts as presented,
24 and the facts as presented by Sergeant McCabe seemed at
25 that time to be credible. That was before looking at 10:09
26 the evidence that he gave in terms of the paperwork.
27 So I ignored what was being said, but it was rumour
28 that, I suppose it was being circulated throughout
29 Leinster House and I decided not to take part in, you

1 know, examining that, because my purpose was to examine
2 the fixed penalty point issue.

3 23 Q. Well, I am really just trying to ascertain where you
4 may have heard this rumour in the first instance?

5 A. In Leinster House. 10:09

6 24 Q. Yes.

7 A. It was -- I can't identify the people who will have
8 spread this rumour. I don't know the source of it, but
9 I do know at the time there was considerable pressure
10 to ensure that the lobbying being carried out by 10:09
11 Sergeant Maurice McCabe and others was stopped, and the
12 method used to stop that rumour -- to stop that
13 process, was to spread these malicious rumours about
14 Sergeant McCabe, which I ignored and took no part in.

15 25 Q. You may not have known the source of the rumour but 10:10
16 from whom did you first hear the rumour, do you recall?

17 A. I don't.

18 26 Q. You don't?

19 A. As I say, if you wanted to stop in Leinster House in
20 the corridors you could certainly listen to as much of 10:10
21 that rumour as you wished to, because there was a
22 deliberate attempt being made to insist that he was not
23 a credible individual to be speaking to.

24 27 Q. Yes. And other than the fact that he wasn't somebody
25 to be trusted, what else was being said of him at that 10:10
26 time?

27 A. That he was involved in issues around sexual abuse and
28 that he was a paedophile.

29 28 Q. And was it as stark as that?

- 1 A. Yes, it was. And because of that, I felt it was
2 deliberate in the effort being made to prevent the
3 examination of the issue any further and I had to keep
4 my sight clearly on what was the work of the Public
5 Accounts Committee, the Comptroller and Auditor General 10:11
6 and what was about to be debated or to be examined at
7 the Public Accounts Committee meeting.
- 8 29 Q. When you heard this rumour that was circulating, did it
9 cause you to hesitate in any way in your dealings with
10 Sergeant McCabe? 10:11
- 11 A. It -- well, to understand Leinster House, you are in a
12 bubble and a lot of these rumours go around to
13 discredit people, whether they are individuals like
14 Sergeant McCabe making a case or whether fellow
15 politicians so I tend to ignore them. I am not 10:11
16 particularly interested in the rumour. I had met the
17 individual at that stage and, as I said, my main
18 concentration was on the facts and on the work of the
19 Public Accounts Committee and not on the efforts being
20 made to prevent this man from making his case. 10:12
- 21 30 Q. Well, did you confront Sergeant McCabe with the rumour?
22 A. I did, in a general way, and he said that he was aware
23 these rumours were circulating. He assured me that
24 they were not true. I accepted that, and I pursued it
25 no further. 10:12
- 26 31 Q. Well, if we could just perhaps just look into this in a
27 little bit more detail in relation to when it was that
28 you confronted Sergeant McCabe with the rumour.
- 29 A. During the course of my meetings with him, prior to him

1 giving evidence at the Public Accounts Committee
2 meeting, it was sometime before that --

3 32 Q. He -- sorry, yes.

4 A. I didn't -- it was part of, I suppose, conversation. I
5 didn't deliberately set out to meet him to deal with 10:13
6 these rumours because I had made up my own mind on the
7 rumours, so, as I said to you, my purpose was the work
8 of the Committee and not the rumours.

9 33 Q. Okay. And do you recall the occasion, Sergeant McCabe
10 has given evidence and he referred to, I think he 10:13
11 believed that he had met you on three occasions but he
12 had met you once in Buswells Hotel before he came to
13 give -- came to give evidence before the Public
14 Accounts Committee?

15 A. That's right, yeah. 10:13

16 34 Q. But that would have been after the 23rd January, the
17 impression I got was that he was on his way to give
18 evidence before the Public Accounts Committee.

19 A. No, I did not meet him on the day he was to give
20 evidence. I met him prior to that. 10:13

21 35 Q. Okay. And was it in the weeks prior to that?

22 A. It was, yes.

23 36 Q. Right. And I mean, how, deputy, do you broach the
24 subject and perhaps ask the question, you know, the
25 rumours that -- 10:14

26 A. Just directly.

27 37 Q. Were you as direct as that?

28 A. I was, yeah. Well, I had to find out. I am not a
29 personal friend of Sergeant Maurice McCabe, I admire

1 the man for what he did, and at that stage I had made
2 my mind up clearly about the intent of Sergeant McCabe
3 and what he was attempting to do, so the only way I
4 know of dealing with these things is to ask the
5 question directly and you can establish for yourself 10:14
6 whether you believe it to be true or false.

7 38 Q. So you were as blunt as that with him?
8 A. Well, if you call that blunt.

9 39 Q. Yes.
10 A. Seeking the truth. 10:14

11 40 Q. Or direct?
12 A. Direct, yes.

13 41 Q. So you asked him was he a paedophile?
14 A. I did, yeah. I asked him were these rumours true and
15 these rumours circulated, you know, using all of these 10:14
16 descriptions and I was quite happy to clear my mind
17 about it, and I did.

18 42 Q. And his response to you was to deny it was. Was he
19 aware that the rumours were out there?
20 A. I believe he was. 10:15

21 43 Q. And did he show in any way that he was disappointed
22 that perhaps if the rumours had circulated around
23 Leinster House and had fallen on your ears at that
24 juncture?
25 A. I think that he was extremely upset and disappointed. 10:15
26 That he was a man setting out to do the right thing and
27 that these rumours were deliberate efforts being made
28 by forces to ensure that his character would be -- his
29 character would be damaged.

1 44 Q. And can you just tell us how you found him as a person
2 when you were dealing with him?
3 A. I found him to be an honest, straightforward
4 individual, extremely proud of the uniform that he
5 wore, extremely upset over the stain that was now on 10:16
6 the uniform because of the penalty points scandal and
7 determined to try and do the right thing.

8 45 Q. So prior to the meeting of the Public Accounts
9 Committee on the 23rd January, Sergeant McCabe was
10 somebody that you thought highly of, is that right? 10:16
11 A. I did, and still do.

12 46 Q. And you found him to be not only personable but also
13 somebody who was honourable?
14 A. Yes.

15 47 Q. And you were extremely disappointed presumably that 10:16
16 these rumours were circulating in Leinster House about
17 Sergeant McCabe?
18 A. Yes, and the intensity of those rumours.

19 48 Q. Yes. And even though you didn't put any credence to
20 the rumours, you decided to confront him with the 10:17
21 rumours and I suppose not only to get his response but
22 also to advise him that the rumours were there?
23 A. That's correct.

24 49 Q. Yes. And after you had confronted him you were happy
25 that you had confronted him? 10:17
26 A. Yes.

27 50 Q. Yes. And that was the state of your knowledge as far
28 as Sergeant McCabe was concerned on the 23rd January of
29 2014. At what point in time had a decision been made

1 to call him as a witness to give evidence before the
2 Public Accounts Committee?

3 A. Well, as I said, I collected the evidence, box of
4 evidence from Sergeant McCabe, I presented those to the
5 Public Accounts Committee, they were examined by the 10:17
6 legal section of the Oireachtas and a process was
7 established in the context of presenting these formally
8 as documents to be seen by the members, and then the
9 members then decided, on legal advice, that we would
10 hear the evidence in private. It was presented to us 10:18
11 that this was required because there was a fear that
12 Sergeant McCabe might name people, both on the penalty
13 points documents and indeed might discredit people
14 within the force. That is how it was presented to us.
15 So we decided to take the unusual decision to have a 10:18
16 private session.

17 51 Q. I think that the concerns that caused the Committee to
18 seek legal advice has initially been raised by the
19 Garda Commissioner in a letter that he sent to the
20 Public Accounts Committee, and if we could just have 10:18
21 that on the screen at page 659, if you'd prefer a hard
22 copy --

23 A. The screen is fine.

24 52 Q. On screen is all right. This is a letter sent by
25 Commissioner Callinan, as he then was, and it's 10:19
26 addressed to you and it's:
27
28 "Re: Unauthorised disclosure of data to Committee of
29 Public Accounts.

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Dear Deputy McGuinness

I refer to an above and an article which appeared in the Irish Examiner on Saturday last, the 9th November 2013.

10:19

The report states that one of the Garda whistleblowers in respect of the cancellation of fixed charge penalty notices has provided you with files containing data which relate to monies lost to the State through improper cancellation of such notices. This newspaper report appears to be a continuation of claims by one of two persons. One, a serving member of An Garda Síochána and the other a now retired member regarding the discretionary system in place to allow the cancellation of fixed charge notices by the deployment of prosecutorial discretion. In accordance with my duties as Data Controller under the Data Protection Acts 1988 to 2003 I am of the view that these files containing personal data are files which I am responsible for and accordingly should be returned forthwith to me. I am also concerned that there is a potential breach of either section 19(3) or section 22 of the Data Protection Act 1988 to 2003.

10:19

10:20

10:20

10:20

Unfortunately, I am not in a position at this juncture to identify whether the person who has furnished the information to you is an employee of mine or not. I can confirm that my prior authority was not obtained

1 before this data was furnished to you.

2
3 I have, in accordance with my duties as Data
4 Controller, informed the Data Protection Commissioner
5 in relation to a potential breach of the Data
6 Protection Acts 1988 to 2003. 10:21

7
8 Having taken legal advice from the Attorney General, I
9 now request that you return all such personal data to
10 me forthwith. My prior authorisation was not obtained 10:21
11 before this data was furnished to you and in this
12 respect I'm concerned now that either section 18(3) or
13 section 22 of the Acts has been breached. I am also
14 advised that any such disclosure of personal data in
15 this respect is an unauthorised disclosure in 10:21
16 accordance with the Data Protection Acts 1988 to 2003.
17 I look forward to your reply by return."

18
19 That is dated the 15th November. You did reply to that
20 but the matter was deferred to be considered by the 10:22
21 Committee, and the response to the letter is in fact on
22 18th December 2013, and it's at page 663, and it's sent
23 by the clerk to the Committee, Mr. Ted McEnergy. Have
24 you got that on the screen?

25 A. Not yet. 10:22

26 CHAIRMAN: Deputy McGuinness, it is up to you
27 obviously, but it's better to take the volume and have
28 the thing in front of you. We will be skipping around
29 on things, but quite often a little bit is said and I

1 think you need to be able to have your eye cast on what
2 is before and what is after. So it's actually in
3 volume 2 very much down towards the end of it. Yes,
4 the second volume. So we are on 663, I think.

5 MR. MARRINAN: Page 663, please.

10:23

6 A. Yes.

7 53 Q. Have you got that? It reads:

8 "Dear Commissioner

9 I refer to your letter of 15th November 2013 and the
10 Chairman's reply of the 21st November 2013 in relation
11 to documentation supplied by a whistleblower to the
12 Committee in connection with the fixed charge notice
13 system.

10:23

14
15 The Committee sought legal advice as to the legality of
16 its receipt of the documentation and related issues.
17 Specific advice was also sought as to your request that
18 the documentation be returned to your offices
19 forthwith.

10:23

20
21
22 Having received this legal advice the Committee notes
23 that the documentation is lawfully before the Committee
24 pursuant to, inter alia, section 62 of Garda Síochána
25 Act 2005. The documentation is relevant to the
26 Committee's examination of Chapter 7 of the C&AG's an
27 actual report on the accounts of the public service
28 2012 as regards the adequacy of the fixed charge notice
29 system and in particular the controls, protocols,

10:24

1 procedures and systems in place.

2
3 The Committee notes your concerns as to data protection
4 considerations which necessarily arise. The Committee
5 has taken legal advice on this issue and having viewed 10:24
6 the documentation in private session in order to
7 ascertain whether the material contained therein
8 properly falls within the Committee's remit, has now
9 arranged for the redaction of all sensitive and
10 personal information from the documentation and for the 10:24
11 information contained therein to be compiled into an
12 anonymised statistical information relevant to its
13 consideration of the fixed charge notice system.

14
15 I trust this clarifies the position of the Committee." 10:25

16
17 So that was the position as set out by the Garda
18 Commissioner after consultation with the Attorney
19 General. Your Committee sought legal advice and then
20 set out its position in relation to the matter, isn't 10:25
21 that right?

22 A. That's correct. We did receive the letter from the
23 Commissioner, it was dealt with by the Committee and
24 then the in-house legal advice was sought and the
25 result was conveyed to the Commissioner on 18th 10:25
26 December.

27 54 Q. And then following on from that, I think that a letter
28 was sent again to the clerk of the Committee, this is
29 at page 665 of the material, and this is a letter in

1 response to the letter of the 18th December 2013.

2
3 "I remain very concerned that files in respect of which
4 I am the data controller should be subject to
5 unauthorised disclosure. I do not know what 10:26
6 information is contained in the files which were
7 furnished to you by a member of the Gardaí. However,
8 insofar as you have said that these files contained
9 sensitive personal data which you are redacting, I must
10 assume the files relate to individuals. 10:26

11
12 As I have already said, I believe these files should be
13 returned to me as the data controller. They could then
14 be reviewed by the Comptroller and Auditor General,
15 should he so wish, to supplement his report on the 10:26
16 controls, system, procedures and practices in relation
17 to the fixed charged notices. I could then address
18 such a supplemental report if your Committee were to
19 request me to attend to discuss it.

20 10:27
21 In your letter, you refer to section 62 of Garda
22 Síochána Act 2005. This provision makes it an offence
23 for members and civilian staff of the Gardaí to discuss
24 certain information subject to certain exceptions. It
25 does not authorise your Committee to receive sensitive 10:27
26 personal data which has been disclosed without the
27 authorisation of the relevant data controller. The
28 position as set out in my earlier letter and that of
29 the Data Protection Commissioner is quite clear. I

1 cannot put the matter further than that.

2
3 I refer to my forthcoming attendance at the Public
4 Accounts Committee. I have been asked to attend to
5 answer questions in relation to chapter 7 of the 10:27
6 Comptroller and Auditor General's annual report for
7 2012. In his report --"

8
9 Sorry.

10
11 "-- i.e. his report into the system of --" 10:28

12
13 Sorry, my copy is very bad.

14
15 "-- of control applied and the adequacy of systems, 10:28
16 procedures and practices implemented by An Garda
17 Síochána to the system of fixed charged notices.

18
19 I understand from what you have said that the files in
20 question relate to individuals. Insofar as you have 10:28
21 indicated that you do not intend to return the files in
22 question and that you intend to use them in redacted
23 form in your consideration of the fixed charge notice
24 system I should make clear that I cannot, in my
25 forthcoming attendances at the PAC, discuss individual 10:28
26 cases. My function in attending is to assist the
27 Committee in its task under Standing Order 163 by
28 answering questions in relation to Chapter 7 of the
29 Comptroller and Auditor General's annual report, i.e.

1 the control systems, procedures and practices in
2 relation to the fixed charged notices, and not in
3 relation to individual exercises or prosecutorial
4 discretion whereby fixed charged notices may have been
5 cans settled.

10:29

6
7 I should also say that even if I were in a position to
8 discuss individual cases, I would not be in a position
9 to answer any questions about the files you have in
10 your possession as I do not know what is contained in
11 them."

10:29

12
13 And that is signed by the Garda Commissioner, Martin
14 Callinan.

15 CHAIRMAN: Can you make out the date, Mr. Marrinan,
16 because I can't. It seems to say the 24th December.

10:29

17 MR. MARRINAN: It is the 24th December, yes, we have
18 checked that, sir.

19 55 Q. So that is sent on Christmas Eve to the Public Accounts
20 Committee. It's really locking horns with the
21 Committee in relation to this issue, isn't that right?

10:29

22 A. That's correct.

23 56 Q. And the Committee considered that and then on page 667
24 the Committee responds to Commissioner Callinan and
25 that is dated 17th December 2014:

10:30

26
27 "I refer to your letter of the 24th December 2013 and
28 to the Committee's letter to you of the 18th December
29 in relation to retention of documentation supplied by a

1 whistleblower to the Committee in connection with the
2 fixed charge notice system. The Committee notes your
3 view that section 62 of Garda Síochána Act 2005 does
4 not authorise the Committee to receive the relevant
5 garda whistleblower materials without your consent. As 10:30
6 outlined in the letter of the 18th December 2013, the
7 Committee's legal advice is to the contrary. The
8 documentation being lawfully before the Committee has
9 been redacted of all sensitive and personal information
10 by the office of the parliamentary legal adviser, in 10:31
11 whose custody all documentation remains. The
12 documentation, now devoid of any information from which
13 any person can be identified and on which an anonymised
14 statistical analysis has been prepared, will be
15 considered by the Committee solely in order for the 10:31
16 members thereof to better understand the fixed charge
17 notice system and operation thereof, the controls,
18 mechanism and procedures in place for the operation of
19 that system as contained in the report of the
20 Comptroller and Auditor General. 10:31

21
22 The Committee wishes to assure you that it shall not
23 discuss any individual case of prosecutorial discretion
24 whereby fixed charge notices may have been cancelled.

25 10:31
26 As you correctly identify, you are being asked to
27 answer questions in relation to the system of control
28 applied and the adequacy of systems, procedures and
29 practices implemented by An Garda Síochána.

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I trust this clarifies the position and I look forward to your appearance."

And that sets out the position of the Committee in relation to this matter and, as far as the Committee was concerned, would it be fair to say that you believed that you had allayed the concerns of the Garda Commissioner in relation to the data by redacting the fixed charge penalty notices? 10:32

A. I don't know whether we allayed his concerns or not. But I --

57 Q. But that was your intention?

A. Yes. And may I say that from the very beginning in the context of examining this particular issue, that the Comptroller and Auditor General provides his report, it is never the case that you deal with individual issues or that you name people through the Public Accounts Committee, particularly in relation to matters like this. So to allay the fears, if you like, of the Commissioner, it was stated clearly, it was being handled legally by the Oireachtas, that we felt we were completely within our right to examine this, that it gave evidence in the strongest possible fashion to support the Comptroller and Auditor General's report and that we would be examining this in the context of processes, procedures and loss of taxpayers' money. 10:33

58 Q. Now, I think that the Public Accounts Committee sat to consider Chapter 7 of the report on the accounts of the

1 public services in -- of 2012, at a meeting on 23rd
2 January 2014, and you heard evidence from 10:00am to
3 2:50pm, is that right?

4 A. That's correct.

5 59 Q. I think in the first instance you heard evidence from 10:34
6 Mr. Séamus McCarthy but you also heard evidence from
7 Mr. Martin Callinan, the Garda Commissioner, isn't that
8 right?

9 A. Yes, that would be normal, Chairman, we would -- the
10 Comptroller and Auditor General would report, give an 10:34
11 opening statement and then the Garda Commissioner in
12 this case would give his opening statement. Following
13 that then, the members were free to ask whatever
14 questions that they might consider important arising
15 from both statements. 10:34

16 60 Q. We have seen and have a copy of the transcript of the
17 hearing and there seems to be somewhat heated exchanges
18 between some of the deputies and the Garda
19 Commissioner, do you recall that?

20 A. Yes, robust exchanges, yes. 10:35

21 61 Q. And just at the commencement of the hearing in an
22 opening statement, I think you indicated the intention
23 of the Committee to call Sergeant Maurice McCabe to
24 give evidence before the Committee, isn't that right?

25 A. That was a decision of the Committee, yes. 10:35

26 62 Q. Yes. Had you notified that to Commissioner Callinan
27 before he came to give evidence?

28 A. We had notified him of the evidence that we had
29 received, and you see that through the correspondence

1 from November to December, and because it was clearly a
2 conflict in terms of how that evidence was viewed, the
3 decision was being reached to invite Sergeant McCabe to
4 the meeting and I am sure that publicly, Commissioner
5 Callinan would have known about that. whether he was 10:35
6 told directly by the Committee secretariat of that
7 decision, I'm not sure.

8 63 Q. All right. And we know now, it's a historical fact,
9 that he reacted quite angrily to the idea that a member
10 of An Garda Síochána should be giving evidence before 10:36
11 the Public Accounts Committee, isn't that right?

12 A. He was pressed on a number of issues, as would be the
13 case, and in the context of the Garda whistleblowers he
14 described them as disgusting, so that, I think, would
15 tell you that the frustration and anger, I suppose, 10:36
16 that was there at the meeting, and resulted in these
17 type of heated exchanges, where people robustly put the
18 question and where he would likewise answer. But it
19 certainly is an expression that has marked clearly his
20 attitude at that meeting. 10:36

21 64 Q. Well, I just wonder whether that is entirely fair. If
22 you just take volume 4 there, at page 1107. This is a
23 transcript of the hearing on Thursday, 23rd January
24 2014. And --

25 A. 1107? 10:37

26 65 Q. Yes, 1107. Just so something isn't taken out of
27 context, I will read the entirety of his response.
28 This is, if you go to the bottom, deputy, of page 1107,
29 you see Deputy Shane Ross and then the Garda

1 Commissioner said:

2
3 "I see the point about the concept of the Garda
4 investigating the Garda. It is why we have an
5 inspectorate examining the system and an Ombudsman 10:38
6 examining how we do our business. I find there is a
7 certain irony in that the very person charged with
8 policing the security of the State, the person we all
9 put our trust and belief in on a daily basis, the man
10 responsible for all these serious matters, is the very 10:38
11 person who stands accused by the deputy's submission of
12 not being open and transparent or producing a report as
13 such. I find that extraordinary. I do respect the
14 notion that Gardaí in certain circumstances should not
15 be investigating one another. That is why we have the 10:38
16 Ombudsman's Commission to deal with those cases.
17 Clearly here, however, we have two people; one out of a
18 force of over 13,000 who are making extraordinary and
19 serious allegations. There is not a whisper of
20 anywhere else or from any other member of the Garda 10:39
21 Síochána, however, about this corruption malpractice
22 and other charges being levelled against their fellow
23 officers. Frankly, on a personal level, I think it is
24 quite disgusting. That said, I have openly admitted
25 here to this Committee that there were difficulties 10:39
26 within the system and that we have addressed them.
27 That is where the deputy and I will agree to differ,
28 with the greatest of respect, I do respect what the
29 deputy is saying to me."

