

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

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1921, ON 17 FEBRUARY 2017

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

HELD IN DUBLIN CASTLE
ON MONDAY, 14TH MAY 2018 - DAY 74

74

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

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1 THE HEARING RESUMED, AS FOLLOWS, ON MONDAY, 14TH MAY
2 2018 AT 11:00AM

3
4 CHAIRMAN: I'm sorry, I was delayed by other duties.

5 MR. McGUI NNESS: Chairman, the witness today is
6 Superintendent David Taylor.

11:09

7
8 SUPERINTENDENT DAVID TAYLOR, HAVING BEEN SWORN, WAS
9 DIRECTLY EXAMINED BY MR. McGUI NNESS AS FOLLOWS:

10
11:10

11 1 Q. MR. McGUI NNESS: Superintendent Taylor, you're a
12 superintendent in An Garda Síochána and I think you're
13 currently attached to the Traffic division in Dublin,
14 is that correct?

15 A. That's correct.

11:10

16 2 Q. Could you outline to the Chairman your career in An
17 Garda Síochána to date?

18 A. I joined An Garda Síochána on the 31st March 1982.
19 Upon completion of my initial training, I was allocated
20 to whitehall Garda station, with general policing
21 duties. In 1986, following a competition, I joined the
22 Special Task Force, which is part of the Special
23 Branch. And from 1986 to 1996 I moved into the
24 mainstream Special Branch work, including various other
25 departments within that department. In 1997 I was
26 promoted to sergeant and I was allocated to waterford
27 Garda station. Six months later I was transferred back
28 to Dublin, to Mountjoy Garda station, where I was part
29 of the Community Policing Unit and subsequently the

11:10

11:11

1 Crime Prevention Unit. Roughly in 2002 I returned to
2 the Special Detective Unit as Detective Sergeant in
3 Charge of the Agent Handling Unit. And in two thousand
4 and - forgive me if I forget the exact dates --

5 3 Q. Yes. 11:11

6 A. -- I was promoted Inspector and allocated to Internal
7 Affairs, which is part of a HRM department. Following
8 a number of years there, I was allocated then as
9 Detective Inspector to Liaison and Protection, which is
10 part of Crime and Security in Garda Headquarters. And 11:12
11 in 2012 I was promoted to superintendent and allocated
12 to the Garda Press Office, and remained there until
13 June 2014, when I was transferred to the Traffic
14 Department DMR Castle, where I'm currently serving,
15 Chairman. 11:12

16 4 Q. And correct me if I'm wrong, I think the date of your
17 transfer from the Press Office was 10th June --

18 A. That's correct.

19 5 Q. 2014?

20 A. -- that's correct. 11:12

21 6 Q. You moved on on that date?

22 A. That's correct.

23 7 Q. Can I just ask you about your promotion to
24 superintendent and your transfer to the Press Office;
25 were they connected? In other words, did you have to 11:12
26 apply to be Superintendent of the Press Office?

27 A. No, I was on a promotion board --

28 8 Q. Yes.

29 A. -- a promotion list from the year before in 2011, which

1 had been completed, and it spilled into 2012. I did
2 not apply for the Press Office. I was on the general
3 list to be promoted. The allocation was a matter for
4 the Garda Commissioner.

5 9 Q. And were you consulted before you were assigned there? 11:13

6 A. After I was promoted - and there's an interregnum of
7 about two weeks before you move from your current
8 station to your new station - I received a phone call
9 from Superintendent John Gilligan, who was the
10 incumbent Press Officer, asking me to meet me in his 11:13
11 office and he asked me would I be interested in taking
12 up a position in the Press Office. I had never applied
13 for the Press Office, that was the first indication I
14 was ever being considered for the Press Office.

15 10 Q. And do you know how you were chosen to go? 11:13

16 A. No, I don't.

17 11 Q. Okay. Well, you're not suggesting, or do you know,
18 whether you were chosen by Commissioner Callinan at the
19 time?

20 A. He never disclosed that to me. I am sure - now, I 11:14
21 don't want to speak for Superintendent Gilligan -
22 obviously the way the world works, he was obviously
23 asked to probably sound me out and see would I be
24 interested in taking up the position in the Garda Press
25 Office. But do I know how that came to be? No, I 11:14
26 don't.

27 12 Q. Now, can I ask you firstly about your knowledge of
28 Commissioner Callinan? Had you ever worked with
29 Commissioner Callinan at any stage of your career?

1 A. No, never.

2 13 Q. Did you know him at all socially or personally --

3 A. No, I didn't --

4 14 Q. -- at that stage?

5 A. I didn't know him socially. I knew him to see, in the 11:14
6 sense that he was part of the Central Detective Unit
7 based in Harcourt Square, I was part of Special Branch
8 based in Harcourt Square and I just knew the man to
9 see. I never had any conversation or engagement with
10 him prior to... 11:15

11 15 Q. I see. And in relation to former Commissioner
12 O'Sullivan, had you worked with her at any stage?

13 A. I worked with her in one stage in the sense that she
14 was Assistant Commissioner in Crime in charge of Crime
15 and Security and I was a detective inspector attached 11:15
16 to Liaison Protection, which is a component part of
17 Crime and Security. Now, I'd no direct line reportage
18 to her --

19 16 Q. Yes.

20 A. -- but she was the head of the department. 11:15

21 17 Q. Yes. And had you ever met Sergeant McCabe before 2016?

22 A. Never.

23 18 Q. Okay. What did you know of him, or did you know
24 anything of him?

25 A. I didn't know anything of him. 11:15

26 19 Q. Okay. So as of taking up the position as Press
27 Officer, you knew nothing about Sergeant McCabe, is
28 that right?

29 A. Well, I only knew there'd been certain pieces in the

1 media, but I knew nothing about any of the situation in
2 relation to penalty points or anything like that. Knew
3 nothing.

4 20 Q. Okay. And what was the first thing you heard about
5 Sergeant McCabe that cast him in a bad light? 11:16

6 A. I suppose by early 2013, you know, it was, the penalty
7 points issue was raising its head and that there was a
8 sergeant from Cavan that was raising the issues in
9 relation to penalty points. And that was the first
10 issue I heard about it. 11:16

11 21 Q. And who told you about that, or did you just --

12 A. Well, it was general, general knowledge around the
13 place. There wasn't any specific person, but there was
14 general knowledge that there was an issue being raised
15 in relation to penalty points. 11:16

16 22 Q. And did you hear any other gossip about him?

17 A. No. No, that's it.

18 23 Q. Okay. Well, you came into the Press Office and
19 presumably up to that point you had no training for
20 it -- 11:17

21 A. No.

22 24 Q. -- prior to that --

23 A. No.

24 25 Q. -- is that correct? And what training did you have when
25 you came in as Press Officer? 11:17

26 A. When I came into the Press Office, I got about 45/50
27 minutes training with Carr Communications. There had
28 been arrangement with the Press Office on a previous
29 media campaign and there was some surplus funds left

1 for training, so, I availed of 50 minutes training in
2 Carr Communications.

3 26 Q. And was there a manual in place about how to run the
4 Press Office?

5 A. Well, I wouldn't say there's a manual; you're bound by 11:17
6 what's in the Garda Code, what's in the -- and
7 basically you get your instructions from the serving
8 Garda Commissioner of the day.

9 27 Q. Yes. And what instructions would you get from the
10 serving Commissioner? 11:17

11 A. Well, you're the official spokesperson of An Garda
12 Síochána; you liaise closely with the media, you keep
13 the Commissioner informed of all matters that could
14 impinge upon the integrity and reputation of An Garda
15 Síochána, you bring all issues that would affect the 11:18
16 running of An Garda Síochána to the attention of the
17 Commissioner.

18 28 Q. Okay. And were you informed of anything about Maurice
19 McCabe by the Commissioner at this point in time?

20 A. No. No, I wasn't. The Commissioner, on taking up my 11:18
21 appointment, just made sure to me that I reported all
22 matters to him, and any matters I reported to him that
23 I consequently reported them to the Deputy Commissioner
24 as well simultaneously.

25 29 Q. Did you have any, as it were, settling-in meetings with 11:18
26 the Commissioner and the Deputy Commissioner or
27 roundtable talks about how you're to do your job?

28 A. Well, I had a meeting with the Commissioner and it was
29 basically on what I've just said, that he said to

1 develop, 'Go and develop good relationships with the
2 media, make sure you project the Garda Síochána in the
3 best light', to keep him informed of all matters that
4 he needs to be kept informed with and to -- and I
5 specifically asked him in relation to the reporting 11:19
6 that -- he said either to ring or text or call in and
7 to make sure that the Deputy Commissioner was also kept
8 in line with all matters going on.

9 30 Q. Okay. Now, in the penalty points controversy, I think
10 it came out at one stage that the Commissioner had had 11:19
11 the penalty points quashed or revoked, isn't that
12 correct?

13 A. That's correct, yes.

14 31 Q. And I think you became aware of that presumably through
15 an article in the press that had been written in April 11:19
16 of 2013, do you recall that?

17 A. I do indeed, yes.

18 32 Q. And it would appear that a Pulse record relating to
19 that had been released to the press by somebody, isn't
20 that right? 11:20

21 A. Well, I'm not sure how it, they got into the media, but
22 I'm aware it became a story in the media that the Garda
23 Commissioner had a ticket cancelled.

24 33 Q. Yes. And did the Commissioner speak to you about that?

25 A. He did, yes. He was very annoyed about it. He felt it 11:20
26 was an impingement on his privacy, that he was being --
27 he was very annoyed that this had found its way into
28 the public arena.

29 34 Q. Yes. Well, the journalist has given us a statement and

1 she's explained that she called to the house --

2 A. Yes.

3 35 Q. -- to check that the Martin Callinan who lived at that
4 address was the Commissioner.

5 A. Yes. 11:20

6 36 Q. I think you've probably seen that, have you?

7 A. Sorry, sir?

8 37 Q. Have you seen that statement?

9 A. I haven't seen that statement, no, sorry.

10 38 Q. All right. In any event, did you attend a meeting with 11:21
11 the Commissioner about that issue?

12 A. I remember the night it happened. The Commissioner was
13 out of the country at the time, I think he was at some
14 meeting in Europe in relation to other matters and then
15 he rang me. He was quite agitated that a journalist 11:21
16 had called to his house, his private house. He found
17 it a total breach of his privacy, a total breach of
18 that he was a public person, that if the media needed
19 to find any issue they could contact the Press Office.
20 And he asked me to establish, do you know, via the 11:21
21 journalist's proprietor, that, to pass on that he was
22 extremely annoyed and he felt it was very
23 unprofessional that a journalist would call to his
24 private house.

