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

HELD IN DUBLIN CASTLE ON FRIDAY, 11TH MAY 2018 - DAY 73

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1			THE HEARING RESUMED, AS FOLLOWS, ON FRIDAY, 11TH MAY	
2			<u>2018:</u>	
3				
4			MR. MARRINAN: The first witness this morning, sir, is	
5			Peter Kirwan, please.	10:02
6				
7			MR. PETER KIRWAN, HAVING BEEN SWORN, WAS DIRECTLY	
8			EXAMINED BY MR. MARRINAN:	
9	1	Q.	MR. MARRINAN: I think you retired from An Garda	
10			Síochána last year, is that right?	10:03
11		Α.	That's correct, Chairman.	
12	2	Q.	And I think that you held the rank of detective chief	
13			superintendent on your retirement, is that right?	
14		Α.	I did, Chairman, yes.	
15	3	Q.	And I think you were attached, for many years you were	10:03
16			attached to the Security and Intelligence section in	
17			Garda Headquarters, is that right?	
18		Α.	Yes, Chairman, for the last 20 years of my service I	
19			was attached to different sections of Security and	
20			Intelligence at detective inspector, detective	10:03
21			superintendent and the last six-and-a-half years as	
22			detective chief superintendent in charge of Security	
23			and Intelligence.	
24	4	Q.	Now, I think that in response to a request from	
25			Mr. Justice Iarfhlaith O'Neill you prepared a report	10:04
26			which was sent to Mr. Justice O'Neill on the 14th	
27			November of 2016, isn't that right?	
28		Α.	Yes. That request came via the liaison officer. That	
29			was Superintendent Broderick.	

5 Q. That is to be found at page 160 of the materials, which 1 2 is Volume 1. And I think that there were three specific questions that were raised by Mr. Justice 3 Iarfhlaith O'Neill in his scoping exercise arising out 4 5 of protected disclosure of Superintendent Taylor, and 10:04 these are set out at page 161. Firstly, whether there 6 7 are in existence any intelligence files on Sergeant 8 Maurice McCabe in Garda Headquarters, to include whether there is one file with Crime and Security and 9 another file on a special computer at Garda 10 10.05 11 Headquarters named Oisín, is that right? 12 That is correct, yes. Α. 13 I think secondly, to confirm whether there are files 6 Q. 14 kept in Crime and Security on members under investigation which are colloquially known as the 15 10:05 16 corruption file and whether there are any such files 17 kept in relation to either Sergeant Maurice McCabe or 18 Superintendent David Taylor in that respect. And then 19 I think finally, confirm whether there was at any time 20 any interception placed on the phone of Sergeant 10:05 Maurice McCabe under either the 1993 Interception of 21 Postal Packets and Telecommunications Act or the 2009 22 Criminal Justice Surveillance Act, isn't that right? 23 24 That is correct, Chairman. Α. 25 7 Now, in order to look into that, I think you set out 0. 10.06 the background in relation to the Security and 26 27 Intelligence section and its role in An Garda Síochána, is that right? 28 29 That is the way I started in my report. Α. Yes. Maybe I

6

just -- what I did on receipt of the letter of request --

3 8 Q. Yes?

-- I got the three superintendents that report on 4 Α. 5 different facets of operations at Crime and Security, I 10:06 got them together and briefed them, told them I had got 6 7 this request and on the request it was to be 8 returned -- replied by return. So I explained the urgency of it and then they went on their way and they 9 reported back and that enabled me to compile the 10 10.06 11 report.

9 Q. Yes. I think at page 160 of your report you deal with
the background to the Security and Intelligence section
and you point out that the section is the central
repository within An Garda Síochána for all 10:07
intelligence material relative to national security,
isn't that right?

18 A. That's correct, yes.

19 10 Q. And that includes --

29

And serious and organised crime as well. 20 Α. 10:07 -- terrorism and subversive activity, and serious 21 11 Ο. 22 organised crime. And the Security and Intelligence incorporates a number of sections, and you point out 23 24 the intelligence section in the first instance; what 25 responsibility did that have? 10:07 That is, I suppose, best described as almost 26 Α. 27 exclusively dealing with State security, security of So that would, in the main, take 28 the State issues.