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So it's quite clear there that what the Garda Commissioner is saying is that in fact he finds the fact that the matter is being pursued in the manner it was being pursued by the whistleblowers as disgusting, isn't that right?

10:40

A. He is talking about -- "...that there is not a whisper anywhere else or from any other member of the Garda Síochána, however, about this corruption, malpractice, and other charges levelled against them." They were levelled against them by the whistleblowers. So people took it that he was referring to the whistleblowers and their activities as disgusting.

10:40

66 Q. Well, he is referring to their activities, as in, the manner in which they are going about doing what they are doing as being disgusting but he is not referring to the actual whistleblowers as being themselves personally disgusting?

10:40

A. I am taking from that, that he is referring to the manner in which they were going about their business, as you say, to be disgusting.

10:40

67 Q. Yes. But not that they personally were people who were disgusting? I mean, there is a difference, you can see --

A. There is a difference, yes.

10:41

68 Q. Yes. But the statement that you made just earlier on was in a broader context, that they were disgusting, but, in any event, if you could just look at volume 2.

A. The same volume?

1 69 Q. Sorry, volume 2, thank you. And if we could look at
2 page 650. These are extracts that have been taken by
3 former Commissioner Martin Callinan in a statement that
4 he made to the Tribunal. I just want to put them to
5 you and just have them recorded for the transcript. 10:42
6 Have you got that?

7 A. 650?

8 70 Q. This is in response to Deputy Mary Lou McDonald. She
9 says:

10
11 "The Commissioner described their behaviour as
12 disgusting. It is a strong thing to say that they have
13 carried themselves in a manner that is disgusting. 10:42

14
15 Mr. Martin Callinan: Correct. It's the context of the 10:42
16 manner in which they decided to pursue what they are
17 pursuing that is definitely something that I cannot
18 accept at any level."

19
20 And he says that that contextualises his remark of 10:42
21 disgusting as not referring to the individuals but the
22 manner in which they have gone about reporting the
23 matter. He then goes on to refer at page 654, at
24 volume 2, and then halfway down he says:

25
26 "However, the deputy should be very clear that from my 10:43
27 perspective as Commissioner of An Garda Síochána, I
28 will not allow any reporting -- anybody -- anyone
29 reporting wrongdoing to be bullied, harassed,

1 intimidated or whatever adverb or adjective the deputy
2 chooses to use. That will not happen on my watch.
3 There is a mechanism and procedure for reporting
4 wrongdoing which would -- which should not be going off
5 to a third party with a whole raft of serious 10:43
6 allegations, criminal and otherwise, and producing them
7 elsewhere."

8
9 Again, he is highlighting this matter and this passage
10 to demonstrate his concern at the time was not with the 10:43
11 individuals but what they were doing, do you
12 understand?

13 A. Yes.

14 71 Q. And then he goes on and refers to -- page 655, he
15 becomes somewhat emotive, he says: 10:44

16
17 "People will be aware and it's a matter of public
18 record of how I do my business and how this man beside
19 me, Deputy Commissioner O'Mahony, does his business.
20 We have, and I have said this in the past, both been 10:44
21 involved in investigations where we sent our colleagues
22 to jail, not a very pleasant exercise. I can assure
23 everyone sitting in this room. We have had on occasion
24 where one of our own colleague's wives collapsed in
25 front of us when he was sent to jail, so no one can 10:44
26 point the finger at me and say that I will not take
27 firm action if I have any hint of wrongdoing."

28
29 So you recall those exchanges?

1 A. Yes.

2 72 Q. And you described them as robust exchanges between the
3 Garda Commissioner and the deputies who were there on
4 the day in question, isn't that right?

5 A. Yes. 10:45

6 73 Q. And Mr. Callinan's position in relation to this, I take
7 it from the statement that he has provided to the
8 Tribunal and his interview with the Tribunal
9 investigators, is that he was not making a personal
10 derogatory comment about Sergeant McCabe or the other 10:45
11 whistleblower, but he was expressing very strongly his
12 feeling about the manner in which they were bringing
13 personal data into the public arena, as he saw it, do
14 you understand?

15 A. I do. 10:46

16 74 Q. And that this wasn't a personal attack and that he was
17 making it very clear in the passages that he has
18 referred to that he would never condone any sort of
19 wrongdoing with An Garda Síochána, I think you'd accept
20 that he is making that very clear, isn't that right? 10:46

21 A. He is, yeah.

22 75 Q. And that he has put in place structures and will
23 support any member of An Garda Síochána who wishes to
24 make a complaint in relation to any practice or
25 procedures in An Garda Síochána or any wrongdoing, but 10:46
26 that he believes very strongly there is a way of doing
27 it, isn't that right?

28 A. That is what he is saying, yes.

29 76 Q. Yes. So --

1 A. But can I just comment on this --

2 77 Q. Yes, of course.

3 A. -- and say to you that what he is saying is, that to
4 bring this information in the way that they did -- he
5 did, and others, was disgusting, the activity of -- of 10:47
6 bringing it.

7 78 Q. Yes?

8 A. Commissioner Callinan said that there's processes and
9 procedures within the system to deal with all of these
10 things. And the reason why the Public Accounts 10:47
11 Committee, Chairman, pursued the questioning with
12 Sergeant Maurice McCabe was because it was obvious that
13 these processes and procedures spoken about by
14 Commissioner Callinan had failed miserably and that the
15 officers concerned within the Garda force had no place 10:47
16 else to turn but to the members of the Oireachtas.
17 Sergeant McCabe turned to the Oireachtas for redress,
18 John Wilson turned to the Oireachtas for redress, and
19 there were others who turned to the Oireachtas to get
20 redress. All of them failed within the Garda Síochána 10:47
21 system to get the type of redress that was required in
22 relation to serious matters. So while the record
23 speaks for itself, the Public Accounts Committee were
24 obviously reaching the conclusion that they would like
25 to hear Sergeant Maurice McCabe because they wanted to 10:48
26 hear the other side of that story and to understand the
27 experience that he had. And finally, you say that the
28 documents were being put into the public domain. The
29 redacted version of the documents were shown to the

1 members of the Committee. They were not put into the
2 public domain.

3 79 Q. And I am not -- I am not saying that to be so. This is
4 the case being made by --

5 A. No, I understand that. 10:48

6 80 Q. I am supposing the case being made by former
7 Commissioner, Mr. Callinan. But in any event, I think
8 that Assistant Commissioner John O'Mahony also gave
9 evidence, as did Mr. Kevin Clarke from the Department
10 of Justice and Equality, isn't that right? 10:49

11 A. Correct.

12 81 Q. And the Committee concluded its business in the
13 afternoon at around about 3:30, was it? Or do you
14 recall?

15 CHAIRMAN: I thought it was ten to three. 10:49

16 A. About ten to three.

17 82 Q. MR. MARRINAN: Yes, 2:50, sorry.

18 A. Half two or three o'clock.

19 83 Q. And will you just tell us then in your own words of
20 what happened? 10:49

21 A. After the Committee meeting?

22 84 Q. Yes.

23 A. Well, it's normal practice after a hearing of the
24 Public Accounts Committee that the members of the
25 Committee would go and speak to the witnesses. 10:49

26 85 Q. Just sorry, sorry, I have asked to you say it -- before
27 you come to deal with that. Had you met the
28 Commissioner prior to the meeting?

29 A. Of the 23rd?

1 86 Q. Yes.

2 CHAIRMAN: In other words, you are being asked, did you
3 know him personally?

4 87 Q. MR. MARRINAN: No, I meant on the day, had you met him
5 prior to giving evidence? 10:50

6 A. No.

7 88 Q. We have Mr. Deasy, for example, and Mr. Séamus McCarthy
8 who actually met with the Garda Commissioner and his
9 team in the coffee dock?

10 A. No, you would normally see them around the coffee dock 10:50
11 in Leinster House as they would gather for the meeting
12 or indeed downstairs and you would pass through them
13 and, you know, welcome them and so on. That was it.

14 89 Q. But you hadn't met them on the 23rd?

15 A. I am sure I met them on the way in, but there wasn't a 10:50
16 formal meeting as such.

17 90 Q. Just continue on then.

18 A. You want me to answer now for after the meeting?

19 91 Q. Yes.

20 A. Well, after the meeting we would go and pass some 10:51
21 pleasantries, thank them for attending the meeting, for
22 their evidence and so on. On that particular day, as I
23 have stated, as I approached the Garda Commissioner, he
24 immediately went into a story, or telling me about an
25 incident involving John Wilson, where there was a 10:51
26 difficulty in Grafton Street I think it was, the police
27 were called to that, John Wilson was one of the
28 individual Gardaí that attended at that incident, and
29 in the Commissioner's words, he pulled the knacker off

1 the horse, because it involved horses and individuals,
2 he got on the horse himself, rode it back to the
3 barracks and tied it to the railings of the barracks;
4 and the other fella fiddles with kids; they're the kind
5 of fucking headbangers I am dealing with. Excuse me, 10:52
6 Chairman, but that is what was said.

7 92 Q. And what was your reaction when he said this?

8 A. Well, like, any other reaction to any of these things,
9 I just moved on because my focus was on the hearing and
10 the detail of the Public Accounts Committee and I felt 10:52
11 that all of this pressure -- and you must understand
12 there was considerable pressure being put on the
13 members of the Committee not to pursue this and
14 questions were being raised within the Dáil as to how
15 this matter was being dealt with. So I felt the best 10:52
16 action at that point was just to move on and not engage
17 in conversation. And I did move on and I finished
18 meeting the other witnesses that were there and I left.

19 93 Q. Well, if we could just break this down and go through
20 this. First of all, as you approached Commissioner 10:53
21 Callinan, who was with him?

22 A. From recollection, they would stand at the positions
23 that they were in, you know, in their seating
24 arrangements and they were moving from there, I was
25 moving from my position. I could -- the Commissioner, 10:53
26 obviously, then there was Assistant Commissioner Nóirín
27 O'Sullivan and at that time Dave Taylor were in the
28 general area of this exchange.

29 94 Q. So you have a recollection that Commissioner Callinan,

1 Assistant Commissioner Nóirín O'Sullivan and
2 Superintendent Dave Taylor were in the general area of
3 Commissioner Callinan, is that right?

4 A. That's correct.

5 95 Q. And were they standing? 10:54

6 A. Yes.

7 96 Q. Were they standing together?

8 A. Loosely together, yeah, they were moving back from
9 their positions, having given evidence.

10 97 Q. Well, they had given evidence -- they had been seated 10:54
11 throughout?

12 A. Seated throughout and they were standing to leave the
13 room at that stage.

14 98 Q. So they had got up and they were ready to leave the
15 chamber? 10:54

16 A. Yes.

17 99 Q. And were they talking amongst themselves?

18 A. Yes, which would be the case.

19 100 Q. And you approached, is that right?

20 A. I would approach them, shook hands with the 10:54
21 Commissioner, Nóirín O'Sullivan I am sure, the other
22 group that were there, and as you walk through those --
23 through that group, there was various conversations
24 going on and I'm recounting to you the conversation
25 that the Commissioner entered into with me as I moved 10:55
26 through them.

27 101 Q. Well, was this a conversation with you?

28 A. It was a conversation meant for my ears.

29 102 Q. That is something --

1 A. Not something -- not a conversation that I had directly
2 entered into with him.

3 103 Q. Well, you see, this is something that we have to
4 explore, because you will appreciate that Martin
5 Callinan has an entirely different version of things. 10:55

6 A. I understand that.

7 104 Q. And I have to confront you with some of the issues that
8 arise in relation to the statements that you have made
9 in this regard, all right? And we are trying to get an
10 understanding of exactly what it is that you were 10:55
11 saying in relation to this. Were you engaged in
12 conversation with the Garda Commissioner at this time
13 when he made this reference?

14 A. No, I was moving towards him and he commenced the
15 conversation. 10:56

16 105 Q. Commenced conversation with you?

17 A. Yes.

18 106 Q. Yes. And how did he commence that conversation with
19 you?

20 A. By getting straight into describing an incident 10:56
21 involving John Wilson, who was a member of the force.

22 107 Q. So the remark was addressed to you in relation to John
23 Wilson?

24 A. Exactly.

25 108 Q. So he is now engaged in conversation with you? 10:56

26 A. Well, yes, he is giving me an account of an event in
27 Grafton Street and you could say he was in conversation
28 with me or he was saying it for those that were closest
29 to us. I was standing on the side of Commissioner

1 Callinan at that time, as I moved through the room I
2 listened to what he had to say in relation to John
3 Wilson and Sergeant Maurice McCabe and, without any
4 comment, I was gone from his circle within a short
5 period of time. 10:57

6 109 Q. If we could just have page 2199 up on the screen,
7 please.

8 A. Is that --

9 110 Q. Sorry.

10 A. What volume is it? 10:57

11 111 Q. This is in volume 8.

12 A. And the page?

13 112 Q. 2199. Have you got that?

14 A. Yes.

15 113 Q. This is your witness statement to the Tribunal and it's 10:58
16 dated the 28th March of 2017 and if I could just refer
17 you down to paragraph 6:

18

19 "At the conclusion of the hearing on the 23rd January
20 2014, as was my usual practice when Chairman of the 10:58
21 Committee, I approached Mr. Callinan to thank him for
22 attending the Committee. Mr. Callinan was with
23 Ms. Nóirín O'Sullivan and Dave Taylor and he said to
24 me, "this man fiddles with children. This is
25 outrageous." I took the reference to "this man" to 10:58
26 refer to Mr. McCabe."

27

28 And then paragraph 7 you go on to deal with events the
29 following day, so that is all you had to say to the

1 Tribunal in relation to this incident on the 23rd
2 January. And what you say there is, this was a comment
3 that was made by Mr. Callinan to you when you
4 approached him to thank him for attending the
5 Committee, and your quotation is:

10:59

6
7 "This man fiddles with children. This is outrageous.
8 I took the reference to "this man" to refer to
9 Mr. McCabe."

10:59

10 Do you see that?

11 A. Correct, yes.

12
13 114 Q. Obviously there is no reference there at all to John
14 Wilson?

15 A. No, there isn't because I was asked about -- I was
16 describing what was being said about Maurice McCabe and
17 to put that quotation in context and how the
18 conversation went and how it started, I gave the
19 lead-up to that conversation or to that comment so that
20 it would, as I have said, put it in context.

10:59

21 115 Q. Well, it might have been helpful if you had put it in
22 context in paragraph 6 of your statement to the
23 Tribunal because the way this appears, it suggests that
24 you just went down to greet Mr. Callinan and he
25 immediately said to you:

11:00

26
27 "This man fiddles with children. This is outrageous."

28
29 I mean, it sounds like a protest, that this man's

1 evidence is going to be heard by the Committee. That
2 is what it sounds like, isn't that right?

3 A. Yes, it is.

4 116 Q. But what you are telling us now is that that is not
5 right, that what happened was that he was recounting a 11:00
6 story about the other whistleblower and a horse?

7 A. I'm telling you that what I said is exactly right, and
8 I'm telling the Tribunal, Mr. Chairman, that prior to
9 making that comment about Mr. McCabe, that he
10 deliberately set out to explain what had happened in 11:01
11 the event of John Wilson, leading in to describing the
12 whistleblowers, the way that he did. So what the --
13 the comment -- or the paragraph 6 is accurate and what
14 I have said in terms of the context of that is
15 important and it clearly explains the conversation 11:01
16 between Commissioner Callinan and I and how it was
17 said, and that that is as much as was said.

18 117 Q. If you could go to page 2165, please, of the material.
19 This is an interview that you had with our
20 investigators. 11:02

21 A. Yes.

22 CHAIRMAN: Just give us a date for that, Mr. Murrinan,
23 if you wouldn't mind.

24 MR. MARRINAN: 2165.

25 CHAIRMAN: The date, I beg your pardon. 11:02

26 MR. MARRINAN: This is the 28th of March of this year.

27 118 Q. And if you just look at the top of the page there, this
28 is what you have to say in relation to this incident:
29

1 "In this particular case I did exactly as I would
2 normally do and in the course of that I came down to
3 where Commissioner Callinan was and he was in the flow
4 of conversation about former Garda John Wilson.
5 Commissioner Callinan was relating a story about how 11:03
6 John Wilson was called with other Gardaí to a
7 disturbance in Grafton Street involving horses. When
8 John Wilson got to Grafton Street Commissioner Callinan
9 in his own words said he, John Wilson, "pulled the
10 knackers off the horse, he confiscated the horse, 11:03
11 mounted the horse and rode it back to the barracks
12 where he tied it to the railings and the other fella
13 fiddles with kids and that is the type of fucking
14 headbangers I am dealing with"."

15
16 All right? And that is all in quotation marks. 11:03

17
18 "That was said in a very loose group of people. I
19 recall Nóirín O'Sullivan was in that group and Dave
20 Taylor was there as well. There could have been others 11:03
21 but I just recall those people and that's what was
22 being said. I just continued on thanking the others
23 and I didn't participate in the conversation. As I
24 approached Martin Callinan, he started the story about
25 John Wilson. I can't say what happened previously or 11:04
26 after. That was what I heard in my earshot as I was
27 going around thanking people for their attendance.
28 It's in that context that my understanding of the
29 "other fella", in that Commissioner Callinan was

1 referring to Sergeant McCabe."

2

3 The impression that you gave in that statement and
4 interview with the investigators is that Martin
5 Callinan was already recounting the story to other 11:04
6 persons who were there about John Wilson and that you
7 went over to greet him and you came upon the story, as
8 it were, and that perhaps it was said for your benefit
9 but not directed to you, you say that that
10 interpretation of what you say -- said to the 11:05
11 investigators would be incorrect, is that right?

12 A. That -- what I am telling you is correct.

13 119 Q. Well, it's just an understanding of what you are
14 actually telling us?

15 A. It's clear what happened. I left and I went down to 11:05
16 the group where Martin Callinan stood, and they were
17 obviously in conversation, and as I approached, he
18 began to relay the story about John Wilson. During the
19 course of that story, he went on to comment as he did
20 about Sergeant McCabe and so on. And that was at a 11:05
21 time after the meeting when I was working through the
22 room thanking people, I delayed in terms of listening
23 to the story and I continued on. I didn't partake in a
24 conversation, I didn't comment on the story. I just
25 moved on. 11:06

26 120 Q. The story was directed at you, is that what you are
27 saying?

28 A. The story was obviously directed at me.

29 121 Q. No, it's not whether it was obvious, was the story --

1 A. It was obvious to me that it was directed at me.

2 122 Q. Was the story told to you?

3 A. Well, I was there listening to the story so it was

4 being told to me, yes.

5 123 Q. It was told to you? 11:06

6 A. Yes.

7 124 Q. It's not a story that you overheard that was directed

8 at you?

9 A. I believe that the telling of the event and the

10 circumstances around that event was being recounted for 11:06

11 my benefit and commenced as I was there with the

12 Commissioner.

13 125 Q. Well, Deputy McGuinness, I mean, we might be at a

14 difference of view in relation to this. I mean, this

15 could arise in circumstances where you arrive into the 11:07

16 company and a story then is relayed to the others there

17 out loud but is actually being directed to you and it's

18 clear that the story is being told for your benefit, do

19 you understand?

20 A. Yes, and I accept that. 11:07

21 126 Q. Yes. Well, that is one situation that could arise.

22 Another situation could arise where you arrive down and

23 Commissioner Callinan told you the story, right? So it

24 is obviously and clearly being directed to you and it's

25 being told to you, all right, that is the second 11:07

26 scenario, do you understand the difference between the

27 two?

28 A. I just know that I heard the story.

29 127 Q. No, but do you understand the difference between the

1 two?

2 A. I do, yes, indeed.

3 128 Q. Now, which of those two is it?

4 A. Well, it is as I recount it, as I have told you. I
5 went down to Commissioner Callinan, I greeted him and 11:08
6 thanked him for attending. It immediately went into
7 this description of what John Wilson had done and so
8 on, and I moved on.

9 CHAIRMAN: well, I suppose Mr. Marrinan is
10 fundamentally asking you was he talking to you or was 11:08
11 he talking to A. Another --

12 A. No, he was talking to me.

13 CHAIRMAN: -- knowing that you were there --

14 A. -- when I got there. When I got there he turned his
15 attention to me, maybe that might describe it for you. 11:08

16 129 Q. MR. MARRINAN: And if we can quote what he said in
17 relation to -- apparently in relation to Sergeant
18 Maurice McCabe:

19

20 "And the other fella fiddles with kids --" 11:08

21 A. Yeah.

22 130 Q. "-- and this is the type of fucking headbangers I am
23 dealing with."

24

25 All right? Is that what was said by -- 11:09

26 A. Quite clearly, yes.

27 131 Q. Well, where does -- where does the other quotation that
28 you have in the statement that you made --

29 A. He said it at the end of the -- when he made reference

1 to Maurice McCabe at the end he said "it's outrageous"
2 and then he concluded, and I left.

3 132 Q. Now, at that time, I mean, you must have -- you must
4 have been outraged by what had been said by the Garda
5 Commissioner to you as Chairman of the Public Accounts 11:09
6 Committee?

7 A. I was indeed. But this was at the end of a lengthy
8 meeting at which quite a lot had been, I suppose,
9 shared in a very direct way between members and the
10 Garda Síochána and the Commissioner, so it was leading 11:10
11 up to the attendance at the Committee by Sergeant
12 Maurice McCabe, so there was quite a lot of tension in
13 that room by all parties, but particularly the
14 Commissioner.