25 39 Q. Okay. well, did you speak to the journalist or her 11:21
26 paper?

27 A. I didn't speak to the journalist, but I did speak a
28 number of days later to the Managing Director in the
29 company of Deputy Commissioner John Twomey - there was

1 a meeting in Garda headquarters in Harcourt Square -
2 where Mr. De Neef is his name, the Managing Director,
3 in which Mr. Twomey and I passed on the annoyance and
4 the concern of the Commissioner, that his house had
5 been, and that his wife had been, the door had been 11:22
6 knocked on the door and his wife had to answer to a
7 journalist.

8 40 Q. Well, did you not speak to the journalist directly and
9 tell her that all inquiries that she had to make should
10 be made through the Press Office? 11:22

11 A. I have to be genuine, I don't recollect talking to the
12 journalist in person.

13 41 Q. Okay.

14 A. That's being quite honest with you.

15 42 Q. But were you aware that a number of other penalty 11:22
16 points issues had got into the press, people were named
17 in the Dáil, there were...

18 A. Yes, I was aware of that.

19 43 Q. There was a judge named, I think, isn't that correct?

20 A. I understand, yeah, a number -- 11:23

21 44 Q. And a sports person?

22 A. -- of notable people, yes.

23 45 Q. And was Mr. Williams named, do you remember that?

24 A. I can't recall.

25 46 Q. Okay. Did you know Mr. Williams at this point in time? 11:23

26 A. This is in early 2013?

27 47 Q. Yes.

28 A. I knew him. I didn't know him that well.

29 48 Q. As a matter of interest, how did you, as a new Press

1 Officer, get to meet and know all the journalists you
2 had to deal with?

3 A. Well, they made it their purpose to meet me and ring
4 me. So they would've rang the Press Office to either
5 come up and see me or they would've rang me to 11:23
6 introduce themselves. And then very quickly from the
7 time I took up my position, I was going through all the
8 scenes, if not most of the scenes in relation to major
9 outrages, such as murders and serious crime, so I was
10 getting to personally meet the journalists at the 11:24
11 scenes and that was a form of introduction.

12 49 Q. When you became Press Officer then, how did you set
13 about running the Press Office or changing it, or could
14 you describe that to us?

15 A. When I took up in the Press Office, I made an 11:24
16 assessment of the Press Office. It quickly became
17 apparent to me that the infrastructure and the general
18 appearance of the office had been not up to the
19 standard I would've liked and that we need to provide.
20 So I made applications to the Housing Department within 11:24
21 Garda Headquarters in order to have, like, the Press
22 Office refurbished, renovated with new desks and work
23 stations that were compatible with health and safety,
24 to have IT upgraded, to have -- I bring in a number of
25 initiatives, one in particular is I got the direct feed 11:25
26 of the traffic camera for the Dublin area, which could
27 feed directly into the Press Office on a large screen,
28 which means that when there was major blockages around
29 the arterial routes of Dublin, such as the M50 and

1 others, we could tweet in realtime. We didn't have
2 that facility prior to me going there.

3 50 Q. Yes. And we've heard that you moved Inspector Ferris
4 out from the office that he had been sharing with you;
5 was there any particular reason for doing that? 11:25

6 A. When I took up in the Press Office, the previous
7 director of communications had vacated a number of
8 months beforehand, so there was a free office next door
9 to my office. And in Garda Headquarters, if you don't
10 use an office, you lose an office. There was a lot of 11:26
11 people floating around looking at a nice office and if
12 I didn't populate it quite soon, it would be taken from
13 us. I, in consultation with Inspector Ferris, he moved
14 from my office into Director of Communications office,
15 which was large office. And that was in consultation 11:26
16 with him. It was purely in order to upgrade his
17 position, because I officially appointed him Deputy
18 Press Officer, and also it was twofold; it was to hold
19 on to an office. Because take it from me, office space
20 in Garda Headquarters is at a premium. 11:26

21 51 Q. Right. Now, Commissioner Callinan, as we know,
22 resigned on 23rd March 2014, isn't that correct?

23 A. That's correct.

24 52 Q. And he resigned -- retired at that point in time. And
25 he was ultimately replaced by Commissioner O'Sullivan, 11:27
26 is that correct?

27 A. That's correct.

28 53 Q. And you remained in the Press Office from March until
29 you were transferred in June, isn't that correct?

1 A. That's correct, yes.

2 54 Q. Did you have any discussion with Commissioner
3 O'Sullivan about wishing to remain there?

4 A. I'd no direct discussion with her. From the time that
5 Commissioner Callinan left, I was never in the 11:27
6 Commissioner's office again. Mr. McLindon had
7 discussions, but I'd no direct discussions with her.

8 55 Q. Well, Mr. McLindon told the Chairman that he was
9 consulted by Acting Commissioner Callinan about whether
10 she might rotate you for operational reasons to another 11:27
11 position; were you aware of that?

12 A. No, I wasn't.

13 56 Q. Okay.

14 A. The only thing I was aware of, Mr. McLindon would come
15 back from meetings and say that the Acting Commissioner 11:28
16 was going making changes. But I was never informed
17 that I was the change.

18 57 Q. All right. And I think it's fair to say that you
19 enjoyed the Press Office, is that right?

20 A. I did indeed, yes. 11:28

21 58 Q. And some witnesses have said that you changed the way
22 it was run and you were in the habit of attending
23 incidents and scenes with a great deal more regularity
24 or frequency than other press officers; is that right?

25 A. Well, my previous -- Superintendent Gilligan ahead of 11:28
26 me would have attended scenes. I continued what was
27 already par for the course.

28 59 Q. You don't think you were doing more than he had done,
29 is that right?

1 A. I may have done more than he had done, but it was no
2 more than had been done before.

3 60 Q. Okay. And what was your relationship like with
4 Commissioner Callinan as that year went on, 2012 --
5 A. It was an excellent relationship -- 11:29

6 61 Q. -- 2013?
7 A. -- relationship with -- like, he was the Garda
8 Commissioner, I respected his position. And as I said,
9 I had a good relationship.

10 62 Q. And did you accompany him to many public events? All 11:29
11 public events?
12 A. I wouldn't have come to all public events. Like, the
13 only public events I would've come to, would've
14 accompanied him is where there would be a possibility
15 that there'd be an interview or a media engagement. 11:29
16 And that wasn't that often in relation to that. But I
17 would have...

18 63 Q. And did you become personal friends with him, or did
19 that come into it at all?
20 A. No, I wasn't personal friends with him. Like, I mean, 11:29
21 he was the Garda Commissioner, I was four ranks below
22 him. I respected the man, I got on with the man, but
23 we weren't personal friends.

24 64 Q. Your counsel, last week, drew attention to a text that
25 you sent to the Commissioner following his retirement 11:30
26 and perhaps we'll look at that on screen, it's from
27 volume 17 at page 4616. You may, if you wish, take up
28 the volume or wait for it to appear on screen?
29 A. Oh yeah, I see it on screen there.

1 65 Q. There's a text there dated 28th March:
2
3 "Commissioner, I feel so sorry for the way you have
4 been treated, it's despicable. You will always be the
5 boss to me and I'm proud to have served under you and 11:30
6 worked with you. You were inspirational to me. I wish
7 you and your family all the best for the future and if
8 I can do anything to help, please let me know. Dave."
9
10 That is from you, isn't it? 11:30
11 A. That's from me, yes.
12 66 Q. Okay. And we'll come to your protected disclosure
13 shortly. But what was your view at that point in time
14 as to any wrongdoing that the Commissioner had done or
15 that you had done on his behalf? were you of the view 11:31
16 that he had done wrong?
17 A. I wasn't aware of any wrongdoing by him. I meant that
18 text. I had great respect for Commissioner Callinan.
19 I think he had provided great service over a long
20 number of years to this State. I worked with him 11:31
21 closely and I had seen the important decisions and
22 critical decisions he had made in relation to this
23 country in relation to national security, in relation
24 to crime investigations. I think his stewardship of
25 the Queen and President Obama's visit is a testament to 11:31
26 him and very proud moment for him.
27 67 Q. But you came to make the protected disclosure in which
28 you're describing a campaign at the highest level --
29 A. Yeah.

1 68 Q. -- to discredit Sergeant McCabe. Did you regard that
2 as wrong?
3 A. At the time that this was happening, no. But I
4 subsequently did realise.
5 69 Q. All right. So certainly at this point in time is it 11:32
6 accurate to portray yourself as not believing that you
7 had done anything wrong either?
8 A. No.
9 70 Q. Or Commissioner O'Sullivan?
10 A. No. 11:32
11 71 Q. Your protected disclosure was made at the end of
12 September 2016, isn't that correct?
13 A. That's correct, yeah.
14 72 Q. And would you like to give an initial explanation now
15 as to why you chose to wait until that point in time? 11:32
16 A. Well, by that stage, Chairman, I had been away from An
17 Garda Síochána for a good few months, I had --
18 73 Q. And I think by "away", I think you mean you have been
19 suspended from duty?
20 A. That's right, yes. So I was away from the hothouse and 11:33
21 the influence of An Garda Síochána. So I could see in
22 a more clearer light probably things that I didn't see
23 and didn't appreciate when I was part of the force.
24 74 Q. Okay, we'll come back to that in a minute. But just in
25 terms of your suspension -- 11:33
26 A. Yeah.
27 75 Q. -- I think just factually, that followed on as a result
28 of you having been arrested previously, isn't that
29 correct?

1 A. That's correct, yes.

2 76 Q. And you had been arrested on suspicion of commission of
3 a large number of offences that I don't I need to go
4 into at present, and you had been, I think, notified
5 also that you were facing disciplinary charges? 11:33

6 A. That's correct, yes.

7 77 Q. And they were both still pending as of --

8 A. Yes.

9 78 Q. -- the date of your protected disclosure?

10 A. That's right, yes. 11:34

11 79 Q. Isn't that correct?

12 A. That's correct.

13 80 Q. I wonder, Superintendent, would you mind sitting in a
14 little closer to the microphone?

15 A. Sorry. 11:34

16 81 Q. And just to repeat that, as of that date then you were
17 under suspension?

18 A. That's correct.

19 82 Q. And under threat of discipline, isn't that correct?

20 A. I wouldn't say the word "threat"; I was aware of 11:34
21 discipline matters had been served on me. So --

22 83 Q. Yes.

23 A. -- I was aware of that, yeah.

24 84 Q. Could we look at your protected disclosure then.

25 A. Okay. 11:34

26 85 Q. It's in book 1, page 4.

27 A. Volume 1, sir, is it?

28 86 Q. Volume 1.