into in counterterrorism, intelligence in relation to

7

1			counterterrorism, both collection and analysis and	
2			dissemination of that intelligence.	
3	12	Q.	And then the National Criminal Intelligence Unit, what	
4			responsibility falls on that?	
5		Α.	Basically the same type of collection, analysis and	10:08
6			dissemination, but in that case in relation to serious	
7			and organised crime, Chair.	
8	13	Q.	And then the Telephone Liaison Unit, what is undertaken	
9			then?	
10		Α.	The Telephone Liaison Unit is a unit exclusively	10:08
11			dedicated to processing applications from the force in	
12			relation to call-related data requests. That is done	
13			under the Communications (Retention of Data) Act 2011.	
14			The Act specifies that in the context of Garda Síochána	
15			requests, it has to be of the rank of chief	10:08
16			superintendent. As a matter of policy, the	
17			Commissioner of the day, back in 2008 or before that,	
18			dictated that it would be one dedicated unit that would	
19			process that material, and that was done from my office	
20			but with a dedicated unit servicing that and	10:09
21			exclusively dealing with that.	
22	14	Q.	And just on another issue in relation to the Clerkin	
23			investigation, I think that you processed a number of	
24			applications for telephone metadata, is that right?	
25		Α.	Yes, I processed, I think eleven in all, ten in	10:09
26			relation to	
27	15	Q.	And I think that you in some instances refused	
28			applications as well?	
29		Α.	Yes, I refused one, yes.	

That was after consideration of all the circumstances 1 16 Q. 2 pertaining to the requests, is that right? 3 Α. That is correct, Chair. Just in relation, sorry, before I go -- in relation to TLU, the TLU, as I 4 5 described dealing with the call-related data, there is 10:09 a separate section dealing with interception and 6 7 sometimes it's been referred to as TLU as well, but 8 just to make that distinction: that there is a dedicated unit exclusively dealing with the 9 call-related data requests. In fact, that is 10 10.10 11 completely civilianised; there's no garda now in that 12 unit. 13 I think then there is the National Surveillance Unit as 17 Q. 14 well; what does that engage in? 15 Basically it provides a covert surveillance capability Α. 10:10 16 to the Garda service and in particular, in relation to 17 the powers under the 2009 Criminal Justice 18 (Surveillance) Act. 19 18 You then go on to deal specifically with the queries Q. 20 that were raised by Mr. Justice O'Neill, which are also 10:10 21 highly relevant to our inquiry, and the first one was: 22 23 "Whether there are in existence any intelligence files 24 on Sergeant Maurice McCabe in Garda Headquarters to include whether there is one file with Crime and 25 10.11 26 Security and another file on a special computer at 27 Garda Headquarters named Oisín." 28 29 Now, I think the intelligence data that is held is both

9

1			held in paper-based files and electronically on a	
2			computer system, isn't that right?	
3		Α.	That's right. In the 1990s I suppose, before the	
4			1990s it was exclusively paper, changed over to	
5			computer in mid-1990s and the emphasis has been or the	10:11
6			direction has been that it would eventually become	
7			completely computerised, so that there is less emphasis	
8			now on paper files for a number of years.	
9	19	Q.	I think that the computer system itself is known as	
10			Oisín, is that right?	10:11
11		Α.	That's, the most recent database is known as Oisín. It	
12			was introduced in 2015, but was in a few years in	
13			design and delivery stages before that.	
14	20	Q.	And I think prior to 2015 the system was known as	
15			Verity?	10:12
16		Α.	That is correct, Chair, yes.	
17	21	Q.	Now, I think that you caused the systems at Security	
18			and Intelligence section to be searched for any traces	
19			of an Operation Oisín and also Sergeant Maurice McCabe,	
20			is that right?	10:12
21		Α.	That is correct, Chair.	
22	22	Q.	And you found that there was no file in existence at	
23			Security and Intelligence in respect of Sergeant	
24			Maurice McCabe, is that right?	
25		Α.	That is correct.	10:12
26	23	Q.	And I think that you can confirm that there is no file	
27			or document held whatsoever which presents Sergeant	
28			Maurice McCabe as a target of An Garda Síochána or as a	
29			suspect or in a derogatory light, is that right?	

- 1 A. That is the situation, Chair.
- 2 24 Now, I think that you point out an extensive database Q. 3 will have reference to many members of An Garda Síochána, both currently serving and retired. 4 In that 5 context, you found traces relative to one or 10:13 potentially one or more persons called Maurice McCabe 6 7 and an Operation Oisín, is that right?
- 8 A. That is correct, Chair.
- 9 25 Q. But again, as you have indicated, none of these
 10 references identified Sergeant McCabe as a suspect, a 10:13
 11 target or present him in a derogatory light, is that
 12 right?
- A. That is correct. Just for, by way of clarification
 there: The most active policeman would be expected to
 feature in terms of his or her contribution rather than 10:13
 being the subject of a report as such.
- 17 26 I think then you detail the instances where there are Q. 18 references to Oisín and to Maurice McCabe, and one of 19 those is a report dated October 1998, which refers to 20 an Operation Oisín, but on examination, that involved o 10:14 related to an operation involving rolling checkpoints 21 22 carried out by the Western Garda Region, is that right? That is correct. Chairman. 23 Α.
- 24 27 Q. And I think that that was scheduled to run from the 5th
 25 October 1998 to the 21st March of 1999 and its 10:14
 26 objectives were crime prevention, intelligence
 27 gathering on criminals and subversives and provision of
 28 cordon system into divisional and regional cooperation,
 29 is that right?