15 133 Q. Yes, but during the course of the Committee meeting, 11:10
16 nobody had suggested that somebody else was a kiddy
17 fiddler, isn't that right?

18 A. I would hardly expect that to be said in public.

19 134 Q. No. And this was being said privately to you, it must
20 have been said with a view to trying to turn you 11:10
21 against Sergeant McCabe, isn't that right?

22 A. I judged that the efforts being made by, what I
23 considered to be rumours and gossip, that the intent of
24 all of that activity was to discredit Maurice McCabe
25 but to ensure that the Committee hearing would not go 11:11
26 ahead.

27 135 Q. So as far as you were concerned, this was really just
28 further evidence of this attempt to put down Sergeant
29 Maurice McCabe and to brand him as being a child abuser

1 so that he wouldn't be trusted or believed, is that
2 right?

3 A. That was my opinion, yes.

4 136 Q. Did you share what he had said with anybody else on the
5 Committee? 11:12

6 A. No, I didn't, is my recollection.

7 137 Q. Did you not think that perhaps you might go and say to
8 the other Committee members, this is outrageous, what I
9 am going to tell you?

10 A. No, you see you have to understand that, for me as 11:12
11 Chairman of the Committee and for the Committee
12 members, it was the Comptroller and Auditor General's
13 report, it was about that, it was about the evidence
14 that Sergeant Maurice McCabe had shown us or had
15 brought to our attention. That was the centrepiece 11:12
16 here. Everything else was rumour and noise around that
17 issue, with the main intention being to prevent the
18 Committee from conducting that particular part of the
19 hearing. The letters from the Commissioner indicate
20 clearly that he was unhappy. I believe it took a lot 11:13
21 of courage on behalf of the Committee to insist that we
22 were going to look at these documents and that we were
23 going to deal with the issues brought to our attention
24 by Sergeant Maurice McCabe. Everything else was
25 outside of that for me, and for me to repeat what was 11:13
26 being said would just further add complications to the
27 hearings of the Committee, which it was not necessary
28 for me to do that. And quite frankly, I was deeply
29 upset over what I was hearing and deeply troubled by

1 the fact that so many in high places would try to
2 prevent that hearing from going ahead.

3 138 Q. Now, I suppose that degree of upset that you were
4 experiencing at the time, you know, that might have
5 provoked you to discuss it with somebody? 11:14

6 A. No, it wouldn't. Why would it? It was a disgusting
7 remark to make. And as far as I was concerned, I was
8 about my work in an honest way to get at the truth, and
9 I felt that any other action by me to give credence to
10 any of those whispers and innuendo, would have 11:14
11 simply -- would have served further to damage Sergeant
12 Maurice McCabe, would have served further to damage
13 John Wilson and any others that were associated with
14 trying to get the truth in relation to what was
15 happening within the Garda Síochána at that time. 11:14

16 139 Q. Well, I suppose you could have requested the clerk of
17 the Committee to write to Commissioner Callinan and
18 refer to this inappropriate remark that he had made to
19 you and to express your condemnation of what he had
20 done and was attempting to do on the 23rd January? 11:15

21 A. I could easily have done that, but that was not my
22 decision.

23 140 Q. All right.

24 A. My decision was to continue on as I was going to ensure
25 that right was done properly. 11:15

26 141 Q. Just, if could you get Volume 2 there, Deputy
27 McGuinness, please, at page 690. I have to put this to
28 you. It's Mr. Callinan's response to what you had said
29 during the course of the interview that I just referred

1 you to.

2 A. 690?

3 142 Q. 690, yes.

4 A. Yes.

5 143 Q. You will see there at the top of the first paragraph: 11:16

6

7 "Mr. McGuinness states that at the conclusion of the

8 hearing on the 23rd January 2014 he approached me to

9 thank me for attending the Committee. This is correct

10 and it was certainly his normal practice to do so after 11:16

11 such meetings. I recall that we exchanged pleasantries

12 and engaged in mundane conversation about it having

13 been a long day and so on."

14

15 Do you recall that? 11:16

16 A. I just recall what I have recounted to you.

17 144 Q. well, did you have a conversation with him and

18 exchanged pleasantries?

19 A. Yes, I did, exchanged pleasantries in the course of him

20 starting a conversation about John Wilson. He did not 11:17

21 go into pleasantries that day.

22 145 Q. All right. And did he engage in a mundane conversation

23 with you about it having been a long day and so on?

24 A. No. It was a straight conversation about John Wilson.

25 146 Q. "While I believe the then Deputy Commissioner Nóirín 11:17

26 O'Sullivan and other colleagues were in the vicinity

27 preparing to leave, I am unsure as to whether they were

28 party to any conversation I had with Mr. McGuinness.

29 His assertion that I said "this man fiddles with

1 children, this is outrageous" is simply incorrect and
2 untrue."

3
4 So you have it there squarely, he is suggesting that
5 your account --

11:17

6 A. I just took the Bible in my hand and my account of what
7 I said is true.

8 147 Q. Yes. He then goes on to say:

9
10 "I do recall that I inquired from Mr. McGuinness as to
11 whether former Garda John Wilson would be called to
12 give evidence. Mr. McGuinness replied "you must be
13 joking, sure he's a fucking header". This took me by
14 surprise in the circumstances where Mr. McGuinness had
15 been scathing in his criticisms of An Garda Síochána
16 for the manner in which whistleblowers generally are
17 treated."

11:18

11:18

18
19 what is your comment in relation to that?

20 A. Untrue.

11:18

21 148 Q. Untrue.

22 A. I have the greatest of respect for John Wilson.

23 CHAIRMAN: Can I just ask you a question, deputy, if
24 you don't mind. You know the way when a formal meeting
25 breaks up, there is a general hubbub in the room, you
26 will notice it when I leave the room, everyone will be
27 talking to everybody else. Are you saying the other
28 people there heard what was being said or was there a
29 general hubbub that they may not have heard or can you

11:19

1 give me a view on it one way or the other?

2 A. I don't believe that they -- I don't know whether they
3 heard or not but there certainly was a general, as you
4 describe it, hubbub in the room, because I was not the
5 only member that would go and, you know, thank the 11:19
6 various witnesses there. Other members were engaging.
7 There was quite a lot of people that were not witnesses
8 but they were in attendance, not in the public gallery
9 but from the Garda Commissioner's staff and support
10 group and so on. So from that perspective there was 11:19
11 quite a number there in the room and I was moving
12 through that number. Yes, there was a general hubbub
13 and this exchange took place and then everybody left.
14 CHAIRMAN: Some people I think had commented at the
15 time that the Garda Commissioner turned up with about 11:20
16 20 officers. Now, that may be an exaggeration but that
17 was one of the things that was said.

18 A. Well, normally when he would attend the meetings, there
19 would be a considerable number of his -- in his team,
20 and I understand that, because it's quite a range of 11:20
21 questions that he would be asked to answer, so that
22 wasn't unusual. But, yes, to describe it as a hubbub
23 after the meeting and members, you know, talking
24 to each other within the team, members of the Public
25 Accounts Committee then going to them, it was quite -- 11:20
26 and it all happens on one side of the room so the
27 members usually attend on that side. As to who heard
28 what, you know, I can't comment on that.

29 149 Q. MR. MARRINAN: You see one of the issues that may arise

1 is that you didn't make any reference in your initial
2 statement to the Tribunal -- you made no reference at
3 all to John Wilson, isn't that right?

4 A. That's correct.

5 150 Q. And it wasn't until you were interviewed last month by 11:21
6 the Tribunal investigators that you told them about,
7 that John Wilson had been introduced as part of this
8 conversation with Martin Callinan by him, isn't that
9 right?

10 A. Correct. 11:21

11 151 Q. This statement that is made by Commissioner Callinan,
12 former Commissioner Callinan is dated 30th May 2017?

13 A. Correct.

14 152 Q. Which is nearly a year ago. And he says that John
15 Wilson was discussed and -- but you had introduced him? 11:21

16 A. Yes, and that's why I have --

17 153 Q. You had made the comment about him being a "fucking
18 header" is what he says and attributes those words to
19 you?

20 A. No, I was putting the conversation in context when I 11:22
21 was asked about this, and that is why I told the
22 investigators about the introduction of John Wilson,
23 because if you notice, the Commissioner is using the
24 same language, he is crediting me with using that
25 language. 11:22

26 154 Q. Yes, I note that, yes.

27 A. So for the purpose of putting it in context, when I saw
28 that, I told the investigators the full length of the
29 conversation and I think that it clearly puts the

1 matter in context as to how it transpired that day.
2 These are not my words.

3 155 Q. Yes. So prior to your meeting with our investigators
4 last month, you had read the statement that had been
5 made? 11:23

6 A. I would have read generally, yes.

7 156 Q. Well, you read the statement, the supplemental
8 statement of Mr. Callinan dated 30th March of 2017?

9 A. That's this statement, yes.

10 157 Q. So, in any event, there matters rested until the 11:23
11 following day, isn't that right?

12 A. Yes.

13 158 Q. And will you tell us then your recollection of the
14 following day and communications with the Commissioner.

15 A. Well, his communications with me. He contacted me. I 11:24
16 returned his call.

17 CHAIRMAN: So we are now on 24th January?

18 A. 24th January. And it was agreed that because of his
19 location and mine, that he wanted to meet -- sorry,
20 that the meeting would firstly take place in a hotel on 11:24
21 the Naas Road or at a hotel on the Naas Road, and I
22 agreed to do that.

23 CHAIRMAN: And where were you, if you don't mind me
24 asking?

25 A. I was in Leinster House. 11:24

26 CHAIRMAN: All right.

27 159 Q. MR. MARRINAN: Just, you provided us with precise
28 times, and at page 2200 in your statement at paragraph
29 7, I will just read these --

1 A. What volume is it?

2 160 Q. There is no need to go to it, I will read these to you,
3 but you have helpfully provided us with precise times.
4 You say:
5
6 "On 24th January 2014 I received a missed call on my
7 mobile from Mr. Martin Callinan. I returned his call
8 at 2:37pm. This call lasted two minutes and 59
9 seconds. We had a further call lasting one minute and
10 30 seconds at 2:48. The contact was unusual as he had
11 never contacted me in such a fashion before." 11:24
12
13 I presume that the times that you have given us are by
14 reference to your own records, is that right?
15 A. Correct, yes. 11:25
16 161 Q. And that's why there is a degree of precision about
17 them. So you are on the phone shortly after half two
18 with Commissioner Callinan, and he is asking to meet
19 with you privately, is that right?
20 A. Correct. 11:25
21 162 Q. In the context where he has made these disparaging
22 remarks about Sergeant McCabe the day before?
23 A. The Commissioner asked to meet and I agreed.
24 163 Q. But why?
25 A. The content of the -- or the precise, I suppose, 11:26
26 purpose for the meeting was obvious, because the issue
27 was being dealt with by the Public Accounts Committee,
28 the hearing was coming up with Sergeant McCabe, and I
29 agreed to meet with him.

1 164 Q. But why?
2 A. Well, when you get a call from the Garda Commissioner
3 you are not inclined to say no. You know, when you are
4 asked to meet in the face of this controversy by the
5 Garda Commissioner, I immediately presumed that there 11:26
6 was something seriously wrong. That is my respect for
7 the Gardaí. So I agreed to the meeting. I also agreed
8 out of respect for witnesses who would attend meetings,
9 that they would often want to know exactly how the
10 process was going to work. So I had no difficulty in 11:27
11 saying that I would meet him.
12 165 Q. Well, I mean, Deputy McGuinness, you are talking about
13 a process. You are Chairman of the Public Accounts
14 Committee, isn't that right?
15 A. Correct. 11:27
16 166 Q. There are other Dáil deputies who are on that
17 Committee, isn't that right?
18 A. Correct.
19 167 Q. And you are all part of a committee, you have a clerk
20 to that Committee, isn't that right? 11:27
21 A. I do, indeed.
22 168 Q. And I have already opened to you the correspondence
23 that you had received from the Garda Commissioner and
24 the response of the Committee to representations that
25 had been made by the Garda Commissioner, isn't that 11:27
26 right? well, did you tell anybody that you were going
27 to meet --
28 A. No.
29 169 Q. -- Commissioner Callinan?

1 A. No.

2 170 Q. But why not?

3 A. I was asked by the Commissioner to meet. I felt that
4 someone of that position, that the meeting must be of a
5 serious nature. I believe in fair play, so that those 11:28
6 that come before the Public Accounts Committee, as it
7 was then, that at least all parties, if they asked for
8 a meeting, they should get one. I was asked by
9 Sergeant Maurice McCabe to meet and I met. And in
10 terms of balance and procedure, I saw nothing wrong in 11:28
11 the same way in meeting the Commissioner of the Gardaí.

12 171 Q. And why didn't you tell anybody about the meeting?

13 A. I didn't feel it was necessary.

14 172 Q. Why didn't you tell the clerk of the Committee to tell
15 him that you as Chairman of the Committee in a formal 11:28
16 capacity were meeting with the Garda Commissioner?

17 A. I was asked to meet with the Commissioner. I presumed
18 it was about the work of the Committee. I have had
19 many of these meetings. And not -- at various times
20 with various witnesses, to assist them and to give fair 11:29
21 play. So, for me, and the manner in which I conduct my
22 business, there was no need for me to explain to anyone
23 what I was doing.

24 173 Q. So you thought it was perfectly proper in the
25 circumstances that you, unknownst to the other members 11:29
26 of the Committee, would meet with the Garda
27 Commissioner to talk about the work of the Committee,
28 is that what you are telling us?

29 A. What I am telling you is that I was asked to meet the

1 Commissioner. It may have been about the work of the
2 Committee. It is normal practice for me to do that. I
3 had met Maurice McCabe to deal with the matter that he
4 was presenting to the Committee. And I felt that there
5 was no difficulty or responsibility on me to tell 11:29
6 anyone.

7 174 Q. So to all intents and purposes, this was a secret
8 meeting that you were having with the Garda
9 Commissioner since you told nobody about it?

10 A. Well, I told no one about it but it's -- it didn't turn 11:30
11 out to be very secret. It wasn't intended to be a
12 secret meeting.

13 175 Q. No, I am sorry, a glib remark like that. We know it
14 didn't turn out to be secret, but as far as you were
15 concerned at the time, you weren't going to advise 11:30
16 anybody that you were attending this meeting and you
17 didn't advise anybody that you were attending this
18 meeting?

19 A. That's correct.

20 176 Q. So as far as you were concerned it was a secret 11:30
21 meeting?

22 A. As far as I was concerned, I was responding to the
23 request of the Commissioner to meet.

24 177 Q. And you decided to keep that request secret to yourself
25 and not share it with the Committee? 11:30

26 A. Exactly, yes.

27 178 Q. Yes. You see, because you will appreciate I have to
28 ask you these questions because Commissioner Callinan
29 has a completely different perspective on this meeting?

1 A. Correct.

2 179 Q. And what he will say, what he will say is that -- and
3 we are on notice of this because he has provided us
4 with a statement, he will say that this wasn't a secret
5 meeting as far as he was concerned because he actually 11:31
6 discussed it in Dundalk Garda station with other
7 members of An Garda Síochána, quite openly, all right?
8 So that he was going to that meeting in circumstances
9 where he was quite open with everybody about it, he
10 wasn't keeping it in any way secret and then on the 11:31
11 other hand, you were approaching this meeting in a
12 different way?

13 A. I was approaching this meeting as I was -- as I would
14 approach any other meeting of that kind; I was asked to
15 attend, the Commissioner may very well have told others 11:31
16 that he was attending. I wasn't aware of what he was
17 going to say to me, but I was certainly prepared to
18 meet with him, as I have done with many other people
19 during my time as Chairman of the Public Accounts
20 Committee. It is important that you do not turn down 11:32
21 meetings of this kind, and that you learn from them.

22 180 Q. And if you could just, at page 2202 of the Tribunal
23 material.

24 A. Volume 2, is it?

25 181 Q. It's the same volume that we had there, volume 8. 11:32
26 A. Volume 8.

27 182 Q. 2202.

28 A. Yes.

29 183 Q. These are just contacts between former Commissioner

1 Callinan and yourself, and they indicate that there
2 were a number of calls, you will see there on 23rd
3 January, that is the day before, at 16:17, and it was
4 of a duration of 27 seconds. Do you recall receiving a
5 phone call the day before from Commissioner Callinan? 11:33
6 A. Well, that may have been the Commissioner leaving the
7 message, I presume, for me. I don't dispute that I
8 didn't get these calls.
9 184 Q. So he may have phoned you the day before looking for a
10 meeting? 11:33
11 A. Well, these records are his records.
12 185 Q. Yes.
13 A. So I accept that if these are the proper records --
14 186 Q. But this is a call on the 23rd January?
15 A. Yes. 11:34
16 187 Q. Then the 24th January you will see there, there is a
17 call at 14:43:28, it is a duration of 34 seconds, and
18 again at 16:43 and it's 51 seconds. That is probably a
19 call when you were in the car park or to see --
20 A. Yes. 11:34
21 188 Q. I don't think anything turns on any of these calls.
22 A. I don't think so, no.
23 189 Q. You don't wish to make any points in relation to them?
24 A. No, it was arranging the meeting.
25 190 Q. He contacted you, you rang him back, you arranged to 11:34
26 meet him in the car park. Just on that, I think your
27 expectation going there was that you were actually
28 meeting in the hotel, is that right?
29 A. Yes.

1 191 Q. Can you recall where Commissioner Callinan said he
2 would meet you?
3 A. In this particular hotel.
4 192 Q. In the hotel, as opposed to in the car park?
5 A. Yes. 11:34
6 193 Q. Right. So you arrive in the car park, you are alone,
7 you don't have a driver, you are alone, is that right?
8 A. I am alone, yes.
9 194 Q. And just tell us what happened then.
10 A. I arrived in the car park, as arranged, and I presumed 11:35
11 that we were going to meet in the hotel, so when I saw
12 the Commissioner approach, I was in the process of
13 getting out of the car, but he in turn went around
14 quickly to the passenger side of my car and sat in.
15 And then he immediately got into the conversation to do 11:35
16 with the Maurice McCabe and the issues. I suggested to
17 him at the beginning of this conversation, as I did the
18 day before, that like any other employer that perhaps
19 the best way out of this was for him to talk directly
20 to Sergeant Maurice McCabe and to determine what 11:36
21 exactly the issues were and resolve it that way,
22 without it having to, you know, go into the public
23 realm and him dealing -- trying to deal with it that
24 way. And it was at that stage that he said to me that
25 no, it had gone beyond all of that and that there was 11:36
26 issues to do with Maurice McCabe and his behaviour and
27 he suggested that there was -- he had sexually abused
28 his family and an individual, that he was not to be
29 trusted, that I had made a grave error in relation to

1 the Public Accounts Committee and the hearings because
2 of this and that I would find myself in serious
3 trouble.

4 195 Q. Did you tell him that these rumours were rumours that
5 you had already heard?

11:37

6 A. I said that they were -- some rumours that I had
7 already heard and I said we all know what goes on in
8 relation to these matters and that they were just in
9 fact rumours. And he said to me, no, that there was a
10 file there and that action would be taken against
11 Sergeant Maurice McCabe. He gave me the impression
12 that that would be the case and that I had, as I have
13 said, made a grave error and that, you know, because of
14 all of this he was not reliable and therefore the
15 Public Accounts Committee would find itself and me in
16 serious trouble.

11:37

11:37

17 196 Q. What did he say in relation to any investigation of
18 these allegations?

19 A. He gave me to believe that there was an investigation
20 ongoing in relation to the allegations and that they
21 were at an advanced stage and I immediately presumed
22 from that that Sergeant Maurice McCabe would be charged
23 with something or other.

11:38

24 197 Q. Was there any reference at the time to a criminal file?

25 A. I believe that he said that there was a file, I
26 presumed that this was a file that was going to
27 whatever prosecutor would be involved in the case.

11:38

28 198 Q. Was that a presumption that you made or was it
29 something that he said?

1 A. I think he mentioned the word file and then I presumed
2 from that immediately that this was at an advanced
3 stage and that the matter was going to be dealt with.

4 199 Q. How did you feel hearing this from the Garda
5 Commissioner?

11:39

6 A. Well, to be quite honest, I was troubled. I had to --
7 lots of questions ran through my mind about how it had
8 all come to this and what was going to happen from here
9 and that, you know, the question-marks would be at that
10 time for me over my insistence on dealing with this, on
11 bringing -- assisting Maurice, Maurice McCabe, and then
12 of course the Public Accounts Committee, would that be
13 brought into disrepute because of these charges? So
14 there was a lot of worry, concern, and trouble in terms
15 of my consideration of what he had said to me.

11:39

16 200 Q. Well, I suppose in circumstances where, on your
17 account, you had got a preview the day before, after
18 the meeting, by his reference to the rumour that you
19 had heard but he had put it starkly, that Maurice
20 McCabe was a "kiddy fiddler", and here was the Garda
21 Commissioner imparting information to you in relation
22 to a criminal investigation in relation to offences, in
23 the plural, I think you have indicated to our
24 investigators, it's then apparent to you what this
25 meeting is actually all about, isn't that right?

11:39

11:40

11:40

26 A. Yes.

27 201 Q. And it would appear to be a meeting designed to try and
28 influence you in any decision that you may personally
29 have to make as to whether or not to call Sergeant

1 Maurice McCabe to give evidence, isn't that right?

2 A. Correct.

3 202 Q. And it's entirely inappropriate what is being done by
4 the Garda Commissioner?

5 A. Yes.

11:41

6 203 Q. It's not really something you need to hesitate over; it
7 is very obviously, to any decent person, and
8 law-abiding person, something that is absolutely wrong,
9 isn't that right?