29 A. Yes.

1 87 Q. And you say in your first paragraph:
2
3 "I am writing to you to make a protected disclosure
4 pursuant to Protected Disclosures Act 2014. I am a
5 serving member of An Garda Síochána holding the rank of 11:35
6 Superintendent, currently on suspension arising out of
7 a criminal investigation into media leaks regarding the
8 Roma children."
9
10 Now, just to stop there. I think the criminal 11:35
11 investigation was into many other leaks to the media,
12 isn't that correct?
13 A. That was the only one I was aware of at the time.
14 88 Q. That was the only one you were aware of?
15 A. Yeah. Well, as I said, yeah, there was other ones, 11:35
16 yes. But that was the most main one was the Roma one.
17 89 Q. Pardon?
18 A. The Roma one was the primary one.
19 90 Q. Yes. But you were questioned about many --
20 A. Oh yeah. Sorry, yes. 11:36
21 91 Q. -- many others as well --
22 A. Yeah.
23 92 Q. -- isn't that correct?
24 A. I can confirm that, yes.
25 93 Q. And just to, I suppose, deal with it at this stage, I 11:36
26 think you had in fact communicated all the information
27 that you'd been questioned about to a number of
28 different journalists, as outlined in the Clerkin
29 report?

1 A. That's correct, yes.

2 94 Q. Okay. I'm just concerned here that you're writing a
3 letter to the Tánaiste and obviously the issue was into
4 media leaks regarding the Roma children, but was there
5 any reason why you described your suspension as only 11:36
6 arising out of that one incident?

7 A. Well, the Roma was the headline --

8 95 Q. Yes.

9 A. -- incident. That's primarily why, just the Roma
10 children, because that was the headline issue in 11:36
11 relation to the investigation began. I know it
12 advanced further than that, but that was the headline
13 issue, so...

14 96 Q. Yes. And made reference to the Clerkin investigation
15 and report. And you've seen the report, isn't that 11:37
16 correct?

17 A. I have.

18 97 Q. And I'm not criticising you in any way for exercising
19 your right to silence, you were questioned about that
20 and you didn't give any answers and you were obviously 11:37
21 advised by your solicitor in that respect?

22 A. I took certain advices at the time and I exercised
23 those advices.

24 98 Q. Yes. But as I understand your position, you're not
25 contesting that you did make all of those 11:37
26 communications to journalists as outlined in the
27 report?

28 A. Yes.

29 99 Q. Now, you say:

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"I'm writing to you to make a protected disclosure in respect of Sergeant Maurice McCabe".

A. Yeah.

100 Q. You knew at that point in time that he was, he had made or was making his own protected disclosure, isn't that correct? 11:37

A. That's correct, yes.

101 Q. And can I just ask you about your understanding of a protected disclosure and the purpose for which it's made? 11:38

A. Well, my understanding, and I don't have a full understanding, is it was brought in under the 24 Act, it's to make certain matters in relation to my employment in which I've concerns about, bring it to the relevant authorities in a formalised form within the structures as set out in the legislation. 11:38

102 Q. Well, can I just take it from this that you weren't making a protected disclosure to protect Sergeant McCabe, as such; he was doing that himself, isn't that right? 11:38

A. Yeah, I was making a protected disclosure on my own behalf in bringing my own information to the relevant authorities.

103 Q. Yes. But what was your intention in doing that? What purpose were you trying to achieve? 11:38

A. Well, I was trying to put it down in a formalised way and to provide as much information as possible in order for the relevant authority to make an assessment of it.

1 104 Q. Yes.

2 A. So I was trying to bring the information I had in my
3 possession and place it before the people within the
4 structures as set out by the Act.

5 105 Q. But were you trying to protect yourself as a result 11:39
6 thereof, is that your purpose?

7 A. Well, the purpose, obviously the protected disclosures
8 confers certain protection on the person who makes the
9 protected disclosure, but my primary motive was to
10 bring the information I had to the relevant authority. 11:39

11 106 Q. And obviously the question arises: If your primary
12 concern was to bring the information to the relevant
13 authority, you didn't necessarily need to use a
14 protected disclosure to do that.

15 A. Well, I acted on legal advice and I proceeded on such 11:40
16 advice.

17 107 Q. All right. And I suppose the question at this stage:
18 This is obviously signed by you, it's your words and
19 did you draft this?

20 A. Well, I drafted it in consultation with my solicitor, 11:40
21 Mr. Conlon.

22 108 Q. Yes.

23 A. Taking his considerable experience and advice.

24 109 Q. Yes.

25 A. Now, I wouldn't have the legal wherewithal to put it in 11:40
26 such a formalised way.

27 110 Q. Okay. All right. Well now, was it, therefore, your
28 intention, having regard to the legal advice you were
29 given, that you would make this in order to give you

1 some form of protection?

2 A. Is that a question?

3 111 Q. That is a question.

4 A. Em --

5 112 Q. Was that your intention? 11:41

6 A. No, my intention was to provide this information to the
7 relevant authorities for them to make an assessment of
8 it. I wasn't seeking any personal protection myself.

9 113 Q. Okay. We might come back to that. You say in the
10 third paragraph: 11:41

11

12 "I can confirm there was a campaign at the highest
13 level in An Garda Síochána involving the Commissioner,
14 Martin Callinan and the then Deputy Commissioner, now
15 Commissioner Nóirín O'Sullivan to discredit Maurice 11:41
16 McCabe. At that time Deputy Commissioner O'Sullivan
17 was in charge of operations. The other Deputy
18 Commissioner, Nacie Rice was in charge of
19 administration and I had never had any dealings with
20 him in relation to Maurice McCabe". 11:41

21 A. Yes.

22 114 Q. And I suppose just to be clear about one thing, you've
23 only ever accused Commissioner Callinan and
24 Commissioner O'Sullivan as having been involved in the
25 campaign, is that correct? 11:42

26 A. No, I've -- I think Commissioner Callinan directed it
27 and Commissioner O'Sullivan was aware of it.

28 115 Q. Okay. But obviously you're not suggesting anyone else
29 was involved?

1 A. No.

2 116 Q. Okay. Now, you did say in one of your later statements
3 that Mr. McLindon was aware of it.

4 A. He was indeed, yes.

5 117 Q. And he has disputed, in his sworn evidence, that that 11:42
6 is so. Have you any evidence to offer the Tribunal or
7 to point the Tribunal towards that he was so aware of
8 it or that he discussed it with you on any occasion as
9 you've suggested?

10 A. When McLindon -- sorry, when Mr. McLindon came in as 11:42
11 Director of Communications, he was my boss for want of
12 a better word. Within a week that he was in, I fully
13 briefed him in relation to Maurice McCabe and the
14 ongoing issue we were having. I at all times while I
15 worked with Mr. McLindon, I kept him fully informed of 11:43
16 everything. I think he has given in his direct
17 evidence all the major issues at the time that he has,
18 that I always kept him informed. It was the first
19 time, Mr. Chairman, I ever worked with a civilian boss,
20 so I was anxious to give him the respect and the 11:43
21 seniority he deserved and I was -- because I know how
22 difficult it is for civilian heads coming into An Garda
23 Síochána.

24 118 Q. Well, when do you say this was, for a start?

25 A. Sorry, sir? 11:43

26 119 Q. When do you say this was?

27 A. When was what?

28 120 Q. When you fully briefed him in relation to --

29 A. Within a week or so of coming into the Press Office.

1 121 Q. And what was said to him?
2 A. I said that we'd the ongoing issue in relation to
3 Maurice McCabe, that in relation to the penalty points
4 and how he was bringing issues to the public arena and
5 that Sergeant McCabe was driven by revenge, and this 11:44
6 revenge was driven by, as a result of being
7 investigated for a sexual offence a number of years ago
8 and that was his wreaking revenge on An Garda Síochána.
9 122 Q. Well, it would appear from what you're saying that you
10 certainly knew about the allegation relating to 11:44
11 Sergeant McCabe...
12 A. Yeah.
13 123 Q. ... at the time you're talking about, is that right?
14 A. That's in late, that's in September, I think, '13.
15 124 Q. Yeah. So when had you first heard about that 11:44
16 allegation?
17 A. I had heard that from Commissioner Callinan, I think,
18 towards the middle of 2013.
19 125 Q. Can you be any more specific about that?
20 A. I can't, because my engagement with Commissioner 11:44
21 Callinan was a daily basis, an hourly basis, it was --
22 like, being the Garda Press Officer, while it's a very
23 rank-structured organisation with the Commissioner at
24 the apex at the top, the Press Office gave you an
25 opportunity to bypass that system and you'd have direct 11:45
26 contact with the Commissioner. So I would have direct
27 contact with the Commissioner all the time.
28 126 Q. I understand that, of course. But this was obviously,
29 when said to you it must've been a surprise at least to

1 know that this was there in Sergeant McCabe's past?
2 A. Em, well, the Garda Commissioner told me this. And
3 this is the person who is the head of the police force.
4 And when he told me this, I took it it's a matter of
5 fact. 11:45

6 127 Q. Well, what did he tell you?
7 A. He told me that Sergeant McCabe had been investigated a
8 number of years previously for an alleged sexual
9 offence, had been fully investigated, had gone to the
10 DPP, the DPP had directed no prosecution and this was 11:46
11 the epicentre and the core of why he was now engaged in
12 this campaign.

13 128 Q. And did he tell you what the assault was alleged to be
14 or where --
15 A. No. 11:46

16 129 Q. -- it had been committed or who was involved?
17 A. I was aware, I suppose, a relative of another member,
18 but I didn't know the person's name.

19 130 Q. And how were you aware of that?
20 A. Commissioner Callinan told me. 11:46

21 131 Q. Now, did you question him about the information in any
22 respect?
23 A. No.

24 132 Q. In what context did this disclosure by Commissioner
25 Callinan come to you? How did it come about? 11:46
26 A. Em, Commissioner Callinan -- it happened in his office.
27 Commissioner Callinan, at this stage, was getting
28 deeply frustrated that the penalty point issue being
29 raised by Sergeant McCabe was not abating, it was

1 growing and growing all the time. He could not be --
2 it was reflecting bad on An Garda Síochána, it was
3 reflecting bad on him. You have to understand,
4 Mr. McGuinness, that anything that reflects bad on
5 senior Garda management is something that cannot, in 11:47
6 their mind, be tolerated. And he was deeply frustrated
7 by this. And he said to me that, on a number of
8 occasions, that 'If people only knew what I've to put
9 up with'.

10 133 Q. Well, that may be so. But just trying to pin this down 11:47
11 in time, was this after the incident I've referred to
12 earlier where there was reference to Commissioner
13 Callinan's penalty points, or was it before it?