- 1 A. That is correct, Chairman.
- 2 28 Q. So it doesn't touch on any of the matters that we are3 concerned with?
- 4 A. NO.
- 29 Q. There was also a trace of an Operation Oisín programme 10:14
 dated 16th March 1998, which related to an exchange
 programme involving operational offices and
 intelligence offices on a multiagency basis. Again,
 that has no bearing on the matters that we are

10:15

10:15

10:15

10.16

- 10 considering, is that right?
- 11 A. That is correct, Chairman.
- 12 30 Q. You also confirm that there was no reference to
 13 Sergeant Maurice McCabe in the context of the reference
 14 to operations or programmes, isn't that right?
 15 A. That is correct, Chairman.
- 16 I think that there was no other trace of an Operation 31 0. 17 Oisín in the Security and Intelligence systems, but you point out again that the actual system itself is called 18 19 Oisín. And then looking at references to Sergeant 20 Maurice McCabe, I think that it's recorded on the Security and Intelligence computer system and database 21 22 in the context of a report from the Monaghan Garda 23 division concerning a drugs operation at Clones, County 24 Monaghan on the 15th May of 2002. Sergeant McCabe was 25 simply part of that Garda search party, isn't that right? 26
- 27 A. That is correct, Chairman.
- 28 32 Q. So one would expect that there would be a reference to29 him in the context of his duties at that time. Other

12

1 traces that were found of Sergeant McCabe on the 2 systems do not, in fact, refer to Sergeant Maurice 3 McCabe, but to other Gardaí with a similar family name, is that right? 4

10:16

- 5 That is correct, Chair. Α.
- You also found a trace of a Garda Maurice McCabe in 6 33 Q. 7 respect of an incident which took place on the 7th April 1989 involving Customs and Excise officers and 8 members of an unnamed family, and the incident took 9 place -- there is no need to go into the incident but 10 10.16 11 the file included a two-page report into the incident, 12 indicating the statements of evidence had been taken 13 from a number of Gardaí and one was listed as Maurice McCabe and it is not clear whether this related to 14 15 Sergeant Maurice McCabe. However, clearly, if it was, 10:17 16 it was again in his duties as a member of An Garda 17 Síochána, isn't that right?

18 That is correct, Chairman, yes. Α.

- 19 34 You also found another reference to a Maurice McCabe; Q. 20 however, on examination, it proved that this reference 10:17 was not to a member of An Garda Síochána, isn't that 21 22 right?
- That is correct, Chairman. 23 Α.
- 24 35 Now, I think that in your report, you indicate that you Q. 25 were happy to make available and for inspection and 10.17 access and indeed a demonstration to Mr. Justice 26 27 Iarfhlaith O'Neill of your operating systems in the Crime and Intelligence Unit, is that right? 28 29
 - That is correct. It's not unusual for judges, there's Α.

13

four judges that I had interaction with in the context
 of oversight of different systems, so that offer was
 made, yes.

4 36 Now, I think you then point out that, in answer to the 0. 5 question to confirm whether there are files kept in 10:18 Crime and Security on members under investigation, 6 7 which are colloquially known as the corruption file, 8 and whether there are any such files kept in relation to either Sergeant Maurice McCabe or Superintendent 9 David Taylor. Now, I think that the National Criminal 10 10.18 11 Intelligence Unit conducted a search of both electronic 12 and paper records and found no reference to Maurice 13 McCabe or to David Taylor in the context of an 14 operation, is that right?

10:19

10:19

- 15 A. That is correct, Chairman.
- 16 37 Q. Now, as part of the National Criminal Intelligence 17 Unit's wide remit to collate and store intelligence 18 related to serious organised crime, several electronic 19 folders have been created on Oisín in order to provide 20 the user with easy access to intelligence on crime 21 areas, is that right?
- 22 A. That is correct, Chairman.
- And you give as an example of that folders consisting 23 38 Ο. 24 of information and reports and intelligence on 25 burglaries, perhaps under the heading of "Cannabis", 10.19under the heading of "Sex Offenders", and there are 26 27 general files for the storage and analysis of intelligence -- does not readily fit into any existing 28 29 operations, is that right?