10 A. Correct.

11:41

11 204 Q. Did you express that to him at the time, that his
12 behaviour and what he was doing was inappropriate?

13 A. Well, let me put this in context, Mr. Chairman. When
14 this was said to me before, it was said in a room where
15 a lot of heated exchanges had taken place, and while
16 that upset me greatly on that day, I listened, I moved
17 on. But this particular meeting was asked for by the
18 Commissioner and his demeanour and purpose was starkly
19 different as he sat in the car with me, and as he
20 recounted the issues of sexual abuse and the existence
21 of a file, I could only consider that prosecution of
22 some kind was pending and that I was wrong, and that
23 deeply worried me, because I had relied on my own
24 instinct, Chairman, to guide me through this, and I
25 felt that I was correct, but after this conversation I
26 was completely unsure of my position and when I left
27 the car on that day, when I drove the car, I hardly
28 remember driving home but such was the way he presented
29 this information to me, was convincing and, as I say,

11:42

11:42

11:43

1 the meeting was deliberate in terms of how it was
2 organised. And for any individual to accuse someone
3 that they had worked with of the type of abuse that
4 Maurice McCabe was supposed to have undertaken and
5 included members of his family, I don't think anyone 11:44
6 could walk away feeling that this was all okay. And I
7 certainly didn't.

8 205 Q. Well, I suppose there are a number of issues that
9 arise. There's, first of all, what he is telling you
10 about Sergeant McCabe and he is giving you sort of an 11:44
11 official line in the sense of saying that he is aware
12 that these are allegations of substance, they are being
13 criminally investigated, there is a file, isn't that
14 right, and that might make you think twice about
15 Sergeant McCabe, but that is not really what I am 11:45
16 talking about, I am talking about something entirely
17 different, the fact that you are sitting in a car with
18 the Garda Commissioner and he is actually imparting
19 this information to you, that is what I'm suggesting to
20 you might be shocking? 11:45

21 A. Again, I am agreeing with you, I said yes, it's
22 shocking. And so is the information.

23 206 Q. Well, let's not water it down, will we? What is being
24 imparted, whether it's true or not, is absolutely
25 shocking, that the Garda Commissioner would be 11:45
26 discussing an individual case, an allegation of
27 criminal wrongdoing with the Chairman of the Public
28 Accounts Committee sitting in a car off the Naas dual
29 carriageway, or it's a motorway now, isn't that right?

1 A. Yes.

2 207 Q. So you say that you were suitably shocked and you don't
3 recall driving home to Kilkenny. I think that you made
4 a note in your diary, isn't that right?

5 A. I did. 11:46

6 208 Q. Yes. And if we could have page 2205 up on the screen.
7 I think you have the original diary there with you, do
8 you?

9 A. Yes.

10 209 Q. Is this actually -- just describe the document. Is it 11:46
11 actually a diary or is it -- or what is it?

12 A. The book, Mr. Chairman, is -- I describe it as a
13 constituency book, where on the right-hand side I take
14 notes from my various clinics or meetings with
15 constituents and I have the habit of ticking them off 11:46
16 as they are completed. On the left-hand side of the
17 pages, I keep records of phone calls to be returned or
18 personal matters that I have to deal with or, in the
19 case of this and other whistleblowers, I might take a
20 note of my conversation. 11:47

21 210 Q. Yes. And did you note this before you left the car
22 park?

23 A. Did I what?

24 211 Q. Did you note this down?

25 A. No, I didn't. 11:47

26 212 Q. When did you make it?

27 A. I thought I would never get out of the car park.

28 213 Q. You were going home. I mean, after the conversation.

29 A. I stopped on the way home.

1 214 Q. You stopped on the way home.
2 A. Yeah.
3 215 Q. So you left the car park --
4 A. And drove home.
5 216 Q. -- and you drove home. And then you stopped en route, 11:47
6 is that right?
7 A. Yes.
8 217 Q. Is this because you were thinking about what had
9 actually been said to you?
10 A. I was thinking about what was actually being said and I 11:47
11 was concerned by what was said to me. I didn't want to
12 lose the, I suppose the main points that were put to me
13 by Commissioner Callinan so I took a general note in
14 that book.
15 218 Q. You provided us with a typed copy of those handwritten 11:48
16 notes. For the parties, it's at 2203. But you start
17 off, would you read from the original you have there?
18 A. Of the typed version?
19 219 Q. No, of the handwritten one so we know exactly --
20 A. I just headed it "Callinan McCabe". And then the next 11:48
21 line is: "Sexual abuse, individual and family. Don't
22 trust him. His story is not credible. Investigations
23 are ongoing."
24 220 Q. Sorry, just there under "investigations" you seem to
25 have underlined the "s" in "investigations", is that 11:48
26 right?
27 A. Yes, and I presume that is because he mentioned -- he
28 mentioned there was an investigation and he had abused
29 family members, so I just took that to be

1 investigations.

2 221 Q. Yes.

3 A. That is what he said. And then he went on to say that,
4 again to emphasise he wasn't reliable, and then I took
5 a note "trouble for PAC and me" is what is written. 11:49

6 222 Q. Okay. And you kept that diary and you gave it to the
7 Tribunal, isn't that right?

8 A. Yes.

9 223 Q. Sorry, what is written underneath the last bit there
10 when you say "trouble for the PAC and me", what are the 11:49
11 two?

12 A. "Trouble for PAC and me".

13 224 Q. And then just, there is a line and then there's two Ps
14 it looks like there?

15 A. No, two question-marks. 11:49

16 225 Q. Two question-marks, sorry. And what did the
17 question-marks denote?

18 A. What was I going to do in relation to each one.

19 226 Q. And what did you do?

20 A. I spent the weekend thinking about it, Chairman. I 11:50
21 thought about the work in hand of the Committee. I
22 thought about what had been said to me. So the
23 conclusion I arrived at was that whatever sexual abuse,
24 if any, that was there to be accounted for, that the
25 guards would obviously deal with it and that on the 11:50
26 other side of this, that the Public Accounts Committee
27 had a job to do and that this had no bearing on it
28 because at this stage we had the boxes of evidence from
29 Sergeant Maurice McCabe in relation to the traffic, the

1 cancellation of penalty points, so I concentrated on
2 the truth in the work that was being done and I
3 considered that this description of Sergeant Maurice
4 McCabe was one that I would then have to deal with. So
5 I determined that the workings of the Public Accounts 11:51
6 Committee should not be affected by this because we
7 were dealing with specifics and we were dealing with
8 the Comptroller and Auditor General's report. So on
9 examination of what Mr. Callinan said to me, I decided,
10 after long consideration of what was said and the other 11:51
11 matters of innuendo and gossip that had been
12 circulating for a long time, I believed Maurice McCabe.
13 So the natural conclusion from that was that if I
14 believed Maurice McCabe, then the matters that had been
15 dealt with by the Commissioner and other matters would 11:52
16 have to be ignored.

17 227 Q. Okay. One of the problems, Deputy McGuinness, is
18 that -- I will come to former Callinan's response to
19 the allegation in his account, but you will appreciate
20 that he is disputing the nature of this conversation 11:52
21 that you have portrayed?

22 A. Yes, I have seen that.

23 228 Q. Yes. And the Tribunal has statements that have been
24 given and letters that have been given to it from
25 Mr. Simon Harris, TD, and Derek Nolan and Mary Lou 11:52
26 McDonald and Senator Ged Nash and Mr. Seán Fleming and
27 Senator Kieran O'Donnell and Minister Shane Ross, they
28 were all members of the Committee, is that right?

29 A. Committee, yes.

1 229 Q. And none of them indicate that you told them about this
2 meeting that you had with Commissioner Callinan?
3 A. Yeah, and they are right.

4 230 Q. And we also have a statement made from Mr. Eoghan
5 Murphy, who is coming to give evidence before the 11:53
6 Tribunal on a similar vein. If Commissioner Callinan
7 had said what he said to you, surely you might have
8 thought that perhaps other members of the Committee
9 have been approached in similar fashion?
10 A. That I would have thought that they were? 11:54

11 231 Q. That you may have considered that this is a
12 possibility.
13 CHAIRMAN: In other words, why were you being singled
14 out as opposed to anybody else?
15 A. Oh, because I was Chairman of the Committee and I was 11:54
16 the one that had met with Maurice McCabe and taken the
17 boxes of evidence, so I was central to the, I suppose
18 the determination of the Public Accounts Committee to
19 hear this evidences. And, you know, while the members
20 of the Committee were dealing with that, and I was 11:54
21 aware then of what was happening with Commissioner
22 Callinan, it would have been, you know, presumptuous of
23 me to think that Commissioner Callinan had met other
24 members of the Committee.

25 232 Q. MR. MARRINAN: well, there was always that possibility 11:54
26 since he had, on your account, sunk to a very low level
27 of subterfuge to try and get you to turn against
28 Sergeant McCabe not only on the 23rd but then a
29 follow-up on the 24th, that I suggest to you that if

1 what you say is right, there would have been every
2 reason to believe at that stage that Commissioner
3 Callinan was capable of in some way leaning on other
4 members of the Committee to try and get them to turn
5 against Sergeant McCabe, you didn't see it that way? 11:55

6 A. Well, I don't know whether he did or didn't, and no
7 other member of the Committee came to me and said that
8 he did. And --

9 233 Q. And you didn't approach any other member of the
10 Committee to ask them had they received any 11:55
11 inappropriate approach from anybody whatsoever?

12 A. No, because I was not -- the Public Accounts Committee
13 at that time were dealing with a completely separate
14 matter and for me to repeat any of these, Chairman,
15 would be to add to the gossip that was circulating, and 11:56
16 I had to try and keep my head and distinguish between
17 what I presumed to be or deemed to be gossip and an
18 attempt to prevent the Committee from hearing evidence
19 from Sergeant Maurice McCabe. And, based on what I
20 believed to be a sound character in Sergeant Maurice 11:56
21 McCabe and the evidence that he had given, I determined
22 that the Public Accounts Committee should not be put
23 off of hearing from Sergeant Maurice McCabe. Once I
24 came to that conclusion, the rest then followed. So I
25 had to take a judgement call and I'm glad that I did, 11:56
26 and I ignored to some degree the information that
27 Commissioner Callinan had related to me.

28 234 Q. You did, however, tell the leader of your party,
29 Mr. Martin, isn't that right?

1 A. These matters were being raised in the Dáil and I know
2 there is a letter there from Deputy Micheál Martin
3 confirming that I had mentioned to him that I had met
4 the Commissioner.

5 235 Q. This is at page 2206 of the material. It's actually a 11:57
6 supplemental statement to the Tribunal, the first
7 one -- or letter having been sent to the Tribunal on
8 the 10th March, on 27th December the Tribunal received
9 the letter dated 22nd December. You see there the last
10 paragraph: 11:58

11
12 "On reviewing the matter again recently it occurred to
13 me that I should advise you of the following, should it
14 become relevant to your inquiries in forthcoming
15 modules. 11:58

16
17 On a date sometime in labour February 2014 Deputy John
18 McGuinness, who then chaired the Dáil Public Accounts
19 Committee, dropped into my office. Sergeant McCabe had
20 given evidence before the PAC on the 30th January. 11:58
21 Deputy McGuinness thanked me for having raised the
22 contents of the McCabe dossier in the Dáil on the 19th
23 February and for having brought the matter to public
24 attention. When he was leaving my office, he mentioned
25 that a short while previously he had met the then Garda 11:59
26 Commissioner Martin Callinan in a hotel car park and I
27 recall him mentioning that the Commissioner had told
28 him that Sergeant McCabe was not to be trusted and that
29 he was a child abuser. He gave no further details."

1 A. Correct.

2 236 Q. So you had obviously thought about telling somebody
3 about what had occurred in the car park and you decided
4 to tell Mr. Martin, is that right?

5 A. I mentioned it to him because, as you can see from that 11:59
6 correspondence, I was thanking him for raising the
7 matter and for acknowledging the dossier that was
8 there. He may have met Sergeant McCabe and I simply
9 wanted him, in case that it was said to him, to know
10 that I had met the Commissioner. So it was out of 12:00
11 respect for the party leader who was dealing with this
12 matter in a public way, to let him know that I was not
13 put off by what I had heard and I gave him the
14 information.

15 237 Q. If we could just have page 644 up on the screen, 12:00
16 please. This is volume 2, deputy.

17 A. Yes.

18 238 Q. This is in response to the term of reference that we
19 are dealing with, and he makes a general comment:
20
21 "It remains a source of concern that although Deputy
22 McGuinness has made --"
23 CHAIRMAN: Mr. Murrinan, I beg your pardon. You didn't
24 tell anyone this is Martin Callinan, I presume it is.
25 MR. MARRINAN: Sorry, I beg your pardon. 12:01

26 239 Q. This is a statement from Martin Callinan, and it's at
27 page 644.
28
29 "It remains a source of concern that although Deputy

1 McGuinness has made brief reference in public to my
2 meeting with him on the 24th January 2014, he has
3 declined to elaborate on same in public. As such,
4 whilst the meeting has been the source of much public
5 speculation and innuendo, no specific allegations 12:02
6 relating to same has ever been made. It is a source of
7 considerable concern and disquiet that I am expected to
8 defend myself against nebulous and non-specific
9 allegations without being made aware of the precise
10 terms of same." 12:02

11
12 That's a reference obviously to the statement that you
13 made in the Dáil, is that right?

14 A. I'm not quite sure what it's --

15 240 Q. All right. I think it may well be. But when was it 12:02
16 that you first made a public statement in relation to
17 the meeting in the car park?

18 A. Later in a Dáil debate when we were discussing the, I
19 think it was the report of another investigation, this
20 matter came up again, at second stage I think debate, 12:02
21 and at that point I made reference to the fact that I
22 had met the Commissioner in the car park, because
23 around that time again the gossip and the stories about
24 Maurice McCabe and sexual abuse and so on had emerged
25 again, so I decided to make it clear in that Dáil 12:03
26 statement about the car park and about the vile
27 allegations that were being made.

28 241 Q. What year was that?

29 A. I have it in my diary there.

1 CHAIRMAN: You can look it up over lunch, just tell us.
2 unless --

3 A. It was sometime after the event.

4 CHAIRMAN: Do you want to bring up his diary there?
5 MR. MARRINAN: I believe it was May of 2016. 12:03

6 A. Of 2016.

7 CHAIRMAN: I think we have the diary, Mr. Marrinan.
8 (Handed to the witness)

9 A. Yes, it was a Dáil debate on 26th of May of 2016.

10 242 Q. MR. MARRINAN: And prior to raising that issue in the 12:04
11 Dáil, had you met with Sergeant McCabe?

12 A. I don't think it was prior to that. Just one second
13 now. This was the first time that I had made reference
14 in the Dáil debate about this and I think it was
15 sometime -- was it after that I met Sergeant Maurice 12:04
16 McCabe?

17 243 Q. All right.

18 A. I will just check the dates.

19 244 Q. You might just -- when you have time to reflect on
20 that -- 12:05

21 A. It was actually the O'Higgins Report that we were
22 debating in the Dáil on the 26th.

23 245 Q. You might check your diary in relation to that but I
24 will just pass from that for the moment. We will go
25 back to what Mr. Callinan has to say. 12:05

26 CHAIRMAN: You were on 644, isn't that right,
27 Mr. Marrinan?

28 MR. MARRINAN: Yes, if we could go to page 646, please,
29 he says:

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"However, it would be apparent from the foregoing that as of the 24th January 2014, the following day, I was engaged in quite proper steps to ensure that Sergeant McCabe did not appear before the Public Accounts Committee on foot of the concerns already described. It was in this context that I sought a meeting with Deputy McGuinness. Necessarily the meeting was arranged at short notice as I recall when I spoke with Deputy McGuinness to arrange the meeting he indicated that he was under pressure of time and he was travelling home to Kilkenny on the date in question. I believe that I suggested for the expediency we might meet in the car park of Bewley's Hotel at Newlands Cross as this was en route so as not to delay him."

12:05
12:05
12:06

Do you see that?

A. Yes.

246 Q. It may only be a small detail, but he is saying there that he was to meet you in the car park. Your recollection was that you were to meet him in the hotel?

12:06

A. Yes, because there was easy parking there. My presumption was I was meeting in the hotel. I never believed I would be meeting the Commissioner in a car park.

12:06

247 Q. And indeed, you told us you were about to get out of the car --

A. To go to the hotel.

1 248 Q. -- when Commissioner Callinan got into the car, isn't
2 that right?

3 A. Yes.

4 249 Q. Okay. And then he goes on to indicate that he was to
5 attend a press meeting that day.

12:06

6

7 "I travelled from Dundalk to the meeting with Deputy
8 McGuinness. The meeting lasted for roughly 15-20
9 minutes."

10

12:07

11 would that be about the time you were there?

12 A. Yes. Something like that, yeah.

13 250 Q. "Much of the discussion related to the concerns I had
14 in respect of data protection issues and my role as
15 accounting officer."

12:07

16

17 Do you recall him mentioning that?

18 A. No.

19 251 Q. "I sought to emphasise to Deputy McGuinness that I
20 could not see how the Public Accounts Committee could
21 deal with the material without the members of the
22 public concerned being identified."

12:07

23

24 Was there such a discussion about that?

25 A. No, there wasn't. All of these matters had been dealt
26 with previously in correspondence by the Committee.

12:07

27 252 Q. Yes, those are the matters I raised when I opened the
28 letter from --

29 A. Yes.

1 253 Q. -- Commissioner Callinan?
2 A. From Commissioner Callinan to the Committee and from
3 the Committee, on legal advice, back to Commissioner
4 Callinan. So these are matters that were already dealt
5 with. 12:08
6 254 Q. He says: "I also put the substance of proposals
7 contained in draft letters to Deputy McGuinness."
8 We just better have a look at this. First of all, it's
9 not clear from what Commissioner Callinan is saying,
10 whether or not he had draft letters in his possession 12:08
11 when he went to meet you, but if you go to page 659 --
12 A. Yes.
13 255 Q. -- you will see there -- no, sorry, I have got the
14 wrong page number. Just bear with me one moment.
15 CHAIRMAN: Is this the prior correspondence to the -- 12:09
16 MR. MARRINAN: No, I have just got the wrong reference.
17 I beg your pardon. Just give me one moment.
18 256 Q. Would you mind going to page 677, please.
19 A. Yes.
20 257 Q. This is a draft letter that Commissioner Callinan says 12:09
21 that he had drafted, it's not clear whether he drafted
22 it on the day of the 23rd January or the following day,
23 the 24th January. You have seen this letter before,
24 have you?
25 A. No. 12:09
26 258 Q. No. You will see there it refers -- starts off:
27
28 "Dear Deputy McGuinness,
29

1 Firstly, I wish to thank the Committee for affording me
2 the opportunity yesterday, the 23rd January 2014, to
3 address chapter 7 of the Comptroller & Auditor
4 General's report and ancillary matters that arose
5 therefrom." 12:10

6
7 And then he goes on to say that he wishes "to address
8 the specific issue of your intention to call Sergeant
9 Maurice McCabe before the Committee of Public Accounts
10 on, as I understand it, Thursday next, the 30th January 12:10
11 2013. I have this evening taken legal advice on this
12 issue, and, in an effort to avoid having to exercise
13 those legal rights, would be obliged if the Committee
14 would consider the following proposals as outlined
15 below." 12:10

16
17 Now, he then goes on, and you will see down -- there is
18 three paragraphs. Number 1:

19
20 "I will appoint a chief superintendent of his 12:10
21 preference --" this is Sergeant McCabe "-- to meet him
22 and discuss any issues he wishes to raise and direct
23 the chief superintendent to report directly to me in
24 relation to any issues that require further
25 investigation. 12:11

26
27 2. If Sergeant McCabe fails to nominate a chief
28 superintendent, I will nominate a chief superintendent
29 to meet him and discuss any issues he wishes to raise

1 and direct the chief superintendent to report directly
2 to me in relation to any issues that require further
3 investigation.

4
5 3. I will ensure that Sergeant McCabe is continued to 12:11
6 be afforded all rights and protections which a
7 confidential reporter would be entitled to under the
8 relevant regulations and will assure him that he will
9 not be subject to any harassment, penalisation or any
10 other action as a result of any issues that he wishes 12:11
11 to outline at such a meeting."

12
13 Do you see there?

14 A. Yes.

15 259 Q. If we can go back then to what Commissioner Callinan is 12:11
16 saying at page 646.

17 CHAIRMAN: Could I just ask one question, Mr. Marrinan,
18 because I don't know. Obviously it says at the top "to
19 be inserted on Commissioner's headed note-paper". Was
20 that ever sent to you? Did you ever get that? 12:12

21 A. No.

22 CHAIRMAN: All right.

23 260 Q. MR. MARRINAN: There is no suggestion that it was sent
24 to you. But this is a draft and it's -- if we can just
25 go back -- 12:12

26 A. To where?

27 261 Q. To page 646, if you wouldn't mind.

28 A. Yes.

29 262 Q. And then if you go down to paragraph 4, I have opened:

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"I travelled from Dundalk to a meeting -- "

And then I opened the last sentence:

12:12

"I also put the substance of the proposals contained in the draft letters to Deputy McGuinness."

In other words, he is saying that he put what was contained in the draft letter, those three paragraphs, to you, as a suggestion of how --

12:12

A. No, he didn't.

263 Q. He didn't.

A. And, in fact, I suggested to him that I -- he should meet Maurice McCabe and deal with it in the context of an employer/employee difference, and that is what happened. But I have -- this letter here was not sent to me, neither was any of the suggestions put to me.

12:13

264 Q. He then goes on to say during the course --

A. Sorry, could I just say that this -- all of these matters were dealt with, Chairman, in the context of the correspondence from November to January -- or, sorry, November to December, with the exception of the suggestions that he is making.

