

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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AND EQUALITY UNDER THE TRIBUNALS OF INQUIRY (EVIDENCE) ACT  
1921, ON 17 FEBRUARY 2017

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

HELD IN DUBLIN CASTLE  
ON MONDAY, 16TH APRIL 2018 - DAY 66

66

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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GWEN MALONE STENOGRAPHY  
SERVICES

APPEARANCES

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

REGISTRAR: MR. PETER KAVANAGH

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

FOR SGT. McCABE: MR. MICHAEL McDOWELL SC  
MR. PAUL MCGARRY SC  
MR. BREFFNI GORDON BL

INSTRUCTED BY: SEAN COSTELLO & COMPANY  
HALIDAY HOUSE  
32 ARRAN QUAY  
DUBLIN 7

FOR THE COMMISSIONER: MR. SHANE MURPHY SC  
MR. MÍCHEÁL P. O'HIGGINS SC  
MR. CONOR DIGNAM SC  
MR. NOEL WHELAN BL  
MR. DONAL MCGUINNESS BL  
MR. JOHN FITZGERALD BL

INSTRUCTED BY: MS. ALISON MORRISSEY  
MS. EMMA GRIFFIN  
CHIEF STATE SOLICITOR'S OFFICE  
OSMOND HOUSE  
LITTLE SHIP STREET  
DUBLIN 8

FOR MR. BRIAN PURCELL: MR. PATRICK MCCANN SC  
MR. GERARD MEEHAN BL  
MR. CHARLES WALLACE

INSTRUCTED BY: CHIEF STATE SOLICITOR'S  
OFFICE  
OSMOND HOUSE  
LITTLE SHIP STREET  
DUBLIN 8

FOR SUPT. TAYLOR: MR. MICHAEL O'HIGGINS  
MS. TARA BURNS SC  
MR. JOHN FERRY BL  
MR. CARTHAGE CONLON

INSTRUCTED BY: M.E. HANAHOE SOLICITORS  
SUNLIGHT CHAMBERS  
21 PARLIAMENT STREET  
DUBLIN 2

FOR MRS. MICHELLE TAYLOR:  
INSTRUCTED BY:

MR. FELIX MCENROY SC  
O'MARA GERAGHTY MCCOURT  
51 NORTHUMBERLAND ROAD  
DUBLIN 4

FOR MR. JOHN WILSON:  
INSTRUCTED BY:

MR. MARK HARTY SC  
PETER CONNOLLY  
COURT SOLICITORS  
6 CAPEL STREET  
FIRST FLOOR  
DUBLIN 1

FOR JOHN MCGUINNESS:  
INSTRUCTED BY:

MR. DARREN LEHANE BL  
LAWLOR PARTNERS SOLICITORS  
ARRAN SQUARE  
ARRAN QUAY  
DUBLIN 7

FOR ALISON O'REILLY:  
INSTRUCTED BY:

MR. FÍONÁN Ó MUIRCHARTAIGH BL  
AUGUSTUS CULLEN LAW SOLICITORS  
18 BOW STREET  
SMITHFIELD  
DUBLIN 7

FOR MR. NOEL BRETT:

MR. SEÁN BARTON  
MCCANN FITZGERALD  
RIVERSIDE ONE  
37-42 SIR JOHN ROGERSON'S QUAY  
GRAND CANAL DOCK  
DUBLIN 2

FOR MR. GERALD KEAN:  
INSTRUCTED BY:

MR. DAVID BOUGHTON BL  
KEAN SOLICITORS  
NO. 2 UPPER PEMBROKE STREET  
DUBLIN 2

FOR MR. JOHN KENNEDY:  
INSTRUCTED BY:

MR. DESMOND DOCKERY SC  
MICHAEL HEGARTY  
REDDY CHARLTON SOLICITORS  
12 FITZWILLIAM PLACE  
DUBLIN 2

FOR MR. MICHEÁL MARTIN:  
INSTRUCTED BY:

MR. FEICHÍN McDONAGH SC  
MR. LIAM GUIDERA  
MASON HAYES & CURRAN  
BARROW STREET  
DUBLIN 4

FOR MS. D:  
INSTRUCTED BY:

MR. THOMAS P. HOGAN SC  
FANNING & KELLY SOLICITORS  
HATCH HALL  
HATCH STREET LOWER  
SAINT KEVIN'S  
DUBLIN 2

FOR MR. PAUL WILLIAMS:  
INSTRUCTED BY:

MR. JOHN FREEMAN BL  
FANNING & KELLY SOLICITORS  
HATCH HALL  
HATCH STREET LOWER  
SAINT KEVIN'S  
DUBLIN 2

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1 THE HEARING RESUMED, AS FOLLOWS, ON MONDAY, 16TH APRIL  
2 2018:

3  
4 MR. MCGUINNESS: Chairman, the first witness this  
5 morning is Deputy Micheál Martin, Teachta Dála. 10:29

6 MR. DOCKERY: Chairman, just before you take that  
7 evidence I wonder can I just formally apply for  
8 representation for John Kennedy, sir?

9 CHAIRMAN: Yes, that is appropriate.

10 MR. MCDONAGH: And might I also, on behalf of 10:29  
11 Mr. Martin, seek representation for the purpose of his  
12 evidence this morning?

13 CHAIRMAN: Thank you.

14  
15 MR. MICHEÁL MARTIN, HAVING BEEN SWORN, WAS DIRECTLY 10:29  
16 EXAMINED BY MR. MCGUINNESS:

17 MR. MCGUINNESS: Chairman, for your information and  
18 that of my colleagues, Mr. Martin corresponded with the  
19 Tribunal at early stage after your call for relevant  
20 evidence and his letter is to be found at Volume 6, 10:30  
21 page 1671.

22 1 Q. I think you have been a deputy in Dáil Éireann for some  
23 considerable time and you have held various ministries  
24 over the years.

25 A. Correct. 10:30

26 2 Q. And you are currently leader of the main opposition  
27 party in the Dáil at present?

28 A. That is correct.

29 3 Q. And in February 2014, as you have set out in your

1 letter, you met with Sergeant McCabe and could I just  
2 ask you to describe how that came about?

3 A. My understanding, I think Deputy McGuinness asked would  
4 I meet Maurice McCabe and that there was, in addition  
5 to the penalty points issue, that there was substantive 10:30  
6 other issues, and so I agreed to meet with Maurice  
7 McCabe and we would have made contact with him and  
8 agreed a venue and I travelled down to meet him.

9 4 Q. And had you been in touch with Sergeant McCabe directly  
10 or indirectly prior to that or he in touch with you? 10:31

11 A. No, I hadn't.

12 5 Q. You referred there to the penalty points issue and  
13 obviously at that point in time, in February 2014, it  
14 had been quite a live issue for some period, isn't that  
15 correct? 10:31

16 A. Correct.

17 6 Q. And had you followed the publicity that had been given  
18 to various allegations and/or leaks that were coming  
19 out appearing in the press about penalty points issues?

20 A. Yes, in a general way, yes. 10:31

21 7 Q. And presumably you had followed closely the examination  
22 by the Public Accounts Committee of the issue which had  
23 taken place over the previous month?

24 A. Yes, I did, yeah, yeah.

25 8 Q. And -- 10:32

26 A. Although, yes, yes -- it was within the domain of the  
27 Public Accounts Committee.

28 9 Q. Yes.

29 A. And since I became leader of the party I have been very

1 conscious of a demarcation role. I don't actually  
2 engage with the Chairman of Oireachtas committees  
3 per se, particularly the Public Accounts Committee, and  
4 have not and -- because I don't see it's a party issue,  
5 that is how -- 10:32

6 10 Q. Yes. And I take it from that, that Deputy McGuinness  
7 doesn't act under your instruction nor would you ever  
8 seek to have him do so while Chairman of the PAC?

9 A. That is absolutely the position.

10 11 Q. And you don't require him to account to you for his 10:32  
11 stewardship of that, he does it all in public?

12 A. Absolutely. And I think it's important that  
13 parliament, if you like, it's a bigger issue but I  
14 think it's important that parliament is a stronger  
15 actor in that regard. 10:32

16 12 Q. Yes. But you had presumably been reasonably familiar  
17 with the Commissioner's stance in the Commission --  
18 before the Accounts Committee about the issue and the  
19 way the controversy developed arising out of his  
20 appearance before the Committee? 10:33

21 A. Yes.

22 13 Q. And there was a lot of public commentary on his use of  
23 the phrase "disgusting" in relation to the actions of  
24 the whistleblower?

25 A. Yes. 10:33

26 14 Q. And you were all aware of that?

27 A. Yes.

28 15 Q. What did you understand was the purpose of being asked  
29 to meet Sergeant McCabe then?



1 A. Well, the purpose was actually in relation to  
2 additional matters which ultimately was the matters  
3 contained and material contained in that dossier, that  
4 I subsequently received from Maurice McCabe and which I  
5 handed to the Taoiseach after raising it in Dáil 10:33  
6 Éireann.

7 16 Q. Okay. May I just ask you about your state of knowledge  
8 about issues relating to Sergeant McCabe at that point  
9 in time. Did you know that there had been an  
10 allegation made earlier relating to Sergeant McCabe as 10:33  
11 far back as 2006?

12 A. I didn't know at that stage about that specific  
13 allegation.

14 17 Q. Okay. So you didn't know that there had been an  
15 investigation and a file submitted to the DPP -- 10:34

16 A. No.

17 18 Q. -- at any stage?

18 A. No.

19 19 Q. Okay. And were you in and around this period prior to  
20 meeting Sergeant McCabe, were you aware of any adverse 10:34  
21 rumours or negative commentary about him that is  
22 unrelated to the penalty points issue relating to other  
23 matters?

24 A. I was aware of general comment. I think it became  
25 more -- it became more pronounced, I suppose, in the 10:34  
26 aftermath of I raising it in the Dáil. There was a lot  
27 of rumour about the place, but also, you know, people  
28 close to me or the Press Officer would have received  
29 queries as to whether your leader, in raising this

1 issue, can he stand over the credibility of this  
2 person, is he satisfied, that type of thing.

3 20 Q. Yes. Yes.

4 A. And if it's helpful, I did meet with Noel Brett, who  
5 had been the former CEO of the Road Safety Authority, 10:35  
6 in the aftermath, probably the week after I met with  
7 Maurice McCabe, who took me through a lot of the issues  
8 pertaining to the penalty points in particular and this  
9 whole sequence of events there generally and had said  
10 that he had come across a lot of negative, a lot of 10:35  
11 negative commentary from Garda sources and so on in  
12 relation to Maurice McCabe, but --

13 21 Q. And did he attribute it to any one particular person --

14 A. No.

15 22 Q. -- or did he identify anyone? 10:35

16 A. No, no.

17 23 Q. And had you yourself heard from any other source any  
18 negative rumours about sexual misconduct or alleged  
19 offences?

20 A. Not specifically, but generally there was rumours about 10:35  
21 the place.

22 24 Q. Okay.

23 A. Put it that way to you.

24 25 Q. Okay. So would it be fair to say that there were --  
25 there were sort of amorphous vague issues concerning 10:35  
26 his credibility or what he was up to?

27 A. Yeah, not reliable, credibility issues, yes.

28 26 Q. All right. And you met him, in any event, in February  
29 2014, and he obviously produced a dossier and gave it

1 to you, is that right?

2 A. Well, at that stage he just told me his story.

3 27 Q. All right.

4 A. Initially. And spoke about the penalty points and made  
5 a point to me that he understood discretion, for 10:36  
6 example. I think he was endeavouring to convey that he  
7 wasn't a zealot who was out to, you know, query every  
8 single act of every single garda in terms of the  
9 application of penalty points or the waiving of penalty  
10 points, and we went through that. But what he was 10:36  
11 talking about, he made it clear to me, was systemic  
12 abuse of the penalty points system by people in -- for  
13 friends and so on like that. And that he felt it was a  
14 systemic issue here. And then I said to him and there  
15 are other issues I understand as well, and he went 10:37  
16 through that catalogue of issues.

17 28 Q. Yes.

18 A. And I asked him could he then put together a dossier of  
19 those because they seemed very serious to me, not least  
20 the case dealing with Sylvia Roach Kelly, the murder of 10:37  
21 Sylvia Roach Kelly, I was shocked at that. That is the  
22 issue that jumped out with me, along with other issues  
23 of serious assault. And that was issue that motivated  
24 me more than anything to raise it in the Dáil.

25 29 Q. Yes. And do I understand then correctly that at the 10:37  
26 meeting he didn't produce a dossier but did so  
27 subsequently --

28 A. That is my understanding.

29 30 Q. -- forwarding it to you. Just one question about the

1 meeting and any subsequent communication. Did he  
2 complain to you at that stage that there was a smear  
3 campaign being conducted?  
4 A. He didn't at that meeting.  
5 31 Q. Okay. And did he make any complaint about the Garda 10:37  
6 authorities or senior Garda figures --  
7 A. Sorry.  
8 32 Q. -- running a campaign against him?  
9 A. His fundamental complaint was he felt this was a  
10 management failure. 10:38  
11 33 Q. Okay.  
12 A. Okay. He didn't accuse people of corruption, and he  
13 felt he hadn't got a fair hearing, but at that stage he  
14 didn't actually say there was a campaign against him.  
15 34 Q. Okay. would it be fair to say that the extent of his 10:38  
16 concerns related to the issues he had raised, the way  
17 they had been met within the force and the lack of  
18 progress in having them dealt with in what he felt to  
19 be a proper way?  
20 A. Sorry? 10:38  
21 35 Q. The lack of progress in having them dealt with?  
22 A. Yes, absolute frustration in that regard. And again,  
23 I'm subject to correction in terms of, you know -- and  
24 this could have been at a later stage, he was  
25 particularly annoyed at references to the fact that he 10:38  
26 didn't cooperate with the -- I think it was the  
27 O'Mahony investigation at the time.  
28 36 Q. Yes, yes. But he wasn't coming to you --  
29 A. He said he wasn't asked.

1 37 Q. Yes. But he wasn't coming to you and didn't come to  
2 you for the purposes of, as it were, pointing the  
3 finger at any particular guard or the Commissioner or  
4 the deputy commissioner, saying there is a campaign  
5 being run against me relating to this old allegation? 10:39  
6 A. No, not at that stage, no.

7 38 Q. Okay. In any event, you raised the issues relating to  
8 the dossier, presumably you didn't see it as your  
9 function and you didn't yourself make any inquiry  
10 yourself into the issues that he had raised, wouldn't 10:39  
11 be your business to do so?  
12 A. Well, I did seek a meeting with Noel Brett because  
13 Maurice McCabe would have referenced Noel Brett in his  
14 discussion with him, but I raised the issue in the  
15 context of seeking an inquiry. 10:39

16 39 Q. Yes.  
17 A. And then leaving it to the inquiry then to make up its  
18 mind. I think -- he impressed me as a witness. He had  
19 substantive material. He had made clear to me as well,  
20 by the way, that he wasn't leaking to the media, he 10:40  
21 wasn't at that stage looking for notoriety or anything  
22 like that; he wanted to get these issues heard.

23 40 Q. Okay.  
24 A. So my function, I saw it as, to raise the issues as a  
25 matter of genuine public interest and to seek a 10:40  
26 process, a commission of investigation.

27 41 Q. Yes. And you wrote to the Taoiseach obviously, and --  
28 A. After raising it in the Dáil I wrote to the Taoiseach.  
29 To be fair, the then-Taoiseach responded fairly quickly

1 on the floor of the House and said can you send me the  
2 dossier and I will give this serious consideration.

3 42 Q. Yes.

4 A. And I did.

5 43 Q. Yes. And he, I think, acted what appears to be 10:40  
6 reasonably quickly --

7 A. Did he.

8 44 Q. -- in having the matter examined by an independent  
9 counsel, Mr. Seán Guerin SC?

10 A. He did. 10:40

11 45 Q. And that process then started?

12 A. Yes.

13 46 Q. But you have referred in your second letter to the  
14 Tribunal, at page 1674, recalling that Deputy  
15 McGuinness came to your office, I think you say in late 10:41  
16 February, and you record him as having thanked you for  
17 raising the contents of the McCabe dossier in the Dáil  
18 on 19th and having brought the matter to public  
19 attention. And he mentioned another matter to you on  
20 that occasion, is that right? 10:41

21 A. That is correct.

22 47 Q. And could you just describe in your own words to the  
23 best of your recollection what he told you?

24 A. Yeah. Just to explain that deputies drop into the  
25 office from time to time on the fourth floor. 10:41

26 48 Q. Yes.

27 A. And he came in to say, thanking me and saying well done  
28 in terms of raising this issue. He had expressed an  
29 opinion that politicians or mainstream politicians

1 should be representing and supporting people like  
2 Maurice McCabe in the situations that they find  
3 themselves in, they feel marginalised, they feel people  
4 don't support them enough and towards the end of the  
5 meeting, at the very end of the meeting, he then said 10:42  
6 to me that he had met the then Garda Commissioner,  
7 Martin Callinan, in a car park and that he had said to  
8 him that Maurice McCabe was not to be trusted and that  
9 he was a child abuser.

10 49 Q. And you say in your letter to the Tribunal he gave no 10:42  
11 other details?

12 A. Yes.

13 50 Q. But did you make any inquiry of him as to the  
14 circumstances in which the meeting took place?

15 A. I didn't. Well, other than he referenced the fact that 10:42  
16 in the context of public accounts that he would meet  
17 witnesses, but that was it. I mean, he was very  
18 assertive and definitive in saying I met Martin  
19 Callinan and this is what he said.

20 51 Q. Mm-hmm. And did you understand that it had happened at 10:43  
21 what might be regarded as sort of a crucial period  
22 during those weeks in January; in other words, that  
23 they had heard the Commissioner's evidence and they had  
24 yet to decide whether or in what format to hear  
25 Sergeant McCabe's evidence? 10:43

26 A. Yeah, to be honest, to me, I had got a response from  
27 the Taoiseach on my -- the substantive issue that I had  
28 raised.

29 52 Q. Yes, yes?

1 A. I held my counsel on this. I felt I can go on the  
2 concrete on the material, I can't go on hearsay. And  
3 notwithstanding, it did surprise me, I was taken aback  
4 by the fact first of all there was a meeting in the car  
5 park and secondly, the nature of it, but I took a 10:43  
6 decision to proceed with material that, you know -- the  
7 concrete, and the tangible.

8 53 Q. Yes. You had no documentation or anything relating to  
9 what Deputy McGuinness said, obviously?

10 A. No, no. 10:44

11 54 Q. And is that something you made a note of or is it  
12 something you --

13 A. I didn't make a note of it.

14 55 Q. You wouldn't need to make a note of that?

15 A. No, no. I was taken aback at the time and he left the 10:44  
16 room and I reflected on that.

17 56 Q. And did he explain to you what the purpose of meeting  
18 the Commissioner was or who had sought the meeting?

19 A. He didn't, no, no.

20 57 Q. Okay. In terms of what he was reporting the 10:44  
21 Commissioner to have said, that Sergeant McCabe wasn't  
22 to be trusted and that he was a child abuser, was that  
23 the first time you had heard that allegation?

24 A. I had heard rumour about child abuse but nothing  
25 specific, couldn't pin it down in a window, that kind 10:44  
26 of thing, be careful, be careful how you are proceeding  
27 on this issue, but that would have been, you know,  
28 coming from a Garda Commissioner saying it to a TD,  
29 that was the -- you know, that was different.



1 58 Q. Yes. In terms of hearing it, albeit indirectly from  
2 that source, the Commissioner, and obviously taking it  
3 at face value, Deputy McGuinness was accurately  
4 reporting something that had been said to him, would  
5 that not be something that would have caused you to 10:45  
6 reflect on it and perhaps bring it to the attention of  
7 the Taoiseach or the Minister for Justice?

8 A. I did reflect on it, but my fundamental point on that  
9 is, to accuse anyone of child abuse is probably the  
10 worst accusation you can make against any individual. 10:45  
11 To subsequently rearticulate that is, whether one likes  
12 it or not, going to be very damaging to that  
13 individual. There is a dilemma there, in the context  
14 of a hearsay conversation, if you go off and blurt it  
15 to somebody else, they will talk to somebody else. 10:45

16 59 Q. Yes.

17 A. That person -- in my personal view, that person's  
18 reputation is damaged. Secondly, there is a reasonable  
19 assumption that if the Garda Commissioner is saying  
20 this, then surely he must have a basis for saying it, 10:46  
21 and if it's true and if there is substance to it, one  
22 could presume the Gardaí are going to investigate this  
23 and there will be an outcome. It wasn't for me really  
24 to progress that issue --

25 60 Q. Yes. 10:46

26 A. -- any further, I would have thought. And thirdly, it  
27 was hearsay at the end of the day.

28 61 Q. Yes. No, of course, it's obviously not your function  
29 to investigate it and obviously the source it's coming

1 from is obviously an issue. Did Deputy McGuinness say  
2 anything along the lines as to whether there were  
3 investigations going on or --

4 A. No, he didn't.

5 62 Q. That this was a current issue or a past issue? 10:46

6 A. He didn't.

7 63 Q. Okay. All right. You do say in your first  
8 correspondence with the Tribunal that you had further  
9 contact and correspondence with Sergeant McCabe. What  
10 was that in connection with? 10:47

11 A. Well, actually, after I raised it in the Dáil and the  
12 Taoiseach had indicated a response that he was going --  
13 now, there was a number of engagements, but that one  
14 was the first one afterwards and he thanked me and he  
15 said, this is the first time, he said, that I'm getting 10:47  
16 some public acknowledgement of the issues that I have  
17 been raising for quite some time and he was -- there  
18 was a certain sense of, how would I put it, resolution  
19 for him, that this matter was getting traction, was  
20 getting serious consideration by the authorities. 10:47

21 64 Q. Yes, yes?

22 A. And he had asked me at the meeting, you know, his ask  
23 actually was a commission of investigation originally  
24 with me.

25 65 Q. Okay. 10:47

26 A. Guerin clearly was a scoping inquiry to make a judgment  
27 as to whether a commission of inquiry was merited or  
28 not. And then -- now, we didn't have frequent  
29 engagement. Then latterly, you know, in the aftermath

1 of the -- which I think is the subject matter of my  
2 first letter, the Ms. D visit to me, I contacted him  
3 again in relation to that.

4 66 Q. Yes. And so, would it be fair to say that the  
5 correspondence you had or the contact you had with him 10:48  
6 afterwards was not face-to-face, it was through  
7 correspondence?

8 A. Oh, yes.

9 67 Q. And he was appreciative of the fact that you had raised  
10 it in the Dáil. And was that before Mr. Guerin had 10:48  
11 been appointed then or afterwards?

12 A. Before.

13 68 Q. Before. And obviously he hadn't, I don't know whether  
14 you had sought through the Taoiseach to have a  
15 commission established or not or just some form of 10:48  
16 inquiry, had you expressed any preference --

17 A. My understanding and I stand to be corrected, it may be  
18 on the record of the House, that I actually called for  
19 a commission of investigation to be established.

20 69 Q. All right. In any event, you were presumably content 10:48  
21 at that stage with the information available to have a  
22 scoping exercise?

23 A. I may have articulated a brief impatience that let's  
24 get straight to a commission of investigation, but  
25 having been a former Minister and having set up some 10:49  
26 inquiries I could understand and understood actually  
27 the purpose of Guerin.

28 70 Q. You mentioned Ms. D there, and the Tribunal has heard  
29 of a visit and an interview that Mr. Williams had with

1 Ms. D in relation to concerns that she had, but that  
2 became the subject matter of an article in relation to  
3 you about her willingness or her anxiety to meet you.  
4 Can I ask you to look at perhaps, if you take volume 2  
5 of the volumes there, and at page 568 is the first of 10:49  
6 those articles. And it's headed: "Alleged Garda sex  
7 victim wants to meet Martin." And then there is a  
8 picture of you and it starts off:

9  
10 "A young woman who claims she was sexually abused by a 10:50  
11 serving garda, and that the incident was covered up,  
12 has requested an urgent meeting with Micheál Martin.  
13

14 The Fianna Fail leader --"

15 A. Can you hold one second? 10:50

16 71 Q. Yes, I am sorry.

17 A. 568.

18 72 Q. I just read the headline and then the first short  
19 paragraph, and then it says:

20  
21 "The Fianna Fail leader has already brought a dossier  
22 of alleged garda malpractice cases to the Taoiseach's  
23 attention.  
24

25 Now the woman wants to meet Mr Martin in order to  
26 highlight her own case - and outline claims that her  
27 allegations of being sexually assaulted by the  
28 still-serving garda were not properly investigated.  
29

1 Yesterday, contact was made with Mr. Martin's office in  
2 order to set up a meeting with him, and she is awaiting  
3 a response."

4  
5 And then it goes to detail her complaints. At what 10:50  
6 stage did you become aware of her desire to have a  
7 meeting with you?

8 A. In or around the time of these articles. We received a  
9 phone call.

10 73 Q. Yes. 10:51

11 A. My chef de cabinet, Ms. Deirdre Gillane, received a  
12 phone call from Mr. Paul Williams asking would I be  
13 prepared to meet with this person.

14 74 Q. Yes. Obviously this is published, apparently in the  
15 context where the contact has been made with your 10:51  
16 office, but, as it were, no commitment yet issued.

17 A. Yeah.

18 75 Q. Would it be normal to indicate that such a contact has  
19 been made or a decision is waited? I mean, it seems to  
20 be a bit of advance publicity that the meeting might 10:51  
21 happen?

22 A. Correct.

23 76 Q. And at a time perhaps when it hadn't been agreed to?

24 A. Yes, and I am not sure was there an earlier article?

25 77 Q. There had been an earlier article -- 10:51

26 A. From memory.

27 78 Q. -- but this is the first one that references you, and  
28 the meeting?

29 A. And the meeting, okay. Yeah, there was a sense that, I

1 mean, this certainly was in advance of we being asked,  
2 if that's the question.

3 79 Q. Yes.

4 A. Yes. I think it's fair to say that this was advance  
5 publicity, if you like, setting the scene. 10:52

6 80 Q. Yes. But would you have been happy to meet her whether  
7 there was an article published or not --

8 A. Yes.

9 81 Q. -- or whether there was any publicity?

10 A. I would have been, of course. 10:52

11 82 Q. And you did meet her. And do you recollect the date  
12 you met her? It appears --

13 A. I can get that for you.

14 83 Q. Yes.

15 A. It's April time -- 10:52

16 84 Q. Pardon?

17 A. It's sometime -- well, that date here --

18 85 Q. Well, the next article --

19 A. It's within a week of this.

20 86 Q. Yes, it is within a week of that. The next article 10:52  
21 that we have is at 570.

22 A. That is page 570.

23 87 Q. It appears to be the following day, April 15th?

24 A. Yeah.

25 88 Q. Or perhaps even actually later the same day, perhaps. 10:52  
26 But it recites an agreement to meet her next week. Do  
27 you see the third paragraph of that?

28 A. I do, yeah.

29 89 Q. "Fianna Fail leader, Micheál Martin, has agreed to meet

1 her next week to discuss the latest disturbing  
2 allegations of Garda malpractice to be made public."

3  
4 And then there is details of what she apparently is  
5 alleging. 10:53

6 A. Yes.

7 90 Q. So was the contact with Mr. Williams from your office?

8 A. Mr. Williams contacted my office.

9 91 Q. Did Mr. Williams contact your office?

10 A. Yeah, he took the initiative. 10:53

11 92 Q. So the phone call to your chef de cabinet, Ms. Gillane,  
12 that came from Mr. Williams as far as you understand?

13 A. Yes, yes.

14 93 Q. And did she confirm to Mr. Williams then that the  
15 meeting would take place? 10:53

16 A. That I would be willing to meet.

17 94 Q. Yes. Okay. And was there any material sent to you in  
18 advance of the meeting or --

19 A. No, no.

20 95 Q. Okay. Presumably you were aware of these reports at  
21 the time before you met her? 10:53

22 A. Of which reports?

23 96 Q. Of these newspaper reports.

24 A. I was, yeah, yeah. Sorry, yes, I did read the  
25 newspaper reports in advance, yes. 10:54

26 97 Q. Yes. And is that all you knew about it?

27 A. Well, about which now? I mean, there was a sense --

28 98 Q. About what she was complaining about, as it were?

29 A. No, I didn't know the details or anything like that,

1 but there was a sense that this was about Maurice  
2 McCabe.

3 99 Q. Well, that is what I was going to ask you. Had you  
4 drawn the dots, as it were?

5 A. Yes. 10:54

6 100 Q. Had you reached that conclusion?

7 A. Yes.

8 101 Q. And what had caused you to reach that conclusion that  
9 this was in fact --

10 A. Just intuition. The fact that the articles were -- as 10:54  
11 you say, there was a bit of advance publicity attached  
12 to it, but I decided in any event, I had no difficulty  
13 in meeting with the individual.

14 102 Q. Yes. And did you meet her in your Dáil office?

15 A. Yes. 10:54

16 103 Q. Okay. And did she come alone or was she --

17 A. She came alone.

18 104 Q. Okay.

19 A. And I had Ms. Deirdre Gillane with me.

20 105 Q. And Mr. Williams wasn't there, for instance? 10:54

21 A. No.

22 106 Q. And she outlined her concerns to you?

23 A. She did. Now, she didn't go into the detail of the  
24 abuse, but she said she had been abused and her main  
25 concern with me was that she felt that it had not been 10:55  
26 investigated --

27 107 Q. Yes.

28 A. -- properly because it involved a garda, namely Maurice  
29 McCabe, and that it was deficient, if you like, in



1 terms of the investigation. She did instance that it  
2 had gone to the DPP and she felt it hadn't been  
3 investigated properly and therefore that it should be  
4 included in the Guerin terms of reference, and that  
5 would I write to the Taoiseach and would I seek to have 10:55  
6 it included in the terms of reference of Guerin. I  
7 understand that Mr. Guerin at that stage had -- may  
8 have had a communication from Ms. D and had declined to  
9 include it within his terms of reference.

10 108 Q. Okay. Did that piece of information come from her? 10:55

11 A. Yes.

12 109 Q. Okay. And you mentioned obviously Sergeant McCabe  
13 there in the course of your answer, did she identify  
14 him to you as a still-serving guard or did she identify  
15 him as a sergeant in the same station as her father or 10:56  
16 did she identify him by name?

17 A. My understanding is she did mention him by name because  
18 I think she mentioned that they were family friends  
19 originally, or the two families were friendly.

20 110 Q. Okay. Yeah. And what was your general response or did 10:56  
21 you respond at the meeting in any particular way?

22 A. Well, we resolved -- I took the matter very seriously.  
23 You know, when a young woman comes before you and makes  
24 this presentation because I -- down through the years I  
25 have met many victims and I take a very open mind when 10:56  
26 these cases are brought to you and a very considered  
27 approach. So, we resolved, I am not clear whether it  
28 was at the meeting, but myself and Ms. Gillane resolved  
29 once the meeting concluded that we would forward this

1 to the Taoiseach and would say to the Taoiseach that in  
2 our view it should be included in the terms of Guerin  
3 because Guerin dealt with Garda malpractice with a  
4 series of deficient investigations in the  
5 Cavan-Monaghan district, and there was a sense that 10:57  
6 this could fall within that parameters and let's have  
7 everything dealt with.

8 111 Q. Yes.

9 A. And just to add, I did ring, I then out of courtesy  
10 decided that I would inform Maurice McCabe that I was 10:57  
11 going to proceed with this course of action.

12 112 Q. In advance of doing so, was it?