14

1 A. That is correct, Chairman, yes.

2 You found that one such folder is titled "The 39 0. corruption in public office" and it's designed to hold 3 information and reports and intelligence pertaining to 4 5 misconduct in public office. Typical examples of that 10:20 you give as misconduct in public office held in this 6 7 file, include, inter alia, Gardaí alleged or suspected 8 of being involved in drug-trafficking or Gardaí suspected of passing information to criminals, isn't 9 that right? 10 10.20

11 A. That is correct, Chairman.

12 40 I think you caused a search to be carried out in Oisín 0. 13 and the document content management system, and Verity, 14 for the search term "Dave Taylor", and I think due to his career and in particular his service in the Special 10:20 15 16 Detective Unit, the then-Detective Sergeant Dave Taylor 17 is referenced on multiple times on Verity and the DCMS 18 in the context of duties carried out by him in the 19 discharge of his functions as a Garda officer; for 20 example, the conduct of searches, the reporting on 10:21 suspects and providing intelligence. I think there was 21 22 one report on Oisín where Superintendent Taylor is 23 reporting on a traffic-related matter in October of 24 2015, is that right?

25 A. That is correct, Chairman.

10:21

26 41 Q. And you say that for the avoidance of doubt you can
27 confirm that there is no file or document held
28 whatsoever which presents Superintendent David Taylor
29 as a target of An Garda Síochána, a suspect or in a

15

1			derogatory light, is that right?	
2		Α.	That is correct, Chairman.	
3	42	Q.	So similar to what you observed in relation to Sergeant	
4			Maurice McCabe, his name did appear but it appeared in	
5			circumstances which were attributable to his normal	10:22
6			duties in An Garda Síochána?	
7		Α.	That is correct.	
8	43	Q.	I think that finally, you observed that the National	
9			Criminal Intelligence Unit also maintains a corruption	
10			index and what is that?	10:22
11		Α.	It's a return from divisions in relation to reports	
12			under investigation or detected in relation to the	
13			Prevention of Corruption (Amendment) Act 2001, so it's	
14			a statistical return.	
15	44	Q.	You then, at page 164 of your report, move on to the	10:22
16			third and final question that was posed: To confirm	
17			whether there was at any time an interception placed on	
18			the phones of Sergeant Maurice McCabe under either the	
19			1993 Interception of Postal Packets and	
20			Telecommunications Act and/or the 2009 Criminal Justice	10:23
21			(Surveillance) Act. And I think that you observed that	
22			all applications for the lawful interception of	
23			telecommunications are processed and prepared by the	
24			Telecom Liaison Unit before being considered by the	
25			Commissioner, is that right?	10:23
26		Α.	That is correct, Chairman.	
27	45	Q.	And you point out the circumstances in which	
28			interception can take place. Dealing with Sergeant	
29			Maurice McCabe, I think that you point out that you had	

1 caused the necessary inquiries and research to be 2 conducted to ascertain whether any authorisation for lawful interception was in place for any communications 3 device for Sergeant Maurice McCabe, is that right? 4 5 That is correct, Chairman. Α. 10:23 And I think no reference period had been provided nor 6 46 0. 7 any specific mobile or fixed line number for your 8 assistance, but in order to ensure completeness you took the period from the 1st January 2009 to the 10th 9 November of 2016, is that right? 10 10.2411 Yes, that is correct, Chairman. Α. 12 I think the timeframe was selected on the basis that 47 0. 13 the earliest media reference to Sergeant McCabe making 14 a complaint to any member of An Garda Síochána was in 15 early 2010. On that basis, records for a period of 12 10:24 16 months prior to that had been examined for completeness, is that right? 17 18 That is the situation, Chairman, yes. Α. 19 48 I think no specific phone number was provided, research Q. 20 was conducted on Sergeant McCabe's full name and on 10:24 this basis you can confirm that there has been no 21 22 application for a lawful authorisation for interception 23 for anyone by that name for the period the 1st January 24 2009 until the 10th November of 2016, is that right? That is correct, Chairman. 25 Α. 10.25Now, again, I think that you made available all 26 49 0. 27 relevant documents for inspection for Mr. Justice O'Neill at the time and those are available to the 28 Tribunal also, isn't that right? 29