12:13

265 Q. Yes. He then goes on to say:

12:13

"During the course of the meeting, Deputy McGuinness asked why was Sergeant McCabe raising these issues. He asked if it was because of the file that went to the

1 DPP."

2

3 So what he is suggesting is, in fact, it's you that
4 first raised the issue of, first of all, Sergeant
5 McCabe's motives for doing what he was doing and it was 12:14
6 you who raised the issue about the file being sent to
7 the DPP.

8 A. Well, how would I know that a file was sent to the DPP?

9 266 Q. That is what I was going to ask you. You didn't know,
10 is that right? 12:14

11 A. Sure how would I know? I am not a member of the Garda
12 Síochána. And neither was I aware of any file, with
13 the exception that, on that day, he said to me that
14 there was a file, and I made the presumption that this
15 was a file that was going further. 12:14

16 267 Q. Well, if we could go back to the rumours that you had
17 heard floating around Leinster House about Sergeant
18 McCabe being, as you put it, a paedophile, was there
19 any discussion or rumours that a file had gone to the
20 Director of Public Prosecutions? 12:14

21 A. Not that I remember. These were just wild allegations
22 that were being made, in my opinion, and I would have
23 always presumed that, if any of these stood the test,
24 that a file would have -- or a prosecution would have
25 taken place a long time ago. 12:15

26 268 Q. He goes on to say:

27

28 "It was clear that he was already aware prior to our
29 meeting that Sergeant McCabe had been the subject of a

1 criminal investigation. His query in this regard was
2 not in response to, nor was it prompted by anything I
3 had said."

4
5 what do you say about that? 12:15

6 A. Well, I wasn't aware of any criminal investigation, up
7 to the point where the Commissioner told me about it in
8 the car, and therefore, you know, what he is saying
9 here, I wouldn't have known.

10 269 Q. Well, other than the fact, of course, that you had 12:15
11 confronted Sergeant McCabe with the allegations, isn't
12 that right?

13 A. I had asked him previously about this, yeah.

14 270 Q. Had he indicated to you, look, there was an 12:16
15 investigation, a file went to the DPP and there was no
16 prosecution?

17 A. I'm not quite sure about that. From my memory of it,
18 we were dealing with the gossip and so on, but there
19 was nothing ever specifically said about a prosecution,
20 and the only time that that came into my consideration 12:16
21 was when I had met Commissioner Callinan on the 24th.

22 271 Q. Well, I wonder, I mean, if you are asking Sergeant 12:17
23 McCabe, or you are telling Sergeant McCabe that there
24 are rumours floating around Leinster House that you are
25 a paedophile, and you were fairly blunt with him in
26 relation to that, and direct, because that is the way
27 that you believe it should be dealt with, but do you
28 not recall how he responded to it? I mean, did he just
29 flatly deny the allegations and say to you, look, I am

1 aware of these allegations but there is no truth to it?

2 A. It took him some time to respond to me when I put it to
3 him, because he was quite shocked and upset, and he
4 told me that they were unfounded. That was enough for
5 me.

12:17

6 272 Q. All right. So you didn't discuss it further then at
7 that time?

8 A. No.

9 273 Q. All right. Then he says:

10

12:17

11 "I responded by telling him that if he knew about the
12 file that went to the DPP, he knew what the DPP had
13 decided. He indicated to me that he knew all about the
14 allegation underlying the investigation."

15

12:18

16 what do you say to that?

17 A. I didn't know anything about it.

18 274 Q. This is -- as far as you are concerned, this is untrue?

19 A. It's untrue, yeah.

20 275 Q. "I did not at any point, as alleged, seek to discredit
21 Sergeant McCabe or undermine the workings of the Public
22 Accounts Committee. The purpose of my meeting with
23 Deputy McGuinness was to ensure that the complaints of
24 Sergeant McCabe were dealt with in an appropriate forum
25 that would not jeopardise the privacy of members of the
26 public. The fundamental issue for me as Commissioner
27 was not the fact that wrongdoing was being reported but
28 the inappropriate channels through which that
29 wrongdoing was being reported. At the time of my

12:18

12:18

1 meeting with Deputy McGuinness, it had not yet been
2 decided if Sergeant McCabe would appear in public or in
3 private session."

4
5 So there we have it. I mean, it's a completely 12:19
6 different slant on the meeting. The two can't be
7 reconciled with each other. He is saying that the
8 meeting was about the fact that Sergeant McCabe was
9 going to be giving evidence, his concern about data
10 protection issues and that he discussed these issues 12:19
11 with you and he put the proposals that are set out in
12 the draft letter that I have opened to you, but that
13 you were the one, in fact, who raised the issue in
14 relation to Sergeant McCabe's motivation in the first
15 instance and that, in fact, it was you who introduced 12:19
16 the allegation of a sexual assault as opposed to a
17 number of sexual assaults. So what -- your case is
18 that this is his account --

19 A. The account that I have given to the Tribunal,
20 Mr. Chairman, is absolutely true. All of the issues 12:19
21 that Commissioner Callinan raised in terms of data
22 protection, and so on, were already dealt with, and he
23 was absolutely aware of the position of the Public
24 Accounts Committee because we had written to him in
25 December. So those matters had already been dealt with 12:20
26 and at this stage were almost irrelevant because it was
27 clear the Public Accounts Committee was going to go
28 ahead with its examination, it was clear that Maurice
29 McCabe was going to appear before the Committee, and

1 the other issues in relation to the -- how I presented
2 at that meeting, I did not know about a file, and it
3 was Commissioner Callinan who referred to that, it was
4 Commissioner Callinan who had referred to the sexual
5 abuse of family members and it was Commissioner 12:21
6 Callinan that had referred to the attempts to discredit
7 Maurice McCabe in terms of telling me that he was not
8 to be believed and he was not a credible character. So
9 this particular letter that you referred to, it wasn't
10 sent, it wasn't sent to anyone. 12:21

11 276 Q. Yes. And if we could just move on then to your meeting
12 with Sergeant McCabe. In fact, it was in the Merrion
13 Hotel in May of 2016. This is at page 2169 of the
14 materials. This is in your -- during the interview
15 with the investigators. 12:21

16 A. Is this -- what volume is this?

17 277 Q. This is volume 8.

18 A. Yes. 2169?

19 278 Q. Yes.

20 A. Yes. 12:22

21 279 Q. Now, you have your -- you have your diary there. You
22 don't have a date for May of 2016 when you met Sergeant
23 McCabe, do you?

24 A. No, but I believe it was after --

25 280 Q. The 25th May -- 12:22

26 A. I accept that that's --

27 281 Q. When you raised the issue in the Dáil?

28 A. Yes.

29 282 Q. Would you not have thought maybe that you might have

1 told him prior to raising it in the Dáil, as a matter
2 of courtesy to him?

3 A. No, let me explain. When I contribute to a Dáil
4 debate, I don't walk in with particular notes. The
5 night in question, I was dealing with that specific 12:23
6 matter, and, in order to offer proof of what I was
7 saying, I then relayed the message or the -- sorry, the
8 description of the meeting in the car park, so I didn't
9 go in with the intent of saying it, but in the course
10 of the debate I just felt it was necessary to say it. 12:23
11 When that was said, I felt that Sergeant Maurice McCabe
12 was due an explanation, and I duly met to give him that
13 explanation.

14 283 Q. And in any event, you advised Sergeant McCabe during
15 the course of that meeting what Martin Callinan had 12:23
16 said to you in the car park, is that right?

17 A. Yes.

18 284 Q. Now, we have heard from Sergeant McCabe, who in his
19 evidence said that you had said that Martin Callinan
20 had said that he had abused all his -- all of his 12:24
21 children and his nieces, but you don't believe that you
22 used the word "all", is that right?

23 A. Yes, children and nieces.

24 285 Q. Yes. But it was -- the allegations were in the plural,
25 and you go on to say that: 12:24
26

27 "I did repeat to Sergeant McCabe what had been said to
28 me by Martin Callinan and that it was he, Martin
29 Callinan, said that Maurice McCabe had abused family

1 members, meaning children and nieces."

2 A. Yes.

3 286 Q. Is that right?

4 A. Yes.

5 CHAIRMAN: I am just tending to wonder why would nieces 12:24
6 come into it unless someone mentioned nieces? I mean,
7 quite often, one has no contact at all with one's
8 nieces.

9 A. Sorry, Chairman?

10 CHAIRMAN: I am just wondering did you mention nieces 12:25
11 or is that people inferring things?

12 A. No, that was said to me, and I used the description of
13 "family" to cover that.

14 CHAIRMAN: Okay. So daughters and nieces?

15 A. Yes, so that -- I didn't say "all". 12:25

16 CHAIRMAN: No. Maybe you would just say what was
17 actually said.

18 A. Sorry?

19 CHAIRMAN: What do you say was actually said by
20 Commissioner Callinan? I am just focusing on this. 12:25
21 You say "family"?

22 A. Oh, yes, sorry, that his children and nieces.

23 CHAIRMAN: You took it to mean female children?

24 A. Yes.

25 287 Q. MR. MARRINAN: So how does that get translated -- if 12:25
26 Mr. Callinan had said to you that he had abused
27 children, is that what you are saying?

28 A. He had abused his children and nieces.

29 288 Q. All right. Okay.

1 A. So family members.

2 289 Q. Now, if we could just move on then to deal with your
3 interaction with Superintendent Taylor.

4 CHAIRMAN: I note the time on the transcript is -- it's
5 about five minutes ahead, but we need to break for
6 lunch. I need to say something to you. I have a
7 personal issue, I am afraid, and I have to rise at
8 three o'clock today, so, if it's convenient, we can
9 start tomorrow at half nine to try and make up the
10 time, if you can tell me that after lunch.

12:26

12:26

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THE HEARING ADJOURNED FOR LUNCH

1 THE HEARING RESUMED, AS FOLLOWS, AFTER LUNCH:

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290 Q. MR. MARRINAN: Just before we move on to deal with your interactions with Superintendent David Taylor and his wife Michelle Taylor, is there anything else you think that we may not have covered in dealing with your interaction on the 23rd January and the 24th January with former Commissioner Callinan?

13:27

A. Not that I'm aware of, no.

291 Q. We will just move now to a meeting in the Skylon Hotel in January of last year, 2017. Do you recall meeting with Superintendent Taylor?

13:28

A. I do, and his wife, yes.

292 Q. And do you recall how it was that you came to meet him?

A. At that time, Superintendent Taylor was, I think, reaching out to members of the Dáil, to, you know, bring his difficulties with the force before them, in the context of how he was being treated. I think there was an issue around pay and other matters and concern for his family.

13:28

13:28

293 Q. At this time, Superintendent Taylor had been suspended from duty, isn't that right?

A. I think so, yes.

294 Q. And this arose out of his arrest in relation to criminal matters, isn't that right?

13:29

A. Yes.

295 Q. When you say he was reaching out to people in the Dáil, what do you mean by that?

A. I think his wife Michelle asked for contact or I may

1 have contacted her to meet to discuss their
2 circumstances, and we agreed to meet at the Skylon
3 Hotel.

4 296 Q. Do you have a date for that by recollection, by
5 reference to your diary? 13:29

6 A. I have it in my diary, yes. I will get that, sorry.

7 297 Q. All right. well, we will move on --

8 A. We met.

9 298 Q. -- we will check it when you get it. So -- sorry, you
10 have it now, if you wouldn't mind just checking. It's 13:30
11 in January 2017.

12 A. January 2017. I think around 16th January 2017, I was
13 asked, or I was to contact Dave Taylor and his wife.
14 So it was around that time that the contact was made.

15 299 Q. Around that time? 13:30

16 A. Yeah.

17 300 Q. And then did you have a meeting with them in the Skylon
18 Hotel?

19 A. I did.

20 301 Q. And will you just tell us what was the conversation? 13:30
21 what was it about?

22 A. well, my interests in the meeting was to determine how
23 he, as another whistleblower, was being treated, and,
24 from press reports and commentary in Leinster House, he
25 was being treated very badly. So I decided that, in 13:30
26 that context, I would meet. So the conversation
27 centred around that, in terms of what had happened to
28 him and how he had come to find himself in the position
29 that he was in. I listened to the concerns that they

1 expressed regarding Dave Taylor, his wife and family,
2 and how the negative position that they now found
3 themselves in was impacting on his family.

4 302 Q. Okay. And did he discuss with you what he had
5 disclosed in his protected disclosure?

13:31

6 A. No, I think he discussed with me in general how he had
7 been treated and what was going on, as I said, in terms
8 of his family. He mentioned, you know, what he had --
9 his involvement in the Sergeant Maurice McCabe matter
10 and that his role in it was as Press Officer and that
11 he acted at all times with the permission of the
12 commissioner and assistant commissioner.

13:32

13 303 Q. And when you say "his role" and "acted at all times",
14 what did he say his role was?

15 A. To brief the press, and that he had often briefed them
16 negatively in relation to Maurice McCabe. This was not
17 a detailed discussion about those matters. It was more
18 of an effort by me to get an understanding of how he
19 was being treated, the impact of that on his family and
20 his own wellbeing.

13:32

13:32

21 304 Q. Well, one might expect, as his title says, that he's
22 the Garda Press Officer at the time, that his job was
23 to have interaction with the press. Did he say what he
24 was doing?

25 A. Well, he would brief the press. And in the context of
26 that and the position of Sergeant Maurice McCabe, he
27 often briefed them in a negative way and that that was
28 done in the knowledge of his -- the commissioner and
29 assistant commissioner.

13:33

1 305 Q. And what did you take that to mean when he said that he
2 briefed them in a negative way?

3 A. That the intent was to smear Maurice McCabe and that it
4 was the desire of the commissioner and assistant
5 commissioner to get those type of messages out and that 13:33
6 he facilitated those. It was a very short
7 conversation, actually, in relation to that aspect of
8 the meeting.

9 306 Q. And when you say "get those type of messages out", what
10 do you mean by that? 13:34

11 A. Well, I presume that he meant text messages.

12 307 Q. Well, now, do you say you presume that he meant text
13 messages or --

14 A. No, no, he -- well, he indicated to me that he been
15 involved in the sending of text messages and that these 13:34
16 had been approved by his superiors.

17 308 Q. And to whom is he sending these text messages?

18 A. I didn't ask, and we didn't go into that kind of
19 detail.

20 309 Q. This conversation that you had with him was dealt with 13:34
21 in the statement that you originally provided to the
22 Tribunal. And if we could just have page 2200 on the
23 screen, please. This is volume 8, Deputy.

24 A. Yes.

25 310 Q. If we could just scroll down on the screen to paragraph 13:35
26 15 and if you could just refer to paragraph 15 --

27 A. Yeah.

28 311 Q. -- which is at the bottom. This is how you dealt with
29 it in the statement that you made to the Tribunal:

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"I met David Taylor and he told me that he had made a protected disclosure. He told me that he had been used by Mr. Callinan and Ms. Nóirín O'Sullivan, the current Commissioner of An Garda Síochána, to circulate text messages, briefing the recipients against Mr. McCabe by telling them he was not to be trusted. Mr. McCabe told me that Mr. Taylor had given him a similar account of what he had been asked to do by Mr. Callinan and Ms. O'Sullivan."

13:35

13:36

That is effectively what you have told us today, as well.

A. Yes.

312 Q. I was just focusing in particular on the circulation of text messages by Superintendent Taylor, because this was the subject matter of our investigators asking you a series of questions in relation to this particular aspect of your evidence and of your account, isn't that right?

13:36

13:36

A. Yeah.

313 Q. And if we could just have page 2186 on the screen.

A. The same volume?

314 Q. This is the same volume.

A. Yes.

13:36

315 Q. And if you see there, this is your interview with our investigators last month and there is a reference there to a quotation, which is from Superintendent Taylor's interview with the investigators on the 28th March of

1 2017 and it refers to the extract that I've just
2 referred to at page 2200, but I will read it out for
3 completeness' sake:

4
5 "The following extract from a statement made by John
6 McGuinness, TD, to the Disclosures Tribunal dated 28th
7 March 2017 has been read over to me."

13:37

8
9 That is Superintendent Taylor. And the extract is what
10 I've just read out.

13:37

11
12 "I met Superintendent Taylor and he told me that he had
13 made a protected disclosure. He told me that he been
14 used by Mr. Callinan and Ms. Nóirín O'Sullivan, the
15 current Commissioner of An Garda Síochána, to circulate
16 text messages briefing the recipients against
17 Mr. McCabe by telling them he was not to be trusted.
18 Mr. McCabe told me that Mr. Taylor had given him a
19 similar account of what he had been asked to do by
20 Mr. Callinan and by Ms. O'Sullivan."

13:37

13:38

21
22 And then the question is:

23
24 "I, superintendent, have been asked whether the content
25 of the above extract as attributed to me by
26 Mr. McGuinness, TD, is accurate, and, if not, I have
27 been asked whether I can explain Mr. McGuinness's
28 assertion. It was known I made a protected disclosure.
29 I told him I had been used by Mr. Callinan to

13:38

1 negatively brief the media about Sergeant McCabe and
2 that Ms. O'Sullivan was aware of this. I never stated
3 that I circulated text messages, briefing the
4 recipients against Mr. McCabe by telling them he was
5 not to be trusted. I did tell him what I had done as
6 per the protected disclosure." 13:38

7
8 So he is saying that he didn't refer to sending out
9 text messages to the recipients, do you understand?

10 A. Oh, I do, yes. 13:39

11 316 Q. Yeah. And your answer to that, from our investigators,
12 was that you were sure that he said those words to you?

13 A. It was, yeah.

14 317 Q. And do you remain sure that he said those words to you?

15 A. I am absolutely sure, yes. 13:39

16 318 Q. Well, obviously he is taking issue with that, and
17 similarly, Michelle Taylor was interviewed and she is
18 supporting her husband in that and saying that he never
19 referred to there being text messages sent on behalf of
20 Commissioner Callinan and then-Deputy Commissioner 13:39
21 O'Sullivan. You remain positive in your assertion that
22 this was said to you?

23 A. I remain clear in my memory of the meeting and in that
24 statement.

25 319 Q. And you subsequently discussed that with Sergeant 13:39
26 McCabe and told him what you had been told by
27 Superintendent Taylor, and he indicated to you that he
28 was told the same thing?

29 A. Yes.

1 MR. MARRINAN: Yes. Would you answer any questions the
2 parties have, please.

3 CHAIRMAN: Yes. Let's try and work out an order, if we
4 could. Mr. McDowell, do you think you have any
5 questions? 13:40

6 MR. MCDOWELL: I don't think I do.

7 CHAIRMAN: You don't think you do. And, Mr. O'Higgins,
8 you're appearing for Superintendent Taylor?

9 MR. MICHAEL O'HIGGINS: Yes, Chairman, I am for
10 Superintendent Taylor. I have about 15/20 minutes, 13:40
11 maximum.

12 CHAIRMAN: Yes, all right. And then does anybody else
13 need to ask any questions? Mr. Harty?

14 MR. HARTY: Yes, I think my client wishes me to ask a
15 very short number of questions, I imagine five minutes. 13:40

16 CHAIRMAN: That is fine. Thank you. Then the Garda
17 Commissioner's counsel will have, presumably, a lot of
18 questions?

19 MR. MÍCHEÁL O'HIGGINS: Yes.

20 CHAIRMAN: Yes, Mr. McEnroy. 13:40

21 MR. MCENROY: I appear for Ms. Michelle Taylor. I will
22 be about ten minutes.

23 MR. LEHANE: And, Mr. Chairman, I appear for
24 Mr. McGuinness. Depending on the manner in which the
25 cross-examination and examination by other parties 13:41
26 proceeds, I may have some questions.

27 CHAIRMAN: Yes. Well, you can go last in that, then.
28 Right. Well, I'm sorry, we're not going to finish
29 today, and that happens. And as I said, I will sit at

1 9:30 if it is convenient for you if you are coming up
2 from Kilkenny, but if it is not, we will sit at 10:00
3 in the usual way. But, I'm sorry, I do have personal
4 problems today. So Mr. O'Higgins.

5 MR. MICHAEL O'HIGGINS: I am ready. 13:41

6
7 MR. MCGUINNESS WAS CROSS-EXAMINED BY MR. MICHAEL
8 O'HIGGINS:

9
10 320 Q. MR. MICHAEL O'HIGGINS: Good afternoon, Mr. McGuinness. 13:41
11 My name is Michael O'Higgins and I'm counsel on behalf
12 of Superintendent Taylor. I have a small number of
13 questions to ask you. I don't envisage I'm going to be
14 more than 10 or 15 minutes, and indeed some of the time
15 will be taken up with just getting documents up on 13:41
16 screen. I won't be detaining you long.

17
18 There are three or four areas I just want to ask you
19 about. They are the conversation that occurred after
20 the Public Accounts Committee had heard Commissioner 13:42
21 Callinan giving evidence, I have one question about the
22 meeting the following day, and then I have a few
23 questions about the meeting had you with my client in
24 January 2017, and that's it.

25 13:42
26 If can I just ask you about the conversation that
27 occurred, and I know Mr. Marrinan asked you about this,
28 but I just want to have another go at it because I'm
29 not clear in my own mind. You came down, as was your

1 practice, to thank the people who had participated in
2 the event, and you -- as you came down, it appears to
3 me Commissioner Callinan, I think, might have been the
4 first person you spoke to, would that be correct?

5 A. Correct.

13:43

6 321 Q. And I suppose the distinction I'm anxious to ascertain
7 which it is, if you can say, was it the case that
8 Commissioner Callinan was having a conversation with
9 you which was capable of being overheard by people in
10 the immediate vicinity?

13:43

11 A. Yes.

12 322 Q. Or was he having a conversation with people in the
13 immediate vicinity to which you were in the catchment
14 area of the conversation? First of all, could I ask
15 you, do you understand the distinction I'm drawing?