13 A. Well, out of courtesy, I was going to do it anyway, but  
14 just to let him know I was doing it. And then he  
15 volunteered that he knew about it and he indicated the 10:57  
16 DPP had dealt with the case comprehensively and had  
17 said not only was there no case to answer but it was  
18 questionable whether it merited -- you know, the actual  
19 nature of the allegation itself which Ms. D hadn't gone  
20 into with me. 10:58

21 113 Q. He was able to tell you that and he did tell you that?

22 A. He did tell me that. But he actually also advocated  
23 that it should go to Guerin, that he had no difficulty  
24 with it going to Guerin as well. He was of a view at  
25 that stage. 10:58

26 114 Q. Is that right? The next article just in that same  
27 volume is at page 572 and it appears to be from the  
28 Saturday, May 3rd edition of the Irish Independent, and  
29 it says:

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"Kenny to set up probe into Garda sex abuse claims.

Taoiseach Enda is expected to order an investigation into allegations that a young woman was sexually abused by a serving garda.

The woman's claims were passed to Mr. Kenny by Fianna Fail leader Micheál Martin who met her in his Dáil office earlier this week."

Does that accurately reflect the view you had expressed or the view you had come to, that you were going to be asking the Taoiseach to include it?

A. Well, it says here it's expected to order an investigation into allegations, yeah. We had -- the conclusion of our meeting is we would send it to the Taoiseach. 10:58

115 Q. Yes.

A. We couldn't preempt what the Taoiseach was going to do with it. 10:59

116 Q. No. But obviously you had decided to do that. And did you do that by writing to the Taoiseach?

A. Yes, yes.

117 Q. Okay. And just in terms of the sequence of events and this article, I mean presumably you didn't issue a statement to that effect, you wrote to the Taoiseach? 10:59

A. I wrote to the Taoiseach.

118 Q. You told Ms. D you were going to write to the

1 Taoiseach?

2 A. Yes. Now, I am not clear whether Paul Williams as a  
3 journalist would have contacted my office,  
4 presumably --

5 119 Q. To confirm whether you -- 10:59

6 A. -- to confirm what -- yeah.

7 120 Q. Yes. That is possible then, is it?

8 A. Yeah, that is possible.

9 121 Q. I mean, is it something that you would have --

10 A. That would be normal. 10:59

11 122 Q. -- made known to the Dáil after you had done it?

12 A. No, no.

13 123 Q. You didn't raise this in the Dáil then?

14 A. No. Again it was an issue to do with an allegation of  
15 sexual abuse and I am very careful. 10:59

16 124 Q. And you didn't publish your letter.

17 A. No.

18 125 Q. You sent it to the Taoiseach and it was up to the  
19 Taoiseach --

20 A. Yes. 11:00

21 126 Q. -- then to see would it or could it fit within the  
22 Guerin?

23 A. Yes. And obviously that Mr. Guerin himself would have  
24 some input into that.

25 127 Q. Yes. There is reference in the fourth-last paragraph 11:00  
26 on that page, it says:  
27  
28 "It's understood she is also due to meet with  
29 investigators from the Garda Síochána Ombudsman

1 Commission and with a solicitor with a view to  
2 commencing a civil action against the garda concerned."  
3  
4 Was the issue of a GSOC referral, was that raised by  
5 her or feature in the meeting with you at all? 11:00  
6 A. It may have been. Generally GSOC gets raised.  
7 128 Q. Yes.  
8 A. But with considerable degree of, how shall I put it,  
9 lack of expectation, and that is no criticism as to --  
10 129 Q. Yes. 11:00  
11 A. As to, you know, outcomes and delays.  
12 130 Q. Is that just because of their workload --  
13 A. Yes.  
14 131 Q. -- and the time it can take sometimes?  
15 A. Yes. 11:00  
16 132 Q. But did she indicate it was something --  
17 A. To be straight up with you, she may have raised that.  
18 133 Q. Yes.  
19 A. But that wasn't the substance of the meeting.  
20 134 Q. Yes. I understand that. But it sounds as if you're 11:01  
21 perhaps saying that you didn't advise that as a step,  
22 that was something that she told you she was  
23 contemplating, would that be fair, or were you not  
24 perhaps certain?  
25 A. I don't want to be definitive on that -- 11:01  
26 135 Q. In any event, you became aware that the Taoiseach  
27 referred the issue of whether this should be included  
28 to the Minister?  
29 A. Yes.

1 136 Q. who at that stage was then Minister Fitzgerald?  
2 A. Yes.

3 137 Q. Minister Shatter had gone?  
4 A. Yes.

5 138 Q. And then I think you were, as it were, informed by 11:01  
6 Minister Fitzgerald that the issue was going to be  
7 considered by the review mechanism set up, and had you  
8 been consulted about that --  
9 A. No.

10 139 Q. -- or was it just you were being informed of it? 11:02  
11 A. I was just informed of it. To be fair, at the time of  
12 all of the publicity around the Maurice McCabe issue,  
13 many more whistleblowers, many more people with issues  
14 came to the fore, came to politicians, and the  
15 independent panel of barristers was established by the 11:02  
16 Minister to deal with, I think there may have been even  
17 150 cases, I stand to be corrected on that. I would  
18 have received some of them. So there was an enormous  
19 tranche of material coming to a number of politicians  
20 and to the Minister, no doubt, and I think that 11:02  
21 mechanism then was used to try and deal with those  
22 issues.

23 140 Q. Yes. And presumably you were content that that was the  
24 proper way to deal with how these matters might be  
25 examined if they required to be examined further? 11:02  
26 A. Well, I think it was -- I understood that mechanism as  
27 being a reasonable response to that and to the issues  
28 that were arising.

29 141 Q. Yes. And obviously when the review mechanism process

1 concluded, the Government took a decision to lay the  
2 draft terms of reference of the O'Higgins Commission  
3 before the Dáil and you supported the establishment of  
4 an inquiry?

5 A. I did, yes. 11:03

6 142 Q. All right. And at that stage, you presumably were  
7 aware that it was going to be following the areas  
8 identified by Mr. Guerin in his report?

9 A. Yes.

10 143 Q. And no additional matters? 11:03

11 A. And no additional matters, yeah. In the end that was  
12 my main focus, the substantive material in the dossier  
13 that went to Guerin, that subsequently went to  
14 O'Higgins.

15 144 Q. Yes. In relation to the Tribunal's other terms of 11:03  
16 reference, have you any other information or evidence  
17 concerning any negative briefing by any senior  
18 superintendent or higher-ranking officer throughout --

19 A. I don't. You mean in terms of --

20 145 Q. In terms of Sergeant McCabe? 11:04

21 A. Only what subsequently emerged in terms of David Taylor  
22 and the protected disclosure and what he has said.

23 146 Q. Yes. So indirectly you became aware of that?

24 A. Yes. But no garda ever directly spoke to me.

25 147 Q. And did you hear it reflected back through any 11:04  
26 journalist, any political correspondents, any crime  
27 correspondents that Superintendent Taylor was briefing  
28 against Sergeant McCabe?

29 A. Not directly, but some journalists, as I said earlier,

1 would have raised questions with my press office as to  
2 the extent that is your leader satisfied that he is  
3 dealing with a credible person here.

4 148 Q. But as vague and as general as that?

5 A. It was general. They would have been aware of the 11:04  
6 rumour, that is all, rumours and that kind of thing.  
7 But there was that air about the place that your leader  
8 should be careful, that, you know, he is dealing with  
9 somebody here who is not that reliable, that sense.

10 149 Q. Okay. And did that, in fact, affect your judgment or 11:05  
11 decision-making in any respect, in any adverse way, as  
12 far as you were concerned?

13 A. It affected my course of actions in the sense that I  
14 dealt with the substantive materials. I didn't -- I  
15 took a decision that I can't really deal with hearsay, 11:05  
16 I can't deal with rumour. If I have a substantial  
17 document put in front of me I can make a judgment call  
18 on that and likewise, in the context of Ms. D as a  
19 person coming to meet me, you know, physical meeting  
20 takes place. And yeah, does it sow doubt? It sows 11:05

21 some doubt, but one has to make one's own judgment on  
22 that. In terms of, I had met Maurice McCabe, I was  
23 taken by him at the first meeting because it wasn't all  
24 bluster, it wasn't all talk, there was substantive  
25 material there, and he had -- he is the type of 11:05  
26 individual who is very meticulous, it seems me, and he  
27 had chapter and verse. And Noel Brett would have  
28 corroborated a lot of that for me and Noel Brett would  
29 have told me, certainly in the context of the penalty



1 points, that he was on the button, that this guy should  
2 be believed, that what he is saying is correct, and you  
3 will be hearing negative stuff, he said to me, but I'm  
4 telling you what he is saying here stacks up.

5 150 Q. All right. Thank you, Deputy Martin. Would you answer 11:06  
6 any questions anyone else may have.

7

8 MR. MCDOWELL: No questions, Chairman.

9 MS. BURNS: Yes, Chairman, I have some questions.

10

11:06

11 THE WITNESS WAS CROSS-EXAMINED BY MS. BURNS:

12 151 Q. MS. BURNS: Good morning, Mr. Martin. My name is Tara  
13 Burns and I am appearing on behalf of Superintendent  
14 Dave Taylor. Just in relation to the last portion of  
15 the evidence that you have given to the Tribunal, in 11:06  
16 your statement or in your letter to the Tribunal dated  
17 22nd December 2017 where you refer to the information  
18 that you received from Deputy McGuinness in relation to  
19 the conversation he had with former Commissioner Martin  
20 Callinan, you indicate that what you were told by him 11:07  
21 in relation to what Mr. Callinan had said to him, that  
22 that coincided with a rumour that you were aware of,  
23 and specifically you refer in that letter to a rumour  
24 which was in general circulation at the time in  
25 political but also media circles you refer to. What 11:07  
26 information did you have at that time, so that is  
27 February of 2014, in relation to a rumour in media  
28 circles?

29 A. I didn't have specific information. It was a rumour,

1 very difficult to pin it down.

2 152 Q. I see. And it was a rumour in relation to some kind of  
3 a sexual allegation, is that correct?

4 A. Abuse -- you know, that -- not a specific allegation.  
5 Child abuse, there may be issues there, but very 11:07  
6 general, to be honest.

7 153 Q. I see. And can I ask you, how had that rumour within  
8 media circles come to your attention?

9 A. Well, generally around Leinster House and my officials  
10 would have picked up some of it. But again, not 11:08  
11 specific, so it was very hard to pin it down.

12 154 Q. I see. Because you specifically refer to a rumour  
13 within two areas?

14 A. Yes.

15 155 Q. You refer to a rumour within the political arena -- 11:08  
16 A. And the media.

17 156 Q. -- and the media?

18 A. Well obviously, our press officer was in contact with  
19 media, but you know, he didn't get specific, to the  
20 best of my knowledge, allegations in relation to abuse. 11:08

21 157 Q. I see. So in relation to that information in your  
22 letter, that was information that you had received from  
23 your actual press officer?

24 A. Sorry? No, I am saying -- yeah, I think it was  
25 generally around Leinster House there was a rumour, but 11:08  
26 I can't pin down the rumour.

27 158 Q. And I completely understand that. But really what I'm  
28 asking you is, the reference to two specific areas,  
29 both political and then separately media --

1 A. Media.

2 159 Q. -- the rumour was circulating within both of those  
3 separate areas, your evidence appears to be that that  
4 was something that had come to the attention of your  
5 press officer? 11:09

6 A. I think it would have, yeah.

7 160 Q. I see. Do you recollect speaking to him about that?

8 A. Not specifically. There was general chitchat all of  
9 the time, there was general discussion, I think he was  
10 getting queries as to whether, you know, your leader 11:09  
11 could stand over the credibility of this witness.

12 161 Q. I see. Because you have certainly, in your evidence,  
13 relating to the meetings that you've had with Ms. D,  
14 they are in April 2014 --

15 A. Yes. 11:09

16 162 Q. -- but am I right that your evidence is that even  
17 earlier than that, in February 2014, some form of a  
18 rumour with a sexual connotation had come to the  
19 attention of your press officer?

20 A. Yeah, the big difference being Ms. D was a very 11:09  
21 specific case --

22 163 Q. Of course.

23 A. -- which I hadn't been aware of up to then?

24 164 Q. I see. So Ms. D is obviously -- that arises from your  
25 perspective in April of 2014? 11:10

26 A. Yes.

27 165 Q. But in February of 2014, when Deputy McGuinness speaks  
28 to you, it seems to be your evidence that even at that  
29 stage you were aware --

1 A. A rumour.

2 166 Q. -- that within the media that there was a rumour?

3 A. Rumours, yeah.

4 167 Q. And your evidence is that must have come to your  
5 attention from your press officer? 11:10

6 A. Not exclusively, no. It would have been general  
7 around.

8 168 Q. Okay. But specifically in relation to a media rumour,  
9 do I take it that that information to you is through  
10 your Press Officer? 11:10

11 A. I don't want to be that specific. I think it was a  
12 very general rumour that was very difficult to pin down  
13 as to the origin or source of.

14 169 Q. I see.

15 A. It was in the ether, so to speak. 11:10

16 170 Q. Well then in relation to any other information that you  
17 had from media personnel, was there anybody else that  
18 you had discussed or heard a rumour from in relation to  
19 Sergeant McCabe?

20 A. In terms of specific individuals? 11:10

21 171 Q. Yes.

22 A. I can't say that here. In terms, I can't be specific  
23 in terms of a specific individual in the media who came  
24 to me and said that, no.

25 172 Q. I see. Thank you very much. 11:11

26

27 MR. LEHANE: I have no questions.

28 MR. DOCKERY: I have no questions, Chairman.

29 MR. DIGNAM: Chairman, I just have a number of

1 questions that I want to put to Deputy Martin.

2  
3 THE WITNESS WAS CROSS-EXAMINED BY MR. DIGNAM:

4 173 Q. MR. DIGNAM: Deputy Martin, my name is Conor Dignam and  
5 I appear on behalf of An Garda Síochána, certain 11:11  
6 members of An Garda Síochána, and in particular I want  
7 to put some questions to you on behalf of former  
8 Commissioner Callinan. And I want to explore with you  
9 your statements or your letters to the Tribunal and  
10 your evidence this morning for the purpose of putting 11:11  
11 to you that you must have been mistaken --

12 A. Sorry?

13 174 Q. That you must be mistaken and perhaps understandably so  
14 in relation to your exchange with Deputy McGuinness in  
15 February 2014. And I suspect that we will be able to 11:11  
16 get through it pretty quickly because there will  
17 probably be large agreement between us on many areas.  
18 I don't propose getting into your political career in  
19 any detail, I think your political career is well-known  
20 probably to everybody listening to you. You have held 11:12  
21 four ministerial portfolios, I think, isn't that right?

22 A. Correct.

23 175 Q. Health, education and skills or education and science  
24 or --

25 A. Science. We fought hard for it. 11:12

26 176 Q. Yes. The Department of Foreign Affairs and the  
27 Department of Enterprise, Trade and Employment?

28 A. And health.

29 177 Q. And health, yes. And I think you have been TD since

1 1989, isn't that correct, yes.

2 A. Correct.

3 178 Q. You are currently uachtarán of one of the oldest  
4 political parties in the State, and in short, you are  
5 an extremely experienced politician and 11:12  
6 parliamentarian, and I don't necessarily expect you to  
7 blow your own trumpet.

8 A. Still learning.

9 179 Q. And while you were Minister for Education and Science  
10 you were dealing with the Ryan Commission, and indeed 11:12  
11 and you might correct me if I am wrong, but issues such  
12 as the Children First Guidelines, etcetera, were coming  
13 on-stream or were about to be introduced or had just  
14 been introduced, and I am not going to ask you of the  
15 details of them, Deputy Martin, I am just putting them 11:13  
16 in a place in time, is that right?

17 A. I would have been responsible for -- with the Cabinet,  
18 obviously, in terms of the Ryan Commission, the  
19 establishment of the Ryan Commission. Children First I  
20 think would have been with the Department of Health at 11:13  
21 that time, if I am not mistaken, and would have come  
22 forward a bit later than that.

23 180 Q. Okay. And I principally want to focus, as I say, on  
24 the exchange in February 2014 but also on the fact of  
25 apparently nothing being done on foot of this -- 11:13

26 A. Sorry?

27 181 Q. The fact of apparently nothing being done on foot of  
28 this conversation with Deputy McGuinness after February  
29 2014, but I might just ask you one or two questions

1 about the evidence that you gave in response to  
2 Mr. McGuinness's evidence. He asked you whether  
3 Sergeant McCabe complained about a smear campaign or an  
4 alleged smear campaign being conducted by An Garda  
5 Síochána when you met him in February 2014. 11:14

6 A. Yes.

7 182 Q. And you said no, but I noted that you said "no, not at  
8 that stage", I think you used that phrase a couple of  
9 times. Could you expand on that: was there a point in  
10 time where Sergeant McCabe raised with you his concerns 11:14  
11 that there was a smear campaign or that he was being  
12 done down by members of An Garda Síochána?

13 A. No, no, to be fair, and I wouldn't weigh too much on  
14 "at that stage" in my response, to be very fair, the  
15 purpose of that first meeting was to get traction on 11:14  
16 the issues that he had.

17 183 Q. Yes.

18 A. And particularly the issues to do with the dossier, the  
19 Cavan-Monaghan dossier. He didn't -- he didn't  
20 complain about a smear campaign. And in my 11:14  
21 conversations with him, we didn't delve into that at  
22 all. I think it would be a fair, and I stand to be  
23 corrected in terms of recollection on that, but the  
24 purposes my engagement with Maurice McCabe was always  
25 on progressing the issues that he had raised with me. 11:15  
26 It was latterly, I suppose, ultimately when that Tusla  
27 file emerged, you know, but generally speaking he  
28 was -- Guerin had been established, O'Higgins had been  
29 established on foot of it, so he -- so he wasn't -- his

1 engagement with me wasn't about a smear campaign.

2 184 Q. I want to be clear, Deputy Martin, I am not being  
3 critical of Sergeant McCabe, if he was raising with you  
4 that there was a smear campaign.

5 A. I am just trying to give an answer honestly. 11:15

6 185 Q. Yes. Just to be clear, did Sergeant McCabe raise with  
7 you at any point in time his concern that there was a  
8 smear campaign going on?

9 A. I don't think he did, I don't believe he did.

10 186 Q. Okay. Now, then turning to your conversation or your 11:15  
11 interaction with Deputy McGuinness in February 2014,  
12 obviously there are only two parties to that  
13 conversation?

14 A. Yes.

15 187 Q. And only two parties can give evidence as to what was 11:16  
16 said or what was not said during the course of that,  
17 you and Deputy McGuinness. I'm not sure how closely  
18 you have been following the evidence over the past week  
19 or so, but you are probably aware that Deputy  
20 McGuinness didn't in fact tell the Tribunal about this 11:16  
21 conversation. He made a statement to the Tribunal and  
22 didn't mention it and he said in evidence last Monday  
23 and Tuesday that he didn't remember the meeting that he  
24 had with you in February 2014 until he saw your  
25 statement or your letter rather, of the 22nd December 11:16  
26 2017, and that's what recalled it for him. Were you  
27 aware of that?

28 A. Yes.

29 188 Q. Yes. Were you aware that in fact he said in a radio



1 interview with Richard Crowley that he believed that he  
2 had not told you about his meeting with former  
3 Commissioner Callinan in the car park in Bewley's Hotel  
4 or what was said during the course of that meeting?  
5 Were you aware of -- first of all, are you aware that 11:17  
6 he gave that evidence last week?  
7 A. Sorry, just to be clear, I read the transcripts of what  
8 Mr. McGuinness said in the last 48 hours.  
9 189 Q. That is helpful.  
10 A. So that creates a context there -- 11:17  
11 190 Q. Yes.  
12 A. -- as to when.  
13 191 Q. So you saw that he gave evidence?  
14 A. Yes.  
15 192 Q. Yes. Were you aware at the time that he told Richard 11:17  
16 Crowley that in his interview, that he, as far as he  
17 was concerned, had not told you about his meeting with  
18 former Commissioner Callinan?  
19 A. I was aware that he had done an -- I didn't hear the  
20 interview but subsequently would have heard the import 11:17  
21 of that interview.  
22 193 Q. Yes. And that was in, I think that was the May 2016  
23 interview, Deputy Martin. So you became aware of the  
24 import of it, do I take it from that that you became  
25 aware, at least in a general sense, that Deputy 11:18  
26 McGuinness had said in the radio interview that he had  
27 not told you about this meeting?  
28 A. Yes.  
29 194 Q. Yes. So the first time that this Tribunal or indeed

1 anyone else became aware of this conversation or this  
2 exchange with Deputy McGuinness in February 2014 was  
3 when you told the Tribunal in your letter of the 22nd  
4 December 2017?

5 A. Just to point out that I would have, in the aftermath 11:18  
6 of the conversation, would have said it to the chef de  
7 cabinet and my press officer, that I have just heard  
8 this comment.

9 195 Q. Okay. So you in fact told two people?

10 A. Yeah. 11:18

11 196 Q. Yes.

12 A. To the best of my recollection, certainly the chef de  
13 cabinet.

14 197 Q. Okay. And the first time you told the Tribunal of it  
15 was essentially ten months after the establishment of 11:18  
16 the Tribunal and four years after the exchange itself,  
17 isn't that right?

18 A. Yes.

19 198 Q. Now, I think we are probably agreed, Deputy Martin, and  
20 I don't need -- I don't propose to linger on the point, 11:19  
21 but you didn't make any public statements about this  
22 conversation in the context of a speech or a Dáil  
23 contribution --

24 A. No.

25 199 Q. -- to any debate, isn't that right? 11:19

26 A. That's correct.

27 200 Q. Yes. And I think it's probably fair to say and I don't  
28 see any dispute between us, Deputy Martin, that there  
29 were many, many discussions in the Dáil in relation to

1 issues touching on concerns raised by Sergeant McCabe,  
2 whistleblowers, the way An Garda Síochána were said to  
3 have treated whistleblowers, they were referred to  
4 during the course of various debates and Leaders'  
5 Questions in the Dáil since 2014 onwards, isn't that 11:19  
6 right?

7 A. Yeah, there would have been many debates.

8 201 Q. Yes. And do you recall, Deputy Martin, that during the  
9 course of January to March, say, of 2014, there were  
10 particular key points, if I might put them that way; 11:19  
11 there was former Commissioner Callinan's remark in the  
12 PAC, his "disgusting" comment, his "disgusting" remark,  
13 and that, I think we will agree also, attracted a very  
14 extensive media coverage and public commentary, isn't  
15 that right? 11:20

16 A. Yes.

17 202 Q. Yes. There was the occasion when you raised the matter  
18 of Sergeant McCabe's concerns that he had raised with  
19 you in the Dáil, I think on the 19th February, is that  
20 right, 2014? So you raised it in the Dáil and then you 11:20  
21 subsequently forwarded the dossier to the Taoiseach,  
22 and then the Taoiseach put in train the steps which led  
23 to the establishment of the Guerin review, isn't that  
24 right?

25 A. Yes. 11:20

26 203 Q. Yes. And then we had, in March 2014, Minister  
27 Varadkar's description of Sergeant McCabe as being  
28 distinguished not disgusting, isn't that right?

29 A. Correct.

1 204 Q. Yes. And then another key point is that in April 2014  
2 you met Ms. D?  
3 A. Yes.

4 205 Q. And then just jumping toward, a further key point is  
5 that in May 2016 the O'Higgins Report was debated at 11:21  
6 length in Dáil Éireann, isn't that right?  
7 A. In May, yeah.

8 206 Q. May, 2016, sorry. I have jumped two years.  
9 A. That is fine.

10 207 Q. Now, if I could then just turn to the letter of -- your 11:21  
11 letter to the Tribunal of the 22nd December 2017, it's  
12 on page 1674, and I don't propose bringing you all the  
13 way through the letter, Deputy Martin, but I think the  
14 key paragraph that the Tribunal is inquiring into is  
15 the first paragraph on the second page, which reads: 11:21  
16  
17 "When he --" Deputy McGuinness "-- was leaving my  
18 office he mentioned that a short while previously he  
19 had met the then Garda Commissioner Martin Callinan in  
20 a hotel car park. I recall him mentioning that the 11:21  
21 Commissioner had told him that Sergeant McCabe was not  
22 to be trusted and that he was a child abuser. He gave  
23 no other details."  
24  
25 Now, I think you have answered these two questions: 11:22  
26 Firstly you didn't look for any more detail, isn't that  
27 right?  
28 A. No.

29 208 Q. And you didn't keep a note of that conversation?

1 A. I did not.

2 209 Q. No. Okay. Now, if I could just ask you, Ms. Leader  
3 might hand you day 62, which is Deputy McGuinness's  
4 evidence, page 60.

5 [SAME HANDED]

11:22

6 A. Page 60?

7 210 Q. Yes. Page 60, sorry, Deputy Martin. And I am not  
8 going to read out these at length, Deputy Martin, the  
9 Tribunal has the evidence and indeed has the  
10 transcript, but you will see on page 60, going over on  
11 to 61 in particular, that Deputy McGuinness is giving  
12 evidence in relation to the conversation that he had  
13 with former Commissioner Callinan in the car park, and  
14 he says that during the course of that conversation,  
15 just towards the end of page 60, Deputy Martin, line  
16 24 -- he said --

11:23

11:23

17 A. Towards the end of?

18 211 Q. Page 60.

19 A. 24, is it?

20 212 Q. Yes, line 24. He said:

11:23

21  
22 "And it was at that stage that he said to me that no,  
23 it had gone beyond all of that and that there was  
24 issues to do with Maurice McCabe and his behaviour and  
25 he suggested that there was -- he had sexually abused  
26 his family and an individual, that he was not to be  
27 trusted, that I had made a grave error in relation to  
28 the Public Accounts Committee and the hearings because  
29 of this and that I would find myself in serious

1 trouble.

2 Q. Did you tell him that these rumours were rumours  
3 that you had already heard?

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

15 Q. What did he say in relation to any investigation of  
16 these allegations?

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

22 Q. Was there any reference at the time to a criminal  
23 file?

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

27  
28 So what Deputy McGuinness is saying there is that  
29 former Commissioner Callinan said certain things which

1 led Deputy McGuinness to believe that there were  
2 investigations ongoing and that Sergeant McCabe would  
3 be charged with something. Did he give you any of that  
4 detail?

5 A. No. 11:25

6 213 Q. And did he lead you to believe that this was a live  
7 investigation and that Sergeant McCabe would be charged  
8 with some sort of criminal offence?

9 A. No.

10 214 Q. Now, on page -- sorry, on day 62, so if you turn over 11:25  
11 to the next page, day 62, page 62, Deputy McGuinness is  
12 being questioned at this stage by Mr. Marrinan, counsel  
13 for the Tribunal.

14 A. Page 62, is it?

15 215 Q. Yes, of the same day. And Mr. Marrinan puts it to him 11:25  
16 right at the bottom there, question 201:

17  
18 "Q. And it would appear to be a meeting designed to  
19 try and influence you in any decision that you may  
20 personally have to make as to whether or not to call  
21 Sergeant Maurice McCabe to give evidence, isn't that  
22 right?

23 A. Correct.

24 Q. And it's entirely inappropriate what is being done  
25 by the Garda Commissioner?

26 A. Yes.

27 Q. It's not really something you need to hesitate  
28 over; it is very obviously, to any decent person, and  
29 law-abiding person, something that is absolutely wrong,

1 isn't that right?

2 A. Correct."

3

4 And Deputy McGuinness goes on to describe his reaction  
5 to it and he says that he could hardly remember driving 11:26  
6 home. And then over the page on page 64, starting on  
7 line 17, sorry line 16, Mr. Murrinan makes it clear to  
8 Deputy McGuinness that he is talking about something  
9 entirely different and says:

10

11:26

11 "Q. The fact that you are sitting in a car with the  
12 Garda Commissioner and he is actually imparting this  
13 information to you, that is what I am suggesting to you  
14 might be shocking?

15 A. Again, I am agreeing with you. I said yes, it's 11:27  
16 shocking and so is the information.

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

24 A. Yes."

25

11:27

26 Is that your view of things also, Deputy Martin, that  
27 it would be shocking that the Garda Commissioner would  
28 be taking this action and imparting this information?

29 A. It would be my view that it would have been wrong.



1 216 Q. Yes. Now, and the -- I have put it to you, Deputy  
2 Martin, and as I say I don't expect you to comment  
3 necessarily but you are an extremely experienced  
4 politician and parliamentarian. You obviously, as a  
5 politician, have to have an eye on the next election or 11:28  
6 on various political considerations, but fundamentally,  
7 the focus of your actions is the public interest, isn't  
8 that right?

9 A. Yes.

10 217 Q. Yes. Now, I just want to put a series of measures or 11:28  
11 steps or things that could have been done when you  
12 received this information, if you received this  
13 information, from Deputy McGuinness. Firstly, you  
14 could have asked for further details; secondly, you  
15 could have kept a note of the conversation; thirdly, 11:28  
16 you could have told the Taoiseach that Deputy  
17 McGuinness had told you this. And at this stage, you  
18 had already had interaction with the Taoiseach about  
19 concerns that Sergeant McCabe had raised with you. You  
20 could have told the Minister for Justice and the gist 11:28  
21 of that conversation would have been, I'm suggesting to  
22 you, that we now have a serious problem with the Garda  
23 Commissioner, who is doing something, to borrow your  
24 word, Deputy Martin, that is wrong?

25 A. Sorry, in the context of Mr. McGuinness's evidence, 11:29  
26 Deputy McGuinness's evidence. At this stage I am  
27 receiving something that is hearsay.

28 218 Q. I will just come back to that. I just want to put  
29 these steps to you and I certainly will afford you an

1 opportunity to explain why these steps weren't taken.  
2 So you could have told the Taoiseach, we have of a  
3 serious problem with the Garda Commissioner because he  
4 is doing something which, to use your phrase, is wrong;  
5 you could have mentioned it in the Dáil; you could have 11:29  
6 indeed told Sergeant McCabe that this was going on; you  
7 could have mentioned it when Deputy McGuinness said on  
8 radio that he hadn't in fact told you this; and you  
9 could have told the Tribunal in your first or second  
10 letter to the Tribunal, okay. They are all steps that 11:29  
11 could have been taken and I think you will agree with  
12 me they weren't taken?

13 A. Well, there is an alternative --

14 219 Q. Just as a matter of fact they weren't taken, isn't that  
15 right? 11:30

16 A. Oh, I didn't take those steps, yes, for reasons  
17 stated --

18 220 Q. Yes.

19 A. -- earlier in my evidence.

20 221 Q. I don't want to trammel you in way, Deputy Martin, so  
21 if you would like to explain why those steps weren't 11:30  
22 taken --

23 A. Sorry?

24 222 Q. If you would like to explain why those steps weren't  
25 taken I am more than happy to afford you an 11:30  
26 opportunity.