17

1 That is the situation, Chairman, yes. Α. 2 Now, you then go on to deal for applications for call 50 Q. 3 data or telephone billing to Security and Intelligence in respect of phone numbers used by Superintendent 4 5 David Taylor, isn't that right? 10:25 That is -- that's correct, Chairman. 6 Α. I think that those applications were made to your 7 51 Q. 8 Department in the context of a criminal investigation into numerous instances of alleged disclosure of 9 information contrary to section 62(1) of the Garda 10 10.2511 Síochána Act 2005, is that right? That is correct, Chairman. 12 Α. 13 I think, as you have already indicated to us, a total 52 **Q**. 14 of ten separate applications were processed in respect 15 of a telecommunications device used by Superintendent 10:26 16 Taylor relative to the period December 2014 to May 17 2015, isn't that right? 18 That is correct. Α. 19 53 And that related to metadata and, as already indicated, Q. 20 having considered the various applications, you 10:26 actually refused certainly one application that was 21 22 made in the context of that investigation, isn't that 23 right? 24 That is correct, Chairman. Α. 25 Again. all the relevant documentation was made 54 0. 10.26 available to Mr. Justice O'Neill and is available also 26 27 to the Tribunal and has been supplied. Now, just in 28 relation to your conclusions in your report, perhaps 29 you'd just read what your conclusions were?

18

1 "In summary, I am to confirm that there is to file in Α. 2 existence at Security and Intelligence (formerly Crime and Security) in respect of either Dave Taylor or 3 4 Sergeant Maurice McCabe. From 2009 to date neither 5 Superintendent David Taylor nor Sergeant Maurice McCabe 10:27 6 was the subject of surveillance under the Criminal 7 Justice (Surveillance) Act 2009. Additionally I can 8 confirm that there is no file or document held which 9 presents Superintendent David Taylor or Sergeant 10 Maurice McCabe as targets, individually or 10.27 11 collectively, of An Garda Síochána or as suspects or in 12 any derogatory context. Finally, I am to confirm that 13 there has been no application for the lawful 14 authorisation for interception 102803 from for Maurice 15 McCabe for the period 1 January 2009 until 10 November 10:27 16 2016. " The refusal that I referred to where 17 55 Just two matters. Q.

17 55 Q. Just two matters. The refusal that I referred to where
18 you refused an application that was being made, I think
19 that related to a journalist's phone, is that right?
20 A. That is correct.

10:28

And the other matter that I would like you to deal with 21 56 0. 22 is, were you at any time consulted by Commissioner 23 Nóirín O'Sullivan in relation to concerns that Noel 24 Brett had in relation to his phone perhaps being 25 intercepted? Do you have any recollection of that? 10.28 26 There was a frenzy of allegations in the thing, Α. Yeah. 27 it's quite possible she would have rang me to see -- I don't have a recollection but I can certainly check 28 29 that.

19

1	57	Q.	You don't	
2		Α.	Yeah, I can confirm that it's not the case anyway.	
3	58	Q.	Yes, no	
4		Α.	But I just don't have a firm recollection of that.	
5	59	Q.	But do you have a recollection of	10:28
6		Α.	Yeah, I have a recollection of the allegations that	
7			almost everyone was being tapped, according to the	
8			paper, you know.	
9	60	Q.	Yes.	
10		Α.	It's yeah, it's quite possible	10:29
11	61	Q.	It's possible, but you have no recollection of it?	
12		Α.	I don't have a recollection of it, no.	
13			MR. MARRINAN: Thank you very much. would you answer	
14			any questions.	
15			MR. McDOWELL: No questions.	10:29
16			MS. BURNS: No questions.	
17			MR. Ó MUIRCHEARTAIGH: No questions.	
18			MR. DIGNAM: No questions.	
19			CHAIRMAN: Thank you very much.	
20		Α.	Thank you, Chair.	10:29
21				
22			THE WITNESS THEN WITHDREW	
23				
24			MR. MARRINAN: Detective Superintendent Brian Brunton,	
25			please.	10:29
26				
27				
28				
29				

1			DETECTIVE SUPERINTENDENT BRIAN BRUNTON, HAVING BEEN
2			SWORN, WAS DIRECTLY EXAMINED BY MR. MARRINAN:
3	62	Q.	MR. MARRINAN: I think, Detective Superintendent
4			Brunton, that you are attached to the Security and
5			Intelligence division and have responsibility for the 10:30
6			intelligence section since March of 2011, is that
7			right?
8		Α.	That's correct, Chairman.
9	63	Q.	Sand I think on the 20th July last year you received
10			correspondence from Ms. Elizabeth Mullan, solicitor to 10:30
11			the Tribunal, that the Tribunal was anxious to advance
12			its investigations into term of reference [i]; namely,
13			to examine all electronic and paper files relating to
14			Sergeant Maurice McCabe held by An Garda Síochána and
15			to consider any material therein relevant to [a], [b], $_{10:30}$
16			[c], [d], [e] and [f] - is that right?
17		Α.	That's correct, Chairman.
18	64	Q.	I think an arrangement was subsequently put in place
19			for the Chairman, Mr. Justice Peter Charleton, to visit
20			the Security and Intelligence section on the 31st July $_{10:31}$
21			of last year, is that right?
22		Α.	That's correct.
23	65	Q.	And that was to conduct a search of records held in
24			that section. Now, I think in advance of the visit,
25			you provided the Tribunal with a list of 13 keywords
26			which were to be searched across your electronic
27			databases, isn't that right?
28		Α.	I was provided by the Tribunal with 13 keywords, yes.
29	66	Q.	Yes, sorry. Yes. I think the keywords were: McCabe,