13:43

16 A. I do, yeah.

17 323 Q. Do you understand the distinction I'm drawing?

18 A. Yes.

19 324 Q. Are you in a position to say which it was?

20 A. I believe that the comments made in relation to John
21 Wilson were perhaps part of some conversation, well,
22 they might have been having. I wasn't privy to what
23 happened before. And the conversation then relative to
24 John Wilson was directed at me, if you like, and I
25 would say within the earshot of those that were around
26 the Commissioner. Because the tendency was for people
27 to gather around individuals within their own team.
28 And I think that's the way it happened and --

13:43

29 325 Q. You had used the phrase "in flow", a conversation being

13:44

1 in flow when you arrived, so perhaps that would be
2 consistent with a conversation already underway at the
3 time you joined, would that be --

4 A. Yeah, people were picking up their documents and their
5 bags and getting ready to leave -- to leave, and, in 13:44
6 that context, they would be having conversations
7 perhaps about what happened at the meeting or what was
8 said. So that kind of conversation would be normal.
9 And then as I approached to greet Mr. Callinan, the
10 conversation continued on into the John Wilson story, 13:45
11 but I can't confirm for you what the conversation was
12 before that.

13 326 Q. I understand that. Well, the impression I'm forming,
14 and I think I can leave it at this then, is that you
15 were being informed of this anecdote, for want of a 13:45
16 better description, about the horses in Grafton Street,
17 followed up by the comment at the end about Sergeant
18 McCabe and the class of people he had to deal with, and
19 my impression of it is that this was an inclusive
20 conversation in which the people in the immediate 13:45
21 vicinity were included?

22 A. I would say yes, and I would say that I was probably
23 expected to join in that conversation, which didn't
24 happen.

25 327 Q. Now, I only want to ask you one question about the next 13:46
26 day, because it doesn't really concern my client
27 directly.

28 CHAIRMAN: Mr. O'Higgins, are we finished with that
29 then?

1 MR. MICHAEL O'HIGGINS: Yes, I am.

2 CHAIRMAN: Well, I need to know did David Taylor
3 overhear this? What is his position on it?

4 MR. MICHAEL O'HIGGINS: Oh, he did. It's in his
5 statement. 13:46

6 CHAIRMAN: Well, you'd maybe like to put that to the
7 witness. And who else does he say overheard it, if you
8 wouldn't mind --

9 MR. MICHAEL O'HIGGINS: I'm sorry, Chairman, I will do
10 that. Sorry, I wasn't putting it because I didn't know 13:46
11 he had commented on my client's state of mind, but yes.

12 328 Q. Superintendent Taylor was part of this group, do you
13 understand?

14 A. Yes.

15 329 Q. Would that accord with your recollection? 13:46

16 A. Yes.

17 330 Q. And in the course of a statement which he made to the
18 Tribunal in March of 2017, he indicated that he heard
19 Commissioner Callinan use the term "kiddie fiddler".
20 In your opinion, would he have been sufficiently close 13:47
21 to the conversation to have heard what was said?

22 A. I can only judge that from, you know, how they stood
23 around, and I'm sure that he could have heard what was
24 said.

25 331 Q. Was the dynamic of a group of people? 13:47

26 A. Sorry.

27 332 Q. Was the dynamic of a group of people?

28 A. A group of people, yes.

29 333 Q. And in the interest of putting my client's case, he has

1 no recollection of the anecdote that you relate with
2 regard to Mr. Wilson, but that's just what his
3 recollection is.

4 A. That's his recollection.

5 MR. MICHAEL O'HIGGINS: Is that adequate, Chairman? 13:48

6 CHAIRMAN: Yes, certainly.

7 334 Q. MR. MICHAEL O'HIGGINS: Now, I just have one question
8 really to ask you about the following day. We've heard
9 this morning your account of what transpired in the car
10 and you've heard Mr. Marrinan put to you Commissioner 13:48
11 Callinan's account and, in particular, the reference to
12 the DPP file and knowledge about the file emanating
13 from you. You recall that?

14 A. Yes.

15 335 Q. And you dispute that? 13:48

16 A. Yes.

17 336 Q. But I just want to be clear about something. The
18 aspects of the conversation that you had with
19 Commissioner Callinan referring to family and children
20 and nieces, it's common case among everyone, I believe, 13:48
21 that those topics were not part of the file to the DPP.
22 Do you understand?

23 A. I can only say yes, but I don't know anything about the
24 file to the DPP, Chairman.

25 CHAIRMAN: Yes. The only files that were ever opened 13:49
26 in relation to Sergeant McCabe's children were opened
27 pro forma in relation to the repetition of the
28 allegation from 2014 on and that pro forma was probably
29 not correct in the sense that two were over 18 and it

1 was unnecessary. But in terms of what had happened in
2 the background, no member of Sergeant McCabe's family
3 had ever said anything, whether they were nieces or
4 children, so any reference to files, I don't think it
5 can be a reference to that. But in any event, there it 13:49
6 is.

7 A. Well, I was not aware --

8 CHAIRMAN: No, no, I appreciate that.

9 MR. MICHAEL O'HIGGINS: The only point I'm making is,
10 that whatever confusion might or might not exist about 13:49
11 who introduced what into the conversation about the
12 file to the DPP, what you allege Commissioner Callinan
13 told you with regard to children and nieces was not
14 part of that file, and I just want to ask you are you
15 sure in your own mind that those things were said to 13:50
16 you?

17 A. I'm absolutely clear.

18 337 Q. Now, you subsequently met my client in January of 2017,
19 isn't that right?

20 A. Yes. 13:50

21 338 Q. And you indicated today that he was -- and I'm
22 summarising here; if I am creating a wrong impression,
23 please correct me -- that he was in a somewhat low
24 mood, he was suspended from duty, he had concerns for
25 himself and his family and he was, to use a phrase, 13:50
26 outside the fold. And it seemed to me that part of
27 your discussions with him were to hear his story on
28 that account and to offer him reassurance if you could
29 offer him reassurance, would that be fair?

1 A. Yes. I wanted to hear at first hand from him and his
2 wife as to how he was being treated as a whistleblower
3 and to gain from him his experience and knowledge of
4 how someone from within the force that steps out of
5 line can be treated. And I found him to be quite 13:51
6 distressed over his treatment, I found him to be
7 concerned and worried about his family. His income was
8 an issue. I think at that time it's fair to say that
9 his health would have been an issue for him. And I
10 think, you know, I felt there was an obligation on me 13:51
11 to listen to this and to get a background as to how he
12 felt about things, because he had served at a high
13 level within the force and, as you say, he now found
14 himself outside the fold.

15 339 Q. Now, I suppose the reason I'm anxious to sort of 13:52
16 highlight that as a precursor is that it seems to me a
17 good part of the conversation was taken up with those
18 aspects?

19 A. Yes.

20 340 Q. And you yourself have described that the conversation 13:52
21 about matters which are germane or more germane to the
22 Tribunal, you've described it as not a detailed
23 discussion, these are just my note of what you said, a
24 very short conversation and a conversation in general,
25 isn't that so? 13:52

26 A. Yes.

27 341 Q. And when you say a very short conversation or not
28 detailed, could you put a time limit on how long you
29 would have discussed the aspects of his negative

1 briefing and how that occurred?

2 A. Well, again, this was a short meeting, so in the
3 context of that meeting, and what I was trying to
4 ascertain, because I wanted to assist, if I could, in
5 the context of his payment and his status within the 13:53
6 force, the issue of him, Superintendent Taylor, doing
7 his job, that was the point he was making. I was
8 simply doing my job. And now he found himself not only
9 outside the fold but being penalised in a way that he
10 never expected would ever happen in his life, and that 13:53
11 brought about the concern then for his wife and his
12 family.

13 342 Q. Could I bring to your attention some extracts from
14 Superintendent Taylor's statements setting out what he
15 did and how he did it. If I could ask that we could 13:53
16 have page 5 put up on screen, which is Volume 1 in
17 front of you there. It's a protected disclosure which
18 is made on the 30th September 2016 and that begins on
19 page 4.

20 A. 4. 13:54

21 343 Q. It begins on page 4, but I want to direct your
22 attention to the top of page 5.

23 A. Yeah.

24 344 Q. Do you see at the top of page 5 it commences "In early
25 2013"? 13:54

26 A. Yes.

27 345 Q. Now, I'm not going to go through this verbatim, but I'm
28 going to highlight what would appear to be the main
29 points made in the following four paragraphs.

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"In early 2013, issues regarding Sergeant McCabe became more prominent."

Isn't that so? 13:54

A. Yes.

346 Q. "It was an evolving issue which became a very serious internal issue for An Garda Síochána, in particular the deputy and actual Commissioner."

Isn't that so? 13:55

A. Yes.

347 Q. "This is especially the case if some issue or allegation made by Sergeant McCabe was published, reported on or commented on in Dáil Éireann." 13:55

A. Yes.

348 Q. "When this occurred the Commissioner would meet with me in his office or call me on the internal office phone to discuss the official response of An Garda Síochána."

A. Yes, I read that. 13:55

349 Q. And then:

"This also occurred if there were media queries. When that happened, I would contact the Commissioner either by phone or text, seeking his instructions or direction." 13:55

Isn't that so?

A. That is what is written here, yeah.

1 350 Q. And it goes on to say that there would be meetings
2 sometimes attended by the deputy commissioner, is that
3 right?

4 A. Yes, as the statement.

5 351 Q. It then says:

13:55

6
7 "I recall being instructed or directed to contact the
8 media to brief them on the particular line the
9 Commissioner had instructed; namely, to brief
10 negatively against Sergeant McCabe."

13:56

11

12 Isn't that so?

13 A. Yes.

14 352 Q. "In particular, I recall that I was to brief the media
15 that Sergeant McCabe was motivated by maliciousness and
16 revenge. I was also to encourage the media to write
17 negatively about Sergeant McCabe, that his complaints
18 had no substance and that the Garda had fully
19 investigated the complaints and found no substance to
20 his allegations. In essence, I was to brief that
21 Sergeant McCabe was driven by agendas."

13:56

13:56

22 A. Yes.

23 353 Q. It goes on to say:

24

25 "I was also directed to draw journalists' attention to
26 the complaint of sexual assault made against Sergeant
27 McCabe and this was the root cause of his agenda:
28 revenge against the Gardaí."

13:56

29 A. Yeah.

1 354 Q. Now, could I just ask you, in the interests of
2 completeness, to go to page 127, please --

3 A. Yes.

4 355 Q. -- of the same volume. At the top of that page,
5 there's an answer:

13:57

6
7 "Commissioner Callinan, just to clarify, I wish to
8 state that Deputy Commissioner O'Sullivan never
9 instructed me to brief the media as detailed above.
10 However, as far as I'm concerned, she was aware of the
11 instruction by Commissioner Callinan." 13:57

12

13 Do you see that?

14 A. Yes.

15 356 Q. Then at line 183:

13:57

16

17 "I refer to my earlier answers in relation to
18 documentary evidence that may assist the Disclosures
19 Tribunal. Just to clarify again, the instruction by
20 Commissioner Callinan in this regard was always verbal. 13:57
21 The instruction was never documented in writing, text
22 or email."

23

24 Do you see that?

25 A. Yes.

13:58

26 357 Q. Now, if I can just ask you to go back to page 5 again,
27 if you wouldn't mind.

28 A. Yes.

29 358 Q. Now, when you met Superintendent Taylor, he confirmed

1 to you that he had been briefing negatively against
2 Sergeant McCabe in the terms outlined, isn't that so?

3 A. Well, he just said that he had been briefing
4 negatively. He didn't go into the detail.

5 359 Q. Well, did he give you detail along the lines of "I was 13:58
6 also directed to draw journalists' attention to the
7 complaint of sexual assault made against Sergeant
8 McCabe and this was the root cause of his agenda", did
9 he even go into that level of detail?

10 A. I don't think so. 13:58

11 360 Q. All right.

12 A. It was general. It was clear that he was -- that he
13 desired to show that he had acted on instructions and
14 that he had the approval of both the commissioner and
15 assistant commissioner. 13:59

16 361 Q. Well, am I correctly extrapolating from your answer
17 that his concern on that day appeared to -- not
18 necessarily to justify his actions but to contextualise
19 them by saying he was following instructions?

20 A. Yes. 13:59

21 362 Q. Was he emphasising that?

22 A. Yes.

23 363 Q. The fact that a senior member of An Garda Síochána and
24 indeed a senior member who was very senior in the Press
25 Office and such senior member was having ongoing 13:59
26 contact with journalists, who was telling you, whether
27 on instructions or not, that he was briefing negatively
28 against Sergeant McCabe, that was presumably a very
29 significant development for you to hear about?

1 A. Yes.

2 364 Q. And I also presume it would be an even more significant
3 development if it was being alleged that these actions
4 weren't being done on his own initiative but under
5 instructions? 14:00

6 A. Yes.

7 365 Q. And would it be fair to say, in receiving this
8 information, in circumstances where it's a fairly brief
9 conversation and not specifics, that the importance to
10 you was that a senior member of the guards was going 14:00
11 this and was claiming to be doing it from direction on
12 high, that that was much more prominent information for
13 you than the manner in which this was carried out; in
14 other words, whether it was done orally or by text?

15 A. You could say that, yes. Yeah. 14:00

16 366 Q. Could I just ask you to look at page 5 again. I mean,
17 this is in a circumstance where it's not a conversation
18 in the Skylon Hotel. It's a circumstance whereby is
19 presumably writing a statement, a member of An Garda
20 Síochána, who would have some awareness of the 14:01
21 significance and manner in which a statement has been
22 drafted, and it's an opportunity to set out what
23 happened. And could I ask you to note there that:
24
25 "When issues arose about Sergeant McCabe --" 14:01
26
27 This is as per the bottom of the first paragraph.
28
29 "-- the Commissioner would meet with me in his office

1 or call me on the internal office phone prior to
2 discuss the official response." '

3
4 Isn't that so? That is at the end of the first
5 paragraph on page 5.

14:01

6 A. Yeah.

7 367 Q. It then goes on to say about media queries.

8
9 "When that happened, I would contact the Commissioner
10 either by phone or by text seeking his instructions or
11 direction."

14:02

12
13 Do you see that?

14 A. Yeah.

15 368 Q. And if you leave out the next couple of lines about who
16 was attending meetings, it says:

14:02

17
18 "I recall being instructed or directed to contact the
19 media to brief them on a particular line the
20 Commissioner had instructed."

14:02

21
22 Isn't that right?

23 A. Yes.

24 369 Q. I mean, even as it's written down there, I would
25 suggest it is somewhat ambivalent as to whether
26 Superintendent Taylor is saying that he communicated
27 the direction by text or orally?

14:02

28 A. You're putting to me the detail of his statement. We
29 did not go into that detail in our conversation, so I

1 can't comment on that, bar to say that when I met
2 Superintendent Taylor he presented as a man that was
3 completely devastated by the manner in which he was
4 being treated, on foot of the fact, as he presented to
5 me, that he was instructed by his superiors to do -- to 14:03
6 send out negative stories about Sergeant Maurice
7 McCabe. Now, I didn't concern myself with the detail
8 of how he did it, or why he did it. My concern, at
9 that time, was the question of fairness and the fact
10 that this man, who was a serving garda, carrying out 14:03
11 instructions or orders, was being treated in the way
12 that he was. And that's what I wanted to understand,
13 because it had a similar -- it had a similar ring to it
14 as the way in which Sergeant Maurice McCabe had been
15 treated, and others, let me say. 14:03

16 370 Q. Well, if I might put it to you in these terms, then:
17 Is it possible that in receiving the information that
18 you did receive, namely that he was doing what he was
19 doing and he was doing it on instruction, that you
20 didn't ascertain with any precision how the direction 14:04
21 was carried out and your conclusion that he had carried
22 out these directions by text is mistaken on your part?

23 A. No, it's not.

24 371 Q. In what way?

25 A. In that it was clear to me leaving the meeting, in 14:04
26 whatever way it was worded, that he had been instructed
27 to send out the message about Sergeant McCabe and that
28 text messages were used.

29 372 Q. Yes.

1 A. Now, that is as much as I know about that particular
2 aspect of it.

3 373 Q. Is it possible that when Superintendent Taylor is
4 referring to the use of texts, that he was referring to
5 his contact with Superintendent Callinan [sic] to alert 14:05
6 him that there was a live issue, and that when he
7 received a direction from Superintendent Callinan, he
8 complied with that direction orally and you are
9 assuming that because he contacted Superintendent
10 Callinan by -- or, sorry, Commissioner Callinan, by 14:05
11 text and responded to his direction, you're making an
12 assumption that he did so by text - by inference, in
13 other words?

14 A. I'm not making any assumption, and neither can I
15 comment on Superintendent Taylor's actions, because I 14:05
16 don't know.

17 374 Q. You don't --

18 A. I only know that, in the course of the meeting at the
19 Skylon Hotel, that text messages were mentioned.

20 375 Q. They were. 14:05

21 A. And that it was also a case that he was being asked to
22 brief negatively against Sergeant Maurice McCabe, so --

23 376 Q. He was, he was. All of that is common case. But what
24 I want to say is, if you were left with the impression
25 that the entire transaction was completed via text 14:06
26 communication, I'm suggesting to you, through no fault
27 of your own, that is an incorrect impression; that
28 there may have been text communications alerting
29 Commissioner Callinan to whatever the latest event was,

1 but insofar as he received a direction from
2 Commissioner Callinan, he received it orally from him
3 and he communicated it orally. Are you taking any
4 issue with the impression which he created with you at
5 the hotel of that scenario?

14:06

6 A. You're asking me to take impressions or to consider
7 impressions and you're asking me, almost, what was in
8 Superintendent Taylor's head. I can't answer that. I
9 can only tell you what I heard at the meeting, and I
10 can tell you that it was a short meeting. I wasn't
11 generally concerned in that meeting about the texts or
12 what was going on. I was simply concerned about a man
13 who I believed both he and his family were wronged, and
14 I want to establish the facts around that.

14:07

15 377 Q. All right. Well, I won't pursue it further, other than
16 to say if you were left with an impression that
17 Superintendent Taylor was telling you that Commissioner
18 Callinan drafted texts and that he sent them on his
19 behalf, if he created that impression with you, it's
20 incorrect.

14:07

21 A. If he created that impression with me.

22 378 Q. If he created it.

23 CHAIRMAN: Your case, Mr. O'Higgins, as to what was
24 actually said by Superintendent Taylor --

25 MR. MICHAEL O'HIGGINS: No, no, Superintendent Taylor
26 has never maintained that Commissioner Callinan drafted
27 any text or that he forwarded any text on his behalf.

14:07

28 CHAIRMAN: Okay. So in terms of any difference there
29 might be between your client and Deputy McGuinness,

1 your client is saying a mistaken impression was taken
2 up, not created by your client, to the effect that the
3 negative briefing took place in part by means of text
4 messages.

5 MR. MICHAEL O'HIGGINS: Yes.

14:08

6 CHAIRMAN: But your client is saying - if you wouldn't
7 mind helping me on that, exactly what he said about
8 texts, if anything, at the meeting.

9 MR. MICHAEL O'HIGGINS: well --

10 CHAIRMAN: If he can recall, because Deputy
11 McGuinness --

14:08

12 MR. MICHAEL O'HIGGINS: what he can be very specific
13 in, he never suggested that Commissioner Callinan
14 drafted a text, he never said that Commissioner
15 Callinan sent him a text or a direction which he
16 forwarded on to any individual. He had text
17 communication with Commissioner Callinan, there would
18 then be a meeting, face-to-face, or by telephone, he
19 would receive a direction and he would carry out that
20 direction orally, at the conclusion of --

14:08

14:08

21 CHAIRMAN: No, I appreciate those are your
22 instructions, but do you have any instructions as to
23 what was actually said in the conversation --

24 MR. MICHAEL O'HIGGINS: No, I don't. I can't be
25 specific.

14:09

26 CHAIRMAN: All right. well, your definite recollection
27 is that there was a reference to briefing negatively by
28 text. You appreciate the position Mr. O'Higgins has
29 put to you on behalf of his client, that you took that

1 up mistakenly, and that insofar as
2 Superintendent Taylor can remember this conversation at
3 all, any reference to text was to alerting Commissioner
4 Callinan that, for instance, Maurice McCabe was on the
5 radio or was being mentioned on the television or 14:09
6 whatever. I don't know if that helps you in any way?
7 A. Well, I can only accept that, you know, that may be the
8 case, but I have to say that I have given you what is
9 clearly my recollection of the meeting.

10 379 Q. MR. MICHAEL O'HIGGINS: Yes. Now, the only other thing 14:09
11 I want to ask you was: when you met my client in
12 January 2017, did you tell him or have any discussion
13 with him about the conversation that Commissioner
14 Callinan had with you when you came down to talk to him
15 after the Committee had finished its business? 14:10
16 A. No.

17 380 Q. You didn't mention that to him at all?
18 A. No, I don't believe I did.

19 381 Q. I want to confirm that it is my client's instruction
20 that you never mentioned that conversation to him. 14:10
21 Now, you set out that conversation in a statement to
22 this Tribunal in late March 2017, isn't that so?
23 A. Yes.

24 382 Q. You had, I understand, if I correct in this, you had
25 told your party leader in terms, in broad terms, about 14:10
26 a conversation at a car park, isn't that right?
27 A. Yes.

28 383 Q. Is that correct?
29 A. Yes, yes.

1 384 Q. And in that conversation with your party leader you
2 hadn't mentioned the conversation at the end of the
3 hearing the previous day?
4 A. No.

5 385 Q. And am I correct, I don't know the answer to this then, 14:11
6 that the first time that you disclosed the conversation
7 at the end of the PAC meeting was in your statement to
8 the Tribunal?
9 A. I believe so.