27 A. The steps weren't taken and I said at the outset --  
28 first of all, by the way, my experience said proceed  
29 cautiously, having heard this, and experience taught

1 me, you don't -- on something like this, there's a lot  
2 of issues around this, there's a lot of issues around  
3 why these issues didn't get traction, there's a lot  
4 going on at the Public Accounts. So I resolved to deal  
5 with substance and material, which was the dossier, 11:30  
6 which was Ms. D physically coming into my office making  
7 an allegation. My overriding concern when I heard  
8 this -- and you are saying to me you could have  
9 imparted it to one other person, you tell another  
10 person who tells another person; my real concern was 11:31  
11 that this would have been very, very damaging to the  
12 reputation of the person concerned. And that is  
13 something that I was not prepared to do, because when a  
14 person is accused of child abuse, if that gets into the  
15 public domain, in the general public domain, it's very 11:31  
16 hard to pull it back, very hard to pull it back. The  
17 other point is, that it is the Garda Commissioner  
18 saying this, and there was a reasonable, I put it to  
19 you, assumption that if this is true, and it's a Garda  
20 Commissioner is saying it, that it will emerge in the 11:31  
21 form of a conviction or a case or whatever. And  
22 thirdly, it's hearsay, it's what John McGuinness said  
23 was said to him at a meeting. And I have no way of  
24 standing --

25 223 Q. Firstly, can I agree with you that it is a matter on 11:32  
26 which caution should be exercised and which should be  
27 cautiously dealt with. So there is no disagreement  
28 between us on that, for the very reasons that you  
29 outlined. But we move forward to April 2014 and we

1 have Ms. D in substance making an allegation of abuse  
2 against Sergeant McCabe, but then going on to say that  
3 her complaint was that that wasn't investigated  
4 correctly, and you passed that to the Taoiseach?

5 A. At her request.

11:32

6 224 Q. Yes, but it was still passed to the Taoiseach?

7 A. Because she asked me. She said I don't believe this  
8 was properly investigated because it involved a garda,  
9 you have already sent the dossier about malpractice, I  
10 believe my case should be considered as well. That was 11:32  
11 why. And it was, you know, there was -- she had  
12 mentioned the DPP, so there was an actual case, it was  
13 material, it was tangible, and therefore, there was  
14 something to refer to the Taoiseach, other than rumour  
15 and hearsay. 11:33

16 225 Q. Yes. And at that stage did you then -- because at that  
17 stage you are now telling the Taoiseach that there is  
18 this allegation, at that stage did you think it may be  
19 important for the Taoiseach to know that the  
20 Commissioner is telling deputies or at least is alleged 11:33  
21 to have told deputies that that Sergeant McCabe is not  
22 to be trusted because he is a child abuser? Did you  
23 think it was important to tell the Taoiseach at that  
24 stage? You are now disclosing -- and I am not saying  
25 there is anything improper or inappropriate about that, 11:33  
26 you are now disclosing to the Taoiseach that this  
27 allegation has been made.

28 A. Well, it was a very specific allegation by a specific  
29 person and I was confining myself to that, and I was

1 happy to do that.

2 226 Q. Now --

3 A. And again, bear in mind Guerin is established, went to  
4 be established, let Guerin deal with it, deal with the  
5 first gamut of stuff that would come his way. I think 11:34  
6 it's interesting at the end of Guerin he speaks to the  
7 character of Maurice McCabe, and so -- and that then  
8 led to Higgins.

9 227 Q. Now, the reason I was asking you these questions,  
10 Deputy Martin, is because I have to put it to you that 11:34  
11 it is far more likely that you didn't take any of those  
12 steps because, in fact, Deputy McGuinness didn't tell  
13 you about the -- the contents of his conversation with  
14 former Commissioner Callinan, and that you have made  
15 what is an understandable mistake, that Deputy 11:34  
16 McGuinness did so. And the reason I say it's  
17 understandable, just to put that in context for you,  
18 Deputy Martin, the reason I say it's understandable is,  
19 at that time there are rumours going around, and since  
20 then, particularly since 2016, there has been a lot of 11:34  
21 water under the bridge, there has been public  
22 commentary and public statements by Deputy McGuinness  
23 about what was said to him by former Commissioner  
24 Callinan in the car park and that you mistakenly imbued  
25 your conversation back in 2014 of which you have no 11:35  
26 note with what you have subsequently learned, that is  
27 an honest mistake and understandable mistake?

28 A. No mistake has been made. That is very incorrect. Why  
29 would I send a letter to the Tribunal saying this? My

1           only function here is to assist the Tribunal.

2 228 Q. Absolutely, and there is no --

3           A. So I am doing that by sending this information to the  
4 Tribunal. It's not in my direct knowledge in the sense  
5 that I wasn't at the car park, I didn't hear the 11:35  
6 conversation that transpired, but Deputy McGuinness did  
7 say this to me in my office. That is just a fact. I'm  
8 not in any shape or form mistaken in relation to that  
9 conversation, the fact that the meeting took place. I  
10 mean, for example, it's clear that that there was a 11:36  
11 meeting in the car park, I don't think you are  
12 contesting that. So, it did happen.

13 229 Q. Yes.

14           A. I have to be very, very clear, that conversation  
15 happened. 11:36

16 230 Q. Well --

17           A. Otherwise I would not put it before the Tribunal.

18 231 Q. Yes. Well firstly, Deputy Martin, I hope I made it  
19 clear that what I was suggesting to you was that this  
20 was a mistaken memory -- 11:36

21           A. Yes.

22 232 Q. -- and no more than that, and I think the Tribunal and  
23 all parties will no doubt be very grateful for your  
24 assistance to the Tribunal.

25           A. Yes. 11:36

26 233 Q. So, that is not what I am suggesting or questioning or  
27 querying in any way. What I am saying to you though,  
28 is that, and I think we have had the phrase in earlier  
29 modules of the Tribunal, that people -- that it can be

1 unclear about when they first knew something, whether  
2 they knew something back in 2014 or in 2016 or in 2017,  
3 okay? And what I'm suggesting to you is that you are  
4 mistaken about Deputy McGuinness saying that former  
5 Commissioner Callinan said that Sergeant McCabe was not 11:37  
6 to be trusted and was a child abuser, in 2014, because  
7 if he had said that, that would have raised alarm bells  
8 for you about the conduct of the Commissioner and you  
9 would have taken all or some of the steps which I  
10 outlined to you, to deal with the Commissioner's 11:37  
11 conduct?

12 A. I don't agree with you actually. I don't agree with  
13 you. And there was an aura around all of this, so  
14 proceeding carefully was important and I'll just be  
15 very clear about that. And you know, Noel Brett did 11:37  
16 say to me you will get a lot of negative commentary,  
17 and so the best course of action for me was to go on  
18 the substance, on material, and that is the -- and I am  
19 glad I did, because I steered clear of hearsay talk,  
20 rumour, I just kept to concrete tangible material, i.e. 11:38  
21 the dossier, Ms. D coming to see me, Guerin being  
22 established, the O'Higgins Commission of Investigation  
23 being established. That was -- that is how I dealt  
24 with this.

25 234 Q. Thank you, Deputy Martin. 11:38

26 MR. LEHANE: Mr. Chairman, just arising out of that I  
27 just have a short few questions.

28 CHAIRMAN: Yes. And would you mind explaining to  
29 Deputy Martin who you are appearing for.

1

2

THE WITNESS WAS CROSS-EXAMINED BY MR. LEHANE:

3

235 Q. MR. LEHANE: My name is Darren Lehane and I appear on behalf Deputy McGuinness and I just have a few questions arising out of Mr. Dignam's question of you. 11:38

4

5

6

7

First of all, deputies, senators and party staff would call into your office on a regular basis is that right?

8

A. Oh yes. Very regular and very frequent.

9

236 Q. And you would have what might be described as an open-door policy? 11:38

10

11

A. Yes.

12

237 Q. No need to make an appointment?

13

A. Well, some do make appointments if it's more substantive. What I mean by that is if I want to speak to a front bench spokesperson on a policy issue and so on like that, but the nature of it is, particularly Tuesdays, Wednesdays, Thursday, you are in and out of questions and time and all of that, they grab a moment. 11:39

14

15

16

17

18

19

238 Q. And your interaction with Deputy McGuinness, the one you are testifying about today, that was a short interaction, isn't that right? 11:39

20

21

22

A. Yes.

23

239 Q. And it was primarily Mr. McGuinness -- or my client was thanking you for raising the issue of Mr. McGuinness in the Dáil? 11:39

24

25

26

A. Yes.

27

240 Q. And he made the statement to Commissioner Callinan at the end of that conversation, isn't that right?

28

29

A. Yes.



1 241 Q. And you then told another party, a party -- your chef  
2 de cabinet about the fact you had had this conversation  
3 with my client, is that right?

4 A. Yes.

5 242 Q. And just following on from Mr. Dignam's, one of his  
6 last questions, you are not here to do down  
7 Commissioner Callinan, isn't that right?

8 A. No, I am not.

9 243 Q. And you are not acting in concert with Deputy  
10 McGuinness --

11 A. Absolutely not.

12 244 Q. -- to do Commissioner Callinan. Thank you very much.

13

14 CHAIRMAN: Mr. McDonagh, did you want to ask --

15 MR. MCDONAGH: No.

16

17 THE WITNESS WAS RE-EXAMINED BY MR. MCGUINNESS:

18 245 Q. MR. MCGUINNESS: Just looking at what Deputy McGuinness  
19 said on radio, that he had not told you as his party  
20 leader of the meeting at the time, and can I ask you  
21 this question in that context: Deputy McGuinness spoke  
22 with Sergeant McCabe and told him about the meeting in  
23 the car park in 2016, and I think it's fair to say that  
24 when Deputy McGuinness disclosed, as it were, publicly  
25 in the Dáil that he had had this meeting, there was  
26 quite a great deal of commentary, politically and in  
27 the media, about the fact that he had met the  
28 Commissioner, do you recall that?

29 A. I do.

1 246 Q. And would it be fair to say that it came as quite a  
2 surprise to many people that he had met the  
3 Commissioner in those circumstances?  
4 A. Yes.

5 247 Q. And can I ask you this: Did you in, fact, as it were, 11:41  
6 disclose at that time, as it were, to stand behind  
7 Deputy McGuinness, did you say to persons or the Dáil  
8 that, well, in fact, look, this isn't quite a bombshell  
9 to me because he told me back in 2014 that he had done  
10 that? 11:41  
11 A. No, I didn't. I think it moved on as far as I was  
12 concerned, I think that was on the debate on O'Higgins.

13 248 Q. I am just wondering is there a possibility in fact that  
14 he could have told you that in 2016 --

15 A. Oh, no. 11:41

16 249 Q. -- in and around the time of the O'Higgins debate --

17 A. No.

18 250 Q. -- the controversy about the Commissioner's  
19 cross-examination of Sergeant McCabe at the Tribunal  
20 and then the debate on the report, that 11:41  
21 contemporaneously with Sergeant McCabe being told of it  
22 by Deputy McGuinness, that Deputy McGuinness told you  
23 in and around the same time, in 2016?  
24 A. No.

25 251 Q. You exclude that definitively? 11:42  
26 A. Yes, absolutely.

27 252 Q. And your chef de cabinet at the time was Ms. Gillane?  
28 A. Yes.

29 253 Q. And your press officer at the time?

1 A. Was Pat McPartland.

2 254 Q. Thank you very much, deputy.

3 A. Thank you.

4

5 THE WITNESS WAS THEN QUESTIONED BY THE CHAIRMAN:

11:42

6 255 Q. CHAIRMAN: Deputy Martin, I just have a few questions.  
7 Really what we are looking into here is what was said,  
8 if anything, to what journalist and by whom and at  
9 whose behest or was the whole thing just a rumour that  
10 was going around and had nothing to do with Garda  
11 Headquarters or commissioners or whatever, so the terms  
12 of what was said, when, and since nothing happened to  
13 the effect that anyone published an article to the  
14 effect that Sergeant McCabe was a child abuser, just  
15 leaving the Paul Williams articles out of things which  
16 don't in fact say that but which allude to the  
17 investigation, what happened in consequence of it, so  
18 it's just, I am just interested in if you can give any  
19 more specificity about what was said to you about your  
20 chef de cabinet in relation to this rumour and in  
21 particular also your press officer? 11:42

22 A. I can't give any -- I mean, I think it was a general  
23 rumour at the time. I can't really put my finger on,  
24 you know, that -- there would have been a general view  
25 that the leader was taking a risk in raising this  
26 around the credibility of -- 11:43

27 256 Q. CHAIRMAN: Yes. You will appreciate, journalists have  
28 their jobs to do.

29 A. Absolutely.

1 257 Q. CHAIRMAN: And have to be respected for doing them as  
2 well as they do. But if someone hears a rumour and  
3 goes to somebody else and said is there anything to  
4 this rumour, unfortunately the net effect of that is to  
5 actually spread the rumour to somebody else. Now, it 11:44  
6 may be important as to the terms in which the question  
7 is put, but are you clear in your own mind that what  
8 was put to your Press Officer was whether you were  
9 effectively barking up the wrong tree in backing an  
10 unreliable person or -- 11:44  
11 A. In that sense, yes.  
12 258 Q. CHAIRMAN: Yes. And --  
13 A. Was he clear that -- or, you know, was he sure of the  
14 reliability of the witness.  
15 259 Q. CHAIRMAN: Yes. 11:44  
16 A. If I use that phrase.  
17 260 Q. CHAIRMAN: Did your press officer ever tell you where  
18 any such question was coming from?  
19 A. He has -- in terms of the journalists, is it?  
20 261 Q. CHAIRMAN: Yes. 11:44  
21 A. Generally, yes.  
22 262 Q. CHAIRMAN: Because it would be totally wrong obviously  
23 to leap to any conclusions or for me to say a  
24 particular journalist knows something unless there is  
25 evidence to suggest that is so. 11:44  
26 A. Absolutely.  
27 263 Q. CHAIRMAN: And do you have information?  
28 A. I don't have specifics in terms of the actual  
29 journalists.

- 1 264 Q. CHAIRMAN: So it was, basically at the time you would  
2 have a chat. And when they were saying, you know,  
3 unreliable questions about him was that the context in  
4 which your press officer was speaking to you about the  
5 child abuse allegations? 11:45
- 6 A. That was the general context. But to be fair, he  
7 didn't name any journalist to me that said he was  
8 guilty --
- 9 265 Q. CHAIRMAN: And was it a question of one allegation of  
10 abuse or more than one? 11:45
- 11 A. It was just a general rumour to be frank. It's very  
12 difficult, to be honest with you, to pin down the  
13 source of the origins of this.
- 14 266 Q. CHAIRMAN: Can I ask you, in your office at the time  
15 through your chef de cabinet or through your press 11:45  
16 officer did you -- the reason I am asking this question  
17 is as follows: Apparently if you ring RTÉ and make a  
18 complaint about a programme, certainly at one stage,  
19 what you said is noted down and then it goes to another  
20 officer and it's looked into, that for instance a 11:45  
21 programme was biased or they didn't take into account  
22 such-and-such. So, the context in which I am asking  
23 you this question is: In your office at the time did  
24 you have a procedure or even a habit of writing down  
25 press queries or press warnings? 11:46
- 26 A. I don't deal with the press queries directly.
- 27 267 Q. CHAIRMAN: But was that part of the procedures in your  
28 office, do you think?
- 29 A. Not necessarily, no.

1 268 Q. CHAIRMAN: But --  
2 A. I mean, no, I think journalists ring all of the time,  
3 they talk, you meet people in corridors, you meet in  
4 the restaurant, you know, so it's -- it's not that  
5 formal. 11:46

6 269 Q. CHAIRMAN: No, no, appreciating that, but this is an  
7 instance where you are sticking your neck out and you  
8 are sticking your neck out in circumstances where there  
9 are warnings coming to you that you may be dealing with  
10 a child sex abuser and an unreliable person, in other 11:46  
11 words a person who is inherently of bad character and  
12 not a person who you can trust?

13 A. But then one has to rely on one's own judgment --

14 270 Q. CHAIRMAN: No, I appreciate that.

15 A. -- to be fair to everybody. I was the person who met 11:46  
16 Maurice McCabe in person, people would have been  
17 concerned, are you sure of what you are doing.

18 271 Q. CHAIRMAN: Yes.

19 A. And I had to at that stage -- primarily because of the  
20 nature of the engagement I had with Maurice McCabe 11:47  
21 initially.

22 272 Q. CHAIRMAN: Yes. It's jumping out at me a bit here  
23 because to go so far as to actually impart information  
24 or to ask a question through a press officer to the  
25 effect that are you sticking your neck out for the 11:47  
26 wrong person because of child sex abuse and  
27 unreliability may be something worth noting or  
28 something worth tracking the origin of?

29 A. Not necessarily, not necessarily, no. I mean, rumours

1 are -- I mean, I couldn't pin it down as to the source  
2 of the rumour.

3 273 Q. CHAIRMAN: Okay. But it certainly came through your  
4 press officer?

5 A. He was more general to be frank. I don't think he came 11:47  
6 specifically -- the actual child abuse may not have  
7 come specifically through the press officer, but there  
8 was a general reference to it that there may be issues  
9 around child abuse. Nothing specific.

10 274 Q. CHAIRMAN: Do you have any recollection of your press 11:47  
11 officer saying to you, look, I have a number of queries  
12 as to the reliability of this person from journalists  
13 or whatever?

14 A. Yes, in terms of the reliability, yes.

15 275 Q. CHAIRMAN: And the sex abuse is perhaps something that 11:48  
16 is just floating in the ether?

17 A. That is floating in the ether, yes.

18 CHAIRMAN: Thank you very much for your help.

19 A. Thank you very much indeed.

20 11:48

21 THE WITNESS THEN WITHDREW

22

23 CHAIRMAN: I am just going to take a five-minute break.

24

25

26

27

28

29

1 AFTER A SHORT ADJOURNMENT THE HEARING RESUMED

2 AS FOLLOWS:

3  
4 MR. MARRINAN: The next witness, sir, is Mr. Pat  
5 Rabbitte, please. 11:55

6  
7 MR. PAT RABBITTE, HAVING BEEN SWORN, WAS DIRECTLY  
8 EXAMINED BY MR. MARRINAN:

9 276 Q. MR. MARRINAN: Now, I think Mr. Rabbitte, after a very  
10 long and distinguished career as a politician you 11:56  
11 decided not to stand in the General Election in 2016,  
12 isn't that right?

13 A. That's correct.

14 277 Q. And I think that you first came into contact with  
15 Sergeant Maurice McCabe, you think towards the end of 11:56  
16 2006 or the beginning of 2007, isn't that right?

17 A. It was probably 2007, I don't -- I have no note of it  
18 but it was probably 2007.

19 278 Q. I think at that time he sought out your confidential  
20 advice on matters of discipline that he wished to raise 11:57  
21 in the first instance with you in Bailieboro Garda  
22 Station?

23 A. Yes. He came to me in confidence about matters that  
24 were concerning him relating to the conduct of policing  
25 in the Bailieboro district. 11:57

26 279 Q. Now, we are not actually concerned with the content of  
27 his concerns at that time, and they have been well  
28 canvassed before the Chairman in a previous module.  
29 But you gave him some advice in relation to the matter



1 and the advice that you gave him was to contact the  
2 confidential recipient, isn't that right?

3 A. Yes, that's right. I mean, we were considerably  
4 constrained in terms of what the options were, but I  
5 helped him insofar as I could. I don't know to what 11:58  
6 effect, but I tried to help him because I was persuaded  
7 of his honesty and the fact that, in my judgment, he  
8 was a conscientious policeman.

9 280 Q. Yes. And I think that you tried to locate the  
10 confidential or the identity of the confidential 11:58  
11 recipient for him, isn't that right?

12 A. Yes, I did.

13 281 Q. And I think that you were advised by the Department of  
14 Justice, you say in your letter, that they couldn't  
15 answer your query because the matter was confidential, 11:58  
16 is that right?

17 A. Well, eventually I was told by the Department of  
18 Justice that the matter was confidential, in other  
19 words it was open to matter of the Garda Síochána but  
20 the implication was only to them. 11:58

21 282 Q. I think that subsequently you found out that the office  
22 of the confidential recipient was actually located in  
23 the Department of Justice and you queried the value of  
24 such an arrangement because it was unlikely that a  
25 member of An Garda Síochána would call in and avail of 11:59  
26 the service if it was located in the Department of  
27 Justice, is that right?

28 A. Yes, I had -- I had my own doubts from the beginning  
29 about the merits of that office, but the prospect of

1           Gardaí travelling from various parts of the country to  
2           make a complaint in the offices of the Department of  
3           Justice, I think were remote.

4 283 Q.     Yes. Now, I think that, as you have indicated, you did  
5           your best to assist Sergeant McCabe with the concerns     11:59  
6           that he was then expressing. How did you find him as  
7           an individual?

8           A.     I found him to be a very conscientious policeman who  
9           was concerned about disciplinary issues that were  
10          adversely affecting policing in his view in his area,     12:00  
11          and he was also concerned about a pretty substantial  
12          file he had in respect of the prosecution of justice by  
13          some Gardaí under his control. The issues, I think, of  
14          themselves were relatively minor, but what was  
15          concerning him was that they were being prosecuted     12:00  
16          vigorously in respect of certain matters and against  
17          certain persons and being ignored apparently in other  
18          cases.

19 284 Q.     Now, I think that there was a general election in the  
20          summer of 2007 and you lost contact then with Sergeant     12:00  
21          McCabe, is that right?

22          A.     Yeah, I don't -- I don't recall contact with him after  
23          that.

24 285 Q.     And I think the next was in 2014, when you were  
25          interviewed on RTÉ, is that right?     12:01  
26          A.     Yes, that's right.

27 286 Q.     And there was a discussion about your dealings and  
28          encounter with Sergeant McCabe in 2007?

29          A.     I was questioned about it on, I think, the 19th

1 February 2014.

2 287 Q. Yes. And I think that you spoke highly of Sergeant  
3 McCabe at that point, is that right?

4 A. Yeah, I attested to what is his good character in my  
5 judgment. 12:01

6 288 Q. And subsequent to the interview, you had arranged to  
7 meet a friend, is that right?

8 A. Subsequent to the interview I was being driven by my  
9 Garda driver.

10 289 Q. It was your Garda driver. Initially you referred to it 12:02  
11 as a meeting with a friend?

12 A. I did. I didn't especially want to point the finger at  
13 the particular person involved.

14 290 Q. And I think that is Mr. Kennedy, isn't that right?

15 A. That's right. 12:02

16 291 Q. When you say he was your driver, he was your driver at  
17 the time, is that right?

18 A. That's correct.

19 292 Q. And he was a retired member of An Garda Síochána --

20 A. Correct. 12:02

21 293 Q. -- is that right? Was he your driver from a pool of  
22 drivers or was he assigned full-time to you?

23 A. He was assigned full-time to me, but not in the  
24 traditional way of pool of drivers that ministers, that  
25 we have had in the past. 12:02

26 294 Q. Yes.

27 A. We surrendered State transport on election in 2011 to  
28 Government.

29 295 Q. Yes.

1 A. And ministers, with the exception of the Minister for  
2 Justice, had to provide their own transport, and  
3 therefore, it was in that capacity that I retained John  
4 Kennedy.

5 296 Q. Yes. And in 2014, how long had he been driving for 12:03  
6 you? Was it for three years then?

7 A. Some three years, three-and-a-half years, maybe, yes.

8 297 Q. And I think that we know that he had retired from An  
9 Garda Síochána in 2006, so he was well retired by the  
10 time he came to drive for you? 12:03

11 A. That's right.

12 298 Q. You had a conversation with him in relation to your  
13 radio interview, is that right?

14 A. Not quite. He raised it with me, he said he hadn't  
15 known that I knew Maurice McCabe, and he wanted to warn 12:03  
16 me in my own best interests about wading into a  
17 controversy when the rumours on the grapevine suggested  
18 that he might not be a man of the character that I said  
19 he was.

20 299 Q. And did he say why he may not be the man of the 12:04  
21 character that you had stated that he was?

22 A. Well, he did. He said that he couldn't be trusted,  
23 that his own colleagues believed that he couldn't be  
24 trusted with children. The conversation wasn't very  
25 prolonged after that, but the meaning was clear. 12:04

26 300 Q. How did you react to what was being said to you?

27 A. Silently, I think. On the one hand, I had to accept  
28 that Mr. Kennedy was drawing it to my attention in my  
29 own best interests, to alert me to steer clear of a

1 controversy that might not be what it seemed, but on  
2 the other hand, I had to appreciate the import of it,  
3 there scarcely being an allegation more grave than that  
4 you can level against a man's character.

5 301 Q. And your impression, Mr. Rabbitte, at that time was 12:05  
6 that he was merely saying this to you because he  
7 regarded you as a friend and somebody who ought to be  
8 advised of this as opposed to merely spreading gossip  
9 about Sergeant McCabe?

10 A. No, no, in my opinion, he certainly wasn't in the 12:05  
11 business of propagating the rumour; he was merely  
12 alerting me to knowledge that he had and that I didn't  
13 have and that I should perhaps be careful about  
14 testifying to Maurice McCabe's good character in  
15 public, given what was being said on the Garda network. 12:06

16 302 Q. And because of the manner it was conveyed to you, you  
17 were reluctant to disclose his identity to the  
18 Tribunal, isn't that right, in the first instance?

19 A. I was, yes. I didn't want to put him into the -- he  
20 was merely doing his job as a driver, where there is a 12:06  
21 lot of confidential interaction between driver and  
22 Minister.

23 303 Q. Yes. At that time in 2014, apart from what Mr. Kennedy  
24 had said to you, and we have just heard from the leader  
25 of the Opposition, Mr. Martin, in relation to rumours 12:06  
26 that were circulating at that time in Leinster House,  
27 had you heard any rumours in relation to Sergeant  
28 McCabe from any other quarter?

29 A. Not at the time that -- not at the time up to my doing

1 the interview. Yes, with the benefit of hindsight, you  
2 know, there were circumstances where not just publicly  
3 but privately I would give my impression of having  
4 dealt with Maurice McCabe, other Cabinet colleagues and  
5 other Dáil deputies wouldn't have had that opportunity, 12:07  
6 and you know, sometimes the conversation was closed  
7 down or sometimes there were comments like, well, maybe  
8 it's not as straightforward as it seems, or, well,  
9 we'll see, maybe he is not all he's cracked up to be,  
10 that kind of shutting down. You noticed it, but it's 12:07  
11 only with the benefit of what has come out since --

12 304 Q. Yes.

13 A. -- that one recognises that they were people who had  
14 some doubts in their minds but didn't want to propagate  
15 them or give them legs. 12:08

16 305 Q. Indeed. Now, I think that on Tuesday the 14th February  
17 of 2017, you appeared on Prime Time, isn't that right?

18 A. Yes.

19 306 Q. And we will just open up the relevant portion of the  
20 transcript because you discussed this very matter, and 12:08  
21 it's at page 1468 of the materials. This is  
22 Mr. McCullagh:

23  
24 "Seeing as you mentioned that, you were sitting in  
25 Cabinet for some of the period when all of this was 12:08  
26 going on, did you hear rumours about Maurice McCabe,  
27 the smears about Maurice McCabe?"

28

29 And you reply:

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"I did, yes. Maurice McCabe approached me at the end of 2006 or maybe early 2007 about policing difficulties and malfeasance and he had a major thorough file and I helped him or advised him on the confidential -- on the confidential basis he sought as best I could. But when the incident blew up in 2013, 2014, probably early 2014 I was asked on a programme like this that same question and I explained that I did indeed know Maurice McCabe as an upstanding and, in my view, an honest, conscientious policeman. And I was approached that night by a friend of mine, who is a retired garda, to say that he didn't know that I had any knowledge of Maurice McCabe and that I had better be careful because did I not know what was going round? And he graphically told me what was round."

Is that a reference to what you have told us today?

A. It is, yes.

307 Q. And then Mr. McCullagh asks the question:

"Did you tell anybody about that?"

And you replied.

"No, nobody. I thought it was foul gossip. I didn't believe there was anything to it and I didn't think it should be given legs, but I did express my view publicly and privately about the probity and integrity

1 of Maurice McCabe."

2

3 was that a position that you have always adopted in  
4 relation to Sergeant McCabe?

5 A. Yes, you know, your previous witness, Deputy Martin, 12:10  
6 has explained why any responsible public representative  
7 wouldn't wantonly give legs to something like this  
8 unless they were certain of what they were saying.

9 308 Q. Okay. Just in relation to Mr. Kennedy, there should  
10 be -- we haven't been able to upload it, we received it 12:11  
11 today, a statement from him, and it should be available  
12 to you.

13 [SAME HANDED]

14 You will appreciate that he is denying the content of  
15 this conversation with you, and if you just go to page 12:11  
16 3, where he sets out his stall, he said that he had "no  
17 meeting, prearranged or otherwise, with Pat Rabbitte in  
18 relation to Sergeant McCabe." Is that correct? I  
19 mean, you didn't have a meeting with him specifically  
20 about Sergeant McCabe; he was your driver and, in that 12:11  
21 context, he spoke to you?

22 A. That's correct.

23 309 Q. Yes.

24

25 "I did not advise him in general terms or graphic terms 12:11  
26 as to any rumours which had been circulating on the  
27 Garda grapevine or any other grapevine in relation to  
28 Sergeant McCabe."  
29



1 That is his position, you say that is incorrect?

2 A. Not true.

3 310 Q. "I have no knowledge as to what was said by Pat  
4 Rabbitte on the programme which he referenced as a  
5 precursor to our alleged meeting regarding Sergeant  
6 McCabe." 12:12

7

8 He says that he didn't hear that programme and he had  
9 no knowledge of it.

10 A. He told me it was the first time he learned that I had 12:12  
11 known Maurice McCabe or had met him in the past.

12 311 Q. "The first time I became aware as to the contents of  
13 the Prime Time programme broadcast on the 14th  
14 February --"

15

12:12

16 That is the one I have just opened.

17

18 "-- was when I reviewed the transcript of the programme  
19 included in the letter dated 9th April which I received  
20 from Ms. Mullan, solicitor to the Tribunal." 12:12

21

22 Then he goes on to say:

23

24 "I received an updated letter from Pat Rabbitte  
25 containing an extract from a document relating to the 12:13  
26 alleged meeting with me, which he had presumably  
27 submitted to the Tribunal. I did not contact Pat  
28 Rabbitte in relation to this letter. A copy of this  
29 letter and extract is attached to paragraph 5."

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And if you just turn over a few pages, this is a reference to a letter that you sent to Mr. Kennedy, is that right?

A. Yes, I sent Mr. Kennedy the extract or the paragraphs from my letter to the Tribunal for his information. 12:13

312 Q. Yes. And out of, presumably, courtesy to him --

A. Absolutely.

313 Q. -- since you were going to divulge his identity, is that right? 12:13

A. Correct.

314 Q. And it reads:

"John  
I hope you are keeping well. I just wanted to alert you that the Charleton Tribunal contacted me for a statement about my contacts with Maurice McCabe. I attach herewith paragraphs that refer to you but not by name. I just wanted to alert you in the event of them coming back to me. I don't think that very much turns on it. 12:14  
Best regards."

And you sign off on that as Pat. And I think at that stage you hadn't in fact identified him and it was subsequent to that that you received a request from the Tribunal that would you identify the person told you this rumour. 12:14

A. I only identified him after receiving a request from

1 the Tribunal to do so.

2 315 Q. At paragraph F of his statement at page 3 he says:

3

4 "Since my retirement in 2006 I have had minimal contact  
5 with An Garda Síochána and in particular no access to 12:14  
6 information regarding serving members. Obviously I am  
7 and would have been aware from media reports as to the  
8 controversy surrounding the alleged mistreatment of  
9 Sergeant McCabe by senior members of An Garda  
10 Síochána." 12:15

11

12 He says that he did not know Sergeant McCabe.

13

14 "I have not been involved to in any attempt to  
15 undermine him or discredit him." 12:15

16

17 I think that in that regard you are not suggesting that  
18 he was trying to undermine or discredit Sergeant  
19 McCabe, but was merely alerting you to the fact that  
20 these rumours were out there, is that right? 12:15

21

22 A. Yes, that's right. My concern was with the message,  
23 not with the messenger. Anybody, I think, would  
24 readily understand the import of the message being  
25 communicated, and of course in the immediate wake of 12:15  
26 that radio programme of 19th February 2014 it became  
27 more general around Leinster House that there was more  
28 to this than met the eye, and even if people were  
29 reluctant to be specific it was clear that this had a  
wider audience than I knew at the time that I did the

1 programme.