1 Maurice, Ms. D's surname and Ms. D's Christian name, 2 rat, Oisín, whistle, blower, whistleblower, person of 3 the year, child, child abuse and kiddie fiddler - is that right? 4 5 That's correct. Α. 10:32 6 67 0. I think in advance of the visit by the Chairman, you arranged for searches to be conducted on those keywords 7 8 on each of the computer systems databases that are maintained within the Security and Intelligence 9 section? 10 10.3211 That's correct, Chairman. Α. 12 68 I think that returned 58,865 hits in respect of the Q. 13 words that have been provided by the Tribunal, is that 14 right? 15 That's correct, Chairman. Some of those hits were hits 10:32 Α. 16 on partial searches. So, as an example, one of the words provided was the word "rat" so if you look at the 17 word "operation" R-A-T appears within that word, so 18 19 there were in excess of 24,000 hits alone on the word 20 "rat". 10:32 Now, I think on the 31st July at 10:00am the Chairman 21 69 Q. 22 called to Garda Headquarters and that the Garda 23 Commissioner had arranged for some of her senior 24 management team to meet with the Chairman on his 25 arrival at Garda Headquarters, is that right? 10:33 That's correct. 26 Α. 27 70 Q. I think that due to the fact that you were aware that the Tribunal was conducting searches across all the 28 29 Garda IT systems, there were a large number of senior

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1			managers present, is that right?	
2		Α.	Yes. There was some senior management present from ICT	
3			section as well as Security and Intelligence section.	
4	71	Q.	I think the Chairman outlined to all those that were	
5			present the importance of the work that he was	10:33
6			undertaking and the importance of the work of the	
7			Tribunal and his proposed timelines for same, and you	
8			spoke at the meeting and outlined the work to the	
9			Chairman that you had conducted regarding the key word	
10			searches, is that right?	10:34
11		Α.	That's correct.	
12	72	Q.	I think following the meeting, you accompanied the	
13			Chairman to the Security and Intelligence section?	
14		Α.	That's correct.	
15	73	Q.	I think that you first visited the Telephone Liaison	10:34
16			Unit and we have heard from the last witness,	
17			Mr. Kirwan, in relation to what is done in that unit,	
18			and you introduced the Chairman to a member senior	
19			member of staff there, who provided the Chairman with	
20			an explanation of the systems and processes in place	10:34
21			within that office, is that right?	
22		Α.	That's correct.	
23	74	Q.	I think the Chairman was then provided with an overview	
24			of the operation and use of the IT system within that	
25			office by another member of staff, is that right?	10:34
26		Α.	By the same member of staff, the office manager.	
27	75	Q.	Oh, was it the same member of staff?	
28		Α.	Yes.	
29	76	Q.	The Chairman then requested that a search be conducted	

1 on a number of key words in his presence, which was 2 done by the member of staff under the Chairman's direction and supervision, is that right? 3 That's correct. 4 Α. 5 77 And the Chairman was given an opportunity to view the Q. 10:35 6 results of those searches, is that right? 7 That's correct. Α. I think it was the Chairman who selected the words to 8 78 0. be searched and the words searched and combinations of 9 words searched were from the list that had been 10 10.3511 provided in advance, is that right? That's correct. 12 Α. 13 I think you drew the Chairman's attention to the 79 Q. 14 existence of files held within the office which you 15 believe related to the term of reference [i], is that 10:35 16 right? I was aware of the existence of the 17 That's correct. Α. 18 files which had been reverend by the previous witness, 19 the ten applications under the 2011 Communications 20 (Retention of Data) Act, and while the Chairman was 10:36 present in the office I felt it appropriate to bring it 21 22 to his attention. Now, I think the Telephone Liaison Unit acts as the 23 80 Q. 24 single point of contact for administering all Garda 25 Síochána requests for communications data made to the 10.36 communications service providers --26 27 That's correct. Α. -- is that right? 28 81 I think the requests for phone Q. 29 traffic, namely billing data, are currently processed