10 386 Q. So if we are looking for a time-line of when you first 14:11
11 articulated this, it would appear to be the end of
12 March; I think your statement was on the 28th March
13 2017?
14 A. Yes.

15 Mr. O'HIGGINS: Thank you very much. 14:11
16 CHAIRMAN: Mr. Harty, if you would just remind the
17 witness who you are appearing for.
18

19 MR. MCGUINNESS WAS CROSS-EXAMINED BY MR. HARTY:
20 14:11

21 387 Q. MR. HARTY: Deputy McGuinness, my name is Mark Harty
22 and I'm appearing on behalf of John Wilson. I intend
23 to be as brief as is possible. I understand you met
24 with Mr. Wilson once in 2013, in the latter half of
25 that year, is that correct? 14:12
26 A. Yeah.

27 388 Q. Is that your recollection?
28 A. Yeah.

29 389 Q. I think you met him with Sergeant McCabe, Maurice

1 McCabe, on that occasion --

2 A. Yes.

3 390 Q. -- to discuss the parameters of their whistleblowing,
4 as such, at that time. I'm correct in saying that was
5 your only formal meeting with him, is that correct? 14:12

6 A. I believe so, yes.

7 391 Q. And insofar as that meeting took place, what impression
8 were you left with of John Wilson at that stage?

9 A. That John Wilson, like others, had issues in terms of
10 how he was being treated within the force, that he was 14:12
11 quite vocal on raising these matters and that he wanted
12 to, I suppose, get justice or have his case heard or
13 have the issues that he raised addressed. In most of
14 these cases, and John Wilson was no different, those
15 that came forward simply wanted to have matters dealt 14:13
16 with in a logical and fair way, and the reason why they
17 turned to members of the Oireachtas is because I
18 believe that they felt they were not being treated
19 fairly and were not having the issues, as they saw
20 them, addressed in a way that kept them inclusive in 14:13
21 their job and showed respect.

22 392 Q. I think at this stage, in fact, John Wilson had left An
23 Garda Síochána by the time he met you?

24 A. I think so, yes.

25 393 Q. And in terms of that meeting, can you just say to the 14:13
26 Tribunal whether you were left with an impression of
27 John Wilson that he could be described by the word
28 "header" or "a head case"?

29 A. Was I left with that impression?

1 394 Q. Yes.

2 A. No, I wasn't.

3 395 Q. Because that, apparently, is the evidence of
4 ex-Commissioner Callinan.

5 A. Yes, I read that. 14:14

6 396 Q. That was the impression that you had?

7 A. I read that, yes. And I made it clear earlier on that
8 I did not make that statement.

9 397 Q. Yes. In relation then to the work of the PAC, it was
10 Sergeant McCabe, who was still in the force, who 14:14
11 provided the PAC with the relevant documentation, isn't
12 that correct?

13 A. Yes.

14 398 Q. And he was central to the work that the PAC was doing
15 in that regard? 14:14

16 A. Yes.

17 399 Q. I don't know if you recall seeing John Wilson at the
18 PAC meeting on the 23rd January?

19 A. I think he attended --

20 400 Q. He did attend? 14:14

21 A. -- a number of meetings, yeah.

22 401 Q. Yes. After that meeting, and you have given evidence
23 already of what you overheard or what was said in your
24 presence by Commissioner Callinan or former
25 Commissioner Callinan, do you recall was any detail 14:15
26 given as to the dates of when this alleged event took
27 place in relation to the horses on Grafton Street?

28 A. No.

29 402 Q. Did Commissioner Callinan tell you how he came to

1 knowledge of this event?

2 A. No.

3 403 Q. Would it surprise you to know that the reason why
4 Commissioner Callinan knew of this event was because,
5 when this event occurred in 1983, he was serving in the 14:15
6 same station as John Wilson; were you made aware of
7 that fact?

8 A. No, I wasn't, no.

9 404 Q. And that in 1983, when John Wilson had been a member of
10 An Garda Síochána for less than a year, he had occasion 14:15
11 to take a horse which was being mistreated on Grafton
12 Street, which had recently just been made
13 pedestrianised in the previous 12 months, and that is
14 the incident to which Commissioner Callinan was
15 referring to, an incident which took place some 35 14:16
16 years prior to now and 30 years prior to when it was
17 being relayed for your benefit, were you aware of that
18 fact?

19 A. No.

20 405 Q. Would it surprise you to know that John Wilson has 14:16
21 heard nothing about that incident in the intervening 35
22 years until your statement was revealed to him, your
23 updated statement was sent to him by the Tribunal?

24 A. I --

25 406 Q. Well, perhaps I will put it another way: Had you heard 14:16
26 this story anywhere else?

27 A. No.

28 407 Q. In terms of common currency and what was being briefed
29 about people around the place, was there any stories

1 being briefed around the Oireachtas about John Wilson?
2 A. And that incident?
3 408 Q. Yes, or any incident.
4 A. Or any incident?
5 409 Q. Yes. 14:16
6 A. No. Just, he was the subject of the same negative
7 briefing as most others that come forward and I hadn't
8 heard that incident up to the date that it was conveyed
9 to me by Commissioner Callinan.
10 CHAIRMAN: Mr. Harty, I would be kind of the view that 14:17
11 this incident rebounds to your client's credit.
12 MR. HARTY: well, so would he, but, in fact --
13 CHAIRMAN: Especially riding the horseback to Pearse
14 Street. Sometimes it is easier to ride a horse than to
15 lead a horse, and safer. 14:17
16 MR. HARTY: And I think, in the circumstances, he is
17 very happy that he carried out the actions in question.
18 He simply believes it is of assistance in the Tribunal
19 in its deliberations as to what took place in this
20 conversation because he does know that Commissioner 14:17
21 Callinan personally knew of the story, and I'm simply
22 clarifying that it was not a story which was in the
23 knowledge of anybody else at the time around the
24 Oireachtas, shall we say.
25 410 Q. So had you heard the story -- 14:17
26 A. I hadn't heard that sorry around the Oireachtas.
27 CHAIRMAN: So, basically, the idea is that Commissioner
28 Callinan and John Wilson were serving in the same
29 station, so I suppose it would have been station talk,

1 but probably not anything more than that.

2 MR. HARTY: Exactly.

3 CHAIRMAN: I'm sure they were full of admiration for
4 his actions, but there you are.

5 MR. HARTY: I understand that Commissioner Callinan had 14:18
6 just moved over from the detective unit in Harcourt
7 Square at the time. I'm not sure whether riding horses
8 on Grafton Street was considered admirable.

9 A. Can I say that while we might take some humour from
10 that story, it wasn't relayed to me to give credit to 14:18
11 John Wilson.

12 CHAIRMAN: No, I appreciate that.

13 A. It was relayed to damage him, and I want to be quite
14 clear about that.

15 CHAIRMAN: It was a -- on the basis that he was a bit 14:18
16 of a fruitcake. That was the tenor of the whole thing.

17 A. Yes.

18 411 Q. MR. HARTY: And then perhaps we can come to the nub of
19 why the story was told, albeit it is the one thing
20 Commissioner Callinan could drag up from his memory. 14:18
21 The fact of the matter is, is that because of the story
22 taking place 35 years previously, you were to be given
23 the impression, in the words of Commissioner Callinan,
24 that John Wilson was, and the Tribunal will pardon my
25 precision, a fucking head banger. 14:19

26 A. And your question is ?

27 412 Q. Isn't that -- your understanding as to why that story
28 was told?

29 A. Well, obviously it was told to damage John Wilson and

1 to lead into the story about Sergeant Maurice McCabe
2 and to, I suppose, give evidence that these were the
3 type of individuals in the force that he had to deal
4 with.

5 413 Q. Do you have any reason or did you have any reason to 14:19
6 question the bona fides of John Wilson in relation to
7 the matters that he brought to the PAC's attention?

8 A. In relation to?

9 414 Q. The matters that he brought to the attention of the
10 PAC? 14:19

11 A. I never questioned John Wilson. I consider him to be
12 an honourable individual.

13 MR. HARTY: Thank you very much. Thank you very much,
14 Deputy. Thank you, sir.

15 CHAIRMAN: Mr. McEnroy, do you want to ask any 14:19
16 questions? And again, would you please remind the
17 Deputy who you are asking questions for, please.

18 MR. MCENROY: I am grateful, Chairman. I will be short
19 enough.

20 14:20

21 MR. MCGUINNESS WAS CROSS-EXAMINED BY MR. MCENROY:

22

23 415 Q. MR. MCENROY: Mr. McGuinness, my name is Felix McEnroy.
24 I am the barrister for Mrs. Taylor. I want to focus on
25 two essential matters: first, how did the meeting in 14:20
26 Skylon come into existence, and secondly, as to what
27 transpired at the meeting itself. Two very short
28 matters.

29 A. I understood that Superintendent Taylor was anxious to

1 speak to me. And I think I called, it was I that
2 called to set up the meeting.

3 416 Q. Before you made contact with the Taylors, had you --
4 were you aware that Sergeant McCabe had met with the
5 Taylors? 14:20

6 A. Yes, I understood, I think, that had happened.

7 417 Q. And what was the date when you were aware from Sergeant
8 McCabe that he had met with the Taylors?

9 A. It was in and around the date of the meeting. I
10 haven't a precise date. I'm just aware that 14:21
11 Superintendent Taylor was, I think, anxious to meet
12 with people, with members of the Dáil. I had taken a
13 prominent position with a number of whistleblowers that
14 had come to me and I think that maybe that's why I was
15 being asked. 14:21

16 418 Q. Were you aware that people were making contact with the
17 Taylors suggesting that it was in their interests to
18 speak with you?

19 A. No. That I was aware of?

20 419 Q. That it was in their interests to speak with you? 14:21

21 A. Not that I'm aware of, no.

22 420 Q. Okay. Did you phone the Taylors or did the Taylors
23 phone you?

24 A. I think I may have phoned the Taylors.

25 421 Q. You've had access to the statement of Mrs. Taylor, 14:22
26 isn't that correct?

27 A. Yeah, I have, yes.

28 422 Q. And she has indicated in her statement that she was
29 provided with your mobile telephone number and that it

1 was that she who contacted you; are you saying that is
2 incorrect?

3 A. No, I'm saying that is quite possible. I mean, as to
4 who contacted who, I have here on the 16th of the 1st,
5 I have a note of her mobile number. 14:22

6 423 Q. Yes. But as to whether you contacted her or she
7 contacted you, you're not sure which is the correct
8 version of events?

9 A. I can't say with certainty where the contact or the
10 request for a contact came from. 14:22

11 424 Q. Now, when you went to the Skylon Hotel, you met with
12 Mrs. Taylor and her husband, isn't that correct?

13 A. That's correct.

14 425 Q. It was a short meeting, is that correct?

15 A. Correct. 14:23

16 426 Q. And Mrs. Taylor describes it as a cautious meeting from
17 everyone's perspective?

18 A. Yes, indeed.

19 427 Q. You'd agree with that. I think you sat down in the
20 lounge area, is that correct? 14:23

21 A. We did, and we had tea.

22 428 Q. You had tea. Now, you didn't keep notes at the meeting
23 that you had with the Taylors, isn't that correct?

24 A. Correct.

25 429 Q. You didn't make any notes of that meeting subsequent to 14:23
26 that meeting?

27 A. What meeting?

28 430 Q. With the Taylors, after you met them in the Skylon --

29 A. Yes.

1 431 Q. -- did you make any contemporaneous notes?
2 A. No, I didn't.

3 432 Q. Is the first occasion when you put your recollection of
4 your brief meeting in the Skylon Hotel when you
5 completed your statement to your solicitors on the 28th 14:24
6 March 2017?
7 A. Yes.

8 433 Q. I have no interest in what you discussed with your
9 solicitors, but, in providing them with instructions,
10 did you rely on anything other than your recollection 14:24
11 in relation to that meeting in the Skylon Hotel?
12 A. Well, I don't know what you mean by instructions from
13 my solicitors, but I will rely on my memory of what I
14 said or what had been said --

15 434 Q. Did you have any documentation that assisted you in 14:24
16 preparing your statement so far as it relates to the
17 Skylon Hotel meeting? Did you have any documentation
18 with you?
19 A. I don't think so, no. I had no documentation or note
20 of that meeting. 14:24

21 435 Q. You have no documentation or note. You are attributing
22 great significance to what you say you recollect about
23 that meeting, isn't that correct?
24 A. Yes.

25 436 Q. You think it's important, isn't that correct? 14:25
26 A. Yes.

27 437 Q. And you say it is an accurate account?
28 A. Yes.

29 438 Q. But you do not have any contemporaneous account other

1 than your recollection?

2 A. That's correct.

3 439 Q. Do you find that surprising?

4 A. No. I'm not in the habit of going around making notes. 14:25

5 And the only note that I have in relation to a meeting

6 with Commissioner Callinan was actually written out of

7 fear that I might forget some of the accusations that

8 were being made. In relation to Mr. Taylor, I was only

9 interested in him and his family's wellbeing and how

10 they were being treated. The contribution in that 14:25

11 conversation around his job and his messages was simply

12 for him to say to me or to show to me that he was

13 carrying out instructions or orders.

14 440 Q. You made your statement on the 23rd March 2017, and at 14:26

15 paragraph 15 you set out the totality of the

16 information that you had on that day in relation to the

17 meeting, isn't that correct?

18 A. I would say so, yes.

19 441 Q. You didn't mention that Mr. Taylor's wife was present 14:26

20 at that meeting, isn't that correct?

21 A. If you say -- yes, I presume so, yes.

22 442 Q. Why did you not include in your statement the fact that

23 there was a third person present at a meeting where

24 something of significance was spoken?

25 A. There was absolutely no intention of my part to hide 14:26

26 the fact that Dave Taylor's wife was at the meeting.

27 In fact, in anywhere I think I have described it that

28 she has been there at the meeting.

29 443 Q. Yes.

1 A. And, you know, I can say that, yes, she was there, I
2 can say that, yes, I met with Superintendent Taylor,
3 and what transpired at the meeting is out of my memory
4 of that meeting.

5 444 Q. There is -- the last sentence of paragraph 15 of your 14:27
6 statement of the 28th March 2017 states:
7
8 "Mr. McCabe told me that Mr. Taylor had given him a
9 similar account of what he had been asked to do by
10 Mr. Callinan and Ms. O'Sullivan." 14:27

11 A. Yes.

12 445 Q. When did Mr. McCabe tell you that?

13 A. I'm sure it was in and around the date prior to that
14 meeting.

15 446 Q. A date prior to that meeting? 14:27

16 A. I would imagine so, yes.

17 447 Q. So when you went to the meeting in the Skylon Hotel,
18 you knew of the content of the conversation between
19 Maurice McCabe and the Taylors?

20 A. Not in detail, but I was aware around that date of this 14:27
21 conversation that had taken place.

22 448 Q. But you knew that before the meeting?

23 A. I believe I did.

24 449 Q. Yes. So when you went to the meeting with the Taylors,
25 did you tell them that you were aware from Maurice 14:27
26 McCabe of similar information?

27 A. No, because my attendance at that meeting was to listen
28 to Dave Taylor and his wife in the context of how they
29 were being treated within the force. I wasn't

1 interrogating Dave Taylor as to how he conducted his
2 business. This was a simple conversation with two
3 people who were extremely upset.

4 450 Q. You have consistently described rumours and like
5 information circulating in the Oireachtas, isn't that 14:28
6 correct?

7 A. Correct.

8 451 Q. In relation to text messages from Sergeant Taylor, are
9 you aware of any journalist or member of the Oireachtas
10 or have you seen yourself any such text message? 14:28

11 A. No. And neither did I inquire into it.

12 452 Q. When you had your meeting with Mr. McCabe, you
13 subsequently had a meeting with your leader, isn't that
14 correct?

15 A. Yes. 14:29

16 453 Q. And you informed him of certain things, and they are
17 set out in the correspondence?

18 A. Yes.

19 454 Q. Did you ever inform him of your meeting with the Taylor
20 family? 14:29

21 A. I may have had, yes.

22 455 Q. When?

23 A. Soon afterwards, I would imagine. I would perhaps have
24 said that I had met them. I'm not sure about that.
25 But it wasn't a secret meeting. It wasn't something 14:29
26 that I was --

27 456 Q. Nobody has said it was a secret meeting. What was the
28 date when you provided that information?

29 A. The information to?

1 457 Q. To Mr. Martin, to your leader.
2 A. It's dated in his letter and it's correct.
3 458 Q. No, I'm talking now about your meeting with the
4 Taylors. When did you discuss the Taylors with your
5 leader? 14:29
6 A. I didn't discuss it in detail. I just said that I had
7 met.
8 459 Q. And when did you tell, when did you say that?
9 A. I don't -- I haven't got a date for that.
10 460 Q. Have you got any note or memorandum -- 14:29
11 A. No, I haven't.
12 461 Q. -- or record. Are you depending on your recollection
13 for that?
14 A. Yes.
15 462 Q. I see. And Mrs. Taylor will say that their chief 14:30
16 concern was the extraordinary distress being suffered
17 by the family, the great personal difficulties they
18 were in, the problems of economic hardship and seeking
19 to make a representation in that regard and they sought
20 your assistance, and that was their prime concern, is 14:30
21 that correct?
22 A. Correct, yes.
23 463 Q. And they will say that the focus of the -- she will say
24 that the focus of that conversation was in relation to
25 the circumstances of grave hardship and difficulty that 14:30
26 he was in.
27 A. Yes.
28 464 Q. And you know from the statement that was put to you by
29 the investigators from the Tribunal that she disputes

1 the suggestion in your statement and in your evidence
2 that there was reference to circulating text messages?
3 A. Yes, I have seen that, yes.
4 465 Q. In your dealings with Ms. Taylor on the telephone, and
5 how many would you have had? 14:31
6 A. Telephone calls?
7 466 Q. Yes. How often would you have spoken to her?
8 A. I would have spoken to her perhaps three or four times.
9 467 Q. Yes. And did you keep records of those calls?
10 A. No. 14:31
11 468 Q. And then you also met with her on how many occasions?
12 A. I think maybe the Skylon and one other occasion.
13 469 Q. And what was the other occasion?
14 A. I'm not quite sure. I think the Skylon was my first
15 meeting, and actually I don't recall meeting her after 14:31
16 that.
17 470 Q. So there was only one occasion --
18 A. Yeah.
19 471 Q. -- when you met her?
20 A. Yeah. 14:31
21 472 Q. Had you any reason to doubt her sincerity, reliability
22 and truthfulness?
23 A. In the context of --
24 473 Q. Your dealings with her?
25 A. -- the meeting in the Skylon? 14:31
26 474 Q. Yes.
27 A. No, I have no doubt --
28 475 Q. She presented to you as an honest and straightforward
29 individual, worried for her husband and her family?

1 A. Yes.

2 476 Q. And you have no doubt about that?

3 A. I have no doubt about that.

4 477 Q. She has said in her statement that she received
5 representations that you wanted Dave Taylor to speak to 14:32
6 you, and that is the genesis of this, is that correct?

7 A. As I said to you earlier on, it could be correct.
8 Either she contacted me or I contacted her. I have a
9 note in my diary, I think, on the 16th with her phone
10 number, I wouldn't have had it before then, so I came 14:32
11 about that, made contact and the meeting ensued.

12 478 Q. Could it be that, having heard what you heard from
13 Sergeant McCabe in relation to Superintendent Taylor,
14 you wanted to meet with Superintendent Taylor yourself?

15 A. I wanted to meet with Superintendent Taylor myself. 14:32

16 479 Q. Yes.

17 A. Because I wanted to understand, as I said earlier on,
18 the difficulties that they were experiencing.

19 480 Q. And is that why your phone number was passed to them,
20 with a view to ringing you? 14:33

21 A. I have no idea who passed it to them to ring me. I
22 just know that the meeting was held and that that's
23 what transpired.

24 481 Q. And if Ms. Taylor says that she rang you and that you
25 did not ring her, would she be wrong about that? 14:33

26 A. Could you repeat that for me, please.

27 482 Q. If Ms. Taylor says that you had said in your
28 statement --

29 CHAIRMAN: Mr. McEnroy, at the end of the day, it is

1 not going to matter at all.

2 MR. MCENROY: May it please you.

3 CHAIRMAN: Yes, it really isn't.

4 483 Q. MR. MCENROY: I just want to formally put it to you
5 that it was not said in the Skylon Hotel that 14:33
6 Superintendent Taylor used text messages outside of An
7 Garda Síochána in the way you put it in your statement.

8 A. I described the meeting in my statement and I stand
9 over that, the detail of that meeting.

10 MR. MCENROY: Thank you very much, Deputy. Thank you. 14:33

11 A. You're welcome.

12 MR. MCENROY: Thank you, Chairman.

13 CHAIRMAN: Mr. O'Higgins, are you asking some
14 questions?

15 MR. MÍCHEÁL O'HIGGINS: Yes, Chairman. Thank you. 14:34

16 CHAIRMAN: And again, if you wouldn't mind explaining
17 to the Deputy who you are and who you are representing.

18 MR. MÍCHEÁL O'HIGGINS: Yes.

19

20 MR. MCGUINNESS WAS CROSS-EXAMINED BY MR. MÍCHEÁL 14:34
21 O'HIGGINS:

22

23 484 Q. MR. MÍCHEÁL O'HIGGINS: Deputy McGuinness, Micheál
24 O'Higgins is my name. I appear for certain members of
25 An Garda Síochána, and I propose to ask you some 14:34
26 questions in relation to your evidence on behalf of
27 former Commissioner Martin Callinan. All right. So
28 you're clear on my role.
29

1 Now, can I ask you, first of all, in relation, Deputy
2 McGuinness, to your -- just briefly, your career as a
3 public representative.