2 316 Q. Indeed. He puts it very starkly there:

3

4 "I had no meeting or conversation with Pat Rabbitte  
5 regarding Sergeant McCabe." 12:16

6

7 So he has set out his stall very firmly there. What do  
8 you say in relation to that?

9 A. Well, I suppose it's fair enough for my driver to say

10 that he had no meeting with me in the sense that we 12:16

11 understand meetings, but he picked me up as usual and

12 my memory is that I did the meeting from the Dáil

13 studio and he picked me up as usual that night and

14 that's when the interaction took place. So he may be

15 correct that it's not a meeting, but it's the same 12:16

16 interaction, whether it was a meeting or some other

17 kind of interaction.

18 317 Q. Thank you very much, would you answer any questions,  
19 Mr. Rabbitte.

20 A. Thank you. 12:17

21

22 MR. MCGARRY: Chairman, we don't have any questions at  
23 this time.

24 MR. CONLON: Chairman, just very briefly I have a few  
25 questions.

26

27

28

29

1 THE WITNESS WAS THEN CROSS-EXAMINED BY MR. CONLON:

2 318 Q. MR. CONLON: Cartage Conlon on behalf of Superintendent  
3 Taylor. You mentioned you understood Mr. Kennedy got  
4 his information from the Garda network, is that  
5 correct? 12:17

6 A. Yes, that's right.

7 319 Q. And did you take that to understand that this was being  
8 under discussion in An Garda Síochána or by members of  
9 An Garda Síochána?

10 A. The phrase used was that it was on the grapevine. 12:17

11 320 Q. Thank you.

12

13 THE WITNESS WAS THEN CROSS-EXAMINED BY MR. DOCKERY:

14 321 Q. MR. DOCKERY: Mr. Rabbitte, Desmond Dockery is my name,  
15 and I am just here to ask a few questions for 12:17

16 Mr. Kennedy that I am obliged to put to you. I think  
17 you accept in your evidence today, Mr. Rabbitte, that  
18 there was no meeting in the sense in which that word is  
19 ordinarily understood, no meeting with Mr. Kennedy, but  
20 of course you are aware that on Prime Time on the 14th 12:18

21 February 2017, and you have seen the transcript, you  
22 referred to Mr. Kennedy having approached you after the  
23 programme that you were on in 2014, but you have  
24 clarified that, as I understand it, by saying that that  
25 was simply to collect you in the ordinary way from the 12:18  
26 Dáil studio and drive you to your next destination, is  
27 that so?

28 A. Well, Mr. Dockery, when is a meeting --

29 322 Q. It's not a meeting.

1 A. When is a meeting not a meeting? I mean, we can have a  
2 semantical discussion about it. It is the gravamen of  
3 what was exchanged between the two of us that seems to  
4 me to be important.

5 323 Q. We will get to that in a minute, but just the 12:18  
6 preliminaries I want to just explore with you for a  
7 moment. In other words, we agree now that he didn't  
8 approach you for the purpose of having a discussion  
9 with you about this?

10 A. He approached me and broached the subject when he was 12:19  
11 driving me that night.

12 324 Q. But he had to drive you anyway that night?

13 A. Yes, of course.

14 325 Q. So he broached the subject, that is your evidence?

15 A. Yes. 12:19

16 326 Q. Yes. When you submitted a statement --

17 A. I mean, I didn't want to point the finger to the  
18 identity of my informant --

19 327 Q. Yes. He appreciates that.

20 A. -- which is why I referred to it as a meeting. 12:19

21 328 Q. Yes. Perhaps that explains it, because a year later  
22 when you submitted a statement to this Tribunal, on the  
23 20th March, towards the end of that statement when you  
24 addressed these matters, you said that:

25 12:19

26 "Sometime I think in 2014 my encounters in 2007 with  
27 Maurice McCabe were ventilated in an RTÉ interview, and  
28 that same evening, in a prearranged meeting with a  
29 friend of mine who is a former garda, he raised matters

1 with me."  
2  
3 So, I mean, that is clearly not correct?  
4 A. Oh, it is correct. My meeting with him was prearranged  
5 or my encounter with him was prearranged in the sense 12:20  
6 that he was to pick me up as customary.  
7 329 Q. Yes. All right.  
8 A. Prearranged.  
9 330 Q. So it was prearranged, but for an entirely different  
10 purpose, for an entirely routine purpose? 12:20  
11 A. Oh, no, you are right, I had no notice from Mr. Kennedy  
12 that he wanted to meet me to discuss the subject matter  
13 of the interview.  
14 331 Q. That is all I am trying to establish. And I think you  
15 were being driven by him when you say the matter came 12:20  
16 up. Now, when you were on Prime Time that evening,  
17 Mr. Rabbitte, you will see from the transcript that has  
18 been shown to you there, that you used a very strong  
19 word to describe the conversation when you said that  
20 "he graphically told me what was going around". That 12:20  
21 is the word you used, isn't that so?  
22 A. Yes, that's right.  
23 332 Q. Yes, it's a very strong word. And I want to put it to  
24 you that just a month after that interview when you  
25 submitted your statement to the Tribunal on 20th March 12:21  
26 2017, you didn't make any reference to being told  
27 graphically of rumours; I think you merely said that he  
28 had alerted you to "rumours on the grapevine", and you  
29 said "which I took to refer to allegations of child

1 abuse". You say --

2 A. No, I don't think I said that.

3 333 Q. Well, let me just finish what you say:

4

5 "I took it that he was referring to the Garda grapevine 12:21  
6 and the matter he wanted to warn me about was that  
7 there were rumours of alleged child abuse against  
8 Sergeant McCabe."  
9

10 I am reading from your statement, Mr. Rabbitte. I 12:21  
11 think it's the fourth-last paragraph. It commences  
12 with "Sometime I think in 2014".

13 A. No, no, no, you are misrepresenting it, Mr. Dockerill.

14 334 Q. Sorry, it is Dockery.

15 A. I beg your pardon. Excuse me. I beg your pardon, 12:22  
16 Mr. Dockery. The sentence you are picking out relates  
17 to "on the grapevine", and I said I took it that he was  
18 referring to the Garda grapevine. I never said  
19 anywhere that I took it or that I deduced he was  
20 talking about child abuse. That was quite explicit in 12:22  
21 the remark that his own colleagues --  
22

23 "His own colleagues say that he cannot be trusted with  
24 children."

25 335 Q. I wonder is that correct? I just want to tease this 12:22  
26 out with you, because the sentence in its totality,  
27 taken with the preceding sentence, reads as follows:  
28  
29 "He said that he was unaware --" that is



1 Mr. Kennedy "-- that I had any involvement with  
2 Sergeant McCabe but he thought that I should be aware  
3 of what was being said on the grapevine. I took it  
4 that he was referring to the Garda grapevine and the  
5 matter he wanted to warn me about was that there were 12:22  
6 rumours of alleged child abuse against Sergeant  
7 McCabe."

8 A. Yes.

9 336 Q. I suggest to you that that is -- you are explicitly  
10 stating in that statement that you took it that he was 12:23  
11 referring to the Garda grapevine?

12 A. No, I am not.

13 337 Q. And you took it that the allegation -- the rumours  
14 referred to child abuse?

15 A. No, I am not. I took it refers to what was the 12:23  
16 grapevine being referred to. The advices that Maurice  
17 McCabe couldn't be trusted with children was quite a  
18 separate matter.

19 338 Q. It's open to another interpretation --

20 A. Well, it may be, and I apologise if there is any 12:23  
21 ambiguity about it, that is my fault. But I know what  
22 I intended, and what I intended is what I say now.

23 339 Q. Well, can I just tease out this point more generally  
24 with you, because we have heard evidence from  
25 Mr. Martin this morning that in or about early 2014, at 12:23  
26 the time that he had, or is said to have had a meeting  
27 with Mr. McGuinness, he was aware of rumours in the  
28 general sense in political and media circles, so I take  
29 it, for a start, that he was referring to around

1           Leinster House, and, if that's correct, surely you were  
2           aware of those rumours as well?

3           A.    No, I wasn't. That may well be that the routine of a  
4           minister is different. I would spend very little time  
5           in Leinster House, I would spend time in my ministerial 12:24  
6           office, and I have already referred you to the fact  
7           that sometimes when this came up in a general chitchat  
8           kind of way, you know, people would clamp up or would  
9           say maybe it's not what it seems, but I did not know  
10          and that is why I was so forcibly hit by the allegation 12:24  
11          that members of An Garda Síochána believed that Maurice  
12          McCabe was somehow suspect in this particular regard.

13   340   Q.    During your long and distinguished career as a member  
14          of the Dáil, Mr. Rabbitte, I think you represented the  
15          constituency of Dublin Southwest? 12:25

16          A.    I did, yes.

17   341   Q.    And I think that constituency includes areas like  
18          Tallaght and Killinarden and Jobstown and the like, and  
19          I want to suggest to you that my instructions are that  
20          you were, in the course of your work as a TD as well as 12:25  
21          a minister, regularly calling in and out of Garda  
22          stations in those areas, that you had many contacts  
23          with the Gardaí, knew very many of them at all levels  
24          and presumably would have been privy to all kinds of  
25          information through your regular contacts with the 12:25  
26          Gardaí in that context?

27          A.    Yeah, I would have regular contact with the Garda  
28          Síochána, of course, as a public representative. Yes,  
29          I knew, and know, members of the force at all levels,

1 and I have great regard for the Garda Síochána, but I  
2 don't recall members of the -- serving members of the  
3 Garda Síochána, at whatever level, telling me what was  
4 on the Garda grapevine. That doesn't happen.

5 342 Q. So you never heard that gossip? 12:26

6 A. Not at the point of the radio interview of the 19th  
7 February.

8 343 Q. Now, I want to suggest to you that there was a sort of  
9 a further downgrading of your description of the force  
10 in clarity of the conversation then after you submitted 12:26  
11 your statement. First of all, your statement didn't  
12 refer to having being privy to a graphic description of  
13 child abuse, but in a letter then you sent to the  
14 Tribunal after that, on 12th of February 2018, first of  
15 all you said that your use of the word "graphically" on 12:26  
16 'Prime Time' had not been apposite.

17 A. I think I said, Mr. Dockery, that it may not have been  
18 apposite.

19 344 Q. It may not have been apposite. And that you might have  
20 just used it in order to deflect any further 12:27  
21 questioning about the details of it?

22 A. Mm-hmm.

23 345 Q. And you really reiterated what you had said in your  
24 statement to the Tribunal a year earlier, in 2017, to  
25 the effect that you had been told there were rumours on 12:27  
26 the grapevine relating to child abuse, isn't that so?

27 A. Yeah.

28 346 Q. In that letter, you also described the conversation you  
29 say you had with Mr. Kennedy "as nothing more than a

1 routine alert to me" -- "a routine alert to me", isn't  
2 that so?

3 A. No, I don't think I stated that as a fact. The  
4 Tribunal asked me to explain why did I think that  
5 Mr. Kennedy said he couldn't recall. 12:28

6 347 Q. Yes.

7 A. And in my attempt to explain that to the Tribunal, I  
8 said:  
9 "Perhaps he does not recall because for him it was a  
10 routine alert to me." 12:28

11 348 Q. Yes.

12 A. That is not the same, Mr. Dockery, as saying that I  
13 said that --

14 349 Q. It was a routine alert?

15 A. -- it was a routine alert. I am trying to give your 12:28  
16 client the benefit of the doubt.

17 350 Q. Yes, yes. But I think you have mentioned in your  
18 evidence-in-chief that a lot of confidential matters  
19 may crop up from time to time in the ordinary course of  
20 conversation between a minister and a driver, isn't 12:28  
21 that so?

22 A. That's right.

23 351 Q. So I suppose from the point of view of Mr. Kennedy, if  
24 he said anything about this, which he denies, you are  
25 accepting that it would have just been routine 12:29  
26 conversation for him with you?

27 A. Yes, I am, yes, I am.

28 352 Q. All right. And as you have said today very fairly, you  
29 did not regard his remarks as dissemination of gossip,

1 but merely as a shot across your bows, a friendly  
2 warning, something that he thought perhaps you ought to  
3 be aware of. I mean, you were his boss, to all intents  
4 and purposes, isn't that right?

5 A. Mm-hmm.

12:29

6 353 Q. Yes. Now, when you referred to the conversation with a  
7 friend of yours, a retired garda, while speaking on  
8 Prime Time in 2017, you said that the conversation  
9 occurred after you had appeared on another similar  
10 programme "when the incident blew up in 2013/2014".

12:29

11 Are you able to remember the name of that programme?

12 A. I think it was the News at One on the 19th February  
13 2014. It was a Wednesday.

14 354 Q. So it was an RTÉ Radio programme?

15 A. Yes.

12:30

16 355 Q. And in your statement to the Tribunal, you were in  
17 possession of a text message from a Mr. Colm Ó Mongáin,  
18 who I think is a journalist in the newsroom in RTÉ  
19 Radio, isn't that so?

20 A. Yes.

12:30

21 356 Q. And I think he had just asked you to clarify if it was  
22 a radio programme in February 2014 that you had been  
23 on. So you are satisfied that was the programme. Do  
24 you remember the name of anyone else who participated  
25 in the discussion?

12:30

26 A. It was a one-on-one with a journalist called Jonathan  
27 Clynch.

28 357 Q. All right. And can I just say that I am asking you  
29 these questions just really to see what you remember of

1           these details, because, as you know, Mr. Kennedy  
2           doesn't accept that you and he had this conversation.  
3           You do accept, I think, that he didn't know Maurice  
4           McCabe?

5           A.    Yeah, I do, yeah, if he says so. 12:30

6 358 Q.    And that he had retired from the guards on the 9th  
7           September 2006, and was, by then, almost eight years  
8           out of the force, isn't that so?

9           A.    Yeah, that is a fact.

10 359 Q.   And that you were not so friendly that he was aware of 12:31  
11           your earlier history with Sergeant McCabe in 2006 and  
12           2007, that is right too, isn't it?

13          A.    Maurice McCabe approached me in 2007, or around that  
14           time, on -- in confidence.

15 360 Q.    Yes. 12:31

16          A.    I offered to raise the issues he raised with me by way  
17           of parliamentary question. He didn't want that. We  
18           discussed whether I should go to the Minister for  
19           Justice. I told him, frankly, that I had a poor  
20           relationship with that particular occupant of that 12:31  
21           office, and that I felt if I went to the Minister for  
22           Justice, it would be referred back to Mr. McCabe's  
23           superiors and that it wouldn't help his cause.

24 361 Q.    Yes. Very pragmatic advice. But I suppose what I am 12:31  
25           just immediately interested in is in the fact that you  
26           and he had never discussed Maurice McCabe in the past?

27          A.    Never.

28 362 Q.    He wasn't aware of your efforts to assist Mr. McCabe,  
29           isn't that right?

1 A. That's right.

2 363 Q. And, in fact, you had never discussed it at any stage?

3 A. No.

4 364 Q. Now, I take it that you have no note or record of this  
5 alleged conversation with Mr. Kennedy, despite the 12:32  
6 impact it had on you?

7 A. No, I never discussed it with anybody in authority or  
8 anybody publicly, but I did discuss it before business  
9 the next morning with the head of my private office.

10 365 Q. Yes. Well, is there any memo in existence or any 12:32  
11 record or diary entry of yours recording this  
12 conversation?

13 A. No, I think as my predecessor explained, my predecessor  
14 in this chair explained, you don't go writing down  
15 notes about something like this. 12:32

16 366 Q. Now, Mr. Marrinan has already recited the essential  
17 assertions made by my client to the Tribunal in the  
18 statement which he has submitted over the weekend, so I  
19 don't want to rehearse them, but there is clearly a  
20 complete conflict between you and he as to whether this 12:33  
21 conversation took place or not, isn't that so?

22 A. Well, I think it's a difficulty with Mr. Kennedy's  
23 memory.

24 367 Q. And yet we have no way of independently verifying the  
25 reliability of your memory either because, for the 12:33  
26 reason you have given, there is no note of it anywhere,  
27 even a personal note --

28 A. That's right. The --

29 368 Q. -- even a personal note in your own --

1 A. That's right, there is no written note of it, but I  
2 presume the then-head of my private office will give  
3 evidence if the Tribunal requires him.

4 369 Q. And he will give evidence to say what, that you  
5 recounted the conversation to him? 12:33

6 A. Yes.

7 370 Q. Yes. And has that been disclosed at this point to the  
8 Tribunal, any statement from him?

9 A. No, it hasn't come up until now.

10 371 Q. All right. Well, you did put in a statement in 2017 to 12:34  
11 this Tribunal, and you wrote subsequently to the  
12 Tribunal explaining that you didn't understand why  
13 Mr. Kennedy couldn't recall the conversation that you  
14 are asserting took place. So I am just wondering,  
15 might it have been useful to say at that stage that, 12:34  
16 well, if my recollection is in doubt, it can be  
17 verified by a relevant person to whom I felt obliged to  
18 speak the following morning?

19 A. Maybe so, Mr. Dockery, maybe so, but, you know, I  
20 replied to the Tribunal as I thought proper at the 12:34  
21 time.

22 MR. DOCKERY: Very good. Thank you, Mr. Rabbitte.

23 A. Not at all.

24 CHAIRMAN: Is there anything in --

25 MR. MARRINAN: Nothing arising, sir. 12:35

26 CHAIRMAN: Yes. Mr. Rabbitte, there were just two  
27 things that were on my mind.

28

29 MR. RABBITTE WAS THEN QUESTIONED BY THE CHAIRMAN:



1

2 372 Q. CHAIRMAN: Appreciating that if you said on the  
3 national airwaves "my Garda driver", that would have  
4 immediately put him in -- well, in the pot, and that  
5 was the reason why you referred to it in Garda terms as 12:35  
6 "a meeting", am I right in thinking that?

7 A. You are, Mr. Chairman. If I had thought that  
8 Mr. Kennedy was propagating a vile rumour, I don't  
9 think I would have hesitated from naming him or saying  
10 it was my driver, but I don't believe that was his 12:35  
11 purpose, and therefore, I didn't want to name him on a  
12 public television programme.

13 373 Q. CHAIRMAN: Sure. That was the second question that I  
14 had, which was the import of this. Now, appreciating  
15 someone's driving you for three years and they are 12:35  
16 bringing you from here to there or whatever, they know  
17 a lot about your family, you know, whether anyone is  
18 ill or whether your aunt has just died, all of those  
19 kind of things, and possibly more as well. So I  
20 presume that a kind of a -- you are working together so 12:36  
21 you are friends in a way, but a relationship of seeing  
22 someone even more perhaps than some of the closest  
23 members of your family, tends to build, is that right?

24 A. It wouldn't endure, Chairman, if there wasn't a good  
25 relationship. 12:36

26 374 Q. CHAIRMAN: There has to be?

27 A. There has to be.

28 375 Q. CHAIRMAN: Yes. And I take it, as well, that if we  
29 were in a different circumstance, and obviously I have

1 to hear Mr. Kennedy, but let's suppose for the moment  
2 what you are saying is correct, and that is all I can  
3 do, in the event that you hadn't been told this and it  
4 subsequently came back and hit you in some way in the  
5 course of your work politically, you might well have 12:37  
6 blamed him for not telling you at the time?

7 A. I don't know if I would have blamed him. I don't think  
8 I would have automatically assumed that he would know,  
9 and that was one of the things that impacted on me  
10 most, that I drew the conclusion, properly or 12:37  
11 otherwise, that it seemed to be widely on the Garda  
12 network.

13 376 Q. CHAIRMAN: But the nature of the conversation was not  
14 such as, in the terms that you are putting it, I am now  
15 going to besmirch the character of somebody in the 12:37  
16 public eye?

17 A. Certainly not, certainly not, Chairman.

18 377 Q. CHAIRMAN: Rather, it was to warn you that you should  
19 be on inquiry because of what he was hearing, which he  
20 wasn't necessarily saying was true or not true, is that 12:37  
21 correct?

22 A. Yes, I believe he was referring to the fact that I had  
23 fulsomely attested to Maurice McCabe's good character  
24 and that I should be wary.

25 378 Q. CHAIRMAN: Yes. And in the event that it later emerged 12:38  
26 that there were these question-marks here, that perhaps  
27 you ought to put yourself on inquiry, if any such thing  
28 was possible, as to whether there was anything to this  
29 or not?

1 A. Yes, I think -- sorry, I am not sure, Chairman, what I  
2 am answering there.

3 379 Q. CHAIRMAN: In other words, could you have done anything  
4 with the information that you got?

5 A. Oh, well, in the established routine, I had a 12:38  
6 discussion the following morning with the head of my  
7 private office, and, to be honest, I would be trailing  
8 back over what Micheál Martin has told the Tribunal.  
9 It was dúirt bean liom go ndúirt bean léi, and I did  
10 not think that it was in anybody's interest that I 12:39  
11 should have sought to give legs to such a foul rumour.

12 380 Q. CHAIRMAN: Yes. So you confined it essentially to a  
13 person you trusted, the head of your office, and you  
14 discussed it. Now, in terms then of being asked  
15 questions in the political arena, it may be that 12:39  
16 access, as you say, to media personnel is different  
17 when you are a minister than when you are a  
18 representative, but was it the case that you were ever  
19 approached with a view to seeing, given that you had  
20 been, I suppose, in the pro-McCabe camp, unfortunately 12:39  
21 it had got to that at that stage, were you approached  
22 by any journalist to be asked do you know anything  
23 about this or are you perhaps sticking your neck out  
24 unnecessarily or wrongly with that knowledge of the  
25 man's character, what may be there, anything like that? 12:40

26 A. I would, at one time or another, have been approached  
27 by several journalists asking me questions about what  
28 was my engagement with Maurice McCabe, but I don't ever  
29 recall a journalist asking me, "do you know about the

1 rumour?" I don't ever recall a journalist saying that  
2 to me.

3 381 Q. CHAIRMAN: All right. And then the reference that has  
4 been made to graphic terms, obviously graphic, when you  
5 talk about going to a film and say "graphic violence", 12:40  
6 I presume it's what one sees, people's heads being  
7 chopped off, or whatever, but the nature of what was  
8 graphic here, to your mind, was the reference to his  
9 colleagues don't believe he can be trusted in the  
10 presence of children, which is a -- 12:40

11 A. That's right, sir, yes. It may not have been the most  
12 apposite word, but the impact it had on me was pretty  
13 graphic.

14 CHAIRMAN: All right. Thank you, Mr. Rabbitte.

15 A. Thank you. 12:41

16

17 THE WITNESS THEN WITHDREW

18

19 CHAIRMAN: Ladies and gentlemen, where are we going  
20 now? Do we want to carry on, because I think have we 12:41  
21 indicated to someone that we are definitely going to  
22 take him at 2 o'clock, is that the position we have?  
23 What is the story? So is that what we are doing?  
24 Sorry, I am just asking counsel.

25 MR. MCGUINNESS: Chairman, I think we had indicated to 12:41  
26 the next witness, Mr. Murphy, that we would take his  
27 evidence at half past one.

28 CHAIRMAN: Well, then, let's break now, isn't that the  
29 right thing to do, until half past one.

THE HEARING ADJOURNED FOR LUNCH

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1                   THE HEARING RESUMED, AS FOLLOWS, AFTER LUNCH:

2  
3                   MS. LEADER: The next witness, sir, is Minister Eoghan  
4                   Murphy.

13:30

5  
6                   MR. EOGHAN MURPHY, HAVING BEEN SWORN, WAS DIRECTLY  
7                   EXAMINED BY MS. LEADER AS FOLLOWS:

8  
9                   MS. LEADER: Minister Murphy's correspondence with the  
10                  Tribunal is in volume 6, beginning at page 1451 of the  
11                  materials.

13:30

12   382   Q.   Minister Murphy, you're now Minister for Housing,  
13            Planning and Local Government, isn't that correct?

14            A.   That is correct.

15   383   Q.   When were you first elected to Dáil Éireann?

13:31

16            A.   Sorry, I didn't hear the question.

17   384   Q.   When were you first elected?

18            A.   In 2011.

19   385   Q.   2011. And I think you were a member of the Public  
20            Accounts Committee, isn't that correct?

13:31

21            A.   That's correct.

22   386   Q.   And when did that membership commence?

23            A.   That commenced in 2011, once the committees were  
24            established, and it ceased at some point in 2014 when I  
25            was appointed to the Banking Inquiry.

13:31

26   387   Q.   And you were a member of the Committee that was looking  
27            at the issue of fixed charge penalty notices, isn't  
28            that right?

29            A.   Yes.

1 388 Q. Now, first of all, if you would clarify for the  
2 Tribunal, were you aware of Deputy McGuinness's  
3 dealings with Commissioner Callinan, in particular the  
4 conversations he had with him after the meeting of the  
5 23rd January 2014 and the meeting in the car park on 13:31  
6 the 24th January 2014?  
7 A. No, at the time I was not.

8 389 Q. When did you become aware of those two interactions?  
9 A. From my best recollection, I became aware of the  
10 interaction in relation to the car park when he 13:32  
11 mentioned it in the Dáil, which I think, from having  
12 read previous statements to the Tribunal, was in 2016,  
13 when he made that statement. And I'm not sure as to  
14 the conversation, was that prior to the PAC hearing or  
15 the conversation after the PAC -- 13:32

16 390 Q. Directly afterwards.  
17 A. I wasn't aware of that conversation until I think I  
18 read about it in the Tribunal transcripts.

19 391 Q. Now, I think you yourself had a particular view in  
20 relation to the attendance of Sergeant McCabe before 13:32  
21 the Committee, isn't that correct?  
22 A. That was correct.

23 392 Q. And if you would explain that, please, for the purposes  
24 of background.  
25 A. So, at the time, the Public Accounts Committee had a 13:32  
26 number of issues before its agenda relating to  
27 different areas. And I had concerns, as did some of my  
28 colleagues on the Committee, that the Public Accounts  
29 Committee was beginning to act outside of its remit and

1 that, in doing so, there was the potential to do  
2 serious harm to the Public Accounts Committee in that  
3 process. Now, some of those matters have been the  
4 subject of court cases, so I won't go into them. We  
5 received a lot of legal opinion at the time, both in 13:33  
6 relation to this matter but also to those matters, too.  
7 And I will try my best not to give any of that legal  
8 advice in terms of trying to recollect what was  
9 happening at the time. But as the Public Accounts  
10 Committee, our responsibility is to investigate the 13:33  
11 spending of public money, to make sure that it is spent  
12 appropriately and to make sure that value for money is  
13 achieved, and we do that on the basis of reports  
14 compiled by the Comptroller & Auditor General, the  
15 C&AG. He does annual accounts for each department and 13:33  
16 agency and he also sometimes does special reports. On  
17 the basis of those reports, we examine the numbers, we  
18 follow the money.

19  
20 In relation to Sergeant McCabe, and it was nothing at 13:33  
21 all to do with his character or who he was, I had never  
22 met him at that point in time, and it was not that I  
23 did not believe that there was merit to what he was  
24 trying to do or what he was saying, but as far as I was  
25 concerned, he was trying to bring matters either 13:33  
26 relating to illegality or criminality or even a  
27 practice in an organisation that shouldn't be happening  
28 and that the PAC did not have a remit to investigate  
29 those matters but also perhaps didn't have the



1 competencies, either. And as we delved further into  
2 the matter, that maybe became more obvious; for  
3 example, when we saw the papers in a protected  
4 disclosure and examined them ourselves in person in a  
5 private session. There were also more technical 13:34  
6 matters in relation to whether a non-accounting officer  
7 could appear in front of the PAC, which had never  
8 happened before, and the negative precedent that that  
9 might establish, and also then when you looked at the  
10 detail of what was submitted by Sergeant McCabe, 13:34  
11 whether or not we could actually draw any conclusions  
12 from that. And while they might seem like procedural  
13 matters to many people, from my point of view, having  
14 served on the Public Accounts Committee since 2011, I  
15 felt that it was the most important arm of the 13:34  
16 Oireachtas in terms of holding the government of the  
17 day to account. It had a special status in the  
18 Constitution, it had special powers, and I was very  
19 worried in general at the time that what we were doing  
20 as a Committee might undermine that and that anything 13:34  
21 that could undermine the Public Accounts Committee  
22 could undermine the ability of the Oireachtas to hold  
23 the government of the day to account, so I took that  
24 very, very seriously, and I was worried that what was  
25 happening in relation of Sergeant McCabe in terms of 13:35  
26 his coming before the Committee was another, I suppose,  
27 aspect of the Committee perhaps losing sight or focus  
28 of what his actual mandate was.

29 393 Q. Now, I think separately from the Public Accounts

1 Committee and Sergeant McCabe's appearance before it,  
2 you were aware of some rumours about Sergeant McCabe?  
3 A. So, you know, in the months preceding his appearance in  
4 front of the Public Accounts Committee in a private  
5 session but also the appearance of the Commissioner, 13:35  
6 insofar as we were investigating the different aspects  
7 of that vote, there had been statements in the Dáil,  
8 and I think, from memory, certainly John Wilson had  
9 been in the vicinity of Leinster House, or indeed in  
10 Leinster House, maybe even in the visitors' gallery on 13:35  
11 some occasion, and so I can't say any more than to say  
12 that people were saying that they were odd, that these  
13 were two odd individuals making claims and, as I say in  
14 my correspondence, that would not be unusual in  
15 Leinster House. I mean, it is, as I say, the 13:36  
16 quintessential rumour mill, where you have politicians,  
17 you have civil servants, you have people working in the  
18 media, you have people or the public coming in for  
19 whatever reason, and rumours can spread quite quickly,  
20 and it sometimes can be difficult to remember where you 13:36  
21 first heard that rumour and what the source of it was.  
22 But it certainly was a view that had, I think, spread  
23 around Leinster House, that these two people who were  
24 going up against the system were odd. And again, I  
25 didn't see that as being abnormal in the fact of what 13:36  
26 they were trying to claim or what they were trying to  
27 do. The system in itself would resist that, you know,  
28 including individuals.  
29 394 Q. And were the rumours any more specific, and here I'm

1 talking about Sergeant McCabe specifically, other than  
2 that he was an odd individual?

3 A. No, from my recollection, that was all I heard at the  
4 time.

5 395 Q. And specifically, was there -- did you hear any rumour 13:36  
6 about allegations of sexual assault made against  
7 Sergeant McCabe?

8 A. No, not at the time.

9 396 Q. And when did you first become aware of that allegation?

10 A. Em, I can't recall when I first became aware of the 13:37  
11 allegation, but it would have either been through the  
12 public domain. It wouldn't have been from any  
13 particular individual.

14 397 Q. All right. Do you think it was a member of the media,  
15 or can you say that? 13:37

16 A. In relation to the allegations of --

17 398 Q. Oddness, I suppose, in relation to Sergeant McCabe?

18 A. I really can't, I'm afraid. I mean, there was just  
19 this, I mean, a rumour or a view that the two people  
20 who were making protected disclosures, the two 13:37  
21 whistleblowers who were challenging the current  
22 practices and trying to bring them to public light,  
23 were odd.