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under the provisions of the Communications (Retention 1 2 of Data) Act 2011 and previous to the enactment of the 3 2011 Act, requests were processed under the provisions of the Criminal Justice (Terrorist Offences) Act 2005, 4 5 is that right? 10:36 6 That's correct, Chairman. Α. 7 I think the billing request is signed by the chief 82 Q. 8 superintendent of Security and Intelligence in advance of the request being processed by the communications 9 service providers, is that right? 10 10.37 11 That's correct, as provided for in the legislation. Α. 12 I think that it's after careful checks and 83 0. 13 considerations have been applied as to the legality, 14 relevance, necessity and proportionality of the 15 applications, is that so? 10:37 16 That's correct. Α. 17 I think regarding the interactions in respect of 84 Q. 18 Superintendent Taylor, you are in a position to state 19 that a review of records indicates that applications 20 were made to the Telephone Liaison Unit in respect of 10:37 phone numbers used by Superintendent Taylor? 21 22 That's correct. Α. 23 85 I think these applications were made to the TLU in the Q. 24 context of a criminal investigation into instances of 25 alleged disclosure of information contrary to section 10.37 62(1) of the Garda Síochána Act 2005? 26 27 That's correct. Α. I think as we have heard from Mr. Kirwan, a total of 28 86 Q. 29 ten separate applications were processed in respect of

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1			communications devices used by Superintendent David	
2			Taylor relative to the period December 2014 to May	
3			2015, is that right?	
4		Α.	That's correct, Chairman.	
5	87		I think that those files in relation to those ten	10:38
6	07	ų.	applications were made available to the Chairman for	10:36
7			his inspection, is that right?	
8		Α.	That's correct.	
9	88		I think you then visited another office within the	
9 10	00	Q.		
			Telephone Liaison Unit which deals with the	10:38
11			Interception of Postal Packets and Telecommunications	
12			Messages (Regulations) Act 1993?	
13		Α.	That's correct.	
14	89	Q.	I think that you introduced the Chairman to a member of	
15			staff there who provided the Chairman with an	10:38
16			explanation of the systems and processes in place	
17			within that office?	
18		Α.	That's correct.	
19	90	Q.	I think the Chairman was provided with a demonstration	
20			of the IT system in that office, and again, the	10:39
21			Chairman requested that a search using keywords be	
22			conducted in his presence, isn't that right?	
23		Α.	That's correct.	
24	91	Q.	I think that that was done, and the Chairman viewed the	
25			results of those searches?	10:39
26		Α.	That's correct.	
27	92	Q.	Again, you point out it was the Chairman who selected	
28			the words to be searched and the words searched and	
29			combinations of words searched were from the list that	

1			had been provided in advance?	
2		Α.	That's correct.	
3	93	Q.	I think you then brought the Chairman to the National	
4			Source Management Unit, is that right?	
5		Α.	That's correct.	10:39
6	94	Q.	Under whose control is that unit?	
7		Α.	The National Source Management Unit is a unit	
8			established post the Morris Tribunal. While it's under	
9			my management responsibility on a day-to-day basis in	
10			terms of staff it actually reports directly to the	10:40
11			Assistant Commissioner in Security and Intelligence,	
12			who has responsibility for informant management.	
13	95	Q.	I think that you introduced the Chairman to a senior	
14			member of staff there who provided the Chairman with	
15			background information in relation to the setting up of	10:40
16			the office and an overview of the work conducted by	
17			that office. I think the IT system was then explained	
18			to the Chairman and again the Chairman requested to	
19			conduct a number of key word searches, that they would	
20			be conducted in his presence and that was done, isn't	10:40
21			that right?	
22		Α.	That's correct.	
23	96	Q.	Again, the results were examined by the Chairman. I	
24			think the next office you visited was the Intelligence	
25			office, which has responsibility for the analysis of	10:40
26			national security intelligence, is that right?	
27		Α.	That's correct.	
28	97	Q.	Again, the results were examined by the Chairman. I	
29			think the next office you visited was the Intelligence	

2national security intelligence, is that right?3A.498Q.And again, you introduced the Chairman to a senior5member of staff who provided the Chairman with an6explanation of the intelligence system and demonstrated7its use, is that right?8A.7That's correct.999Q.Again, the Chairman requested that a number of key word10searches in his presence be done, would be done, and11this was done under his direct supervision and control,12is that right?13A.14100Q.And again, the Chairman viewed the results of the15searches?16A.7That's correct.17bit, in terms of the four references to Maurice McCabe18which were highlighted by the previous witness, they19were shown to the Chairman.20101Q.21concluded at 1:00pm and you accompanied the Chairman22from the building. Now, I think that all these23searches that were done were obviously done in an open24way to the Chairman and the Chairman had access to all25the systems and, as we have heard, he directed that26certain searches be done and then had the opportunity27to view those searches, is that right?28A.29the systems and, as we have heard, he directed that20to view those searches	1			office, which has responsibility for the analysis of	
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A. That's correct. The Chairman had complete control over	26			certain searches be done and then had the opportunity	
·	27			to view those searches, is that right?	
29 the searches that were conducted.	28		Α.	That's correct. The Chairman had complete control over	
	29			the searches that were conducted.	