14 A. It would be after that, yeah.

15 134 Q. Pardon? 11:47
16 A. It would be after that, yes.

17 135 Q. Well, how far afterwards?
18 A. I think Commissioner Callinan's thing - can you refresh
19 me on what date Commissioner Callinan's...

20 136 Q. Well, that was April 2013. 11:48
21 A. I think it would've been a month or so or shortly, you
22 know, after that, yeah.

23 137 Q. Well, was it before the O'Mahony report had come to the
24 Commissioner or before the PAC?

25 A. The O'Mahony report was an ongoing investigation that 11:48
26 was going on.

27 138 Q. Yes. And this sentence in your disclosure that it was
28 a "campaign"?

29 A. Yes.

1 139 Q. Was it being led by you then, is that it?
2 A. Well, I was given specific instructions by Commissioner
3 Callinan to take every opportunity I had with the media
4 to drop it into conversations that when they'd bring up
5 Sergeant McCabe in -- you know, because the issues 11:48
6 would come to light frequently/infrequently, they may
7 be raised in the Dáil, they may be raised in social
8 media, they may have been raised by commentators, and
9 if I was to be meeting any of those journalists, to say
10 'well, there's a back story here'. 11:49
11 140 Q. Okay.
12 A. Now, was anybody else instructed by Commissioner
13 Callinan? I don't know. I can just tell you the
14 instructions I got.
15 141 Q. Okay. Well, you believed those instructions? 11:49
16 A. Yes.
17 142 Q. And you saw nothing improper in acting as Garda Press
18 Officer on foot of them?
19 A. Well, An Garda Síochána is a disciplined force and
20 insubordination is one of the actions within -- if a 11:49
21 Garda Commissioner gives you a direction, order, you
22 act on it. It's not for me to question the Garda
23 Commissioner.
24 143 Q. Okay. Well, you don't appear to have told Inspector
25 Ferris or anyone in the Press Office about this order, 11:49
26 is that right?
27 A. Well, out of respect to the Garda Commissioner, my
28 conversations with the Garda Commissioner, I wouldn't
29 be going back to the Press Office and -- at different

1 ranks. Because you have to understand it's a rank
2 structure. And conversations between me and the
3 Commissioner would be kept at a certain level. I fully
4 informed Mr. McLindon, but I wouldn't be dropping down
5 into the ranks and disclosing conversations with the 11:50
6 highest police officer in the country with people of
7 lower rank. It's just the way it happens, you don't do
8 that.

9 144 Q. Well now, when was this instruction given to you?
10 A. Can I give the exact date? 11:50

11 145 Q. Please.
12 A. I can't give the exact date.

13 146 Q. Can you give a month?
14 A. Towards the middle of 2013. So...

15 147 Q. And is this on the same occasion when he told you about 11:50
16 the allegation made against Sergeant McCabe?
17 A. Yes. Because he was deeply frustrated. Commissioner
18 Callinan, I could physically see him being deeply,
19 deeply frustrated that this issue was being raised and
20 raised and raised again. And it was causing discomfort 11:51
21 to senior Garda management, it was causing discomfort
22 to him and he felt that he was hamstrung in relation to
23 how he could respond.

24 148 Q. Okay. Well, on the next page of your disclosure, if we
25 go to the top of page two... 11:51
26 A. Yeah.

27 149 Q. ... you say: "In early 2013 issues regarding Sergeant
28 McCabe being more prominent and got more prominent as
29 the year progressed".

1 A. Yeah.

2 150 Q. "It was an evolving issues which became a very serious
3 internal issue for An Garda Síochána".

4 A. Yeah.

5 151 Q. "And in particular the Commissioner and Deputy 11:51
6 Commissioner O'Sullivan. This was especially the case
7 if some issue or allegation made by Sergeant McCabe was
8 published, reported on or commented on in Dáil Éireann.
9 When this occurred, the Commissioner would meet with me
10 in his office or call me on the internal office phone 11:52
11 to discuss the official response of An Garda Síochána."
12

13 And are you saying that that happened on every occasion
14 when Sergeant McCabe was being discussed in the media?

15 A. Sergeant McCabe was of high importance to senior Garda 11:52
16 management as to what he was saying or doing or any
17 reportage of him in the media or the Dáil or any other
18 forum.

19 152 Q. You say: 11:52
20
21 "This also occurred if there were media queries. When
22 that happened, I would contact the Commissioner, either
23 by phone or text seeking his instruction or direction".

24 A. Yeah.

25 153 Q. "On many occasions there would be a meeting to discuss 11:52
26 the response and Deputy Commissioner O'Sullivan would
27 regularly be in attendance at these meetings".

28 A. Yes.

29 154 Q. "Her office was next door to the Commissioner's office.

1 The Commissioner was quite open in instructions to me
2 and never directed me to withhold any information from
3 deputy commissioner O'Sullivan."

4
5 Now, at this stage had the campaign begun or had you
6 been given the instruction by Commissioner Callinan? 11:53

7 A. Well, I got the instruction around the middle of 2013
8 to take the opportunity to draw media's attention to
9 Sergeant McCabe's motivation and to use whatever
10 opportunity. Sometimes the opportunity didn't arise, 11:53
11 other times it did arise. So, it would've commenced
12 around then, yes.

13 155 Q. Well, when you describe his motivation, questioning his
14 motivation, what do you mean by that?

15 A. Well, his motivation, that Sergeant McCabe had been 11:53
16 investigated a number of years ago and that was the
17 motivation for the current issues...

18 156 Q. Okay.

19 A. ... raised by him.

20 157 Q. As I understand it, you're not saying that anyone was 11:53
21 present when Commissioner Callinan gave you this
22 instruction?

23 A. No.

24 158 Q. There's no evidence of it in any writing or document or
25 text, is that right? 11:54

26 A. No, there isn't, no.

27 159 Q. Was this instruction ever given or repeated in any form
28 or fashion to you?

29 A. In what manner?

1 160 Q. Was it ever repeated to you, this instruction?
2 A. Well, he would remind me, like, when it would break out
3 in the news or some issue would come up and he would
4 discuss it and he'd say 'Are you getting that out? Are
5 you', do you know, 'are people listening?' And he'd 11:54
6 regularly say 'People not know what I've to put up
7 with'. So as I say, we're constantly monitoring all
8 the radio stations, all the various commentary I'd be
9 feeding back in to him and the Deputy in relation to
10 issues and sometimes the issues would raise and 11:54
11 sometimes they'd be on various RTÉ shows praising
12 Sergeant McCabe's, the actions that he was taking and
13 he'd be infuriated by that.

14 161 Q. Well, in the next paragraph you say:
15 11:55
16 "I recall being instructed or directed to contact the
17 media to brief them on the particular line that the
18 Commissioner had instructed; namely, to brief
19 negatively against Sergeant McCabe".

20 A. Yeah. 11:55

21 162 Q. "In particular I recall I was to brief the media that
22 Sergeant McCabe was motivated by malicious and
23 revenge".

24 A. Yes.

25 163 Q. "I was also to encourage the media to write negatively 11:55
26 about Sergeant McCabe, that his complaints had no
27 substance, that the Gardaí had fully investigated his
28 complaints and found no substance to his allegations.
29 In essence, I was to brief that Sergeant McCabe was

1 driven by agendas".

2 A. Yeah.

3 164 Q. "I was also directed to draw journalists' attention to
4 the complaint of sexual assault made against Sergeant
5 McCabe that this was the root cause of his agenda, 11:55
6 revenge against the Gardaí."
7

8 There's an impression, perhaps wrongly, being picked up
9 by me there that that was a second instruction on
10 another occasion; is that right? 11:56

11 A. Well, it's the same instruction, in the sense that the
12 root, that Sergeant McCabe's motivations in bringing
13 these penalty points issues to the fore were driven by
14 revenge and that that was the malicious intent of him.

15 165 Q. Okay. And as far as being driven by agendas, was there 11:56
16 any other agenda explained to you by Commissioner
17 Callinan?

18 A. Well, the agenda was that Sergeant McCabe was driven by
19 revenge as a result of being investigated and that was
20 the agenda. The agenda wasn't to bring some, as 11:56
21 Commissioner Callinan viewed it, to bring some
22 important matter to public attention, that this was the
23 reason that Sergeant McCabe was doing this.

24 166 Q. Well, who was the first person you told about this in
25 the media? 11:57

26 A. I can't recall the first person I told, Mr. McGuinness.
27 As I said to you earlier, I would take the opportunity
28 when the conversation would arise, because sometimes
29 I'd have daily/hourly connection with the media and

1 sometimes they would be talking on one matter and then
2 it may drift into a matter in relation to Sergeant
3 McCabe. Can I tell you the exact person I spoke to on
4 day one? No, I can't.

5 167 Q. Well, do you recall anyone in the media acting with 11:57
6 surprise or shock that you were saying this?

7 A. I don't recall anybody, any pushback in relation to
8 what I was saying. Because when I was speaking, people
9 knew I wasn't speaking as Superintendent Taylor, I was
10 speaking on behalf of the Garda Commissioner. I always 11:57
11 made that clear. And as I said, I was acting out the
12 instructions of the Garda Commissioner, because I
13 believed him.

14 168 Q. Well, can you help the Tribunal by trying to recall the 11:58
15 last time you briefed anyone negatively or told them
16 about this, as far as the media are concerned?

17 A. Well, I think it all ended, you know, the time
18 Mr. Callinan left.

19 169 Q. But was the Deputy Commissioner not woven into this and 11:58
20 approving of it?

21 A. Well, the Deputy Commissioner was aware of it, because
22 I discussed it with her, and she was aware of what
23 Commissioner Callinan's instructions were.

24 170 Q. Well, did she countermand it when Commissioner Callinan 11:58
25 left?

26 A. Well, I'd very little contact with the Deputy
27 Commissioner once she left. As I said to you earlier,
28 I was never in the Commissioner's office again.
29 Mr. McLindon, who had the lead role, which was his

1 position, and I had no discussions.

2 171 Q. But is it your evidence that you ended the campaign
3 then?

4 A. I think the campaign ended itself with Mr. Callinan
5 gone. 11:59

6 172 Q. Okay. Well, did you not think it'd be necessary to
7 maybe consult with the Deputy Commissioner, now the
8 Acting Commissioner, to say something along the lines
9 of 'Look, Commissioner Callinan has gone, do you want
10 me to carry on with this'? 11:59

11 A. You have to understand the time when Mr. Callinan went,
12 Mr. McGuinness; it was the biggest upheaval in An Garda
13 Síochána in a generation, since 1983 I think, since the
14 last Commissioner was forced out. It was a state of
15 flux, it was a state of what was coming next, who was 11:59
16 going to go next? We'd a Garda Commissioner going, you
17 know, subsequently followed on by a Minister for
18 Justice going, a Secretary General going. So it was --
19 I can't overestimate to you that Garda Headquarters in
20 those days was days of utter not knowing what was 12:00
21 coming next.