24 399 Q. Okay. And just to be clear on the matter, did the  
25 rumours in any way influence your attitude in relation 13:37  
26 to Sergeant McCabe potentially giving evidence before  
27 the Public Accounts Committee?

28 A. No, not at all. I mean, I discounted the rumours. I  
29 felt it was quite obvious what people were trying to do

1 with those rumours, which was to try and perhaps  
2 discredit their evidence, because it was uncomfortable  
3 evidence, as I say in my letter to the Tribunal.

4 400 Q. I think in or around that time, you also spoke to  
5 Mr. Varadkar, your party leader, in relation to the  
6 matter, did you?

13:38

7 A. Yes. I can't be certain of the time itself, but, from  
8 memory, I think it was a weekend, either a Saturday or  
9 a Sunday, in the afternoon. I was in the pub at the  
10 time and I stepped out to either make a phone call or  
11 take a phone call, and we might have spoken for maybe  
12 15 minutes, from memory. Either I had gone seeking his  
13 advice on the matter and he was coming back to me  
14 subsequently, or he was calling me to see what was  
15 happening in the Public Accounts Committee in relation  
16 to whether or not Sergeant McCabe would appear in front  
17 of us in private session. He was then the Minister for  
18 Transport, Tourism and Sport.

13:38

13:38

19 401 Q. And I think he was encouraging -- he was in favour of  
20 Sergeant McCabe appearing, is that correct?

13:38

21 A. Well, from memory, I think he was frustrated that  
22 Sergeant McCabe's claims were not being taken  
23 seriously.

24 402 Q. Yes.

25 A. I think he was frustrated that other arms of the State  
26 perhaps weren't giving it the necessary attention that  
27 it deserved, and I think, and again it's just my own  
28 feeling from the conversation, that he felt that the  
29 Oireachtas was the best chance now available to

13:39

1 Sergeant McCabe to get this properly into the public  
2 domain, and the Public Accounts Committee being the  
3 Public Accounts Committee, being the strongest  
4 committee in the Oireachtas, was the best way to  
5 achieve this. And so we would have spoken, I would 13:39  
6 have put my concerns around the risk that was inherent  
7 there for the ability for the PAC to continue to be the  
8 important committee that it was, and he put the case as  
9 to how, even though that may be the case, from my point  
10 of view, that this person needed to be heard. That 13:39  
11 would have been, I suppose, the conversation that we  
12 had.

13 MS. LEADER: Thanks very much, Minister Murphy. If you  
14 would answer any questions anybody else might have for  
15 you. 13:39

16 A. Thank you.

17 MR. MCGARRY: Just one matter, Chairman.

18

19 MR. MURPHY WAS CROSS-EXAMINED BY MR. MCGARRY:

20

21 403 Q. MR. MCGARRY: Minister, Paul McGarry is my name. I'm 13:39  
22 one of the counsel for Sergeant McCabe. Just in  
23 relation to the contact that you had with Mr. Varadkar,  
24 can you recall if that was before or after Mr. Callinan  
25 had provided his evidence to the Tribunal, where he 13:40  
26 used the "disgusting" remark?

27 A. I can't recall. And actually, in my own memory, these  
28 events happened later in the year, if you like. I was  
29 surprised to see that we were talking about January,

1 because I know from memory when I took that call it was  
2 quite a sunny afternoon, so I just assumed it was later  
3 in the year. Sorry, when I say I took the call, I  
4 either took or made the call, I can't remember who  
5 instigated the contact on that day. And I can't recall 13:40  
6 if it was in between the decision -- I think, if I  
7 remember correctly and from reading the transcripts,  
8 sergeant Callinan appeared on a Thursday of one week  
9 and Sergeant McCabe appeared in private on the Thursday  
10 the following week. 13:40

11 404 Q. That's right.

12 A. I think when Commissioner Callinan appeared, the  
13 decision had already been taken, if I remember the  
14 testimony from John McGuinness correctly. So it might  
15 have even been the weekend prior to Commissioner 13:40  
16 Callinan appearing in front of the Committee or the  
17 weekend in between. If it was the weekend in between  
18 the decision -- now, some of the testimony said the  
19 decision had already been taken that he would appear.  
20 That's not my recollection. My recollection is that 13:41  
21 perhaps that decision only became a decision when it  
22 was decided that it would be in private. I don't think  
23 that, from my recollection, that the Committee had  
24 actually taken a formal decision that Sergeant McCabe  
25 was appearing, now the only thing left to decide was 13:41  
26 whether or not it would be public or private, because I  
27 think there was still at that point resistance in the  
28 Committee from myself and perhaps others as to whether  
29 or not he should appear.

1 405 Q. So you think it is more likely that the discussion that  
2 you had with Mr. Varadkar was before Mr. Callinan came,  
3 because a decision had, in principle, been taken, I  
4 think, to hear both?  
5 A. I really can't say if it was more or less likely. I 13:41  
6 mean, it might have been more likely following  
7 Commissioner Callinan's appearance, given that that was  
8 then in the news, or, if it was being reported at the  
9 time that Sergeant McCabe was appearing, then there  
10 would be no need for us to have that discussion. 13:41  
11 406 Q. Yes.  
12 A. So either could be plausible.  
13 407 Q. And can you just tell us what was your reaction as a  
14 member of the Committee when you heard the  
15 then-Commissioner use the word "disgusting"? 13:42  
16 A. I can't remember.  
17 MR. MCGARRY: Okay. Thank you.  
18 MR. MICHAEL O'HIGGINS: No questions for the Minister.  
19 MR. DOCKERY: No questions.  
20 MR. LEHANE: No questions. 13:42  
21 MR. DIGNAM: Chairman, I have one area, a very brief  
22 area, that I want to cover with the Minister.  
23  
24 MR. MURPHY WAS CROSS-EXAMINED BY MR. DIGNAM:  
25 13:42  
26 408 Q. MR. DIGNAM: Minister, my name is Conor Dignam. I  
27 appear on behalf of An Garda Síochána, including former  
28 Commissioner Callinan. I just want to ask you about  
29 that line of questioning that Mr. McGarry canvassed

1 with you. The decision to call Sergeant McCabe and,  
2 more particularly, the decision that his evidence be  
3 taken in private, do you remember when that decision or  
4 those decisions were made and how they were made?

5 A. It's difficult now to try and go to my own memories and 13:42  
6 not have them confused by what I've read subsequently  
7 either in the media or through reading the transcripts  
8 of two of my colleagues who appeared in front of you  
9 already. All I can remember is that coming to this  
10 decision was fraught with difficulty for the Committee. 13:42  
11 There were a number of private meetings that were held  
12 on this matter. There were tensions between Committee  
13 members, not necessarily because of this issue but  
14 because of other issues that we were investigating at  
15 the time, and so it was a very difficult period, and I 13:43  
16 really can't say much more than that, other than we  
17 didn't arrive, I don't think, at a formal decision. I  
18 mean, if I could take you back to a previous engagement  
19 that we had, which was in relation to a private session  
20 where we viewed documentation that was submitted under 13:43  
21 a protected disclosure, that was laid out in front of  
22 us in different piles on the table opposite us in the  
23 Public Accounts Committee. Just to describe the room,  
24 it then was, I think it still might be, a square or  
25 rectangular table where the members of the PAC would 13:43  
26 sit on one side and the witnesses coming in would sit  
27 on the opposite side, and so the documents would be  
28 laid out on either side. And there was a long debate  
29 as to whether or not we could walk over and view those



1 documents. So those -- every little bit of this was  
2 being thrashed about by the Committee members in  
3 private before we made the next step. But I suppose by  
4 the time that there was a decision or it came to be  
5 that Sergeant McCabe was to appear in front of us, I 13:44  
6 don't think that my position was holding any -- much  
7 more sway any longer on the Committee, and then I do  
8 remember there being some tense exchanges between  
9 Committee members towards the end of that, and then we  
10 had the engagement with Sergeant McCabe when he came 13:44  
11 in, and it was unlike any other engagement we'd had as  
12 the Public Accounts Committee, because normally you go  
13 into public session and the witnesses come in and they  
14 sit down and they make their statement, they read their  
15 names, and we go into questioning, whereas -- and they 13:44  
16 come in with a group of people, you know, people come  
17 in and sit behind them. Whereas Sergeant McCabe kind  
18 of came in on his own, with his bag over his shoulder  
19 and sat down, and we immediately began into his  
20 evidence, and then we asked our questions, and, when he 13:44  
21 concluded, he got up and left, and we went back to  
22 private business. And that had happened then. And  
23 then information as to what was said began to make its  
24 way into the media.

25 409 Q. Commissioner Callinan -- and I'm not going to ask you 13:45  
26 about the car park meeting because, in fairness, you  
27 weren't there and you weren't told about it until the  
28 Dáil contribution by Deputy McGuinness in May 2016, but  
29 Commissioner Callinan's understanding was that, at that

1 stage, because he been told this in the PAC on the 23rd  
2 January, Sergeant McCabe was going to be called, and  
3 the remaining issue or the outstanding issue was  
4 whether he would be called in public or in private.

5 A. Okay.

13:45

6 410 Q. And his understanding was that the decision as to  
7 whether it would be held in public or in private would  
8 be taken at a PAC meeting on the following Tuesday, so  
9 this is the Tuesday after the 24th January and, as it  
10 happened, two days before Sergeant McCabe, in fact,  
11 came into the PAC. Do you remember any discussion on  
12 that Tuesday about whether his evidence should be heard  
13 in public or in private?

13:45

14 A. I don't.

15 411 Q. Okay. And do you remember any formal meeting to decide  
16 that discrete issue?

13:46

17 A. Not that particular -- I mean, we certainly discussed  
18 it at a number of meetings, and I saw from, it might be  
19 Deputy John Deasy's testimony, that I think then we  
20 were notified that he would like to appear in private,  
21 and then that, I suppose, lifted any remaining  
22 obstacles that there might have been to him appearing,  
23 because certainly had it gone to a vote, and I don't  
24 think it went to a vote and it wasn't normally the  
25 practice of the PAC to go to a vote on anything, then  
26 that vote would have been lost.

13:46

13:46

27 412 Q. Yes.

28 A. So I imagine at that time myself and any others might  
29 have then, you know, had felt we had made our case and

1 that this was happening and then to engage and do the  
2 best job we could do for the PAC in engaging with  
3 Sergeant McCabe when he came in.

4 413 Q. Yes. And do you know when Sergeant McCabe communicated  
5 his desire that it would be in private rather than in 13:46  
6 public to the Committee, presumably through the clerk  
7 or through Deputy McGuinness?

8 A. I can't remember.

9 MR. DIGNAM: Thank you.

10 A. Thank you. 13:47

11 MS. LEADER: Nothing further.

12 CHAIRMAN: Thank you very much.

13 A. Thank you.

14

15 THE WITNESS THEN WITHDREW 13:47

16

17 MS. LEADER: The next witness, sir, is Mr. John  
18 Kennedy.

19

20 MR. JOHN KENNEDY, HAVING BEEN SWORN, WAS DIRECTLY 13:47  
21 EXAMINED BY MS. LEADER:

22

23 414 Q. MS. LEADER: Mr. Kennedy's statement was circulated  
24 this morning, sir. Mr. Kennedy, I think you took up  
25 employment with Mr. Pat Rabbitte, who at that time was 13:48  
26 the Minister for Communications, Energy and Natural  
27 Resources, in May 2011?

28 A. Yeah, the 1st May, yeah.

29 415 Q. Prior to that, from 1972 to 2006 you were a member of

1 An Garda Síochána, is that right?

2 A. Yeah, I was in uniform for five years and I was a  
3 detective officer for 25.

4 416 Q. All right. And I think during that time you were  
5 attached to the Special Detective Unit? 13:48

6 A. Yeah.

7 417 Q. You were also assigned to protective duties, primarily  
8 with the Minister for Foreign Affairs, Mr. Peter Barry,  
9 you were attached to the Garda National Immigration  
10 Bureau, and you then retired in September 2006? 13:48

11 A. That's correct, your Honour.

12 418 Q. So by the time you took up working with  
13 Minister Rabbitte, you had left the guards five years,  
14 is that correct?

15 A. That'd be correct, yeah. 13:49

16 419 Q. All right. Now, you were here when Mr. Rabbitte was  
17 giving evidence this morning, isn't that right,  
18 Mr. Kennedy?

19 A. That's correct, your Honour.

20 420 Q. And I think it's fair to say that, as far as you're 13:49  
21 concerned, you had never had any conversation with him  
22 in relation to Sergeant McCabe?

23 A. Absolutely. And on the basis this morning, which I  
24 have denied to the Tribunal, there was no special  
25 meeting that he, and he answered my question this 13:49  
26 morning by saying that I was in my normal duties by  
27 bringing him home on the day in question.

28 421 Q. All right. So I suppose maybe I will start off. You  
29 worked with him for three years, is that correct?

1 A. I drove him for three years, but I knew him prior to  
2 that.

3 422 Q. You knew him prior to that?

4 A. Yeah, I was a member of the Labour Party from 2007.

5 423 Q. Right. 13:49

6 A. And would have canvassed for Mr. Rabbitte and the  
7 usual, put up posters and all that stuff. And in  
8 actual fact, your Honour, he sent me a nice letter;  
9 prior to the election of 2011, there was three  
10 candidates going for nomination in the constituency of 13:50  
11 Dublin Southwest, and my vote actually saved the  
12 embarrassment of having to be added to the ticket,  
13 because there was a Mr. Maloney, Mr. Duff and  
14 Mr. Rabbitte who were going for two nominations for the  
15 Labour Party. So it's ironic, he actually wrote me a 13:50  
16 letter to thank me because I specifically drove from my  
17 home in Clontarf to Tallaght to vote for him.

18 424 Q. So you had a lot of time for Mr. Rabbitte as a  
19 politician, and did you get on --

20 A. Oh, absolutely. That's why I suppose when you leave 13:50  
21 that job after 30 years, it's kind of an escape, and I  
22 felt I was very -- I thought a lot of the Labour Party  
23 then, and of course Mr. Rabbitte, that's why I  
24 canvassed for him, and et cetera.

25 425 Q. And did you get on well with him while you were working 13:51  
26 with him?

27 A. Very well. But he could be grumpy at times, you know.

28 426 Q. I suppose --

29 A. But that's his -- your Honour, I don't mean to be

1           disrespectful, but, you know, in the morning time, you  
2           didn't talk too much.

3 427 Q.   All right. Yes. I suppose, you spent a lot of time  
4           with him as his driver, as a minister?

5           A.   Well, absolutely. And I think as your Honour stated to 13:51  
6           Mr. Rabbitte, that he probably -- he saw more of me  
7           than his wife, because, you know, we could be anywhere  
8           around Ireland, or wherever. And, you know, for  
9           example, one particular time we drove from Dublin to  
10          Limerick, Ardnacrusha, there was a big commemoration 13:51  
11          there, and then we drove up to Donegal for the summer  
12          school. So, like, we were very close. Now, whether --  
13          sometimes you get the impression you can be closer to  
14          people than you really are, but as regards a working  
15          relationship, your Honour, I think it was quite good. 13:52

16 428 Q.   Right. Did you have any contact with any guards during  
17           the time period when you were working with  
18           Mr. Rabbitte?

19          A.   The only contact would be to say "hello" to the garda  
20          on duty at the front gate of Leinster House. I had 13:52  
21          absolutely no working contact with the Gardaí, Garda  
22          Síochána, absolutely no -- I'd have no -- I wouldn't  
23          have any privy to the workings of An Garda Síochána. I  
24          mean, you'd say "hello" to a guard at the gate and say  
25          "how are things?" or you might -- it could be -- there 13:52  
26          was one guy from my own county, maybe we might go for a  
27          coffee, but certainly nothing of a nature that this  
28          horrible thing that was allegedly said that I said  
29          about Sergeant McCabe, which, by the way, has upset my

1 family deeply.

2 429 Q. Right. Well, did you go to any social events with any  
3 guards, say retirement functions or anything of that  
4 nature?

5 A. Em, no, I'm not a member of -- I'm not a member of any 13:53  
6 club that's run by An Garda Síochána - for example, a  
7 golf club. I'm a member of, a proud member of Sutton  
8 Golf Club, so there's no Gardaí there at all. The only  
9 contact I have with Gardaí, I think once a year, as we  
10 call 'old exers', we meet for a couple of pints and a 13:53  
11 meal at Christmas, that's the only contact I would  
12 have, or maybe the odd ex-garda, I would play a game of  
13 golf with him. But as regards the Commissioner down  
14 at -- I'd have absolutely no contact whatsoever. I  
15 never -- as I say, I never knew Maurice McCabe, and I 13:53  
16 have a lot of sympathy for him, because I was very  
17 active in the Garda Representative Association and I  
18 know what it's like when -- it's a very lonely perch  
19 when a garda is in a spot of bother.

20 430 Q. Now, do you know the former Commissioner, Martin 13:54  
21 Callinan?

22 A. Never met him in my life.

23 431 Q. Okay. And what about his driver, Mr. Hynes, who gave  
24 evidence here last week?

25 A. No, no. You see, being a civilian driver and being 13:54  
26 attached to Headquarters is completely different,  
27 because if you're attached to Headquarters as an  
28 official Garda driver, of course you have a lot of  
29 contact. But basically the role of a Garda driver,

1 like it sounds an easy job, but you drop the minister,  
2 we'll say, at Leinster House at ten o'clock in the  
3 morning, and unless he has, say, a function down town  
4 or going to the country, you wouldn't see him until  
5 seven or eight o'clock or nine o'clock, depending on  
6 what time An Dáil closes. 13:55

7 432 Q. Right.

8 A. So, to answer your question, I wouldn't have -- I would  
9 have no contact really with -- because there's so few  
10 of them now anyhow, because, as was explained, the 13:55  
11 Tánaiste and the Taoiseach and the President are the  
12 only people now that have Garda drivers, and the  
13 Minister for Justice.

14 433 Q. Right. If I could just go to 2014. Mr. Rabbitte gave  
15 evidence this morning that you picked him up after his 13:55  
16 day's work in Leinster House sometime in February 2014.  
17 That wouldn't be unusual in itself, is that correct?

18 A. It's the most normal thing in the day. But if you  
19 look -- I don't know, your Honour, you can direct me,  
20 but there's a complete contradiction in his evidence. 13:55  
21 He specifically said I rang him and I had a special  
22 meeting with him. Now this morning, which is a fact, I  
23 picked him up as normal, your Honour. So there was no  
24 premeditated meeting at all.

25 434 Q. So it wouldn't have been unusual for you to have 13:56  
26 been -- it would have been totally routine for you to  
27 pick him up after his day's work in the Dáil, in  
28 Leinster House?

29 A. Well, that was my job, you know.



1 435 Q. Yes. And you said earlier on that you would probably  
2 have been waiting for him or hanging around all day, is  
3 that correct, or did you have other business to carry  
4 out --

5 A. No, I didn't hang around. Sometimes you'd go into the 13:56  
6 canteen for a coffee or maybe breakfast, or whatever,  
7 but, to be honest, it was his car. In fairness to the  
8 man, he was very generous with the car, because we  
9 literally had the use of the car and we could go home  
10 or you could maybe leave the car, go around Grafton 13:56  
11 Street shopping or something, but you had your phone  
12 on, you had a State phone, you couldn't be too far  
13 away, you're on, say, beck and call, you were there to  
14 serve the minister.

15 436 Q. And while I'm not suggesting that you'd be generally 13:57  
16 gossiping around Leinster House or anything like that,  
17 Mr. Kennedy, would you be aware of what's going on in  
18 Leinster House and the general chat and news around the  
19 Oireachtas?

20 A. Not really, like, you know. I mean, I don't think a 13:57  
21 Minister would have much to say to me, you know what I  
22 mean. I presume it did go on, like, you'd hear things  
23 going on, yeah, but nothing of a specific nature,  
24 nothing like what Mr. Rabbitte alleged I said, which I  
25 find despicable, actually what I was supposed to have 13:57  
26 said, absolutely despicable.

27 437 Q. Now, when you say you presume it did go on, what  
28 exactly are you referring to there, Mr. Kennedy?

29 A. No, I'm talking in general terms.

1 438 Q. Yes, yes.

2 A. You know, I'm talking in general terms. But I wouldn't  
3 have, no more than with the officers of An Garda  
4 Síochána, like, I mean, you drive a minister, you're  
5 not kind of -- I mean, I don't think I could offer much 13:58  
6 advice to a minister or a TD, or whatever. I mean,  
7 they have all their secretaries, and all that. You  
8 know, basically, you wouldn't really be -- you wouldn't  
9 be participating in the gossip, like, as such.

10 439 Q. Well, maybe if I could ask you this, Mr. Kennedy: It's 13:58  
11 a long day waiting for people to come home from  
12 Leinster House and you may not have other business to  
13 look after, isn't that right?

14 A. That's correct.

15 440 Q. And in the normal way, you'd chat to other people, am I 13:58  
16 correct about that, in the normal way of --

17 A. Of course, yeah. Of course, yeah.

18 441 Q. And is it true to say that you would be fairly well  
19 informed of what is going on around Leinster House, if  
20 you were spending that amount of time in Leinster House 13:59  
21 with a large amount of it not assigned to any  
22 particular task?

23 A. Just to emphasise again, at the time I was a go for the  
24 minister. Like, I wouldn't have -- and I think we  
25 touched on it, your Honour, earlier in the day; 13:59  
26 regarding confidentiality and all that, every time a  
27 minister sat in the car, a lot of the time he'd have  
28 his adviser, like every -- every single meeting, every  
29 time you sat in the car, it was confidential, and by

1 the way I did drive some judges at time, and, in the  
2 same context, you're privy to very serious information,  
3 and everything is confidential when it comes to a  
4 minister of government and, we'll say, and the same  
5 context of judges.

14:00

6 442 Q. All right. Well, were you aware of any rumours about  
7 Sergeant McCabe or talk about him?

8 A. Em, Sergeant McCabe was common knowledge.

9 443 Q. Yes.

10 A. If you read the newspapers, if you listened to  
11 television, if you look at the -- I was going to say  
12 look at the radio, sorry, I beg your pardon -- look at  
13 the television or listen to the radio, I mean, it just  
14 goes on and on. But the one thing that I want to

14:00

15 emphasise, your Honour, is, there was things about  
16 whistleblower -- about the penalty points and all that,  
17 that's the kind of conversation that I heard and

14:00

18 what -- people give an opinion. But certainly when it  
19 comes to child abuse, which I think, and I know this  
20 word was used a lot in other context, disgusting, I

14:01

21 think, when that's levelled at any person, either by  
22 the person allegedly said it or about Sergeant McCabe,  
23 I think it is grotesque, I think it is horrible and I  
24 certainly would not say it. Because if I did, if I was  
25 aware even as a police officer or as a neighbour, I  
26 would have to go to social welfare people or go to  
27 nurses or -- sorry, HSE, or whatever. But to mention  
28 that about any individual I think is disgusting, it  
29 really is. And it has upset me and my family.

14:01

1 444 Q. All right. well, just to be clear, Mr. Kennedy, were  
2 you aware of any rumours about Sergeant McCabe and  
3 allegations of sexual assault or sexual abuse or any  
4 criminal misconduct?  
5 A. No, no, none whatsoever. 14:01  
6 445 Q. When did you become aware of any such rumours?  
7 A. I didn't become aware of any such rumours. I'm after  
8 saying, I just didn't hear them.  
9 446 Q. All right. well, did you become aware of them say, for  
10 instance, in February 2017 when they were the subject 14:02  
11 of a Prime Time programme?  
12 A. No. I didn't see the programme. I wasn't aware, no.  
13 447 Q. So was it when the Tribunal forwarded Mr. Rabbitte's  
14 correspondence to you that you became aware of those  
15 type of rumours? 14:02  
16 A. That was the first time that I saw that derogatory  
17 disgusting remark, the letter, that Mr. Rabbitte  
18 allegedly said I said.  
19 448 Q. Okay.  
20 A. And I must, to recall again, he said I specifically 14:02  
21 rang him for a special meeting, and as, your Honour,  
22 this morning, he says, no, no, there was no meeting, I  
23 was just picking him up normally from Leinster House.  
24 449 Q. You see, if you look at it this way, Mr. Kennedy.  
25 Mr. Rabbitte doesn't say you did this because you were 14:03  
26 spreading malicious rumours about Sergeant McCabe. He  
27 seems to say that you told him to watch himself in  
28 relation to Sergeant McCabe out of a sense, it would  
29 appear to me, of loyalty to Mr. Rabbitte. Do you

1 understand the difference? It wasn't spreading  
2 malicious gossip about Sergeant McCabe.

3 A. AS I said to you already, I never discussed Sergeant  
4 McCabe with Mr. Rabbitte at all. Never. Secondly, the  
5 perception out there is that, oh, Kennedy said to 14:03  
6 Mr. Rabbitte that Mr. McCabe was involved with sexual  
7 abuse, which is completely wrong, I didn't say it,  
8 never said it, nor never would say it. Now, if  
9 somebody came to me, and we're not talking about  
10 Sergeant McCabe here, we're just talking about just in 14:03  
11 your neighbourhood or whatever, I'd be very slow to say  
12 to anybody, and I would go to the property authorities,  
13 meaning the Health Board, the Garda Síochána, or  
14 whoever, the people, and that's where I would go. I  
15 certainly wouldn't -- it's too sensitive, it's too 14:04  
16 horrible to suggest that anybody, with no -- with  
17 absolutely no proof. And I know what you're saying,  
18 that you're led that I didn't specifically say it but I  
19 heard it from someone else. No, I never heard it from  
20 anyone else. I didn't hear it doing the rounds and I 14:04  
21 certainly didn't say it.

22 MS. LEADER: If you would answer any questions anybody  
23 else might have for you, Mr. Kennedy.

24 MR. MCGARRY: No, thank you, Chairman.

25 MR. MICHAEL O'HIGGINS: No questions for Mr. Kennedy, 14:04  
26 Chairman.

27 MR. DIGNAM: No questions, Chairman.

28 CHAIRMAN: The AGSI isn't represented, is it? Are you  
29 represented?

1 MS. LEADER: Yes.

2 A. Yes.

3 CHAIRMAN: Mr. Hegarty, yes. I'm sorry, where is  
4 Mr. Hegarty?

5 MR. MCGUINNESS: Mr. Dockery. 14:05

6 CHAIRMAN: Yes, you're there, of course you are,  
7 Mr. Hegarty, yes. But you're not representing  
8 Mr. Kennedy, as such, are you?

9 MR. DOCKERY: Yes, Mr. Hegarty has instructed me to  
10 represent Mr. Kennedy. 14:05

11 CHAIRMAN: Yes. No, no, fine. But it doesn't seem  
12 there is any other questions, unless you wanted to  
13 ask --

14 MR. DOCKERY: No, I don't, Chairman, no.

15 CHAIRMAN: And there's nothing else, obviously? 14:05

16 MS. LEADER: No, Chairman.

17

18 MR. KENNEDY WAS THEN QUESTIONED BY THE CHAIRMAN:

19

20 450 Q. CHAIRMAN: Can I just go back on that. Ms. Leader, I 14:05  
21 think, has made it very clear to you, as I understand  
22 the evidence at the moment, now my view could change on  
23 it, Mr. Rabbitte is never saying you were someone going  
24 around spreading rumours, and I know your view that,  
25 look, this thing, once somebody makes such an 14:05  
26 allegation, the right thing to do is to go to the  
27 proper authorities --

28 A. Yes.

29 451 Q. CHAIRMAN: -- as opposed to asking somebody else about

1 it. But I suppose what Mr. Rabbitte was saying, this  
2 was a relationship of trust, he trusted you, you  
3 trusted him, and possibly up to the point where this  
4 controversy arose between you, you probably would agree  
5 with that? 14:06

6 A. Oh, totally, yeah.

7 452 Q. CHAIRMAN: Yes. And as you say, it's a kind of a  
8 confidential relationship, people could be talking  
9 about all kinds of things and you get to learn all  
10 kinds of things about people's family -- 14:06

11 A. Absolutely.

12 453 Q. CHAIRMAN: -- and it is not for repeating, and so it is  
13 a very responsible job.

14 A. Well, it is very sensitive, yeah.

15 454 Q. CHAIRMAN: Yes. And it's not everyone who is discreet, 14:06  
16 you know; I mean, there's lots of people who are always  
17 shooting their mouth off about everything?

18 A. Yeah.

19 455 Q. CHAIRMAN: But as I understand it, what he is saying is  
20 that you were giving him a heads-up, that you were not 14:06  
21 spreading a malicious rumour, you weren't saying this  
22 was true, you were saying, look, on the grapevine, this  
23 is what is out there. Now, how can I see that as being  
24 different to a journalist, for instance, asking a  
25 politician a question of the same kind? It's just 14:06  
26 informing them as to, I suppose, what the rumour mill  
27 has in its teeth this particular week or this  
28 particular month?

29 A. Well, specifically on the child abuse, I never

1 mentioned -- I never said anything to that nature.

2 456 Q. CHAIRMAN: Yes. No, I understand that. But the other  
3 thing that I wanted to ask you about is this: I mean,  
4 you mentioned contacts with the Gardaí and the drink  
5 once a year and the -- 14:07

6 A. Yeah.

7 457 Q. CHAIRMAN: Was there two occasions, was it Christmas as  
8 well, or was it just one?

9 A. We just meet once a year. It's like guys we worked  
10 with over the -- 14:07

11 458 Q. CHAIRMAN: This is just a kind of a Christmas thing?

12 A. Yeah.

13 459 Q. CHAIRMAN: Christmas tends to be very busy from that  
14 point of view. But I suppose just looking at this from  
15 my point of view, I mean, I am effectively out of the 14:07  
16 Law Library since 2002, so I had four years in the  
17 Morris Tribunal and then the High Court.

18 A. Okay.

19 460 Q. CHAIRMAN: So that is a long time, that's 16 years, but  
20 I know a great deal more than perhaps people realise. 14:07  
21 And how does one get that information, I suppose it's  
22 just by talking to people, retaining a few friends, as  
23 you say?

24 A. Well, from my perspective, your Honour, when I left An  
25 Garda Síochána, which I was very proud of being a 14:08  
26 member of, I think a lot of us just like to plough a  
27 different furrow and we like to, not break ties  
28 completely, but I think after 30 years of it we have  
29 enough and we like to make more friends in the local



1           rugby club or the golf club, or whatever. Not that we  
2           don't want to meet, but it's just that we move on to  
3           other things.

4 461 Q.     CHAIRMAN: Yes.

5           A.     And as a result, I certainly wouldn't be calling into     14:08  
6           my local station and having a bit of fun and what's  
7           going on. I have no interest.

8 462 Q.     CHAIRMAN: Well, I wouldn't dream of calling into the  
9           Law Library, and I'm not sure I would get a very nice  
10          welcome in the event that I did, but there you are.     14:08  
11          Look, Mr. Kennedy, obviously I'm going to have to think  
12          about what you said and what Mr. Rabbitte has said.

13          A.     Okay.

14 463 Q.     CHAIRMAN: But one thing I am certain of, and it may  
15          set your mind at rest, that you are not a malicious     14:09  
16          gossip and that you weren't going around spreading  
17          rumours. If this happened, and obviously I will think  
18          about this, it was on the basis of a confidential  
19          discussion where perhaps someone felt a need to know or  
20          a need to ask.     14:09

21          A.     Yeah.

22 464 Q.     CHAIRMAN: Or a need to impart information. And, you  
23          know, we quite often in life blunder around in the  
24          dark, and the more light there is, even sometimes if  
25          it's from the source of rumours, at least if you know     14:09  
26          about them, you can check that out. So I want you to  
27          know that, all right?