And yesterday we heard evidence from Mr. Mark McConnell 102 1 Q. 2 from the FNSI in relation to examination of Garda 3 computers; this process is entirely separate --4 Α. Yes. 5 103 -- to the process that was undertaken by Mr. Mark Q. 10:42 6 McConnell, isn't that right? 7 That's correct, yes. Α. 8 MR. MARRINAN: Thank you very much. Would you answer 9 any questions. 10 MR. McDOWELL: No questions. 10.4211 MS. BURNS: No questions, Chairman. 12 13 THE WITNESS WAS EXAMINED BY MR. DIGNAM: 14 104 Ο. MR. DI GNAM: I have one question for Superintendent 15 Brunton. Just, lest there be any uncertainty or doubt 10:42 16 about this, when a request is made of the mobile phone service providers under the 2012 Act for billing 17 18 records, etcetera, do they provide the -- in the case 19 of text messages, do they provide the contents of the 20 text messages or the mere fact that texts were sent or 10:43 received at a particular point in time? 21 22 There is no content provided, Chairman. Α. The So, there is 23 legislation is specific in that regard. 24 no way of recovering content. 25 MR. DI GNAM: Thank you. 10.4326 27 28 29

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1			THE WITNESS WAS THEN QUESTIONED BY THE CHAIRMAN:	
2	105	Q.	CHAIRMAN: Chief superintendent Brunton, if you were to	
3			summarise basically what was seen, my recollection is	
4			that Maurice McCabe certainly does come up on a number	
5			of files but he comes up as a conscientious policeman	10:43
6			doing his duty in relation to, let's say, border	
7			searches or drug searches or things like that, but	
8			there is absolutely nothing to suggest any official	
9			policy against him or any official targeting of him in	
10			any of these files?	10:44
11		Α.	Absolutely, Chairman. There is absolutely nothing	
12			derogatory on our systems in relation to Sergeant	
13			McCabe.	
14	106	Q.	CHAIRMAN: And just any hits are his duty as a	
15			policeman doing his work in the same way as any other	10:44
16			policeman or policewoman?	
17		Α.	Yes. The hits that we mentioned here this morning are	
18			simply his name appearing in reports carrying out his	
19			functions as a police officer.	
20			CHAIRMAN: Yes. All right. Thank you for your help	10:44
21			and your courtesy on the occasion.	
22				
23			THE WITNESS THEN WITHDREW	
24				
25			MR. MARRINAN: Sir, they were the only two witnesses	10:44
26			that we had listed today for this morning, we had	
27			anticipated that they would take an awful lot longer,	
28			but none of them have been subjected to any	
29			cross-examination at all.	

1 CHAIRMAN: Right. Okay.

2 MR. MARRINAN: So the Tribunal will sit again on 3 Monday.

Yes, I could ask you, Mr. McDowell, for an 4 CHAI RMAN: 5 explanation as to the absence of a vigorous 10:45 6 cross-examination. So we are going to sit on Monday. 7 With the evidence of MR. MARRINAN: Yes. 8 Superintendent Taylor who we anticipate will be in the witness-box for probably three days, until Wednesday, 9 and then his wife Michelle Taylor will be called to 10 10.4511 give evidence, and then on Thursday we have the former Minister for Justice Alan Shatter is listed to give 12 13 evidence and then we will be commencing the evidence of 14 former Commissioner Martin Callinan, which we would 15 anticipate will go into Friday and probably into the 10:45 16 following week.

17 CHAIRMAN: Yes. All right. Well, thank you very much. 18 Then we will adjourn to next week. It's important, as 19 it has been the case in the Tribunal, that we all 20 maintain our decorum in relation to this because it's 10:45 21 coming to, I suppose, what may be a pivotal point in 22 the whole thing. So, thank you all very much.

THE TRIBUNAL THEN ADJOURNED UNTIL MONDAY, 14TH MAY 2018AT 10: OOAM10:46

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	2018 [3] - 1:18, 5:2,	26:12	April [1] - 13:8	BRIAN [2] - 4:6, 21:1
•	31:24	action [1] - 1:28	areas [1] - 14:21	Brian [1] - 20:24
1 [3] - 3:26, 6:2,	20th [1] - 21:9	active [1] - 11:14	arising [1] - 6:4	briefed [1] - 7:6
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