22 173 Q. Yes. Well, obviously his remark at the PAC drew some
23 controversy. But would you not be inclined to remember
24 the last person you tried to influence with this
25 instruction, in the media? 12:00

26 A. I can't, Mr. McGuinness. Because, as I say, that whole
27 weekend before Mr. Callinan resigned was a weekend of
28 intense, em - I'm trying to put it in the best words -
29 of engagement. I was aware that Commissioner Callinan

1 was in deep conversation and engagement with the
2 Department of Justice about issuing a statement
3 clarifying his position. I know he rang me on numerous
4 occasions to say he a statement ready. Then he didn't
5 have it ready. He said 'If I give it to you, make sure 12:00
6 it doesn't get out'. I said 'well, don't tell me and
7 it won't get out'. And it was an extremely flux
8 weekend. This was, I've never lived through anything
9 like this before.

10 174 Q. You go on to say in your protected disclosure: 12:01

11
12 "I recall a telephone call with the journalist Paul
13 Williams where he informed me that he was in the house
14 of the person who made the complaint against Sergeant
15 McCabe with a view to interviewing her. I informed 12:01
16 both the Commissioner and Deputy Commissioner of this.
17 No article was ever published."

18
19 Just as a matter of fact, that's the only journalist
20 you name in your protected disclosure, isn't that 12:01
21 correct?

22 A. Yes.

23 175 Q. And you go on to say:

24
25 "I spoke to various journalists on foot of the 12:01
26 instructions as given to me" --

27 A. Yeah.

28 176 Q. -- "by the Commissioner to encourage them to write
29 negatively about Sergeant McCabe and to brief against

1 then another article on the 3rd May?

2 A. Yes.

3 183 Q. And are you telling the Tribunal that you didn't become
4 aware of any of those?

5 A. I wasn't. Because by that time within the Press Office 12:03
6 I was -- as I said, my position had been diminished. I
7 was not in direct contact with the Garda Commissioner
8 anymore. Mr. McLindon had instructed me not to text
9 the acting Garda Commissioner ever again. So I had
10 been pulled back from all actions. 12:03

11 184 Q. Well, you see, you make reference to various
12 journalists here?

13 A. Yes.

14 185 Q. And had you spoken to any journalists before you made
15 your protected disclosure? 12:03

16 A. I spoke to Mr. Clifford.

17 186 Q. And did you speak to any other journalist? Did you
18 phone any other journalist and say, look, I'm going to
19 be blowing the whistle and telling people that I've
20 done these things, try to smear Sergeant McCabe with a 12:04
21 number of journalists?

22 A. No.

23 187 Q. Okay. You go on to say:
24
25 "One particular example was the report of Assistant 12:04
26 Commissioner John O' Mahony into the allegations made by
27 Sergeant McCabe. I was instructed by the Commissioner
28 to brief the media that Sergeant McCabe had refused to
29 cooperate with Assistant Commissioner O' Mahony. I

1 Later found out that this was untrue."

2

3 And that was a concern of the Commissioner and the
4 force, isn't that correct?

5 A. That's correct, yes. It was a very substantial report. 12:04

6 188 Q. And was it a concern of the Secretary General in the
7 Department of Justice also, that he had not cooperated?

8 A. I'm not aware of any engagement.

9 189 Q. Right.

10 A. I would have had no engagement with the Secretary 12:05
11 General.

12 190 Q. Okay. You go on to say:

13

14 "Throughout 2013 and into 2014 I had frequent telephone
15 calls with both the Commissioner and separately with 12:05
16 Deputy Commissioner O'Sullivan where Sergeant McCabe
17 was discussed. Indeed, as we entered 2014, the topic
18 of Sergeant McCabe became a very significant issue and
19 commanded significant focus from both the Commissioner
20 and Deputy Commissioner O'Sullivan." 12:05

21

22 You go on to describe the PAC hearing. You attended
23 some of the pre-PAC meetings, is that correct?

24 A. Some, yes.

25 191 Q. Have you any recollection of the allegation relating to 12:05
26 Sergeant McCabe being discussed at either of those
27 meetings?

28 A. The preparation for the PAC would centre around likely
29 questions, what questions were going to be fielded.

1 The Commissioner of the day would, prior to going down
2 to the PAC, would send out a circular to all relevant
3 departments seeking briefing material in relation to
4 the topics. The topics would have been notified in
5 advance, what he was going to deal with it. So they 12:06
6 would be going through the topics, they'd be going
7 through the likely questions, there would be a fire
8 round, a rapid fire, say what questions would be
9 requested, formulating answers. There'd be also a look
10 at the members of the PAC to see who was likely to ask 12:06
11 questions. And because each member of the PAC has a
12 particular interest in particular issues, and who would
13 be likely to ask questions, so they were trying to
14 anticipate all those questions. In relation to
15 Sergeant McCabe they knew that that issue would be 12:06
16 coming up. The allegation wasn't mentioned at these
17 meetings but Sergeant McCabe, dealing would Sergeant
18 McCabe would have been a central point of going down to
19 the PAC. Because you have to understand this was the
20 first time, I think, the PAC were dealing with penalty 12:07
21 point issue in this substantive way and it was of huge
22 concern to the Garda Commissioner and the senior Garda
23 management.

24 192 Q. Okay. You say:

25
26 "After the PAC meeting, which lasted about five hours,
27 we had a discussion amongst ourselves in the communal
28 area outside the committee rooms in Dáil Éireann. No
29 issue was raised by anyone present or any concern 12:07

1 regarding the use of the word disgusting. We returned
2 to Garda Headquarters and all went back to our
3 respective offices, but I'm aware that Commissioner and
4 Deputy Commissioner O'Sullivan went to his office. I
5 did not attend that meeting." 12:07

6
7 You don't refer to the Commissioner saying anything
8 inappropriate there, isn't that right?

9 A. No. Because, as I said, that was the famous disgusting
10 day. 12:07

11 193 Q. Yes?

12 A. It was a huge media storm when we went back to
13 headquarters. Mr. McLindon and I were dealing with it,
14 because it was central to that whole day's media
15 coverage. 12:08

16 194 Q. Yes. But you certainly don't refer to the Commissioner
17 saying anything inappropriate after the PAC meeting had
18 concluded?

19 A. No.

20 195 Q. Okay. And did you hear him say anything inappropriate? 12:08

21 A. I did, during -- at the end of the PAC meeting to
22 Deputy McGuinness.

23 196 Q. What do you say you heard?

24 A. After -- it was a very long day and at the end of the
25 day, Deputy McGuinness came down from the podium, which 12:08
26 he would normally do, and he was shaking hands and
27 engaging with Commissioner Callinan. To his left was
28 Commissioner O'Sullivan, Commissioner O'Mahony, Andrew
29 McLindon and myself. I was standing behind

1 Commissioner Callinan. My usual protocol would be,
2 when the meeting was open I'd pick up the
3 Commissioner's hat and his satchel and hand it to him
4 as a courtesy. I was aware that Deputy McGuinness was
5 talking to Commissioner Callinan in the conversation, I 12:09
6 didn't hear the beginning of the conversation but when
7 I looked around I could hear Commissioner Callinan say
8 that Sergeant McCabe was a kiddie fiddler.

9 197 Q. And why did you include that in your protected
10 disclosure? 12:09

11 A. Well, I subsequently put it in. As I said, I was
12 always putting it in. I tried to put in as much
13 information as possible, and I wanted to -- and I can
14 only say that I, at all other occasions, put that
15 information in. 12:09

16 198 Q. Pardon?

17 A. I always put that information forward, when I had an
18 opportunity, in a full and substantive statements.

19 199 Q. Well, when is the first time that you disclosed that
20 you had heard that? 12:09

21 A. Em, I'd have to get the dates of my statement and when
22 I put that into the statement.

23 200 Q. Yeah. You don't recall yourself?

24 A. No. I don't.

25 201 Q. But would it not have been something of relevance to
26 put in at this point, in your protected disclosure? 12:10

27 A. Well, as I said, I had to process this myself. As I
28 said my intention was always to put it in. And I did
29 put it in.

1 202 Q. In the next few paragraphs of your protected disclosure
2 you deal with the issue of press conference in
3 Dundalk --

4 A. Yes.

5 203 Q. -- and the Commissioner going off to meet 12:10
6 Mr. McGuinness.

7 A. Yes.

8 204 Q. Did the Commissioner not tell you what had happened at
9 that meeting?

10 A. No. You have to understand, Mr. McGuinness, 12:10
11 Commissioner Callinan was a man who could
12 compartmentalised issues. He would tell you what is
13 relevant to tell you and not tell you what wasn't
14 relevant to tell you. So he did not at any stage
15 disclose to me the conversation. 12:11

16 205 Q. Sergeant McCabe has said in evidence that you confirmed
17 to him what Commissioner Callinan had said to
18 Mr. McGuinness --

19 A. That's --

20 206 Q. -- at the car park meeting? 12:11

21 A. No. I was never, ever aware of the conversation
22 between Deputy McGuinness and Commissioner Callinan.

23 207 Q. Okay. So do you dispute that you made any reference
24 while speaking with Sergeant McCabe about what had
25 happened at that meeting? 12:11

26 A. Well, I always made it clear that I was never aware of
27 the conversation between Commissioner Callinan and
28 Deputy McGuinness.

29 208 Q. On the next page of your protected disclosure you refer

1 to the statement from the Minister for Transport, and
2 the issue of the Commissioner issuing a statement
3 clarifying the matter. And I think a statement was
4 issued clarifying the matter, isn't that correct?

5 A. Yes, that's right, yeah.

12:12

6 209 Q. Through the Press Office?

7 A. Yes.

8 210 Q. I think you describe helping to draft the
9 Commissioner's resignation letter, is that correct?

10 A. That's correct, yes.

12:12

11 211 Q. And you describe the Commissioner being anxious that a
12 letter be released to Mr. Reynolds, is that correct?

13 A. That's correct.

14 212 Q. And you did that, is that correct?