28          A.     I appreciate that, your Honour.

29 465 Q.     CHAIRMAN: Thank you.

1 A. Thank you very much.

2

3

THE WITNESS THEN WITHDREW

4

5

MR. MCGUINNESS: Chairman, the next witness is

6

Mr. Brian Purcell.

7

8

MR. BRIAN PURCELL, HAVING BEEN SWORN, WAS DIRECTLY

9

EXAMINED BY MR. MCGUINNESS:

10

14:09

11

MR. PURCELL: Excuse me, Judge, would it be okay if I  
remove my jacket?

12

13

CHAIRMAN: Yes, certainly, if you want.

14

A. Thank you.

15

MR. MCGUINNESS: Mr. Purcell's statement is to be

14:10

16

found --

17

CHAIRMAN: You're gearing up for a fight, Mr. Purcell.

18

A. Sorry?

19

CHAIRMAN: You're gearing up for a fight.

20

MR. MCGUINNESS: Page 1680.

14:10

21 466

Q. Mr. Purcell, I think had you a long career in the  
public service, is that correct.

22

23

A. Yes.

24 467

Q. And I think you retired, am I correct, in October 2017?

25

A. Yes.

14:10

26 468

Q. And when did your career commence?

27

A. 1979.

28 469

Q. And what departments did you work in and what --

29

A. I worked in the department of -- the then-Department of

1 Industry and Commerce from 1979 up until 1985. I think  
2 it would have had a number of different names during  
3 that period, but it was Industry and Commerce when I  
4 went into it. And then I was transferred -- sorry.

5 470 Q. Yes. Could I just ask you to move the microphone on 14:11  
6 your left-hand side towards you, yes. Perhaps you will  
7 just repeat that, Mr. Purcell.

8 A. From the beginning?

9 471 Q. Well, from where you last were. You were in Industry 14:11  
10 and Commerce from '79 to '85?

11 A. From '79 until '85, and at that stage I was transferred  
12 to the Department of Social welfare, I was promoted and  
13 moved to the Department of Social welfare, and I worked  
14 in the Department of Social welfare from 1985 until  
15 1991, and again I was promoted and moved then to the 14:11  
16 Department of Justice. I would have worked -- I worked  
17 in the Department of Justice from '91, I worked  
18 initially in the prisons division.

19 472 Q. Yes.

20 A. And then I worked in the crime division, and then I 14:12  
21 went back to the prisons, and I was appointed director  
22 of operations in the Irish Prison Service in 2001 and  
23 then I was appointed director general of the Irish  
24 Prison Service in 2004, and I held that post for seven  
25 years until 2011 when I was appointed secretary general 14:12  
26 of the Department.

27 473 Q. Who did you succeed at that point as secretary general?

28 A. Seán Aylward.

29 474 Q. Mr. Aylward?

1 A. Yes.

2 475 Q. And I think you held the position as secretary general  
3 until October 2014?

4 A. That's right.

5 476 Q. And I think on the 3rd October you moved to the HSE, is 14:12  
6 that correct?

7 A. Yeah, I took up duty in the HSE at the end of October  
8 2014. I finished in the Department of Justice on the  
9 3rd October, but I had leave, and I took up my position  
10 in the HSE in the end of October 2014. 14:12

11 477 Q. All right. And I think you retired from the HSE then  
12 in October 2017, is that right?

13 A. That's right.

14 478 Q. Now, just dealing with that last period, what was your  
15 area of responsibility within the HSE at that point in 14:13  
16 time?

17 A. I was the head of compliance.

18 479 Q. What did that involve?

19 A. It was -- there are what are known as Section 38 and 39  
20 organisations. They would be organisations that would 14:13  
21 provide services on behalf of the HSE and would be  
22 funded either entirely or partially by the HSE. They  
23 would cover -- you know, they would range from -- the  
24 biggest of them in terms of funding would be  
25 St. James's Hospital. They include all the voluntary 14:13  
26 hospitals.

27 480 Q. Yes.

28 A. And then a range of voluntary organisations that would  
29 provide services on behalf of the HSE right across the

1 full range of social and personal healthcare services.

2 481 Q. All right. The Tribunal has obviously heard about the  
3 opening of a file in Tusla relating to Ms. D and  
4 implicating Sergeant McCabe. Had you any knowledge of  
5 or any dealings with any issue connected with that? 14:14

6 A. No, no. I would have -- I would have had no dealings  
7 with Tusla during my period in the HSE. As I said, I  
8 would have dealt with people within the HSE and I would  
9 have dealt with the voluntary organisations, the  
10 Section 38 and 39 organisations. But during my period 14:14  
11 in the HSE I never had any details what -- any  
12 engagement whatsoever with anybody from Tusla.

13 482 Q. Okay. Well, when you were secretary general of the  
14 Department of Justice, in any event, obviously the  
15 policing division came under your responsibility, and 14:14  
16 who was the assistant secretary in charge of policing  
17 at that point in time?

18 A. Michael Flahive.

19 483 Q. Michael Flahive. Now, were you ever made aware by  
20 anyone in the Department or through any inspection of 14:14  
21 any files or documents about any allegation that had  
22 been made against Sergeant McCabe and investigated by  
23 An Garda Síochána?

24 A. Not by anyone in the Department. I, at one point  
25 during, I think it was -- it would have been sometime 14:15  
26 in 2013 when -- but at this distance I can't remember  
27 precisely when it was, I did ask the then-Commissioner  
28 was there anything in Sergeant McCabe's background that  
29 was unusual, I can't remember the exact words, words I

1 used, but I would say straight from the off it wasn't  
2 as a result of having heard anything, but I asked him,  
3 you know, I was just, I suppose, curious as to was  
4 there any anything out of the ordinary in the  
5 background. And the then-Commissioner at the time told 14:15  
6 me about the allegations that had been made by the  
7 daughter of a colleague, he told me that it had been  
8 investigated in the normal course of events by the  
9 guards, a file had gone to the DPP, the DPP had said  
10 that there was no case, and that was it. It was -- 14:16  
11 that was pretty much -- he told me about it in what I  
12 would describe as a matter-of-fact way. There was  
13 allegation, investigation, files to DPP, no case, case  
14 closed. There was no, and I'd be crystal clear about  
15 this, there was no attempt by the then-Commissioner to 14:16  
16 say, you know, that's not the case or to imply that  
17 there was anything other than what it was.

18 484 Q. All right. Did he place that in time for you, in terms  
19 of --

20 A. I think he -- to be honest, I can't remember the exact 14:16  
21 thing, but I did think he said -- you know, it's a few  
22 years ago, I can't remember did he tell me the year,  
23 but my recollection is that he would have said it was a  
24 number of years ago.

25 485 Q. Now, just to try and help the Tribunal place that in 14:16  
26 context, are you in a position to recall when he said  
27 that to you?

28 A. Well, I think I just mentioned, to be honest, I can't  
29 remember specifically. I think it was sometime during

1 the course of 2013.

2 486 Q. Was it during the currency of the penalty points  
3 controversy?

4 A. Oh, yeah -- well, yes, because it was very much the  
5 penalty points issue that was out there, and, in terms 14:17  
6 of occupying our thoughts within the Department, it was  
7 the penalty points issue that was the issue.

8 487 Q. And I don't know if this might help you to try and  
9 place it, was it before or after Assistant Commissioner  
10 O'Mahony had reported and the report had come to the 14:17  
11 Minister?

12 A. It could have -- it might have certainly been around  
13 that time, but again, I just can't -- at this remove, I  
14 can't remember precisely.

15 488 Q. Yeah. 14:17

16 A. But it could have been, it could have been around that  
17 time.

18 489 Q. Yes. Former Commissioner Callinan and former Minister  
19 Shatter have each confirmed that they had a  
20 conversation in which the Minister asked about Sergeant 14:18  
21 McCabe and the Commissioner gave a factual account,  
22 almost in line with how you've described it. Was there  
23 anyone else present when you had this conversation?

24 A. No, I don't -- to be honest, it would have -- it's more  
25 than likely that it may have been over the phone, but 14:18  
26 it could have been -- to be honest, it could have been  
27 on one of the occasions when I would have met the  
28 Commissioner, not about that issue. But at that  
29 particular time, despite the way things were playing

1 out in the media, all throughout that period, the  
2 biggest issue of concern for me as secretary general  
3 was in relation to resourcing and funding for the Garda  
4 Síochána and, quite a number -- a lot of the engagement  
5 I would have had with the Commissioner would have 14:18  
6 covered issues as -- I was going to say as mundane, but  
7 would have covered what are the bread and butter issues  
8 of Garda resources, both financial and other.

9 490 Q. Yes.

10 A. So, no, I can't recall. I don't actually recall when 14:19  
11 it was -- when it was said to me, and --

12 491 Q. You're not sure whether it was face-to-face or not?

13 A. I'm not sure whether it was face-to-face or over the  
14 phone. I certainly don't remember, if you like, and if  
15 this is any help to you, I don't recall a conversation 14:19  
16 that involved anyone else other than myself and the  
17 Commissioner when I was told.

18 492 Q. Right. Okay. Well, did you ask any follow-up  
19 questions or did it cause you any concern, or how did  
20 you react to that? 14:19

21 A. Well, it was -- the way he presented it was on a  
22 factual basis. I didn't get into if -- I didn't get  
23 into asking, well, is it, what do you think yourself?  
24 Or -- I didn't have that conversation. My concern at  
25 the time, and right throughout that period, wouldn't 14:19  
26 have been why this was happening or why the whole  
27 penalty points issue was there; it was what were the  
28 facts in relation to it and how it was being dealt  
29 with.



1 493 Q. But was anything said to you or did you reach any  
2 conclusion in your own mind as to whether this might be  
3 explicable as part of the motivation for Sergeant  
4 McCabe raising issues relating to matters?  
5 A. To be honest, the only thought I had in my own mind was 14:20  
6 that, you know, Jesus, I'd hate -- sorry for using that  
7 word -- but I would hate to find myself in a position  
8 where that would happen to me. But as I've said, the  
9 issue here for me was whether -- whether the issues  
10 that were being raised by Sergeant McCabe in relation 14:20  
11 to the penalty points were correct or not and the  
12 related issues about information that was out in the  
13 public domain and that, they were my concerns.  
14 494 Q. Yes.  
15 A. I wasn't interested in what motivated this. I was 14:20  
16 interested in what the actual case was in relation to  
17 the facts.  
18 495 Q. Yes. You've mentioned there obviously the matters that  
19 were out in the public domain. Were there concerns of  
20 the Department that you had in relation to this? 14:21  
21 A. To the penalty points?  
22 496 Q. Yes, and the matters being in the public domain?  
23 A. Yeah, I mean, it was -- this was a major -- this was a  
24 major concern, that people who had engaged with An  
25 Garda Síochána at the time through the issue of 14:21  
26 penalty -- you know, the tickets and that, there's an  
27 expectation, a justifiable expectation, that people who  
28 engage with the Garda Síochána in relation to this type  
29 of issue, not exclusively in relation to penalty

1 points, but this type of issue, have an expectation  
2 that those matters would be confidential between them  
3 and the Gardaí, and I had a major concern that this  
4 type of information, personal details of people who  
5 supposedly had penalty points, or not even supposedly, 14:22  
6 who seem to have had tickets cancelled or terminated --  
7 in fact, you know, the word, the phrase "ticket  
8 fixing", I think, was going around, so there was a  
9 twofold or there was, if you like, a double element to  
10 it: one, that, you know, people who had an engagement 14:22  
11 with the guards in relation to penalty points, that  
12 information was going out there to third parties, and  
13 there was also some evidence that it had gone from  
14 third parties and then was in the public domain, so  
15 there was that issue of confidential information. 14:22

16 497 Q. Yes.

17 A. But there was also a second issue that was a cause of  
18 grave concern, and that was the fact that those people  
19 who would have had penalty points terminated or  
20 cancelled, whatever the word used was, there was 14:22  
21 almost, I don't know how I would describe it, but there  
22 was almost, say, a presumption that they themselves had  
23 done something wrong.

24 498 Q. Yes.

25 A. So it wasn't only -- it was twofold: it was the 14:23  
26 confidential information being out there, you know,  
27 when it shouldn't be.

28 499 Q. Yes.

29 A. And secondly, the issue of a presumption or, you know,

1 something in the ether that they were up to something.

2 500 Q. Yes.

3 A. Dodgy as well, it wasn't even -- it wasn't even that  
4 accusations were being made. That the guards were  
5 doing something that they shouldn't be doing. 14:23

6 501 Q. Yes.

7 A. But also the people themselves --

8 502 Q. Yes.

9 A. -- were doing it.

10 503 Q. Well, presumably you consult -- did you consult the 14:23  
11 Commissioner about these matters or did he consult you  
12 about them?

13 A. We would have -- we would have -- we would have had  
14 conversations about these issues and, in turn, the  
15 papers were referred to John O'Mahony for an 14:23  
16 investigation, and, arising from that investigation,  
17 that the assistant commissioner carried out -- you  
18 know, there were findings from that. And I can't  
19 remember the exact sequence, but I think they were also  
20 referred to the Professional Standards Unit, and 14:24  
21 subsequently I think they were referred to GSOC by the  
22 then-minister.

23 504 Q. Yes.

24 A. But, you know, that what was out there in the ether in  
25 terms of the media and politically in terms of the 14:24  
26 commentary on it.

27 505 Q. Yes. Well, we know obviously that one of the issues  
28 that emerged was whether or not Sergeant McCabe had  
29 cooperated or not or had been invited to furnish

1 information, and the Tribunal isn't especially  
2 concerned, I think, about that. But that obviously  
3 became part of a feature of the issues of controversy  
4 which were ventilated at the Public Accounts Committee  
5 hearing. Were you, in your position as secretary  
6 general in the Department, keeping a close eye on the  
7 Public Accounts Committee and the possible appearance  
8 of Sergeant McCabe?

14:25

9 A. Well, look, obviously given the nature, given the  
10 nature of what was involved and also given the nature  
11 of the commentary around it, of course I was concerned  
12 about this.

14:25

13 506 Q. Yes.

14 A. You know, there was --

15 507 Q. The Tribunal has seen letters that the Commissioner  
16 wrote, inter alia, I think, to the Chairman of the  
17 Public Accounts Committee and the Data Commissioner.  
18 Was Commissioner Callinan concerned as -- in his  
19 position as data controller about issues relating to  
20 that and also the maintenance of discipline in the  
21 Garda Síochána?

14:25

22 A. Absolutely. This was a key, a key issue of concern.  
23 The Commissioner, as data controller, obviously had  
24 duties under the legislation that he had to -- you  
25 know, that he to abide by, and the issue of -- the  
26 issue of -- his issue or concern as the head of the  
27 Garda Síochána and the possible implications of what I  
28 always would have loosely described it as the  
29 politicisation of this issue, he had a major concern

14:25

14:25

1 with this, in the context of control and maintenance of  
2 discipline in what was a disciplined organisation. I  
3 mean, that was a matter for him, not me. But I also  
4 had concerns. I mean, one of the -- I was very  
5 concerned about the whole issue of the -- as I said, 14:26  
6 what I regarded as confidential information and, in  
7 particular, personal details of people who engaged  
8 being out there.

9 508 Q. Yes.

10 A. And at one point I can recall that there was a press 14:26  
11 conference, or I'm not sure what it was described as,  
12 but essentially it was a press conference or a press  
13 call being -- was arranged for Buswells Hotel, and a  
14 number of the TDs that were involved in this had called  
15 it, and there were rumours going around at the time, 14:27  
16 because I think around the time there were names  
17 floating about of people who supposedly had -- and I  
18 was really concerned about this, that the people were  
19 going to be named.

20 509 Q. Yes. 14:27

21 A. And that could have potential implications for the  
22 Garda Commissioner but perhaps also for the Minister.

23 510 Q. Yes.

24 A. And I rang --

25 511 Q. Where they a number of independent TDs? 14:27

26 A. Yes.

27 512 Q. There's no need to name them.

28 A. Yes.

29 513 Q. But was there a threat to name and shame persons

1 identified in the dossier?

2 A. I can't recall precisely, but certainly my recollection  
3 is that it was -- it was out there, that there was a  
4 likelihood that, you know, names were going -- I think  
5 at that stage, names, some names were actually out 14:27  
6 there in the ether. I can't remember was it --  
7 CHAIRMAN: Mr. Purcell, I suppose that kind of things  
8 always happens. If you go back even as far as the  
9 Ansbacher controversy, people were assuming certain  
10 people were on lists etcetera, etcetera, and quite 14:27  
11 often they weren't.

12 A. Yes.

13 CHAIRMAN: So that was, if you like, another rumour  
14 mill. But you worried about that, in any event, it's  
15 enough to say that. 14:28

16 A. Absolutely. But sorry, Chairman, the point I was going  
17 to make is, I was so concerned at that point because of  
18 this rumour that names were going to be, that I  
19 actually rang the office of the Data Protection  
20 Commissioner looking to speak to the then-Data 14:28  
21 Protection Commissioner, Billy Hawkes. Now, Billy  
22 Hawkes wasn't there, I can't remember, he just wasn't  
23 there on the day, and I spoke to my deputy and I  
24 expressed my concerns about this, and he said, look,  
25 leave it with me, and he subsequently rang me back and 14:28  
26 told me that he had spoken to one of the people  
27 involved and had said what, you know, the concerns that  
28 they would have about this. But I just use that as a  
29 reference to indicate how my -- what my concerns were

1 at the time.

2 514 Q. MR. MCGUINNESS: All right. I mean, obviously the  
3 Garda Commissioner is responsible under the Garda  
4 Síochána Act to the Minister in many ways and is  
5 dependent upon the Department for the vote also, isn't 14:29  
6 that correct? But did you see yourself having a  
7 community of interest, as it were, with the concerns of  
8 the Commissioner about these issues while the PAC  
9 hearings were going on?

10 A. Yes. I was aware that the Commissioner's concerns were 14:29  
11 very much parallel to my, or the same as my own, in  
12 relation to those issues of confidentiality. The  
13 suggestion that the people who -- you know, I'm only  
14 repeating myself. And also, also at the time of the  
15 PAC hearing, the John O'Mahony report had been 14:29  
16 completed at that stage, I also had concerns that a  
17 number of the John O'Mahony report had shown that,  
18 based on his examination of it, quite a considerable  
19 number of the more serious complaints of what were  
20 described as illegally and corruptly terminating 14:29  
21 penalty point notices were not well-founded at all.  
22 And that's, I suppose, putting it nicely.

23 515 Q. Yes, yes. Well, just in terms of the time-line of the  
24 hearings, I think you were, as would be normal, is that  
25 correct, often in touch with the Commissioner by phone 14:30  
26 and by text, in relation to all sorts of issues  
27 relating to him and the Garda Síochána and you and  
28 Department?

29 A. Yes, yeah.

1 516 Q. And I think in the context of the Fennelly Commission,  
2 I think your phone was made available to the Fennelly  
3 Commission --

4 A. Yes.

5 517 Q. -- to look at such contacts as there were between a 14:30  
6 particular period?

7 A. Yes.

8 518 Q. I think it ranged from the beginning of November until  
9 the end of March --

10 A. Yes. 14:30

11 519 Q. -- 2014. And they were made available obviously for a  
12 different purpose in the Fennelly Commission, but they  
13 have obviously been made available, pursuant to an  
14 order of the Tribunal, to us as well. But I think a  
15 number of them are to be found at page 1686, and I'm 14:31  
16 sure you have seen those before?

17 A. Are they in volume --

18 520 Q. Volume 6.

19 A. Sorry, which?

20 521 Q. Page 1686. 14:31

21 A. Yes, sorry, go ahead. I know the ones you are  
22 referring to.

23 522 Q. You know the ones, yes. The first one is from you, as  
24 I read it, to the Commissioner on 22nd January 2014?

25 A. Yeah. 14:31

26 523 Q. That's correct, when it says "me", that means that you  
27 are sending it, is that right?

28 A. Yes.

29 524 Q. Okay. And it reads --



1 A. Well, I don't know where the "me" was, but, yes, that  
2 was something I was sending.

3 525 Q. "The clerk to the PAC was not available but I spoke to  
4 another official of the PAC who was also dealing with  
5 the issue. She confirmed that the whistleblower will 14:31  
6 not be there tomorrow."  
7

8 Now, could you just explain the context in which that  
9 inquiry was made and why it was made and the upshot of  
10 it? 14:31

11 A. Sure. The context in which that inquiry was made was  
12 that at that time we didn't actually know -- we  
13 believed that Sergeant McCabe was going to appear as a  
14 witness at the Public Accounts Committee. We didn't  
15 know whether that would be in public or in private, but 14:32  
16 I knew that witnesses did not often appear in private  
17 before the Public Accounts Committee, if at all. I'm  
18 not sure that I could recall any other instance where a  
19 witness appeared in private before the Public Accounts  
20 Committee. So there was almost an expectation that if 14:32  
21 Sergeant McCabe was going to appear before the Public  
22 Accounts Committee, it would be in public. The reason  
23 for that inquiry being made was, we had no idea when it  
24 was going to be.

25 526 Q. Yes. 14:32

26 A. I think the Commissioner was concerned, from the  
27 perspective of his role as Commissioner, his position  
28 as Commissioner of the Gardaí, that there was a  
29 possibility that a situation would arise where he'd be

1           there and Sergeant McCabe would also be there at the  
2           same time. Now, I think I had said to him that I don't  
3           think -- I doubt very much if that would happen.

4   527   Q.   Yes.

5           A.   But I said, look, I will see can I find out, it should   14:33  
6           be relatively straightforward to find out who was going  
7           to be actually appearing on the day you're going to be  
8           there. So that's what happened. I contacted the  
9           office of the Public Accounts Committee. I think I was  
10          looking to talk to the clerk of the Committee, but he   14:33  
11         wasn't there, so I spoke to someone else --

12   528   Q.   Yes.

13          A.   -- who -- I can't remember who it was, and they just  
14         said, no, it's only the Commissioner and his people  
15         will be there.   14:33

16   529   Q.   All right.

17          A.   So that is the context of that.

18   530   Q.   Okay. I mean, there had been some talk about whether  
19         the Commissioner would take action, that is legal  
20         action, against the Committee in terms of either the   14:33  
21         return of the papers or to prevent Sergeant McCabe  
22         appearing, perhaps?

23          A.   Yeah.

24   531   Q.   Were these matters that were raised with you by him?

25          A.   I was aware, obviously this goes back to the whole   14:33  
26         issue of confidential information being taken from the  
27         Garda system and given to third parties, and I was  
28         aware that the -- as I said, I was absolutely aware  
29         that the Commissioner's views and mine on that were the

1 same.

2 532 Q. Yes.

3 A. I think I was aware that he had written to the Public  
4 Accounts Committee following, I think, an engagement  
5 that he had with the office of the Data Protection 14:34  
6 Commissioner, but, to be honest, I can't be hundred  
7 percent sure, but I think I was aware of that.

8 533 Q. Yes. Presumably you -- do you recall speaking with the  
9 Commissioner after that text --

10 A. After that -- 14:34

11 534 Q. -- and before he appeared the following day?

12 A. I think -- em, I can't remember did I actually speak to  
13 him or was the text the last, the last conversation or  
14 the last engagement with him before he actually  
15 appeared. I think -- I don't think I spoke to him, I 14:34  
16 don't recall speaking to him --

17 535 Q. Yeah.

18 A. -- say, the night before, or anything.

19 536 Q. Well, certainly he thanks you for that just before five  
20 to seven on that evening of the 22nd, and they turned 14:35  
21 up obviously at an early hour in the Houses --

22 A. Yes.

23 537 Q. -- to give evidence before the committee on the 23rd.  
24 And then you appear to have sent a text just after two  
25 minutes past three o'clock in the afternoon, very 14:35  
26 shortly after the evidence had finished. Had you been  
27 following the evidence?

28 A. To be honest, I can't actually recall. I think I may  
29 have looked at some of it.

1 538 Q. All right.  
2 A. But I was dealing with other matters. It wouldn't be  
3 normal, it certainly would not be the norm to sit there  
4 looking at five hours of the Public Accounts Committee  
5 on a screen. 14:35  
6 539 Q. Yes, it's hard.  
7 A. It certainly is. To be honest, at this remove I can't  
8 remember whether I -- I certainly watched some of it.  
9 540 Q. Yes.  
10 A. I didn't watch all of it. 14:35  
11 541 Q. But did you hear the "disgusting" remark, as a matter  
12 of interest?  
13 A. Do you know, I can't actually remember whether I heard  
14 that or whether it was afterwards I heard it. I really  
15 can't recall. 14:36  
16 542 Q. All right.  
17 A. I could have heard it, but, you know, I couldn't say  
18 with certainty that yes, I did.  
19 543 Q. Well, in any event --  
20 A. But I was aware of it then. If I hadn't seen it at the 14:36  
21 time, I was certainly aware of it relatively soon  
22 afterwards.  
23 544 Q. Yes. There is a text then the next day saying:  
24  
25 "Martin, know you are on route to Dundalk. Can you 14:36  
26 call me possibly. Just wondering how you got on with  
27 JMcG. Brian."  
28  
29 Now, that is sent at sixteen minutes to six that

1 evening. You obviously became aware at some stage that  
2 he had gone to meet Mr. McGuinness, is that right?

3 A. Yes.

4 545 Q. And that he was now on his way back from having met  
5 him. Can you just explain the circumstances there? 14:36

6 A. I think I'd had a conversation on the phone with the  
7 Commissioner the night -- you know, the evening after  
8 he was there at the PAC, or I think it was the evening  
9 after he was there, and he told me that, during the  
10 course of the PAC, that he thought something that the 14:37  
11 Chairman of the PAC, John McGuinness, had said during  
12 the course of the hearing seemed to open up to a  
13 possibility, at least in the Commissioner's mind, that  
14 this might be a route that could be followed and  
15 possibly would address the issue of whether or not 14:37  
16 Sergeant McCabe would be appearing as a witness, but --

17 546 Q. Well, what do you recall the Commissioner identifying  
18 as something that Deputy McGuinness had said which  
19 might have held out a possibility?

20 A. What it was was, I think Deputy McGuinness said 14:37  
21 something at the time, you know, if this was in my  
22 business or if I was in a private-sector company and  
23 there was a -- sorry, that there was a -- will I  
24 continue?

25 547 Q. Yes, go ahead. 14:38

26 A. And there was an issue such as this, I would seek to  
27 resolve it by sitting down and talking to the person  
28 concerned. And the Commissioner, the Commissioner  
29 seemed to think that this might be an 'in' in terms of

1 trying to move this in a particular direction, part of  
2 which was the Commissioner still had major concerns  
3 about the appearance in public of Sergeant McCabe as a  
4 witness. I indeed shared those concerns about --

5 548 Q. Yes.

14:38

6 A. Because the stuff was -- some of the things were  
7 already out there, as I described earlier. There was a  
8 concern that if this went on in public, God only knows  
9 what way it might have gone.

10 549 Q. Yes.

14:38

11 A. There was just an air of uncertainty about how this  
12 might go - would something else happen? would other  
13 names be mentioned? Not necessarily by Sergeant  
14 McCabe, but we'd already, I think, at that stage had an  
15 episode where a deputy had put out names during a  
16 session in the Dáil.

14:39

17 550 Q. Actually named them, yes.

18 A. So there was -- that concern was there. The  
19 Commissioner saw this as -- his interpretation of it  
20 was that, look, this might be, might be something worth  
21 pursuing.

14:39

22 551 Q. So is it fair then to say that the Commissioner was  
23 saying to you effectively, look, Deputy McGuinness has  
24 perhaps left the door open to an approach, that he  
25 suggested that this might be a way forward, meeting the  
26 employee or putting some structure in place and the  
27 Commissioner was keen to build on that, is that how I  
28 interpret what you are saying?

14:39

29 A. Yeah. I'm not sure if he used the phrase he's left the

1 door open.

2 552 Q. Yes.

3 A. But, yeah, the general sense of what you are saying  
4 was, yes, my interpretation of what the Commissioner  
5 was saying to me, that there was perhaps an opportunity 14:40  
6 here to engage and --

7 553 Q. A chink to explore, perhaps?

8 A. Yeah. And he told me that he was going to contact  
9 Deputy McGuinness with that in mind. Now, I didn't --  
10 to be honest, I didn't really have a great deal of hope 14:40  
11 that that was going to result in the outcome that the  
12 Commissioner thought.

13 554 Q. Yes.

14 A. But I suppose as well as that, I thought, well, look,  
15 you've nothing to lose by putting it to him, and I 14:40  
16 wasn't at the hearing.

17 555 Q. Did you suggest that to him?

18 A. Did I suggest?

19 556 Q. Did you say that to him, that you've nothing to lose by  
20 putting it to him? 14:40

21 A. I can't remember, but I know -- I can't remember did I  
22 use that, but I possibly did: well, look, if you  
23 think -- if you think that whatever it was that John  
24 McGuinness had said, because I didn't actually know at  
25 that point what he -- I didn't know beforehand what he 14:40  
26 had said, but it was when the Commissioner said it to  
27 him, I said, well, look, you were there, you're best  
28 placed to make a call on whether you thought that that  
29 was a realistic -- whether he was holding this out and

1           said I don't know, or did you feel that there might be  
2           a prospect of moving it in a particular direction by  
3           meeting with Deputy McGuinness and talking about it. I  
4           said, well, look, if you think there's anything to be  
5           gained by that, I don't have a problem with it, I           14:41  
6           wouldn't see a problem with it, not that he had --  
7           sorry, I should make it clear, he wasn't looking for my  
8           permission --

9   557   Q.    Yes.

10           A.    -- or my approval.           14:41

11   558   Q.    Yes.

12           A.    It was just that, it was as I said.

13   559   Q.    In any event, you had an insight into the way he was  
14           thinking, he had consulted you obviously to the extent  
15           that he told you what he was thinking, why he was           14:41  
16           thinking it and what he was going to do. He wasn't  
17           concealing this in any way?

18           A.    Yeah, and it was -- it goes back to the points I raised  
19           before about the whole issue about confidential and  
20           personal details being out there.           14:41

21           CHAIRMAN: No, I actually have the picture now, I feel,  
22           Mr. McGuinness.

23           A.    Yeah.

24   560   Q.    MR. MCGUINNESS: So, Mr. Purcell, I mean, presumably he  
25           didn't discuss where the meeting might take place, or           14:41  
26           anything like that?

27           A.    No, no.

28   561   Q.    And that wasn't a concern of yours. But did you have  
29           any concerns as to whether it was proper or improper or



1 appropriate at the time for the Commissioner to speak  
2 to the Chairman?

3 A. I didn't think it was inappropriate.

4 562 Q. Okay.

5 A. I'm quite sure that if it was inappropriate, that 14:42  
6 Deputy McGuinness would have quickly said that.

7 563 Q. Okay. Did you speak to the Commissioner after this  
8 text?

9 A. Yes, I'm pretty sure I did, because I do recall that --  
10 I do recall having a conversation with him, exactly 14:42  
11 when, whether it was immediately after the text or at  
12 some point, I had a --

13 564 Q. And can you recollect what he told you about the  
14 meeting?