4 A. From 1979.

5 485 Q. 1979? 14:34

6 A. Yes.

7 486 Q. Was what? You're elected to the Dáil?

8 A. I was elected first to public office in '79, and in
9 1997 I was elected to the Dáil.

10 487 Q. And I think you have very considerable accolades to 14:34
11 your name in terms of your political landmarks, as it
12 were. You were, I think, Minister of State for Trade
13 and Commerce at some stage in 2007, is that right?

14 A. Yes.

15 488 Q. And everybody is aware, I think, of your role as Chair 14:35
16 of the PAC, the Public Accounts Committee. Was it from
17 2011?

18 A. Yes.

19 489 Q. And you remain a Dáil deputy, isn't that so?

20 A. Yes. 14:35

21 490 Q. Can I just inquire, in 2016 when you made your Dáil
22 speech that mention has already been made, which I
23 think was your first utterance in relation to the car
24 park meeting, your first public utterance, at that time
25 did you still occupy the role of Chair of the PAC? 14:35

26 A. In 2016, after the election, I had been appointed
27 Chairman of the Finance Committee.

28 491 Q. When was the election?

29 A. 2016, early, I think. I can't remember the date. I

1 don't know the date of the election.

2 492 Q. I suppose my question is: In May 2016, were you still
3 head of the PAC?

4 A. No, I wasn't. I don't think I was, no, no.

5 493 Q. You don't think you were? 14:36

6 A. No.

7 494 Q. Right.

8 A. You can check that date against the election date. I'm
9 not quite sure.

10 495 Q. If you need to come back on that, there is no 14:36
11 difficulty, if you need to, insofar as it is relevant
12 at all. Now, just coming then to Martin Callinan's
13 position in relation to his appearance before the PAC,
14 am I correct in my understanding, and perhaps we can
15 just establish our common ground, which I hope there is 14:36
16 quite a bit, I am correct in my understanding, aren't
17 I, that Martin Callinan on a number of occasions had
18 made clear that he fundamentally disagreed with the
19 manner in which Sergeant McCabe, on Commissioner
20 Callinan's part now, was disclosing individuals' 14:37
21 personal and sensitive data, he had made that position
22 clear?

23 A. Yes, through correspondence.

24 496 Q. Yes. And he had made his position clear, hadn't he,
25 that he fundamentally disagreed with the manner in 14:37
26 which Sergeant McCabe had disclosed material to the PAC
27 and also to other third parties, you were aware that
28 was an objection or a concern he had?

29 A. I was aware that in the correspondence he objected to

1 the fact that the information was made available to the
2 Public Accounts Committee.

3 497 Q. Yes. And you're aware as well, I suppose, just
4 stepping back from it, and without asking you, for the
5 moment, to offer your view of the rights and wrongs of 14:37
6 that opinion, but, broadly speaking, would you agree
7 with me, Commissioner Callinan's position on that
8 perhaps wasn't terribly popular because it involved him
9 criticising Sergeant McCabe and indeed whistleblowers
10 generally, would that be fair? 14:38

11 A. I can't say whether it was popular or not.

12 498 Q. All right. Well, is that not something that, as a
13 politician, as an experienced public representative,
14 you'd have an eye on or feel for, whether something was
15 popular or not? 14:38

16 A. Your own popularity is what we keep an eye on. As far
17 as Commissioner Callinan's popularity is concerned, all
18 I would say to you is that he was concerned and worried
19 about this material.

20 499 Q. Yes. 14:38

21 A. And he had written to the Public Accounts Committee and
22 we had answered him, on legal advice, so he was well
23 aware that it was our intention to hold the documents
24 and to have them redacted, before any member of the
25 Public Accounts would examine them, in order to pursue 14:38
26 the hearings that we were having.

27 500 Q. But, you see, I appreciate, of course, that, for a
28 politician, perhaps his or her own popularity is what
29 matters, but I'm suggesting to you that as an

1 experienced public representative and politician, you
2 would have a feel for what is or is not popular on the
3 part of others, generally speaking you would have a
4 feel for that --

5 A. Yes, but this was not about popularity. This was about 14:39
6 the legalities of accepting the documents and providing
7 them through Maurice McCabe to the Public Accounts
8 Committee, and it was the only way that these documents
9 could be made papers of the Committee and therefore
10 stand as papers informing the members in line with the 14:39
11 Comptroller & Attorney General's report. So it was a
12 matter of legal question, not popularity.

13 501 Q. Well, you see, isn't it the case that it wasn't just
14 Commissioner Callinan that was writing to you about
15 data protection concerns, it was actually the Data 14:40
16 Commissioner himself, Billy Hawkes at the time, isn't
17 that right?

18 A. Yes, he wrote as well, yes.

19 502 Q. Yes.

20 A. But we took our separate legal advice and we were led 14:40
21 by that legal advice as to what we could or couldn't
22 do, and, provided the documents were redacted, we were
23 told that we could proceed, and then we took the added
24 safeguard of agreeing to have the session with Sergeant
25 Maurice McCabe in private, which was unusual. 14:40

26 503 Q. But even amongst yourselves on the PAC, Deputy
27 McGuinness, am I correct in my understanding that there
28 wasn't unanimity as to whether it was a good or bad
29 idea to be hearing evidence from Sergeant McCabe, a

1 member of An Garda Síochána, and potentially disclosing
2 sensitive details about individuals, that wasn't
3 something that there was a unanimous view about in your
4 Committee?

5 A. There was not, Mr. Chairman, a unanimous view about 14:41
6 Sergeant Maurice McCabe. Let me state clearly there
7 was no intention of making those documents public with
8 the individual's information on the documents. So what
9 we were dealing with here was the source of the proof
10 for the wrongdoing that was ongoing within the Garda 14:41
11 Síochána.

12 504 Q. My question to you was, am I correct in my
13 understanding that amongst the other members of the PAC
14 there was concern as to perhaps the direction the
15 Committee was taking generally, perhaps in terms of 14:41
16 potentially acting outside of its remit?

17 A. Yes.

18 505 Q. All right. Well, can you help us with that?

19 A. Took legal advice over a number of meetings, I think,
20 at various meetings, and the legal advice for the 14:41
21 members of the Committee was that it was legal and
22 correct to proceed.

23 506 Q. Well, I don't want to inquire into any legal advice you
24 got, but we're agreed, aren't we, that there was a
25 necessity to get legal advice on this issue, isn't that 14:42
26 right?

27 A. We would have received legal advice on many issues that
28 come before the Public Accounts Committee meetings, and
29 it is an ongoing fact that legal advice is sought to

1 ensure that the members of the House are protected and
2 that the members of the public are protected and that
3 the actions of such committees as the Public Accounts
4 Committee are kept within the remit of that Committee,
5 and the legal advice stated that clearly, that it was 14:42
6 within our remit to hear evidence from Sergeant Maurice
7 McCabe provided certain conditions were met, and that's
8 what we proceeded to do. And it was a unanimous
9 decision of the Committee to proceed in that way,
10 otherwise it would not have proceeded. 14:42

11 507 Q. Which members of the PAC had concerns?
12 A. I don't recall who had concerns, quite frankly, because
13 the concerns can range from a question about the
14 procedure to a question about whether we should do it
15 at all. So I'm not going to attribute positions to any 14:43
16 one named member of the Committee. I could say that I
17 had concerns and I wanted to make sure that I was
18 absolutely correct in our process and procedures.

19 508 Q. What were your concerns?
20 A. My concerns were, as Chairman, that we were conducting 14:43
21 our business properly, that we were being fair to
22 people concerned, that we were being fair to the
23 Commissioner, being fair to Maurice McCabe and being
24 fair to the taxpayer. So all of these were considered
25 by the legal advice in the House and we arrived at a 14:43
26 conclusion which we accepted.

27 509 Q. What were your concerns as to the potential down sides
28 of proceeding with the plan to hear Sergeant McCabe's
29 evidence --

1 A. The concern was that if the evidence was heard in
2 public, that Sergeant Maurice McCabe might very well
3 name individuals outside the force and from within the
4 force, in order to prove the accusations and
5 allegations that he was making. 14:44

6 510 Q. Yes. Am I right in my understanding that Commissioner
7 Callinan, despite the initial exchange of
8 correspondence between his office and your office, that
9 is to say the PAC, it is very much clear that he
10 remained concerned about the issues that he had already 14:44
11 highlighted in correspondence, would that be fair?

12 A. Yes, of course. That was his position.

13 511 Q. I wonder if we could have page 1311 on screen, please.
14 A. Volume?

15 512 Q. Volume 5, Deputy McGuinness. We may have looked at 14:44
16 some of this documentation already, but I can do it
17 quite quickly.

18 A. Yes.

19 513 Q. So it is page 1311.

20 A. Yes. 14:45

21 514 Q. And this is a letter from then-Commissioner Callinan,
22 December 2013, the date is little bit indistinct on
23 page 1312, it looks like 24th December. This is the
24 letter to Ted McEnery, Clerk of the Joint Committee of
25 the Public Accounts. You have that there, do you? 14:45

26 A. Yes.

27 515 Q. And in this letter, Commissioner Callinan, there has
28 already been some correspondence, and he says:
29

1 "I refer to your letter of the 18th December 2013."

2
3 And Mr. Marrinan has already, I think, brought you over
4 that.

5
6 "I remain very concerned that files in respect of which
7 I am the data controller should be subject to
8 unauthorised disclosure. I do not know what
9 information is contained in the files which was
10 furnished to you by a member of the Gardaí. However,
11 insofar as you have said that those files contain
12 sensitive personal data which you are redacting, I must
13 assume that the files relate to individuals. As I have
14 already said, I believe those files should be returned
15 to me as the data controller. They could then be
16 reviewed by the C & AG --"

17
18 That is Seamus McCarthy, isn't that right?

19 A. Correct.

20 516 Q. "-- should he so wish, to supplement his report or the
21 controls, systems, procedure or practices in relation
22 to the fixed charge notice. I could then address such
23 a supplemental report if your Committee were to request
24 me to attend to discuss it."

25
26 Then he says:

27
28 "In your letter, you refer to section 62 of the Garda
29 Síochána Act 2005. That provision makes it an offence

1 for members and civilian staff of the Gardaí to
2 disclose certain information subject to certain
3 exceptions. It does not authorise your Committee to
4 receive sensitive personal data which has been
5 disclosed without the authorisation of the relevant 14:47
6 data controller. The position as set out in my earlier
7 letter and that of the Data Protection Commissioner is
8 quite clear."
9

10 I just pause there. I think, Deputy McGuinness, that 14:47
11 is a reference to the letter from Billy Hawkes, the
12 Data Commissioner?

13 A. Yes.

14 517 Q. Isn't that right?

15 A. Yes. 14:47

16 518 Q. It continues:

17
18 "I cannot put the matter further than that. I refer to
19 my forthcoming attendance at the Public Accounts
20 Committee. I have been asked to attend to answer 14:47
21 questions in relation to chapter 7 of the Comptroller &
22 Auditor General's annual report for 2012, i.e. his
23 report into the system of control applied and the
24 adequacy of systems, procedures and practices
25 implemented by An Garda Síochána to the system of fixed 14:47
26 charge notices."
27

28 Then he continues:
29

1 "I understand from what you have said that the files in
2 question relate to individuals. Insofar as you have
3 indicated that you do not intend to return the files in
4 question and that you intend to use them in redacted
5 form for your consideration of the fixed charge notice 14:48
6 system, I should make clear that I cannot, in my
7 forthcoming attendance at the PAC, discuss individual
8 cases. My function in attending is to assist the
9 Committee in its task understanding Order 163 by
10 answering questions in relation to chapter 7 of the C & 14:48
11 AG's annual report, i.e. the controls, systems,
12 procedures and practices in relation to the fixed
13 charge notices and not in relation to an individual
14 exercise of prosecutorial discretion whereby fixed
15 charge notices may have been cancelled." 14:48

16
17 And he concluded by indicating in the letter:

18
19 "I should also say that even if I were in a position to
20 discuss individual cases, I would not be in a position 14:48
21 to answer any questions about the files you have in
22 your possession as I do not know what is contained in
23 them."

24
25 All right. Now, I want to simply -- this Tribunal 14:48
26 isn't tasked with the job of assessing who had the
27 rights or wrongs of this debate, but I take it you
28 would agree with me that these are at least
29 reasonably-held views, even if you don't accept them?

1 A. In dealing with individual cases?

2 519 Q. All of the points he makes?

3 A. Right.

4 CHAIRMAN: It may help if I say two things. First of
5 all, data protection legislation is hideously 14:49
6 complicated, I know that. There's been an instance of
7 a case that went all the way from the Circuit Court to
8 the High Court to the Court of Appeal to the Supreme
9 Court to the Court of Justice of the European Union,
10 where, finally, the person in question won. He was a 14:49
11 Czech national who was working here. So that is one
12 instance. Secondly, there is nothing to suggest to me
13 that this whole thing was a colourable device to throw
14 you off the scent, or whatever. I am presuming all of
15 it is genuine and that given what I said vis-à-vis the 14:49
16 first comment, that two diametrically opposed views on
17 the duties of data controllers can be held by perfectly
18 reasonable and well-informed and legally advised
19 individuals. So that may help.

20 A. I accept that, Mr. Chairman, and I accept that there 14:50
21 was two very different views held here - one by the
22 Commissioner and one by the legal team for the
23 Oireachtas. In relation to the rest of what
24 Mr. Callinan had to say, about individual cases, about
25 people being named, he wasn't in a position to talk 14:50
26 about these individuals and he wouldn't do so, and so
27 on, it was never the intention of the Public Accounts
28 Committee to discuss individual cases, and, in fact,
29 Mr. Callinan would have been aware of this, because

1 before any Public Accounts Committee hearing, there is
2 a caution read out about what you can or cannot say,
3 and you shall not make any comment that will bring into
4 disrepute an individual or an entity outside the House
5 in such a way as to make him or her identifiable. And 14:50
6 there's a lot more besides that I can't recall just
7 offhand. I read that out, I read that out before every
8 single Public Accounts Committee hearing. Members are
9 aware of it, and the individual gardaí that attend and
10 the Commissioner is well aware of it. So it was never 14:51
11 going to be the case that we would deal with individual
12 cases. And I remind you again that the legal team in
13 Leinster House redacted the documents. So there was
14 never available to the public any version of a document
15 that was not redacted. 14:51

16 520 Q. MR. O'HIGGINS: You see, I wish to suggest to you,
17 Deputy McGuinness, that the redacting of the documents
18 dealt with only one of then-Commissioner Callinan's
19 concerns. He still had other concerns by the time he
20 came to give his evidence before the PAC on the 23rd 14:51
21 January. Are we agreed about that?

22 A. No. Well, if you wish to list out his concerns, I will
23 give you an answer for each one.

24 521 Q. All right. Are we agreed that at the PAC hearing --
25 and this is of course -- you've mentioned legal advice; 14:51
26 you are aware, aren't you, that Commissioner Callinan
27 had obtained legal advice from the Attorney General's
28 office, you are aware of that?

29 A. I am. And I'm also aware that he didn't take us to

1 court.

2 522 Q. Yes. And were you aware -- wasn't he effectively at
3 one point -- indicated, however reluctant it might be,
4 that it might be necessary to go to court?

5 A. It didn't go to court. 14:52

6 523 Q. So seriously --

7 A. It's the same as the draft letters that I had to read
8 in this earlier on, they were just draft, they were
9 never sent, and going to court wasn't taken up by him
10 either. 14:52

11 524 Q. I don't wish to cut across you in any sense. You were
12 aware, weren't you, from the PAC hearing -- when did
13 you become aware that he was minded to go to court if
14 his concerns were not dealt with?

15 A. The correspondence here, you know, raised issues in the 14:52
16 context of the legal position relevant to data
17 protection and so on. We held a completely different
18 view.

19 525 Q. Yes.

20 A. And the members agreed to go ahead and conduct the 14:52
21 meeting with Sergeant Maurice McCabe, and as an offer
22 of, you know, ensuring that nothing untoward would
23 happen in relation to naming people, we held it in
24 private session. And perhaps I should confirm at this
25 stage that when Maurice McCabe attended that meeting, 14:53
26 he attended, Mr. Chairman, on his own in full uniform
27 and sat and answered questions posed by every single
28 member of that Committee without naming a single
29 person, without naming anyone within the force or

1 outside of the force and he gave clear evidence in
2 relation to the unredacted -- or, sorry, the redacted
3 documents.

4 526 Q. You mentioned the issue of whether it was going to
5 court or not, I suggest to you the very fact that you 14:53
6 made an offer meant it didn't have to go to court. You
7 made an offer to hold it in private?

8 A. Well, now that is stretching it a bit. Because the
9 members of the Committee decided that it was
10 appropriate that we should acknowledge everything that 14:54
11 was going on, there was huge controversy, there was
12 enormous pressure on members, and we simply decided for
13 safety of everyone concerned, and again it is about
14 fairness and truth, that we would invite him to a
15 private session to which he agreed. It wasn't so much 14:54
16 an offer, it was a method of doing business in a way
17 that was constructive, truthful and that gave Sergeant
18 Maurice McCabe the opportunity to respond.

19 527 Q. I'm going to come back to the transcript of the PAC
20 meeting itself, but just in the few minutes that is 14:54
21 available to us this afternoon, Deputy McGuinness, can
22 I move to one area which is an area of undoubted
23 controversy between us. I will do this as delicately
24 as I can. And if you excuse me, I'm going to take it
25 now out of turn because it is relevant to an issue that 14:54
26 I want to ask you about. The note of the car park
27 meeting that you indicate you took on the way home to
28 Kilkenny, this now is on the 24th, isn't that right,
29 following --

1 A. Yes.

2 528 Q. -- the meeting in the car park of the hotel. when did
3 you make that note?

4 A. On the way home.

5 529 Q. what time of night? 14:55

6 A. well, I drove straight home, usually it takes me two
7 hours to get home, and in the course of that two hours
8 I would have pulled aside and written the note.

9 530 Q. So is it on the journey home you pulled in, is that it?

10 A. Yes. 14:55

11 531 Q. And where did you pull in, do you mind me asking?

12 A. I can't recall. I pulled in, in a stop, a safety stop.

13 532 Q. Surely it'd be still in your memory. You were about to
14 take a note of a fairly incendiary conversation you
15 indicate you had, it would be live in your memory bank 14:55
16 still now, I suggest to you, where you pulled in to
17 make this incendiary --

18 A. It was in a truck stop, on the left-hand side of the
19 road on the way home.

20 533 Q. So, you do recall? 14:56

21 A. That's where I made the note.

22 534 Q. In a truck stop?

23 A. Yes.

24 535 Q. And how far along the journey between Dublin and
25 Kilkenny was this? 14:56

26 A. I think it's halfway home.

27 536 Q. And what was your purpose in making the note?

28 A. I have already told you, that I was so concerned about
29 what I had heard that I wanted to reflect in my own

1 mind exactly what was said and take a note of the
2 relevant points that were being made so that I wouldn't
3 by the time I get home have a mixed up version of the
4 meeting because of the fact that I was so upset
5 following that meeting. 14:56

6 537 Q. Because of your upset, is it?
7 A. That's right.

8 538 Q. Yes. Did you complete the note in one go?
9 A. I scribbled the note in one go, yes. To be clear, it's
10 a note of just the broad detail of the comments that 14:56
11 were made.

12 539 Q. Yes. My question I'm asking you, did you complete it
13 in one go?
14 A. Yes.

15 540 Q. That was intended to inquire from you, did you come 14:57
16 back to it at any point to add to it?
17 A. No, I didn't. As you can see from the diary.

18 541 Q. So you completed it in one go, and we can take it from
19 your answer that you never changed or added to it at
20 any point? 14:57
21 A. No.

22 542 Q. What did you do with the note?
23 A. I left it there in the book.

24 543 Q. And where did you keep the book?
25 A. In my constituency office, where all of the books are 14:57
26 kept. I finished the book, so it was in the book right
27 through that year, right up to the 6th September 2014 I
28 think it was, and then it was left in a storage
29 cabinet.

1 544 Q. But when you pulled in on the way back to Kilkenny, it
2 wasn't in your constituency office, it was in your car,
3 was it?

4 A. It would have to be, I wrote it in the car.

5 545 Q. Yes. So, you had it in the car but you kept it after 14:57
6 that, where?

7 A. In my constituency office.

8 546 Q. So it isn't your practice to leave it in the car?

9 A. It's a book that is used in my constituency office. It
10 takes notes of queries put to me by constituents, so it 14:58
11 is carried with me in most cases everywhere until it is
12 fully complete and once the work in it is complete the
13 tick signifies that it is, and it is then put to one
14 side.

15 547 Q. Well, would its normal home be with you or would its 14:58
16 normal home be the constituency office?

17 A. For the duration of the lifetime of the book it stays
18 with me. At the end of that book it's filed and a new
19 book then is taken.

20 548 Q. All right. You indicate you made this note on the 14:58
21 journey home, on the 24th January, can you indicate to
22 the Tribunal when did you next access the note?

23 A. When this whole Tribunal question arose, Mr. Chairman,
24 I was -- I had to go back into my records, I had to
25 find different things and one of the books that was 14:59
26 marked is actually this one, because it's a book around
27 that time and as you can see there are green and blue
28 markers on it and they indicate interviews with
29 whistleblowers.

1 CHAIRMAN: All right. I'm sorry that I have a personal
2 issue, but I do. Would you prefer to sit at 9:30 and
3 get things over with perhaps by lunchtime and get away?

4 A. Yeah, that would be fine.

5 CHAIRMAN: You would. All right. Well then, we're 14:59
6 going to do that, ladies and gentlemen, again I'm sorry
7 for the interruption.

8

9 THE HEARING THEN ADJOURNED UNTIL TUESDAY, 10TH APRIL
10 2018 AT 9:30AM 14:59

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