15 A. That's correct, yes.

12:12

16 213 Q. At page 5 of your protected disclosure, you say:

17

18 "Throughout 2013 and 2014 any information or update I
19 received from the media or any source was passed on by
20 me to both the Commissioner and Deputy Commissioner

12:13

21 O'Sullivan for their attention. This included a
22 significant number of updates or information regarding
23 Sergeant McCabe. On many occasions they would

24 acknowledge receipt of these text messages. The
25 Commissioner often replied by saying "thanks Davy" or

12:13

26 "thanks D". Deputy Commissioner O'Sullivan often
27 acknowledged receipt of text messages by the use of
28 words "thanks" or "perfect". I cannot specify any
29 particular incidents. Some of these text message

1 updates might be as mundane as informing them both that
2 a radio interview was taking place and to turn on the
3 radio. Such was the focus on Sergeant McCabe I had to
4 notify them both of anything and everything that came
5 across my radar. I can confirm that a huge number of 12:13
6 interactions took place between myself, the
7 Commissioner and Deputy Commissioner by way of text
8 message. My telephones have been seized from me and
9 taken from me are in the custody of An Garda Síochána.
10 I understand from the course of my interviews under 12:14
11 caution that the phone had been forensically examined
12 and so these text messages should be available on my
13 devices. I did not delete any text messages sent by me
14 or received by me which involved Commissioner and
15 Deputy Commissioner O'Sullivan. " 12:14
16

17 Now just to be clear, at present, in this protected
18 disclosure you're referring to a significant number of
19 text messages. I think you have none of those text
20 messages -- 12:14

21 A. No.

22 214 Q. -- isn't that correct? And insofar as what you're
23 saying here in this protected disclosure, are you
24 trying to convey that a lot of text messages were on
25 the phones that were seized? 12:14

26 A. I'm trying to convey that my understanding is that
27 those texts were available because when I was being
28 interviewed a lot of data was put to me and it's my
29 understanding that that data was available. I now

1 subsequently understand that none of that data is
2 available, Mr. Chairman. But my understanding at the
3 time, that that would be available to An Garda
4 Síochána.

5 215 Q. Now, you'll be aware from Sergeant McCabe's protected 12:15
6 disclosure as to what he says you told him about those
7 text messages, isn't that right?

8 A. Yes.

9 216 Q. And just to turn to that at this moment. If we go to 12:16
10 page 245?

11 A. Is that volume 1?

12 217 Q. volume 1 still. At the top of page 245 of the first
13 full paragraph, it says:

14
15 "Our meeting lasted over three hours. Superintendent 12:16
16 Taylor spoke at great length of how, when he was the
17 Garda Press Officer, he had in a sustained campaign
18 destroyed my character and reputation by disseminating
19 false, scurrilous and damaging allegations about me to
20 persons of influence and persons in the media acting on 12:16
21 orders and instructions from Garda management. He
22 stated that he was now being targeted because he knew
23 too much."

24
25 Now, just dealing with that last sentence, is that 12:16
26 something you told sergeant McCabe?

27 A. I don't recall saying that exact word, targeted.

28 218 Q. Pardon?

29 A. I don't recall that.

1 219 Q. It's possible you said it then?
2 A. Well, I have no recollection of it.
3 220 Q. No recollection of saying it. Well, did you -- leave
4 out the word targeted, did you tell him that you knew
5 too much? 12:17
6 A. Well, I did know -- when I say I knew too much, I knew
7 all I knew about in relation to the instructions from
8 Commissioner Callinan in relation to him, that I knew
9 all that, that I was aware of all that instruction, I
10 had, and I had that information. 12:17
11 221 Q. And were you conveying to him that you were unjustly
12 under investigation because of what you knew about the
13 campaign?
14 A. Well, the campaign -- sorry, the investigation is the
15 investigation and that's dealt with now. 12:18
16 222 Q. Pardon?
17 A. Well, the investigation is the investigation and, you
18 know, it's over, and it's completed.
19 223 Q. Yes.
20 A. As I said, I don't believe I said I was targeted in 12:18
21 relation to that. But I mean, as I said, the
22 investigation is the investigation on its own merits.
23 224 Q. Yes. But were you trying to convey to him that the
24 investigation was in some way without foundation or
25 improper because of your knowledge of what had gone on? 12:18
26 A. I'm saying that the investigation that was conducted
27 into me had nothing to do with Sergeant McCabe.
28 225 Q. Pardon?
29 A. No issue in relation to Sergeant McCabe formed any part

1 of that investigation.

2 226 Q. Yes.

3 A. So the correlation between the investigation and
4 Sergeant McCabe, there's no connection between the two,
5 because there's no matter put to me in relation to
6 Sergeant McCabe during that investigation. 12:18

7 227 Q. Yes. Well, we will come back to that in a minute. But
8 if we go to page 246, in the first bullet point there,
9 in the middle of the page:

10

12:19

11 "He said that he, Dave Taylor, was involved in sending
12 hundreds of text messages about me to the then-Deputy
13 Commissioner O'Sullivan and other senior officers and
14 members of the media. He stated that Commissioner
15 Martin Callinan usually provided the text of vile 12:19
16 messages about me and my family and sent them to
17 Superintendent Taylor's mobile. Commissioner
18 Callinan's orders/instructions were to forward on the
19 messages to the above persons, which he always did.
20 Commissioner O'Sullivan usually replied with one word 12:19
21 "perfect". "

22

23 Is that correct?

24 A. No. Commissioner Callinan never constructed these
25 texts. The texts that I would send to Commissioner 12:19
26 Callinan and Commissioner O'Sullivan were, as I stated
27 earlier; general background information, general
28 information in relation to the Sergeant McCabe issue
29 being raised on some forum or some article or on

1 Twitter or on some social media or on the radio or
2 television. I was keeping him updated as to issues.
3 It's not as relayed here.

4 228 Q. In the third bullet point down there:

5
6 "He stated that his three phones were seized from him
7 under warrant and these phones will show all the text
8 messages that he got from Commissioner Callinan and
9 sent on to Deputy Commissioner O'Sullivan."

10
11 Is that correct; did you say that?

12 A. Yes. Because my understanding, that my phones were
13 taken, and that the Garda Síochána would be in a
14 position to retrieve and harvest all those text
15 messages. I now understand from evidence,
16 Mr. Chairman, that's not available to you.

17 229 Q. Well, you had spoken to Mr. Clifford about your
18 protected disclosure, isn't that correct?

19 A. Yes.

20 230 Q. And it became, I think, a story published by the Irish
21 Examiner that these two public disclosures, protected
22 disclosures had been made without identifying either
23 you or Sergeant McCabe, isn't that correct?

24 A. That's correct, yeah.

25 231 Q. And did you give him, Mr. Clifford, a copy of your
26 protected disclosure?

27 A. No.

28 232 Q. But he went on the radio and was discussing the
29 contents of it, isn't that correct?

1 A. That's my understanding, yes.

2 233 Q. Pardon?

3 A. That's my understanding, yes.

4 234 Q. Perhaps we could look at volume 12 in this regard, page 12:22
5 3816. This is a transcript of the broadcast involving
6 Mr. Clifford on the 7th October 2016. And he is quoted
7 there as saying:
8
9 "These fresh allegations are that somebody, a
10 whistleblower, as so described, that there was a 12:22
11 campaign in senior management to totally discredit his
12 or her character to an extent that they use the word
13 destroy, was the word that was actually used, as far as
14 I know, that took the different forms. It took the
15 form of generating a lot of text messages that were 12:22
16 disseminated among a lot of senior officers with
17 rumours and allegations and scurrilous stuff, some of
18 it that was all completely untrue. It took the form of
19 briefing journalists about scurrilous stuff that was
20 completely untrue, again to discredit his character and 12:23
21 presumably to colour any type of coverage that there
22 would be of the issue."
23
24 Is that not something you told to Mr. Clifford --

25 A. No. 12:23

26 235 Q. -- when you spoke to him?

27 A. I've always said, and I have consistently said, that I
28 sent numerous, lots of texts to Commissioner Callinan
29 and Commissioner O'Sullivan in relation -- as a way of

1 background information, as a way of updates, as a way
2 of notifications in relation to the McCabe affair as it
3 was playing out in the various forums.

4 236 Q. Well, you met Deputy Wallace and Deputy Daly as well,
5 isn't that correct? 12:23

6 A. Yes, they called to my house.

7 237 Q. And you gave an account to them also, isn't that
8 correct?

9 A. Yes.

10 238 Q. And you know that Deputy Daly aired the issues in your 12:23
11 protected disclosure in the Dáil and called for
12 Commissioner O'Sullivan's resignation, isn't that
13 right?

14 A. If you tell me, I have never read it or seen the text
15 of it. 12:24

16 239 Q. All right. Okay. But Deputy Daly went on television
17 and I think radio, if you go to page 3210, it's a
18 broadcast on the 5th October. Ms. Daly is quoted there
19 about the issue, the interviewer says there in the
20 middle of the first paragraph: 12:24

21

22 "We asked the Minister to appear on the programme, she
23 wasn't available. Independent TD Claire Daly has met
24 the two gardaí who made these latest allegations a
25 short time ago. I asked her, bearing in mind the 12:24
26 obvious limitations of speaking outside Dáil privilege,
27 what the two gardaí had said to her about the way they
28 were treated."
29

1 Then she is quoted:

2
3 "I suppose it fits in very much with the point we have
4 been making about a huge gulf between the public
5 statements of the Commissioner offering support to
6 whistleblowers and what is going on behind the scenes.

7 Now, we would be aware for a long time that some people
8 who have come forward and made protected disclosures
9 have been the victims of bullying, harassment and that
10 type of thing. I suppose what makes this more shocking

11 is we have seen a lot of what we have been saying and a
12 lot of what they have experienced absolutely vindicated
13 in the most shocking terms by one senior officer, who
14 has admitted that he played a part in that. In

15 essence, what has been said is that there was a
16 deliberate and organised campaign to in essence

17 annihilate a whistleblower. The word came out from the
18 top that this person had to be crushed, he had to be
19 discredited, inaccurate personal information was given
20 out about him in the most horrific ways. Text messages

21 sent to the Gardaí, people in the media told 'oh, you
22 don't want to be talking to him now, you know all about
23 him', hint, hint, with some more graphic details with
24 it. Politicians who I think need to come clean on this

25 got the message about this as well. And basically what
26 it was, was an attempt to isolate and crush this man
27 because he had the audacity to speak out against the
28 hierarchy and I suppose the most serious part of all is
29 that the claim is that this was done utterly with the

1 knowledge of the former and present Commissioner."

2

3 Now, does that not reflect what you told Deputy Daly

4 and Deputy Wallace?

5 A. No. As I said, these are other people saying, do you 12:26

6 know, their own words. I can tell you what my words

7 have always been. That I sent hundreds of texts to the

8 Garda Commissioner and Deputy Garda Commissioner as a

9 way of background, updates, in relation to the Maurice

10 McCabe issue, as it was playing out in media and 12:26

11 various forums. That has always been what I have said.