15 A. Yeah. He told me, look, pretty much that he raised the 14:42  
16 issues he had discussed with me the day before and he  
17 said, you know -- I think he said that John McGuinness  
18 said, you know, something along the lines would you not  
19 sit down -- he repeated perhaps what was said at the  
20 hearing, but his sense of it was that, you know, he 14:43  
21 wasn't, put it this way, I don't think he was  
22 encouraged in the sense of getting the result he looked  
23 for, but he was -- I think he was happy that he had put  
24 the concerns out there.

25 565 Q. Okay. 14:43

26 A. Particularly the one about the maintenance, his  
27 position as Commissioner and the whole thing about the  
28 thing in public, etcetera.

29 566 Q. So he got an opportunity to make his case?

1 A. Yes, I think he was satisfied --

2 567 Q. But he was doubtful --

3 A. -- that he had made the case. I think it was almost a

4 case of, look, I've done whatever I can, and that's it.

5 568 Q. Okay. Did he say anything to you such as to convey 14:43

6 that he had said or done anything improper?

7 A. Absolutely not.

8 569 Q. Did you ever hear, while you were still secretary

9 general, that it was being alleged that the

10 Commissioner had done anything improper on the occasion 14:43

11 of meeting Deputy McGuinness?

12 A. While I was secretary general?

13 570 Q. Yes.

14 A. No, no. In fact, I had forgotten all about the meeting

15 with Deputy McGuinness until it surfaced when, I can't 14:44

16 remember when it was, until it surfaced a couple of

17 years later, two or three, whenever it was.

18 571 Q. You obviously were involved to an extent then when

19 Commissioner Callinan resigned, and we don't need to go

20 into that, in March 2014? 14:44

21 A. Yes.

22 572 Q. But did you have any knowledge or information relating

23 to any smear campaign run by the former Commissioner or

24 the Deputy Commissioner --

25 A. No. 14:44

26 573 Q. -- throughout this period?

27 A. Absolutely not.

28 MR. MCGUINNESS: Thank you. Would you answer any

29 questions My Friend may have.

1

2

MR. PURCELL WAS CROSS-EXAMINED BY MR. MCGARRY:

3

4 574 Q. MR. MCGARRY: Mr. Purcell, Paul McGarry is my name. I  
5 am one of the lawyers representing Sergeant McCabe. 14:44  
6 Can I ask you to look at page 1682.

7 A. Sorry, 1682?

8 575 Q. volume 6.

9 A. volume 6.

10 576 Q. Yes. This is your handwritten statement or letter to 14:44  
11 the Tribunal --

12 A. Yes.

13 577 Q. -- dated 20th December 2017?

14 A. Yes.

15 578 Q. And is that the first communication that you had with 14:45  
16 the Tribunal --

17 A. Yes.

18 579 Q. -- about the matters that are being investigated by it?

19 A. Yes.

20 580 Q. But you know that one of the terms of reference of the 14:45  
21 Tribunal relates very specifically to the meeting  
22 between former Commissioner and Mr. McGuinness, the  
23 so-called car park meeting?

24 A. Yes.

25 581 Q. You did know about that, it's clear from your evidence 14:45  
26 today, isn't that right?

27 A. Sorry, I did know about?

28 582 Q. You know about that meeting, didn't you?

29 A. Yes, yeah.

1 583 Q. After it happened?

2 A. Yeah.

3 584 Q. Well, the Tribunal had been in existence for, well  
4 certainly nearly a year, a long number of months by  
5 December 2017. Why is this the first time that you  
6 have produced information about what you knew about  
7 that meeting?

8 A. Why was it in December '17?

9 585 Q. Yes.

10 A. Well, the reason being that obviously there were a  
11 number of other terms of reference. The meeting with  
12 Deputy McGuinness was just one of those. I thought the  
13 main body of the terms of reference of the Commission  
14 were the other matters. I thought myself that the  
15 issue of term of reference (1), I think it was, was not  
16 likely to come up until much further down the road. In  
17 hindsight, I probably should have put something in, and  
18 I'm not offering this as an excuse, Chairman, but I had  
19 been engaged -- I had been involved in both the  
20 Fennelly and the O'Higgins Commission and, in those  
21 instances, I was asked for statements, and like, to be  
22 honest, I'm not saying that that was the reason, but it  
23 was something there I thought I might have been asked  
24 for a statement. And again, I apologise if I didn't  
25 get this in at the time I should. But effectively, it  
26 is what it is, it says what I knew about it, and there  
27 it is.

28 586 Q. Just look at that page, in fact just the previous page,  
29 you will see at the bottom of page 1680 you say:

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"I was aware of the original allegation -- "

A. Sorry, which page is this?

587 Q. At the bottom of 1680.

A. Yes.

14:47

588 Q. You see there at the bottom you say:

"I was aware of the 'original allegations' regarding Sergeant McCabe."

14:47

And then you say:

"At some point during a conversation I was having with the then-Commissioner Martin Callinan regarding the McCabe disclosures allegations concerning An Garda Síochána, the then-Commissioner told me that allegations had been made by the daughter of a garda colleague of Sergeant McCabe. These allegations were investigated and the DPP had directed no prosecution."

14:47

Were you aware that articles were being written by Mr. Williams and the like about the D allegations?

A. At which time was this?

589 Q. Well --

A. Not -- at the time I would have had the conversation with Commissioner about it?

14:48

590 Q. Yes.

A. No. At the time -- that would have been back some time in September 2013. I wasn't aware that Mr. Williams

1 was --

2 591 Q. So the reference there to the conversation with the  
3 then-Commissioner is some time in 2013, is that right?

4 A. Well, I think that is what I said to Mr. McGuinness. I  
5 think I said to Mr. McGuinness that I couldn't be 14:48  
6 precise about that, but my recollection was that it was  
7 some time in 2013, maybe around the time of the  
8 O'Mahony investigation. But at this remove that's as  
9 good as I can do in terms of my recollection of it.

10 CHAIRMAN: The articles of Paul Williams were three 14:48  
11 months later.

12 MR. MCGARRY: Yes, they were, April/May 2014.

13 592 Q. You then say:  
14  
15 "The Commissioner told me this as a matter of fact." 14:49  
16  
17 And there is a reference to:  
18  
19 "No attempt to smear Sergeant McCabe's reputation."  
20 14:49  
21 He told you that there was no attempt to smear Sergeant  
22 McCabe's reputation in that conversation or in a  
23 conversation around that time?

24 A. That's not what I have said, I don't think. Let me  
25 have a look at it there. 14:49

26 593 Q. Okay. You say:  
27  
28 "The DPP had directed no prosecution as there is no  
29 case to answer. The then-Commissioner told me this in

1 a matter-of-fact way."

2 A. Yeah, sorry.

3 594 Q. "He never suggested that the allegations were true."

4 A. Yes.

5 595 Q. "And there was no attempt to smear Sergeant McCabe's 14:49  
6 reputation."

7 A. Sorry, maybe it's the way I phrased it, but what I  
8 meant there was, the Commissioner told me about the  
9 allegations, he told me about them in a matter-of-fact  
10 way, and then, separately, he never suggested that it 14:49  
11 was anything other than that, there was no attempt to  
12 smear him. It may be just the way it was written  
13 there. But, sorry, do you understand what I am saying?

14 596 Q. Well, just to be clear, are you suggesting that the  
15 reference to "no attempt to smear Sergeant McCabe's 14:50  
16 reputation" is your insert, having regard to the terms  
17 of reference of the Tribunal now, or is it something  
18 that arose at the time in the conversation between you  
19 and the then-Commissioner?

20 A. I'm not sure I fully understand where you're getting 14:50  
21 at.

22 597 Q. Okay.

23 A. What this is --

24 598 Q. You --

25 A. Sorry, if I can just say, and maybe then you can -- I 14:50  
26 don't know, maybe it'll be clearer. What I am saying  
27 here is, the Commissioner told me about what I  
28 described as the original allegations. He told me  
29 about that in a matter-of-fact way; in other words,

1 allegation, investigation, file to DPP, no case. And  
2 then I'm saying because I'm aware that the Tribunal is  
3 looking at allegations of a smear campaign, I am making  
4 it clear that he did not attempt, during the course of  
5 that conversation, to in any way smear Sergeant  
6 McCabe's reputation. Is that --

14:50

7 599 Q. So the reference to "no attempt to smear Sergeant  
8 McCabe's reputation" is a reference to his conversation  
9 with you only? In other words, that he didn't attempt,  
10 in his conversation with you, to do down Sergeant  
11 McCabe?

14:51

12 A. Yes, that's what I am saying.

13 600 Q. Okay. And then you say -- at the start of the next  
14 page, you say:

15  
16 "The then-Commissioner told me about his meeting with  
17 the then-Chairman of the PAC, John McGuinness, TD."

14:51

18  
19 Do you see that?

20 A. Yes.

14:51

21 601 Q. Okay. From reading the statement, it looks like this  
22 is all part of the same conversation?

23 A. Ah, no, no, no. Well, it clearly wasn't, given the  
24 time-lines.

25 602 Q. Sure. And did I understand your evidence earlier to be  
26 that that is a reference to the discussions that  
27 Mr. McGuinness had with Mr. Callinan at the or on the  
28 margins of the PAC?

14:51

29 A. No, no, no. What I was referring to was, I think it



1 was actually -- it was actually something in relation,  
2 some comment that -- or something that Mr. McGuinness  
3 had said during the course of the hearing, I think  
4 Mr. McGuinness had said something about, you know, if  
5 this was the way, if I was looking at this in another 14:52  
6 way, I think the way to deal with it is to sit down and  
7 talk it through, or whatever. That's what that is.  
8 It's not -- this isn't a reference to the conversation,  
9 any conversation that might have taken place after the  
10 hearing. 14:52

11 603 Q. Well, can we just examine this in a little bit more  
12 detail, Mr. Purcell. You say there:  
13  
14 "The then-Commissioner told me about his meeting with  
15 the then-Chairman. My recollection is he told me that 14:52  
16 he spoke to him regarding concerns about sensitive  
17 data..."  
18  
19 And so on.

20 A. Yeah. That's referring to the meeting that happened 14:52  
21 the day after the --

22 604 Q. The car park meeting?  
23 A. Yeah.

24 605 Q. I see. It's just that you don't say that you knew that  
25 he was going to have the meeting in the car park the 14:52  
26 following day?

27 A. I didn't know it was going to be in a car park.

28 606 Q. Okay.  
29 A. But I knew, as I've said to Mr. McGuinness, I knew that

1 this was going to take place, or at least the  
2 Commissioner intended that it would, at the point he  
3 spoke to me.

4 607 Q. I see. So that's not a reference to, as you suggested  
5 a moment ago, a discussion at the PAC about something 14:53  
6 that Mr. McGuinness was saying was a possibility, that  
7 the -- the data issue, and so on?

8 A. Other than, as I said, something that Mr. McGuinness  
9 said during the course of the hearing, not the  
10 aftermath of the hearing. 14:53

11 608 Q. So you knew that Commissioner Callinan was going to  
12 have a separate meeting, for want of a better word,  
13 with Mr. McGuinness the following day?

14 A. Yes, yeah, or I knew he intended to.

15 609 Q. Well, it's more than that, isn't it, because you knew 14:53  
16 sometime afterwards that he had had the meeting --

17 A. Yes, I know.

18 610 Q. -- if you look at the text?

19 A. It was confirmed it took place then by the conversation  
20 I would have had when he told me. But at the time, 14:54  
21 look, yeah, I knew he was going to have a meeting and,  
22 you know, he told me about it afterwards.

23 611 Q. Well, just look at page 1686 for a moment, please.  
24 These are the text messages.

25 A. Yeah. 14:54

26 612 Q. This is the following day. The last one there you will  
27 see at quarter to six on the 24th.

28 A. Yeah.

29 613 Q. This is you saying:

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"Martin, know you're on route to Dundalk. Call me if possible. Just wondering how you got on with JMcG."

That is a reference, I think, to Mr. McGuinness, isn't it? 14:54

A. Yes.

614 Q. Well, I'm suggesting to you that the conversation that you had about the meeting must have happened after this text message? 14:54

A. Yes, the conversation I would have had about what happened at the meeting would have taken place after, obviously, or I wouldn't be saying, what happened?

615 Q. So you knew that he was planning to have a separate meeting with Mr. McGuinness, isn't that right, beforehand? 14:55

A. I thought I've already -- sorry, I thought I've already said that and I thought I made that clear in terms of the questions that Mr. McGuinness put to me.

616 Q. Did you tell anybody else about the fact that he was either going to have the meeting or that he did have the meeting? 14:55

A. At the time, not that I can recall. I don't think so. I don't recall having the conversation with anyone else. 14:55

617 Q. You didn't tell the Minister about it at the time?

A. I don't recall having the conversation. I would have -- I would have -- sorry, no, answering your question, I don't recall having the conversation.

1 618 Q. Okay. And when was then the first time that you became  
2 aware that detail of the meeting was in the public  
3 domain?  
4 A. Oh, not until -- as I said there earlier, I'd forgotten  
5 entirely about that, you know, that particular meeting, 14:55  
6 and it wasn't until, I don't know, some -- it was a  
7 couple of years later, I think, that something came out  
8 about it, but don't ask me when exactly, but, as I  
9 said, I had actually forgotten all about that meeting,  
10 and it was only when it subsequently appeared in the 14:56  
11 public domain, that was the next thing.  
12 619 Q. Well, it was in the public domain reasonably quickly  
13 after that, because Mr. McGuinness made a statement in  
14 the Dáil about it.  
15 A. When was that? 14:56  
16 CHAIRMAN: That was 2016.  
17 MR. MCGARRY: That was in 2016.  
18 A. Well, that's two years later.  
19 620 Q. Yes. And when you -- did you consciously decide not to  
20 say anything to Minister Shatter about it at the time? 14:56  
21 A. No, I don't actual recall thinking about it all that  
22 much. I would have -- I would have generally, during  
23 the course of my career, particularly in the latter  
24 stages when I was the head of the prison service, when  
25 I was at senior management positions in the prison 14:56  
26 service and in the Department, I would have -- on quite  
27 a few occasions, politicians would have contacted me  
28 about various, various issues, ministers, deputies,  
29 senators, from all parties, and I would have always

1           regarded the conversations I had with them as  
2           confidential, that is just the way I operated, and I  
3           wouldn't have told people about them. So, you know, I  
4           would have taken -- I would have taken the same view.  
5           Now, I haven't given it a great deal of thought since 14:57  
6           then. But that is the way I always operated. As I  
7           said, I would have, often enough, got phone calls from  
8           deputies, ministers, senators, about issues that they  
9           would have looked to speak to me about, and I spoke  
10          to -- I would have spoken to them about it, but I 14:57  
11          always would have treated those conversations as  
12          confidential between them and me.

13 621 Q.    Even though this was an issue with which you weren't  
14           talking to your own Minister, you were talking to the  
15           Garda Commissioner? 14:58

16          A.    The Garda Commissioner told me about it. I don't  
17           recall talking to -- one thing perhaps, you know,  
18           when -- five years, four years on from it, people  
19           may -- well, some people may have forgotten about how  
20           the whole thing was -- things -- one thing was going 14:58  
21           very quickly to another, and my -- when I looked at the  
22           time-lines of this, very soon after this we found  
23           ourselves embroiled with the whole issue with the  
24           confidential recipient, and I think even when that was  
25           going on, that whole farce about the bugging of GSOC 14:58  
26           erupted and we were sort of -- we were absolutely  
27           submerged in that, and they were the circumstances.  
28           So --

29 622 Q.    Just look at the previous text on the same page there.

1 This is, you said, immediately or not long after the  
2 hearing of the PAC.

3 A. Sorry, which text is this?

4 623 Q. It is just the penultimate one on the same page at  
5 15:02, do you see that? 14:59

6 A. Yes.

7 624 Q. "Well done, exceptional performance under fire.  
8 Brian."  
9

10 Do you see that? 14:59

11 A. Yes.

12 625 Q. And I think you said in your evidence that you didn't  
13 follow the lengthy evidence that had been given by the  
14 Commissioner?

15 A. I didn't -- no, what I said was, I wouldn't have 14:59  
16 followed it all. I would have followed some of it. I  
17 knew from the tone of what I had seen that the  
18 Commissioner was having a tough time. I knew that he  
19 had been in there for five hours. It's only people who  
20 have actually experienced that particular experience, I 14:59  
21 have done it myself, you're on the floor for five  
22 hours, you're being buffeted and pummeled with  
23 questions from all sides. Every single other person at  
24 the Committee, members come and go as they wish, they  
25 ask questions for a few minutes and then they sit back, 15:00  
26 then they come again, the chairman does what the  
27 chairman --

28 CHAIRMAN: I do get the picture.

29 A. Yeah.

1 CHAIRMAN: And, you know, obviously they have their way  
2 of investigating things, and it seems to be a bit  
3 quicker than this, at least it has that advantage.

4 A. I suppose the point, to get to the point I'm making,  
5 Judge, is that I knew the Commissioner, on the basis of 15:00  
6 what I did know, that had a pretty tough time of it in  
7 there, and really this was an expression of solidarity,  
8 you know, well done, it's over and done with. That's  
9 what it was, no more no less.

10 626 Q. MR. MCGARRY: So it wasn't necessarily your view that 15:00  
11 the performance had been exceptional; you were more  
12 trying to be supportive?

13 A. Well, I think when you've gone through that five-year  
14 run -- or, sorry, Jesus, it's only five hours but it  
15 seems like five years. 15:01

16 CHAIRMAN: Sorry, Mr. Purcell, I really wish you'd try  
17 and restrain yourself. It's only you and one other  
18 witness who has managed to lapse into that, you know.

19 A. I apologise, Judge, I apologise.

20 CHAIRMAN: I'm not sure you would thank me for knowing 15:01  
21 who the other person was.

22 A. I apologise. Yes. As I said, it's really just an  
23 expression of solidarity and, you know, look, you've  
24 had a tough time -- you've had a tough time in there,  
25 well done. No more, no less. 15:01

26 627 Q. MR. MCGARRY: Around that time, and over the subsequent  
27 weeks, would you agree with me that Commissioner  
28 Callinan appears to have exhibited an unhappiness with,  
29 in particular, Sergeant McCabe?

1 A. At that PAC meeting, and this is something that seems  
2 to have disappeared or was not generally well-covered,  
3 the then-Commissioner actually clarified what he meant  
4 during the course of the hearing itself. He also would  
5 have, during the course of that hearing, set out his 15:02  
6 views in terms of, you know, whistleblowers and the  
7 service they provide and the fact that they should be  
8 supported. I can't remember the exact words, but that  
9 is the general tone of it. That didn't alter the fact  
10 that he had the serious concerns that I adverted to 15:02  
11 earlier on and it didn't alter the fact that I had  
12 those concerns myself.

13 628 Q. Well, just look at the next page, there's three texts  
14 there in relation to --  
15 CHAIRMAN: There's about 14 pages of these, I think, 15:02  
16 Mr. McGarry.  
17 MR. MCGARRY: 1687.

18 A. Yes, I see it there.

19 629 Q. Just, there are three texts there in relation to people  
20 supporting McCabe at a -- or outside Mullingar station, 15:02  
21 do you see that?

22 A. Yes.

23 630 Q. And then you say at 21:06 to the Commissioner:  
24  
25 "You can judge a man by his friends." 15:03  
26  
27 And the Commissioner says:  
28  
29 "Some shower, Brian."



1 A. Yes.

2 CHAIRMAN: Indeed I read this. And, you know, this  
3 apparently was a protest meeting, and I'm not taking  
4 any view one way or the other.

5 MR. MCGARRY: Sure. 15:03

6 CHAIRMAN: But I have expressed the view, I think more  
7 than once, that you're entitled to go into the  
8 restaurant off the State apartments in Dublin Castle  
9 and complain about me billy-o if you like, Mr. McGarry,  
10 and indeed anybody else, and I personally think that's 15:03  
11 great, no problem at all whatsoever about it, and I  
12 take the same view about this. It's a private  
13 conversation. I'm not sure what you can make of it,  
14 but if you want to try and make something of it, then  
15 please do. 15:03

16 A. I wonder, Judge, could I just say something on that?  
17 This wasn't, despite the way it looks, it wasn't  
18 actually a swipe at Sergeant McCabe. It was a swipe at  
19 the then-TD who was mentioned in the text who --

20 CHAIRMAN: No, well, again, I would really prefer -- I 15:04  
21 look at my terms of reference and I say, what do I have  
22 to investigate? Now, I'm going to be very tiresome and  
23 I am not going to read them all out, but I'm not  
24 looking to see whether people were, for instance,  
25 expressing appropriate solidarity, were maybe going a 15:04  
26 bit over the top in expressing appropriate solidarity,  
27 were not expressing appropriate solidarity, because I'm  
28 not asked to do that. If I were to do that, it would  
29 effectively be writing kind of an opinion piece for a

1 newspaper.

2 A. I understand.

3 CHAIRMAN: And I don't want to go there, and it's not  
4 appropriate I should.

5 A. I understand. 15:04

6 CHAIRMAN: I'm sure all of the people mentioned there  
7 are well meaning and very decent people. That's my  
8 view. But I'm a well meaning, I hope, and decent  
9 person, but I can get things wrong and they might get  
10 things wrong or they might get things superbly right. 15:04  
11 I have no view on it and don't want to express a view.

12 631 Q. MR. MCGARRY: Just on a different issue, Mr. Purcell,  
13 did you favour the re-opening of the investigation of  
14 the Ms. D allegation as she was requesting?

15 A. Did I favour the re-opening? 15:05

16 632 Q. Yes.

17 A. It wasn't something that I was ever involved with.

18 633 Q. You were aware that the department was, with the  
19 Gardaí, looking into a number of cases and that this  
20 was one of those cases, isn't that right? 15:05

21 A. Yeah. I mean, the timing of that I think was around  
22 the time when, it was around the time of when the  
23 Toland report appeared and I asked to be moved to  
24 another position in the public service. I was on leave  
25 for a month after that, and then I came back and I did 15:05  
26 one month before I left the Department of Justice and  
27 that month was almost entirely taken up with the  
28 estimates process and I had, my recollection is that I  
29 had no involvement in that particular thing, particular

1 issue at the time at all.

2 634 Q. Thank you Mr. Purcell.

3

4 WITNESS WAS CROSS-EXAMINED BY MR. MICHAEL O'HIGGINS AS

5 FOLLOWS:

15:05

6 635 Q. MR. MICHAEL O'HIGGINS: Chairman, good afternoon,

7 Mr. Purcell, Michael O'Higgins for

8 Superintendent Taylor. I have a small number of

9 questions for you and I am hoping to be completed

10 within a few minutes. Can I just ask you to confirm I 15:06

11 have the correct impression, was it on the night of the

12 23rd or the evening of the 23rd that you spoke with

13 Commissioner Callinan in which he indicated that Deputy

14 McGuinness had said something which might prompt him to

15 think they could have a meeting, is that correct? 15:06

16 A. I think it was. I can't -- at this distance I can't be

17 hundred percent sure, but given the fact that it was a

18 relatively short timeline, I think that is when it was.

19 636 Q. That is your estimate?

20 A. Yes.

15:06

21 637 Q. And again, some time has passed, you think that the

22 chink of light that the Commissioner saw was that

23 Deputy McGuinness had said something or something to

24 the effect, could you not resolve it by sitting down

25 with him and working it through? 15:07

26 A. Yeah. Yes. Yeah.

27 638 Q. And your view of that was well, you're the man on the

28 ground, maybe if that's what you think that would be --

29 you wouldn't be second guessing him, so to speak?

1 A. Yeah. I think what I felt about it was that, look, if  
2 you think that -- if your interpretation of what  
3 happened at the PAC was that the Chairman seemed to be  
4 suggesting that there might be a way of dealing with  
5 this, that might remove the need for a public -- 15:07

6 639 Q. Go for it?

7 A. Yes. Look, who knows. Maybe it'll work.

8 640 Q. Now the question has been put whether it would be  
9 appropriate for the Commissioner to meet Deputy  
10 McGuinness. I'm not asking, I'm not interested in 15:07  
11 asking a question whether it was appropriate. There  
12 are other parties who are interested in that. But what  
13 I would ask you, because it seems to me, staying away  
14 from a value word like appropriate, it would be a bit  
15 unusual, would it not? 15:08

16 A. Unusual to meet -- yeah, but -- yes, it probably would  
17 be unusual, but I suppose this was an unusual set of  
18 circumstances.

19 641 Q. Yes, okay. And I appreciate fully you're emphasising,  
20 and I appreciate why, I think, that the Commissioner 15:08  
21 wasn't seeking your permission or he wasn't seeking  
22 your approval or your validation as such and I accept  
23 that, but he was, it seems to me, again if I have got  
24 this right, looking for your view on the matter?

25 A. Yeah, I suppose, yes. 15:08

26 642 Q. And he was looking for your view, again if I am correct  
27 in this assumption, in your capacity as secretary to  
28 the Garda division in the Department of Justice?

29 A. As secretary general of the Department of Justice, yes.

1 643 Q. Secretary general. That is the capacity he was looking  
2 for your view?  
3 A. Yeah. He was looking for my view as secretary general  
4 of the department.  
5 644 Q. And given that it's an unusual development, given that 15:09  
6 he was talking to you in your official capacity, why is  
7 there not a memo of this?  
8 A. I wouldn't have kept memos of every conversation or  
9 indeed, I don't know whether I would have kept memos of  
10 hardly any telephone conversations I would have had. 15:09  
11 If I spent my time keeping memos, you know yourself,  
12 Mr. O'Higgins, that if you write down a memo, you write  
13 it down, then you're saying oh, is that exactly what I  
14 said, oh well, is this -- - you end up, the telephone  
15 conversation lasts two minutes and it takes you half an 15:10  
16 hour to write down the note. No, I wouldn't have kept  
17 memos of conversations I would have had, even the ones  
18 that would have been perhaps unusual or whatever.  
19 645 Q. Well --  
20 A. Now maybe other people would, but I didn't. 15:10  
21 646 Q. All right. I hear what your answer is. You spoke to  
22 him afterwards, after he had the meeting, the following  
23 day, and this is only my note, which I stress is not a  
24 transcript, your recollection is that he had raised the  
25 issues and in particular the issue about sitting down 15:10  
26 and talking to him?  
27 A. Yeah, yeah. That he would sit and -- sitting down,  
28 whatever, yes.  
29 647 Q. You have a recollection of the Commissioner saying

1 that, that Deputy McGuinness had suggested this to him?  
2 A. Oh no, no, no. No, no. Sorry, no. And it's  
3 probably -- if that is what your opinion was, I hope no  
4 one else would share that view. What I was saying, it  
5 wasn't that Deputy McGuinness was suggesting that -- 15:11  
6 the Commissioner thought that whatever it was that  
7 Deputy McGuinness said, something to do, as I said,  
8 about sitting down --  
9 648 Q. Sitting down?  
10 A. -- and talking to an employee, you know the boss and 15:11  
11 the employee, that the Commissioner saw that as perhaps  
12 well, you know, maybe this is the way this could be  
13 dealt with.  
14 649 Q. Okay?  
15 A. It wasn't, he didn't say to me Deputy McGuinness was 15:11  
16 suggesting we sit down and talk.  
17 650 Q. Well, I will ask the question maybe in a better way:  
18 Given that the sit down together was, what I am  
19 describing perhaps as the chink of light or catalyst  
20 for going to meet him, what part, if any, on your 15:11  
21 understanding of what transpired at the meeting, had  
22 sitting down and talking to Sergeant McCabe played?  
23 A. My understanding of what he was saying to me was that  
24 this whole thing was, well, look maybe if I had an idea  
25 about how I would deal with Sergeant McCabe going 15:12  
26 forward this might obviate the need to, or this might  
27 mean that we wouldn't have to have the public  
28 accounts -- you know, the public appearance at the  
29 Public Accounts Committee. And my concerns in relation

1 to this are, as I've already indicated the whole thing  
2 about confidential information being out there, the  
3 risk involved at a public hearing of the Public  
4 Accounts Committee, that that in turn will create or  
5 you will run the risk of the same thing happening 15:12  
6 again, the fact that in a disciplined force as the  
7 Commissioner of An Garda Síochána having you know a  
8 sergeant in there saying one thing and members of the  
9 Committee throwing in their tuppence worth, etcetera,  
10 etcetera, where is this going to leave me? This is, my 15:12  
11 own view of this is it was the politicisation of  
12 perhaps operational issues, and what would this mean in  
13 terms of well, the next person who has a problem goes  
14 off and demands a hearing with the Public Accounts  
15 Committee, you have already set a precedent by doing 15:13  
16 this, etcetera.

17 651 Q. Based on your recollection, if you have one, did the  
18 Commissioner tell what he had said to Deputy  
19 McGuinness?

20 A. He told me in broad terms, at least I can only remember 15:13  
21 it in general terms as I outlined to Mr. McGuinness.

22 652 Q. I want to ask you this: Is it your evidence, is it an  
23 actual recollection or do you think that is what must  
24 have been said?

25 A. No, no, no, no. It's my recollection is that that's 15:13  
26 what he said.

27 653 Q. And what did Deputy McGuinness say in reply?

28 A. What did he say? I think what he said to me was that,  
29 he said it to him and, you know, he listened but

1 something along the lines of I didn't think I was  
2 getting an awful lot of traction on it, something like  
3 that. In other words, in other words, I don't think  
4 this is necessarily going anywhere, but it may have  
5 given him food for thought. I think it was that sort 15:14  
6 of line that he used.

7 654 Q. Did he mention to you that he had taken up this line  
8 about sitting down and talking to him?

9 A. Sorry, did he mention to me that he had taken up --

10 655 Q. Given that the catalyst was that -- 15:14

11 A. Yeah, I think he mentioned to me that, look, there's --  
12 he had said to the deputy, look, there may be a way of  
13 dealing with this and I have an idea about appointing a  
14 superintendent, or something. But to be honest, I  
15 don't actually remember the details of what he was 15:14  
16 putting forward, other than he told me that he had put  
17 something to the deputy that might be, you know, a  
18 solution to this. Or that he hoped might be part of a  
19 solution.

20 656 Q. And you have no notes of any of this. 15:14

21 A. Of the conversation, I refer to my previous answer in  
22 relation to that.

23 657 Q. Thank you very much.

24

25 WITNESS WAS CROSS-EXAMINED BY MR. LEHANE AS FOLLOWS: 15:15

26 658 Q. MR. LEHANE: Mr. Chairman, I have some questions on  
27 behalf of Deputy McGuinness. Good afternoon,  
28 Mr. Purcell, my name is Darren Lehane and I appear for  
29 behalf of Deputy McGuinness.



1 A. Yes.

2 659 Q. I have a few questions for you. I'm going to try and  
3 avoid repeating ground that has already been traversed.  
4 You're here to give evidence in relation to term of  
5 reference [1] of this Tribunal. And I suppose that 15:15  
6 involves four issues: One, did this meeting in the car  
7 park take place? Secondly, what were the circumstances  
8 that gave rise to that meeting? Thirdly, what was the  
9 purpose of that meeting? And finally, what were the  
10 matters discussed at the meeting? Isn't that right? 15:15

11 A. Yes.

12 660 Q. And you provided a statement in the form of a  
13 handwritten letter to the Tribunal, isn't that right?

14 A. Yes.

15 661 Q. And notwithstanding the fact that the Tribunal has 15:15  
16 broken down the relevant part of term of reference [1]  
17 that we are all here about, there is nothing about any  
18 of those four matters in your statement, isn't that  
19 right?

20 CHAIRMAN: Mr. Lehane, just tell me, what are the four 15:16  
21 matters?

22 662 Q. MR. LEHANE: Sorry, the four matters again. In your  
23 statement to the Tribunal you don't address the meeting  
24 in the car park, isn't that right?