12 240 Q. Did you say the same to Deputy McGuinness, that you had

13 sent out a large number of texts --

14 A. I said to Deputy McGuinness --

15 241 Q. -- to the media? 12:27

16 A. -- sent a large number of texts to Commissioner

17 Callinan, Deputy Commissioner O'Sullivan, in relation

18 to Maurice McCabe concerning updates as it was playing

19 out in the public arena.

20 242 Q. Now your solicitor wrote to the Taoiseach in relation 12:27

21 to your protected disclosure, isn't that correct?

22 A. That's correct, yes.

23 243 Q. At page 9?

24 A. What volume, Mr. McGuinness?

25 244 Q. Volume 1. 12:27

26 A. Volume 1. Okay. Yeah.

27 245 Q. In the second last paragraph on the page there, having

28 referred to the seizure of your telephones, you say:

29

1 "All of the text messages referred to by our client in
2 his protected disclosure are contained on the first
3 mobile telephone device which he was required to
4 surrender to Chief Superintendent Frank Clerkin on the
5 18th December 2014. Our client instructs that he never 12:28
6 deleted any of the text messages from his mobile
7 telephone device. In any inquiry that has been
8 proposed and in order for our client to fully
9 participate in same it is necessary for these mobile
10 telephone devices to be made available to the inquiry 12:28
11 and to our client, and also made available for
12 independent forensic examination by a forensic expert
13 to be retained by our client."
14

15 Now, what were you trying to convey there? 12:28

16 A. I was trying to convey my desire to facilitate and
17 fully cooperate with any inquiry.

18 246 Q. And what texts were you expecting to be on the phone?

19 A. Well, the texts between me and Commissioner Callinan
20 and Commissioner O'Sullivan in relation to the updates, 12:29
21 the interaction between me and both senior officers.
22 So it would show the level of interest there was in
23 Sergeant McCabe during this period.

24 247 Q. Well, is there any doubt that he was the subject of
25 interest as far as An Garda Síochána was concerned? 12:29
26 Were any of these texts to confirm the instructions --

27 A. Not really.

28 248 Q. -- in relation to the smear campaign?

29 A. No, they were never part of the -- the instructions, as

1 I said previously, Mr. McGuinness, was given to me
2 verbally by the Commissioner and I was required to act
3 on those instructions. The texts between me and
4 Commissioner Callinan and Commissioner O'Sullivan was
5 way of updates in relation to the McCabe issue, as it 12:30
6 was playing out publicly. So I was constantly updating
7 of any new information that came into my possession,
8 like the Sergeant McCabe issue being spoken on the news
9 at one, on Vincent Browne, on Claire Byrne, on Prime
10 Time, on any issue. And sometimes we'd only get 12:30
11 notification or I'd be watching.

12 249 Q. Yes, but none of that had anything to do with the smear
13 campaign that you were instructed to carry out, is that
14 not right?

15 A. But the smear campaign was never by text. It was 12:30
16 always by taking the opportunity to talk to relevant
17 media people.

18 250 Q. Well, were you not trying to direct An Taoiseach and
19 Judge O'Neill, who was inquiring on his behalf, to
20 believe that there were relevant texts relating to the 12:31
21 smear campaign to be found on your phones?

22 A. Well, I'd never be so bold as try to influence the
23 Taoiseach or Mr. Justice O'Neill. I was merely, via my
24 solicitor's letter, placing information before them
25 that I believe would be beneficial to any inquiry. 12:31

26 251 Q. Well, in the next paragraph you seem to be suggesting
27 that there are grave concerns over the integrity of the
28 phones, is that right?

29 A. I had a concern in relation to my phone. That was in

1 relation to the activation of my phone. The Viber. My
2 phone was taken from me on the 29th May 2015. And all
3 devices were removed from me, so I had no access to my
4 phone. And in November 2015 a neighbour of mine, who
5 we have long-term -- both our daughters go to school, 12:32
6 came around to my house in November '15. I remember
7 it; it was the week after the infamous Bataclan
8 massacre in Paris. And during the course of our
9 conversation she said to me, do you still have your
10 Garda phone, and I said no, I haven't had that in six 12:32
11 months. And she said that's strange, because the
12 previous week a message had been flashed on her phone,
13 or her sister's phone, requesting -- a friend request
14 to a Viber account. Now, I was shocked by this.

15 252 Q. Well, you made this part of the plank in a judicial 12:33
16 review application, isn't that correct?

17 A. That's correct, yes.

18 253 Q. To stop an investigation which on your own statements
19 this morning you must agree was warranted?

20 A. I had concern that the phone that I didn't have in 12:33
21 possession --

22 254 Q. Pardon?

23 A. That I had keep concern that a mobile phone, that I did
24 not have possession of, that was in possession of the
25 investigators had somehow been activated and it sent a 12:33
26 message from my phone to another phone, seeking a
27 connection.

28 255 Q. Are you standing over a suggestion that there was an
29 attempt made to in fact tamper with the phones while

1 they were in possession of An Garda Síochána?

2 A. well, I am making the point that a phone that is not in
3 my possession, and had not been in possession for five
4 months, suddenly activates, connects to a number that
5 was in my phone for no logical reasons. 12:34

6 256 Q. well, I think you saw the answer to that in the
7 judicial review proceedings --

8 A. well, that is --

9 257 Q. -- isn't that correct?

10 A. well, that matter, and I'm subject to advice from my 12:34
11 solicitor there, we sought permission because in order
12 to get the full information in relation to that account
13 you'd have to go to Viber headquarters, which I
14 understand, Mr. Chairman, is in Cyprus, and we would
15 have to pay \$500 in order to get the information. We 12:34
16 could only get that information by the express
17 permission of An Garda Síochána and that permission was
18 never given.

19 258 Q. I don't want to get sidetracked on this issue --

20 A. I'm just trying the facts, Mr. McGuinness -- 12:34

21 259 Q. -- but the issue is perhaps slightly different. You
22 made this allegation here in the letter to An Taoiseach
23 and the Minister for Justice and you also incorporated
24 it into your application for judicial review --

25 A. That's correct. 12:35

26 260 Q. -- in an attempt to suggest in those proceedings that
27 the investigation into you, the criminal investigation,
28 and the disciplinary investigation was unwarranted,
29 isn't that correct?

1 A. No, I was bringing important information to their
2 attention.

3 261 Q. Yes?

4 A. It was up to their -- to other people to make that
5 decision. I was putting that information to out there. 12:35

6 262 Q. Yes?

7 A. Its determination and its validation was a matter for
8 other people.

9 263 Q. Can we try and sideline this perhaps by agreement if
10 you consider the following question: Having regard to 12:35
11 your answer this morning to me, that you did
12 communicate all of the information to the journalists
13 as set out in the Clerkin report, you would agree that
14 the investigation into you was not unwarranted?

15 A. I agree that the investigation is -- was conducted, all 12:36
16 the information was placed before the DPP and the DPP
17 made a determination on that matter.

18 264 Q. Yes. But are you abandoning any suggestion that it was
19 an allegation directed by Assistant Commissioner
20 O'Sullivan or Commissioner O'Sullivan as she then was? 12:36

21 A. I'm stating that the investigation was led by Chief
22 Superintendent Clerkin and Superintendent McGowan, the
23 husband of Commissioner O'Sullivan. I'm just stating
24 that as a matter of fact. The investigation, I'm not
25 taking from the investigation, but the investigation 12:36
26 fully submitted all the information to the DPP and the
27 DPP made a determination --

28 265 Q. Yes?

29 A. -- no prosecution.

1 266 Q. We know about that. But I'm just anxious to understand
2 the purpose for which you're including this in your
3 letter at this point in time. Your solicitor in the
4 next letter goes on at page 13, this is a letter to
5 Mr. Justice O'Neill?

12:37

6 A. Sorry, Mr. McGuinness, what number?

7 267 Q. Page 13?

8 A. Okay.

9 268 Q. And you say:

10

12:37

11 "We respectfully submit that any text messages or
12 communications or data on those devices have a direct
13 bearing in terms of understanding of the issues as they
14 have been communicated by our client in his protected
15 disclosures. We have written to the Taoiseach and
16 Tánaiste in this regard on the 7th October 2016. We
17 attach a copy of the said letters for completeness."

12:37

18

19 Now, I think your solicitors got a reply back from
20 Mr. Justice O'Neill on the 18th November and it quotes
21 a reply from An Garda Síochána, but on page 16 in the
22 middle of it, it says:

12:37

23

24 "This information suggests that the mobile phone used
25 by Superintendent Taylor during the period from the
26 31st October 2013 through to the 5th September 2014
27 remains in the possession of Superintendent Taylor.
28 There's no information available concerning the mobile
29 phone used by Superintendent Taylor for the period

12:38

1 before the 31st October 2013 while he was the Garda
2 Press Officer. Data from phones used by Superintendent
3 Taylor after he ceased to be Garda Press Officer in May
4 2014 would seem to have no relevance to this review,
5 based, as it is, on the content of two protected
6 disclosures." 12:38

7
8 So your solicitors are being told something which you
9 don't appear to have told either Mr. Justice O'Neill or
10 An Taoiseach or the Minister for Justice; that you had 12:39
11 the phone that had been in operation while you were
12 Press Officer for part of the time, in your possession,
13 isn't that right?

14 A. I didn't have it in my possession at the time. I said
15 when I changed phone, I think in September '14, the 12:39
16 phone, I brought it to telecoms, and it would download
17 data from one to the other and my full understanding is
18 that all that data would transfer across.

19 CHAIRMAN: No, but the question Mr. McGuinness asked
20 you is, we have gone through this phone, I mean there's 12:39
21 SM3, SM2, SM5, SM4, all of that, but the phone from
22 October 2013 was never recovered in Garda Headquarters,
23 you never gave it to Garda Headquarters. What
24 Mr. McGuinness is asking you about is: Isn't it the
25 case that you actually had that phone, the phone that 12:40
26 should contain all the text messages?

27 A. I don't know --

28 CHAIRMAN: Maybe you would just answer the question
29 directly. If you wouldn't mind. Please.

1 Superintendent.

2 A. Sure. Sorry, Mr. Chairman, yeah. I had a phone that
3 when I changed it, that I held on, gave to my daughter,
4 which was subsequently donated to some charity, but I
5 didn't have that phone at that stage. But my 12:40
6 understanding, and always my understanding, was that
7 all that data would be available.

8 CHAIRMAN: No, but it is a very simple question,
9 superintendent: Is it or is it not the case that you
10 actually had the phone that we don't have, that you 12:40
11 never gave to Garda Headquarters from October 2013, in
12 your household or with you or a member of your family
13 during the relevant period when you were Garda Press
14 Officer?