25 A. Other than -- do I not say what the Commissioner told 15:16  
26 me had been said at the meeting?

27 663 Q. So you're saying that that statement in your -- that  
28 reference in your statement to what you say the  
29 Commissioner told you, where he says, it's on page 3, I

1 think, "the then-Commissioner told me about his meeting  
2 with the then-Chairman of the PAC, John McGuinness, TD"  
3 you're saying that that reference is in relation to the  
4 car park, meeting in the car park?

5 A. Sorry, if you can just tell me which page. 15:16

6 664 Q. It's on the third page.

7 A. What is the page number?

8 665 Q. It's page 1682.

9 A. Yes.

10 666 Q. You see at the top of the page on page 1682 -- 15:16

11 A. Yeah.

12 667 Q. -- you say: "The then-Commissioner told me about his  
13 meeting with the then-Chairman of the PAC, John  
14 McGuinness, TD. My recollection is that he told me  
15 that he spoke to him regarding his concerns that 15:17  
16 sensitive data containing personal details had been...  
17 on the Garda system."  
18

19 Etcetera, right? Is your evidence now, because I must  
20 have taken you up incorrectly, your evidence is that 15:17  
21 that reference in your statement is to the meeting in  
22 the car park and not to the conversation that you say  
23 you had with Deputy McGuinness on the 23rd?

24 A. Yeah, that's -- but they're both, in a sense, if you  
25 like they're both the same, they cover both what was 15:17  
26 said at the meeting but also what he would have said to  
27 me the night before.

28 668 Q. Okay. Just so I am crystal clear. That reference  
29 there relates to both the conversation of the 23rd --

1 A. Yeah.

2 669 Q. -- January that you had with the Commissioner and then  
3 the conversation that you had with him on the 24th  
4 after the meeting?

5 A. Yeah. 15:17

6 670 Q. Is that right?

7 CHAIRMAN: Just to be clear, as far as I can see there  
8 was nothing in relation to any alleged conversation on  
9 the 23rd that was reported back to Mr. Purcell, am I  
10 right in thinking that? 15:18

11 A. Sorry, in?

12 CHAIRMAN: You seem to have been in your office --

13 A. Yes, sorry, yes.

14 CHAIRMAN: -- and nobody rang you up to say anything  
15 like we discussed bees attacking cattle with the Garda 15:18  
16 Commissioner, I'm using that, I know it's ludicrous but  
17 it was apparently there somewhere, or anything else to  
18 do with Maurice McCabe before or after the PAC.

19 A. When he rang me on the evening of the 23rd?

20 MR. LEHANE: Yes. 15:18

21 CHAIRMAN: Yeah.

22 MR. LEHANE: That is the point; there is a conversation  
23 according to Mr. Purcell occurring on the night of the  
24 23rd.

25 CHAIRMAN: Maybe you will help us in relation to that. 15:18  
26 Do you see what Mr. Lehane is getting at?

27 A. I thought I've already said that, I thought I've  
28 already covered that, the conversation I had on the  
29 night of the 23rd.

1 671 Q. MR. LEHANE: I know, but I am just trying to, on behalf  
2 of Mr. McGuinness -- because you will appreciate  
3 Mr. McGuinness has already given evidence to the  
4 Tribunal and as part of that process he was furnished  
5 with kind of statements and certain information in 15:18  
6 advance and he was asked questions, and the first time  
7 that I on behalf of Mr. McGuinness is hearing about  
8 this conversation on the 23rd --  
9 A. Yeah.  
10 672 Q. -- is today from you. So it's news to me, I suppose is 15:19  
11 probably the best way to put it.  
12 A. Sorry, I see what you are saying.  
13 673 Q. So just that I am clear in my mind, if you can just  
14 outline the nature of that conversation that you had on  
15 the 23rd? 15:19  
16 A. Have I already done that?  
17 674 Q. I know, but I want you to tell me again.  
18 CHAIRMAN: I suppose what Mr. Lehane is asking you:  
19 Are we getting the two things mixed up?  
20 A. No. 15:19  
21 CHAIRMAN: If I can be clear, and maybe it would help I  
22 suppose if I was clear about things, there was the PAC  
23 meeting and we all know it went on for a long time and  
24 we all know there was a word used that shouldn't have  
25 been used. Now, I'm not reporting as to whether how 15:19  
26 bad that was or not, but apparently, some time that  
27 evening and it must have been after three o'clock in  
28 the afternoon, you spoke to the Garda Commissioner,  
29 just in the course, I suppose, of ordinary

1 interactions, and then it would seem also that after  
2 the meeting people keep saying it's the car park but  
3 that is explained apparently by driving rain, it seems  
4 a reasonable explanation as to why they didn't go into  
5 the hotel, you had another conversation. So what 15:20  
6 Mr. Lehane is trying to do is sort out the content of  
7 each conversation insofar as you can remember both.  
8 Isn't that fair, Mr. Lehane?

9 MR. LEHANE: Yes, Chairman, thank you.

10 A. Yeah, and I suppose the content of both conversations 15:20  
11 was pretty much a before and after. The content of the  
12 conversation on the evening of the 23rd was look, this  
13 is what, this is what I am -- what I think I'm going to  
14 do, I'm going to -- this chink is there at least in  
15 terms of the Commissioner's interpretation of it. I'm 15:20  
16 not for a moment saying that is what Deputy McGuinness  
17 was inferring or suggesting. But the conversation was  
18 opportunity here, I think, to maybe move this in a  
19 particular direction, my concerns are serious concerns  
20 about the confidentiality, the information being out 15:21  
21 there, that's already happened, there's an increased  
22 risk of it happening in a public hearing and in  
23 addition to that, my position as Commissioner, I feel  
24 that there is a potential that my position in some way  
25 may be undermined by, if every member of the force who 15:21  
26 feels they have an issue of concern is going in the  
27 direction of an appearance as a witness in a public  
28 session of the Public Accounts Committee what does that  
29 mean in terms of discipline in An Garda Síochána and

1 particularly in the event of it happening and then a  
2 precedent is now set. So that was the conversation the  
3 evening before and it was also then -- if you like, the  
4 conversation after the meeting was yeah, well, I said  
5 all this, he listened to what I had to say, I didn't 15:22  
6 get any -- I got a sense that he knew what I was  
7 saying, but I didn't get any sense of traction, I don't  
8 have any great -- I don't have any great expectation  
9 now that there will be anything other than an  
10 appearance by Sergeant McCabe at the -- although I did, 15:22  
11 you know -- but maybe it will give him food for  
12 thought.

13 675 Q. Okay.

14 A. Does that make it --

15 676 Q. Just staying with the first meeting. Do you agree it 15:22  
16 would have been helpful if in your statement you'd kind  
17 of demarcated the two meetings, the two conversations?

18 A. Perhaps, perhaps.

19 677 Q. Now, I think the man's name is Kevin Clarke from your  
20 department, he was the point man, if I can use that 15:22  
21 expression, of your department at the PAC hearing,  
22 isn't that right??

23 A. Yes, I think so.

24 678 Q. And just for my own reference, was he a principal  
25 officer or -- 15:22

26 A. He was a principal officer in the Garda division at the  
27 time.

28 679 Q. Okay. And did you chart to Kevin Clarke after the  
29 conclusion of the PAC hearing that date?

1 A. No, I didn't.

2 680 Q. Okay. And did you keep Kevin Clarke in the loop, as it  
3 were --

4 A. No, I didn't speak to Kevin Clarke at all either  
5 before -- I wasn't actually aware that Kevin Clarke was 15:23  
6 going to be at the PAC. I didn't speak to him after  
7 the PAC and I didn't speak to him after about the  
8 meeting.

9 681 Q. So he wasn't in any way --

10 A. No. 15:23

11 682 Q. -- aware of the fact that the Commissioner had rang on  
12 the 23rd?

13 A. No.

14 683 Q. Okay, if we move forward a day now, if I may, to the  
15 24th, and the second telephone conversation and again, 15:23  
16 how did Commissioner Callinan contact you, if you  
17 recall? We have seen -- sorry, if I just explain first  
18 before I ask you for an answer. We have seen in the  
19 Tribunal thus far that the Tribunal legal team has been  
20 able to analyse telephone records of Commissioner 15:23  
21 Callinan and other people to identify what calls were  
22 made between what persons on what lines. Indeed, along  
23 the lines of the same exercise that was carried out in  
24 relation to your texts in the other investigation. So  
25 again, I think that Mr. Chairman your legal team will 15:24  
26 be able to extrapolate, I would have thought, from  
27 Commissioner Callinan's telephone records any calls  
28 made to Mr. Purcell.

29 CHAIRMAN: Well, it's possible, but I have looked at

1 this myself and one of the things is that calls from  
2 the department tend to come from a general number.

3 MR. LEHANE: Very good.

4 CHAIRMAN: And calls to the department may go to a  
5 general number and then be patched through to a  
6 particular number.

15:24

7 MR. LEHANE: I see. Very good.

8 CHAIRMAN: So, no, there is not necessarily a record is  
9 the answer to that. Sometimes there is. And sometimes  
10 there is not.

15:24

11 MR. LEHANE: Okay.

12 684 Q. So in relation to the detail of what Commissioner  
13 Callinan said to you. And if we try and concentrate on  
14 what Commissioner Callinan was relaying to you about  
15 what Deputy McGuinness said to him. Can you just  
16 again, just so I am crystal clear in my head, tell me  
17 what that was?

15:25

18 A. Sure. As I have said, my recollection of it is that  
19 the Commissioner told me what he had told Deputy  
20 McGuinness and he said something along the lines of  
21 yeah, he listened to what I had got to say, he didn't  
22 have -- I think he may have said something, he didn't  
23 have an awful lot to say about it himself but he  
24 listened to what I had -- he gave me -- you know it was  
25 along the lines of he gave me a fair hearing, he didn't  
26 get any sense that Deputy McGuinness as Chairman of the  
27 PAC was going to go down the particular route that was  
28 being suggested by the Commissioner, but he felt, look,  
29 I gave it -- you know, I said I what I said I was going

15:25

15:25



1 to say, I don't think it's going to get the result I  
2 had hoped for, but I -- I think he may have used the  
3 phrase, you know, it may give him food for thought or  
4 something like that.

5 685 Q. Okay. And of course you were aware of this  
6 correspondence that was being drafted --

15:26

7 A. I actually --

8 686 Q. -- in the Garda Commissioner --

9 A. To be honest -- yeah, I know the correspondence you're  
10 referring to, I've seen it in the papers. I don't  
11 actually recall seeing, you know, a draft of the  
12 letters that was there. I don't -- now it's quite  
13 possible that during the course of it -- I think all  
14 right that during the course of the conversation he was  
15 talking in general terms about trying to set up a  
16 mechanism by which they would engage with Sergeant  
17 McCabe, but he never, he never -- I never saw the draft  
18 letters that I saw when I got the documentation from  
19 the Tribunal.

15:26

15:26

20 687 Q. And you know the, you're aware of what Deputy  
21 McGuinness's evidence is to the Tribunal in relation to  
22 what is said at that meeting, are you, Mr. Purcell?

15:26

23 A. Yes, I think so, yes.

24 688 Q. Do you have any recollection of Mr. Callinan in the  
25 second phone call saying anything to you about him  
26 imparting information or making an allegation of sexual  
27 abuse?

15:27

28 A. He most definitely didn't.

29 689 Q. Thank you very much Mr. Purcell.

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MR. DIGNAM: No questions Chairman.

CHAIRMAN: Nothing.

WITNESS WAS RE-EXAMINED BY MR. MCGUINNESS AS FOLLOWS:

15:27

690 Q. MR. MCGUINNESS: Could I ask you Mr. Purcell just to look at page 1684? These are, as it were, in-house emails relating to the text from your phone, and you kept these texts on your phone, you didn't ever attempt to delete them or conceal them?

15:27

A. No. No. They would have gone, they would have gone forward to the Fennelly Commission.

691 Q. And they were being sought in the context of intended cooperation with the Fennelly Commission at an early stage even in August of 2014, isn't that correct?

15:28

A. I think so, yes.

692 Q. And that was at a stage obviously much earlier than May 2016 when the first public revelations about the car park took place, isn't that right?

A. Yes, yeah.

15:28

693 Q. And these ones that we have looked at, the four in particular between the 22nd and the 24th, they're amongst many hundreds of ones that were on your phone, a myriad of issues, the texts to and from the Commissioner, between yourself and the Commissioner, isn't that right?

15:28

A. Yes.

694 Q. And you're, I think, perhaps being implicitly criticised for not keeping a note of the telephone

1 calls, but you had all your texts with the Commissioner  
2 and they were made available to the Fennelly Commission  
3 and then these four particular ones to this Tribunal?

4 A. Yes, yeah.

5 695 Q. You had referred obviously in the context of your 15:29  
6 conversation with the Commissioner about the signal  
7 that he thought he was getting from the Chairman during  
8 the course of the hearing of the proceedings, and could  
9 I ask you to look at page 1351 in volume 5?

10 A. Sorry, volume 5? 15:29

11 696 Q. Yes. 1351. Obviously the Public Accounts Committee  
12 does its business by allowing each of the members to  
13 ask questions of the witness and this is at a stage  
14 where it's the Chairman who is asking questions of  
15 Commissioner Callinan. But in the fourth substantive 15:30  
16 paragraph down there, he's referring to some of the  
17 Commissioner's answer there, he says:

18  
19 "I'm not saying these things to embarrass the  
20 Commissioner or the Gardaí in any way. I'm simply 15:30  
21 saying that this is the type of information that is  
22 circulating around the Oireachtas. Would it not have  
23 been possible to bring in the two serving Garda before  
24 one of them retired and have a man-to-man discussion  
25 with them with regard to their duty, as they saw it, to 15:30  
26 report what they considered wrongdoing and in some  
27 cases what was described as corruption under the  
28 definition we gave earlier? As proper members of the  
29 force willing to give this information they put their

1 jobs on the line. That is what happens to  
2 whistleblowers, they sometimes become the victim. Was  
3 it not possible within the force to create a situation  
4 where they were brought forward in order to give that  
5 information? They provided the information to the 15:30  
6 committees of the Oireachtas because it was suggested  
7 that this was the proper way to do it. There is an  
8 issue here in terms of that the matter must be dealt  
9 with in some way, because it is damaging the reputation  
10 of the force and the people are wondering if what we 15:31  
11 have heard is true or false. That is really what we  
12 are about here."

13  
14 That appears to be the only passage where the Chairman  
15 was contemplating what would have been a better way to 15:31  
16 go about addressing concerns.

17 A. Yes, yeah.

18 697 Q. Does that resonate with what your recollection of the  
19 Commissioner said in any way?

20 A. Yes. I mean, that is general what we are talking 15:31  
21 about, yes.

22 698 Q. Okay. Thank you Mr. Purcell.

23

24 WITNESS WAS THEN QUESTIONED BY THE CHAIRMAN,

25 AS FOLLOWS: 15:31

26 699 Q. CHAIRMAN: Mr. Purcell, I just wanted to ask you a few  
27 things. You were concerned coming up to the PAC  
28 obviously about matters of principle and you know what  
29 the matters of principle were, disciplined force, the

1 need to protect data and the responsibility of a data  
2 controller, all those kind of things, but fundamental  
3 to the whole thing did you have a view in relation to  
4 apparently there's supposed to be a system in relation  
5 to fixed charge penalties, that not being enforced, 15:32  
6 loss of revenue to the State, loss of discipline to  
7 motorists and basically a police force which is acting  
8 somewhat like a colander?

9 A. Yes, I did have a view. Leaving aside the issues, you  
10 know, of the confidential information getting out 15:32  
11 there, the view that I had was, it was based on, I  
12 suppose, a number of -- quite a significant number of  
13 allegations were made and I think in emails, in one  
14 particular email that Sergeant McCabe would have sent  
15 to Michael Flahive, I believe where Michael was saying, 15:32  
16 look, you've made these allegations, Commissioner  
17 O'Mahony is carrying out an investigations, you know  
18 some of the things that you have alleged, even in an  
19 interim report, that Commissioner O'Mahony has been  
20 looking at them and they're not -- what he is finding 15:33  
21 out is certainly not in accordance with the allegations  
22 you're making. There was an issue as to whether or not  
23 the allegations made were correct. There was -- both  
24 in the interim report or the initial report, whatever  
25 it was called, and in the final report by Commissioner 15:33  
26 O'Mahony, there was, there appeared to me -- and I had  
27 no reason to doubt what Commissioner O'Mahony or  
28 Assistant Commissioner O'Mahony had come up with in the  
29 report, he was an experienced investigator, he had been

1 formerly head of the Criminal Assets Bureau, etcetera.  
2 Certainly a lot of the more serious allegations, such  
3 as, you know, fixing or terminating penalty points had  
4 resulted indirectly or directly in deaths, etcetera, or  
5 had contributed in some way, I can't remember, that he 15:33  
6 had looked at all of them, they had been false. There  
7 had been a significant number of cases where a woman  
8 who had four penalty points terminated it turned out  
9 when they looked at it, it was actually a Garda vehicle  
10 with one digit different and when they looked at it 15:34  
11 all -- and Michael Flahive in an email that he went to  
12 Sergeant McCabe made it quite clear that, look, give  
13 the report time, you know, to be concluded and --  
14 because like, there are some things there you have said  
15 all along and you have said in your most recent email 15:34  
16 that you fully stand over every bit of evidence and all  
17 the allegations made when it's patently clear that when  
18 the investigation is being carried out that is not been  
19 backed up. The issue in terms of lost revenue, I mean  
20 there was always a discretion available there to the 15:34  
21 Gardaí.

22 CHAIRMAN: well, I mean the only aspect -- this is why  
23 I wanted to get on to this subject and just get a view  
24 from you as to where things were going. I appreciate  
25 all of that, but I'm taking the O'Higgins Commission as 15:34  
26 being the last word on the subject.

27 A. Yes.

28 700 Q. CHAIRMAN: And the statistical analysis there --

29 A. Although --

1 701 Q. CHAIRMAN: -- to put it mildly does not make happy  
2 reading.

3 A. Sorry, did Mr. O'Higgins look at the penalty points?

4 702 Q. CHAIRMAN: He looked at in relation to cancellation of  
5 notices, etcetera, etcetera and how it was done on a 15:35  
6 statistical basis. And there's bar charts, etcetera.

7 A. Yes.

8 703 Q. CHAIRMAN: Let's not worry about the detail of that,  
9 all right.

10 A. Yes. 15:35

11 704 Q. CHAIRMAN: I know at the time the view was that the  
12 O'Mahony report has the last word on the matter. The  
13 discretion, now one of the things that was mentioned  
14 and it does stick in the mind, is this whole notion of  
15 were they telling you what the kind of thing that they 15:35  
16 were going to come up with and say Gardaí have a  
17 discretion about this?

18 A. Well, I think the O'Mahony report actually does say --

19 705 Q. CHAIRMAN: No, no, forget about the O'Mahony report for  
20 a minute. 15:35

21 A. Sorry.

22 706 Q. CHAIRMAN: The Garda Commissioner or anyone in  
23 Headquarters telling you, coming up to the PAC, how do  
24 we justify this, in terms of a discretion?

25 A. I can't remember whether the conversation -- I don't 15:36  
26 know whether the conversation would have taken place in  
27 the immediate run up to the PAC, but I certainly know  
28 that at some point it would have been said to me, you  
29 know, there is this issue that Gardaí have discretion

1 in relation to how they would deal with the issues.  
2 They can -- you know, if someone makes an appeal or  
3 petitions to give a reason why a penalty point notice  
4 should be terminated that they have the discretion to  
5 consider the case and then act accordingly. And I 15:36  
6 know, I'm not for a moment suggesting that, you know,  
7 in the aftermath of this, indeed the work done by, I  
8 suppose it was a combination of recommendations made by  
9 Assistant Commissioner O'Mahony, the Professional  
10 Standards Unit and subsequently the Garda 15:36  
11 inspectorate --

12 707 Q. CHAIRMAN: No, I know all about that stuff. But, look,  
13 I mean, one of the things that was being brought up in  
14 Headquarters was the man whose cattle apparently were  
15 attacked by bees, and he is rushing, so, if you like, 15:37  
16 it doesn't apply in those circumstances, no. That  
17 specifically mentioned in the course of notes. Were  
18 you being sold things like that as saying, look, it's  
19 very important --

20 A. I think I only saw the thing about the bees when the 15:37  
21 final -- yeah, I have no recollection --

22 708 Q. CHAIRMAN: Well, Mr. Purcell, the bees is something of  
23 a distraction.

24 A. Sorry.

25 709 Q. CHAIRMAN: It really is something of a distraction. 15:37  
26 What I am saying is, were they coming up with --

27 A. No, we didn't -- it was when we -- I think when we saw  
28 the interim report, we -- that gave an indication of,  
29 we've looked at these, certainly some of them on the



1 face of it, and I think what was being said quite  
2 clearly, that when you actually look at it, that  
3 Sergeant McCabe or indeed anyone else who was looking,  
4 who was looking at these, whatever they were getting  
5 from the system, would not have had all the details 15:37  
6 that you would actually get when you're having an  
7 in-depth look at the cancellation of each individual  
8 case, which Assistant Commissioner O'Mahony and his  
9 team were able to get. But it was only -- nobody was  
10 ringing me up saying, Jesus -- sorry, sorry, apologies, 15:38  
11 again. No one was ringing me up saying, we've come  
12 across a number of cases, you know, that really blow  
13 this out of the water.

14 710 Q. CHAIRMAN: Yes, but the problem is, Mr. Purcell, I  
15 mean, the Department of Justice can be kept in the dark 15:38  
16 the same way as everybody else. Were you being kept in  
17 the dark?

18 A. Well, look, I feel --

19 711 Q. CHAIRMAN: Because I suppose if you weren't being kept  
20 in the dark, you should have brought something to 15:38  
21 light, so, in a way, it's a question that comes from a  
22 double-edged sword?

23 A. You see, I have little doubt in -- given the nature of  
24 the fixed charge processing system, the penalty points  
25 system, as it was at the time, you were going to get 15:38  
26 situations where, sometimes, Gardaí will show  
27 discretion that perhaps when you look at it it might --  
28 and I think the then-Minister actually said that when  
29 he got the report and he looked at some of the

1 instances, you know, it would cause raised eyebrows,  
2 and I remember the famous bees one, although I did have  
3 a conversation with a friend of mine with a farming  
4 background who described -- his response to me about  
5 that was, typical dub, you'd know nothing about the 15:39  
6 impact something like that can happen and people seem  
7 to forget that farmers and people working on farms,  
8 it's the most dangerous occupation in the country, he  
9 said to me far more dangerous than being in the guards  
10 if you look at the number of deaths and serious 15:39  
11 injuries. Anyway --

12 712 Q. CHAIRMAN: Usually not from bee attacks?  
13 A. No. Anyway, but it can -- anyway, look -- I agree with  
14 you it's probably --

15 713 Q. CHAIRMAN: Can I try and get us back on the subject a 15:39  
16 little bit.  
17 A. Sure, yeah.

18 714 Q. CHAIRMAN: So if you were being told, look, there is a  
19 Garda discretion, if you're being told O'Mahony is  
20 right, the net result of that is, the person doing the 15:39  
21 complaining must be a bit of a person who is taking an  
22 obsessive or wrong-headed view of matters, and that's  
23 putting it in polite terms. Now, was that said to you  
24 from Garda Headquarters? In other words, here we are  
25 again, it's another person complaining, they don't know 15:40  
26 what they are talking about, we have looked into it,  
27 everything is hunky-dory, now it's the person, because  
28 the message is wrong?  
29 A. No.

1 715 Q. CHAIRMAN: The person giving the message has to be the  
2 person in the wrong?

3 A. Yeah, I know what you're --

4 716 Q. CHAIRMAN: Do you see what I am saying?

5 A. I do see what you are saying. 15:40

6 717 Q. CHAIRMAN: All right.

7 A. No, they weren't saying to me that, you know, the  
8 person concerned is wrong there. What the report was  
9 indicating was that it was showing that quite, you  
10 know, far from being the case that every single 15:40  
11 allegation was correct, a substantial number of them,  
12 according to the information we were getting from  
13 Assistant Commissioner O'Mahony's report, were not  
14 correct, and there were all sorts of examples.

15 718 Q. CHAIRMAN: No, and I appreciate that, but you're not 15:41  
16 really answering the question, Mr. Purcell. Maybe I'm  
17 putting it wrongly, so let me ask it again. The point  
18 of this is: If someone makes allegations and the  
19 official information indicates that they are wrong,  
20 what I am asking you is, what is the emotional reaction 15:41  
21 in Headquarters, what are they saying about that  
22 person? That is what I am asking you.

23 A. I think, I mean the reaction, I said it earlier on, I  
24 wasn't interested in what motivated Sergeant McCabe; I  
25 was interested in the facts. As far as I was 15:41  
26 concerned, the facts were that he had done the Gardaí a  
27 service by bringing this out. It's not something that  
28 is going to be all that popular, I can understand, I  
29 can understand that, the whole --

1 CHAIRMAN: I'm sorry, I'm not asking you about your  
2 reaction, Mr. Purcell. I'm asking you about the Garda  
3 reaction, Headquarters' reaction, that is what I am  
4 asking you about, trying to ask you about for the last  
5 five minutes.

15:41

6 A. Okay. I'm sorry, then, if I am not giving you the  
7 answer. Well, is the answer -- what I'm going to say  
8 is that there was -- they did accept that, you know,  
9 this was pointing out flaws in the system. Both the  
10 assistant commissioner's report and the Professional  
11 Standards Unit pointed to things that had to be done.  
12 There was a view that a lot of the allegations were not  
13 correct, but the process of looking at the allegations  
14 had outlined that there were flaws in the way that the  
15 system operated and that those flaws would have to be  
16 dealt with.

15:42

15:42

17 719 Q. CHAIRMAN: Mr. Purcell, I'm not going to choose the  
18 right word, I know I'm not going to choose the right  
19 word, but in your conversations with the Garda  
20 Commissioner, or anybody else high up in the  
21 Headquarters, were they saying that Maurice McCabe was  
22 anything akin to a madman, someone who had no grounds  
23 for saying anything?

15:42

24 A. No, the word "madman" was never used.

25 720 Q. CHAIRMAN: I know that, and I thought you would focus  
26 in on that and give me that answer. What I am talking  
27 about it, emotions are things that happen to people;  
28 did you get an emotional charge in your conversations  
29 with the Commissioner as to his attitude to Maurice

15:43

1 McCabe, that is what I am asking, and if you did get an  
2 idea of an emotional charge, what was it?

3 A. If there was any emotional charge, if that is the  
4 correct description, it was, you know, that the  
5 Commissioner was unhappy because of the concerns he 15:43  
6 shared, he shared with me, that I have outlined  
7 already, and I won't repeat them there, and it was that  
8 that he was concerned with. He wasn't -- it was the  
9 impact of that on the force and in terms of the route  
10 that was taken by Sergeant McCabe -- 15:43

11 721 Q. CHAIRMAN: I know that.

12 A. -- in bringing these things out, he was concerned  
13 about, as I've said, the impact.

14 722 Q. CHAIRMAN: Mr. Purcell, I appreciate that. These are  
15 all logical matters, but we're not necessarily dealing, 15:44  
16 when you're dealing with human beings, in the realm of  
17 what is logic, what is subjective. It is clear from  
18 the texts that you exchanged, and as I said I have no  
19 problems with them, that you had the kind of  
20 relationship with the Garda Commissioner which admitted 15:44  
21 of frank views being expressed. Now, in terms of the  
22 expression of any frank view in relation to Sergeant  
23 McCabe, can you assist me on that?

24 A. Well, you know, he would have said that he didn't -- he  
25 did not think that this was -- or rather, he wasn't 15:44  
26 happy that allegations were being made that perhaps  
27 wouldn't stand up to close scrutiny, he wasn't happy  
28 about the manner in which it had come in public, he  
29 wasn't happy about the politicisation of it, and

1           neither was I. But in terms of anything else, he  
2           didn't, in his dealings with me, attempt to smear  
3           Sergeant McCabe's reputation. This was, as I said, it  
4           was about the facts, I didn't -- I wasn't -- and, look,  
5           I know I'm saying it's me, not what the Commissioner 15:45  
6           said, but I wasn't interested in the motivations. I  
7           was concerned about what was happening. I was  
8           concerned about the impact of that on the force. I was  
9           concerned about the impact of that on the  
10          Commissioner's ability to do his job as Commissioner. 15:45  
11          I was also very concerned about the way this was all  
12          playing out in the public eye, the politicisation of  
13          it, you know, and all the rest, they were my concerns.  
14          The Commissioner's concerns in relation to those issues  
15          were very much parallel to what I had as well, you 15:45  
16          know, and he wasn't -- I suppose he wasn't happy about  
17          it, any more than would I have been happy about it if I  
18          was the Commissioner, and I dare say perhaps any more  
19          than anyone else would have been in that particular  
20          position. 15:45

21 723 Q. CHAIRMAN: Okay. Thank you, Mr. Purcell.

22           MR. DIGNAM: Chairman, I have no questions for  
23           Mr. Purcell, but I wonder if I could just address one  
24           issue of fact, just in the hope that it is of  
25           assistance to the Tribunal. It was put to 15:46  
26           Mr. Purcell -- sorry, he was referred to a passage in  
27           the PAC hearings where the Chairman was contemplating  
28           what would have been a better way to go about  
29           addressing concerns, and it was -- as the Tribunal

1 knows, it's quite a long PAC hearing and the transcript  
2 is quite lengthy, but it was suggested to Mr. Purcell  
3 that that was the only passage, and I just ask the  
4 Tribunal, in the course of its deliberations, to look  
5 at page 1412 onwards in the PAC hearings. 15:46

6 CHAIRMAN: You might summarise it for me, if you  
7 wouldn't mind, Mr. Dignam.

8 MR. DIGNAM: Yes, in effect, that is the passage where  
9 the Chairman, Deputy McGuinness, is referring to, if he  
10 was an employer and an employee was having difficulties 15:46  
11 or raising issues, he would sit down with the employer  
12 to thrash through them. That is it in a nutshell.

13 CHAIRMAN: Yes.

14 MR. DIGNAM: And that is one of the passages that  
15 former Commissioner Callinan referred to. 15:46

16 CHAIRMAN: That is one of the potential chinks.

17 A. Yes. Indeed it was that one that rang the bell, the  
18 employer/employee relationship. So yes, that is the  
19 one I was actually thinking of, I think, initially.

20 CHAIRMAN: Right. Thank you, Mr. Purcell. 15:47

21 A. Thanks, Chairman.

22  
23 THE WITNESS THEN WITHDREW

24  
25 MR. MARRINAN: Sir, the next witness is a lengthy 15:47  
26 witness. It may be better to start it in the morning.

27 CHAIRMAN: Just tell me who it is, Mr. Marrinan.

28 MR. MARRINAN: It's former private secretary to both  
29 commissioners, Commissioner Callinan and Commissioner

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Nóirín O'Sullivan, Detective Superintendent Frank  
Walsh.

CHAIRMAN: I'm sorry we have not got to Mr. Walsh. If  
we finish him tomorrow so he is not stuck here until  
the next day, let's do that.

15:47

MR. MARRINAN: He is available tomorrow.

CHAIRMAN: Okay. Thank you.

THE HEARING THEN ADJOURNED UNTIL TUESDAY, 17TH APRIL  
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15:48



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