15 A. That's correct. 12:40

16 CHAIRMAN: You retained that?

17 A. Yes, that's correct.

18 CHAIRMAN: All right. And what has happened to it?

19 A. It's gone. I don't know where it's gone. Like, I
20 mean, I gave it to my daughter and she used it for a 12:40
21 short while. It was broken. Because I changed it at
22 the time because it was not functioning perfectly.

23 CHAIRMAN: Yes. Mr. McGuinness' point is, in these
24 letters you're blaming someone else in relation to a
25 phone which is in fact in the possession of you and 12:41
26 your family --

27 A. Well, I'm not blaming --

28 CHAIRMAN: -- which the Tribunal doesn't have and Garda
29 Headquarters doesn't have.

1 A. Yeah. I'm not blaming anybody. I'm just blaming --
2 I'm just stating that my understanding is all that data
3 would be available, irrespective of where the phone is.

4 269 Q. MR. MCGUINNESS: okay. well, the letter in response to
5 Mr. Justice O'Neill then is at page 17 onwards. And
6 your solicitor in the third paragraph says:

12:41

7
8 "When reviewing the material it was discovered that the
9 forensic analysis conducted and reported in the report
10 of Sergeant Duffy was conducted on a Nokia Lumia
11 telephone, which, it appears, was issued to our client
12 on or about 5th September 2014. As you are aware, this
13 device was in our client's possession from the 5th
14 September 2014 until same was removed from him by Chief
15 Superintendent Clerkin the 18th December 2014. And so
16 the only records that were obtained from this device
17 relate to that period. Accordingly, it would appear
18 that the aforementioned records are largely irrelevant
19 as they do not relate to the period when our client
20 held the role of Garda Press Officer. However, data
21 and material is available for the relevant period.

12:41

12:42

12:42

22
23 With respect to the mobile telephone device which our
24 client had in 2013/2014 it is noted that Superintendent
25 Flynn confirms it had some issue or fault which
26 necessitated its replacing on the 5th September 2014.
27 Our client attended Garda Headquarters with his device
28 and presented same for replacement. The said device
29 was connected to a laptop computer by the relevant

12:42

1 member, Inspector Moroney, who proceeded to transfer or
2 migrate data from the old device to the new device and
3 provided the new device to our client. Our client was
4 then offered the old device which had been cleared of
5 all data (wiped). Our client retained that device. 12:42
6 The device became obsolete and was discarded and is
7 therefore no longer available."

8
9 Now, I don't know, did you read Inspector Moroney's
10 statement or his evidence to the Tribunal? 12:43

11 A. No.

12 270 Q. Okay. Do you know that he hasn't confirmed that any
13 data was migrated from your phones, he said it wasn't?

14 A. As I say, I wouldn't have the technical -- it's my
15 understanding that data is transferred. I wouldn't 12:42
16 have any technical expertise or knowledge.

17 271 Q. Okay. And I think on a later, on another occasion you
18 say you gave the phone to your daughter, is that
19 correct?

20 A. That's right, yes. 12:42

21 272 Q. Well, did she did in fact -- was she able to use it?

22 A. I think very limitedly. Because I think, I understand
23 the screen was broken or cracked or something like that
24 on it.

25 273 Q. Yes. Now the next paragraph states: 12:42

26

27 "However, our client wishes to alert you to the fact
28 that records are in existence confirming his mobile
29 telephone activity in 2013 in particular text messages

1 sent and received from his mobile telephone device. He
2 is in a position to so advise as many such text
3 messages and telephone interactions were put to him in
4 the course of his monitored and recorded cautioned
5 interviews which took place over 28/29 May 2015 in the 12:42
6 context of his criminal investigation."

7
8 Now that's not correct, I think, is that right?

9 A. Well, during my interviews there was a lot of data and
10 a lot of information put to me and it's my 12:43
11 understanding that all that data was available.

12 274 Q. Well, from the phones that they had seized, but not
13 from this earlier phone, isn't that correct?

14 A. I didn't know that.

15 275 Q. Well, you're making the case through your solicitor 12:43
16 here, that those records are in existence, that were
17 sent and received from that device, and that they were
18 put to you in the course of your custody period, isn't
19 that right?

20 A. Yes. There was a lot of information put to me. And 12:43
21 it's my understanding all that information would be
22 available.

23 276 Q. Yes. But this is incorrect, isn't that right?

24 A. Well, it's my understanding, Mr. McGuinness. As I
25 said, I didn't know that the information is now not 12:44
26 available, I didn't know then.

27 277 Q. Well --

28 A. And I have heard, I have seen the evidence that has
29 been given, but I didn't know that.

1 278 Q. Well, you sat through the interviews?

2 A. Yes.

3 279 Q. And was it not evident to you and, I would hope, to
4 your solicitor that no texts were put to you from the
5 period when you were Press Officer?

12:44

6 A. Well, there was a lot of information. Maybe -- as I
7 said, information that is put to you during interview
8 is a matter for the investigators. But my
9 understanding, there was a lot of information put to me
10 and it's always been my understanding that that
11 information is available.

12:44

12 CHAIRMAN: Superintendent, it may be that there is a
13 misunderstanding. Mr. McGuinness is saying to you,
14 look, the investigation was about you running, people
15 have said, your private press office --

12:44

16 A. Yes.

17 CHAIRMAN: -- after being Garda Press Officer. That is
18 what the investigation was about. That was the crime
19 that was alleged against you. No one was saying you
20 did anything wrong, at that stage, when you were Garda
21 Press Officer. Anyone saying that's saying that you
22 did anything wrong while you were Garda Press Officer,
23 relates to a particular time which ended on the 10th
24 June 2014 and is in consequence, you say, of
25 instructions from Assistance Callinan. But the
26 investigation was about something totally different; it
27 was continuing to be Press Officer, effectively, when
28 you weren't Press Officer, in other words after 10th
29 June 2014. Do you understand that?

12:45

12:45

1 A. I'm much obliged for your guidance.

2 CHAIRMAN: But do you understand that?

3 A. Yes, I understand.

4 CHAIRMAN: Should we break for an hour, Mr. McGuinness,
5 maybe and we will take it up again at 12:45 until 4:30. 12:45
6 Thank you.

7

8 THE HEARING THEN ADJOURNED FOR LUNCH

9

10

12:45

11

THE HEARING RESUMED AS FOLLOWS AFTER THE LUNCHEON

12

ADJOURNMENT

13

14 280 Q. MR. MCGUINNESS: Superintendent Taylor, just staying on
15 this page that's on screen there, just slightly further 13:45
16 down the page, it should be page 18 of the documents,
17 the paragraph beginning "Furthermore". It says:

18

19 "Furthermore, it is clear from the criminal
20 investigation that ten applications generated by TLU 13:45
21 and the information that was put to our client at
22 interview, there is a mechanism to obtain the text
23 messaging without the relevant mobile telephone device
24 which was utilised to transmit such messages.

25 Therefore, the availability of any device or handset 13:46
26 does not inhibit any inquiry accessing the material."

27

28 Now, is that correct or not?

29 A. Well, that's my understanding, that the information was

1 available.

2 281 Q. well, what mechanism do you think could obtain the text
3 messaging without the device?

4 A. I under -- well, my limited understanding,
5 Mr. McGuinness as regards technical matters, there 13:46
6 would be some backup system, some cloud system, some
7 back office system.

8 282 Q. Okay. So that's all you know about it?

9 A. That's all I know about it. Like, it's similar to the
10 Pulse system, that when you check anything on Pulse, it 13:46
11 stays on Pulse.

12 283 Q. Well, I think the examination conducted by
13 Superintendent Clerkin showed that you'd deleted very
14 large amounts of your texts from your phone, isn't that
15 right? 13:47

16 A. Well, that's what you're telling me in a sense.

17 284 Q. Well, don't you know that yourself?

18 A. Well, it's a normal practice, you delete texts for
19 storage reasons and just for capacity reasons.

20 285 Q. Yes. But you see, you seem to be saying a number of 13:47
21 different things in this letter written on your behalf.
22 Firstly, that the text messages were put to you from
23 your period as press officer. And do you accept that
24 that wasn't the case, it didn't happen?

25 A. Well, there was in relation to the investigation, the 13:47
26 Roma investigation, at the beginning of that
27 investigation there was records put to me as part of
28 the Roma investigation.

29 286 Q. Were any of your text messages put to you from your

1 period at Press Office or not?

2 A. I can't recall.

3 287 Q. No. And insofar as this suggests that there's an
4 alternative mechanism for accessing text messages, do
5 you know whether there is so or not? 13:48

6 A. I don't know, Mr. McGuinness, no.

7 288 Q. You don't know?

8 A. No.

9 289 Q. Well, on what basis did you make this suggestion then,
10 that's what I'm just anxious to know? 13:48

11 A. I made it on the layman's basis that my understanding
12 is text messages don't disappear, that they would be in
13 some back office or back facility that they would be
14 kept, similar to all other Garda records.

15 290 Q. And did you make any inquiry yourself, or have it made 13:48
16 for you, as to whether that was so or not?

17 A. No.

18 291 Q. Okay. Can we turn to your first statement made to the
19 Tribunal's investigators, beginning on page 116?

20 A. Is that volume one, Mr. McGuinness. 13:48

21 292 Q. It's volume one still. And at page 121 you're
22 describing how you speak to the press and you say at
23 line 81:

24

25 "Just to clarify, when I spoke to the media as Garda 13:49
26 Press Officer, I always spoke on behalf of An Garda
27 Síochána and not in a personal capacity as Dave
28 Taylor."
29

1 I just want to be clear what you mean by that. Do you
2 mean that whenever you were speaking to the press, you
3 were speaking officially?

4 A. Well, I was speaking as the Garda Press Officer.

5 293 Q. Yes? 13:49

6 A. And that was on the authority of the Garda
7 Commissioner.

8 294 Q. Yes. But --

9 A. And anybody speaking to me, Mr. McGuinness, spoke to me
10 in that manner. 13:50

11 295 Q. Well, they knew you were the Press Officer --

12 A. Yeah.

13 296 Q. -- isn't that right?

14 A. Yes.

15 297 Q. And journalists who would come to you would be 13:50
16 approaching you on that basis, that you were authorised
17 to give out information, isn't that right?

18 A. That's correct.

19 298 Q. And does it follow, therefore, that from your point of 13:50
20 view, speaking to a journalist, you were giving them
21 information that you were authorised to give and had
22 decided to give them?

23 A. I was authorised to give under the instructions of the
24 Garda Commissioner.

25 299 Q. And you weren't speaking to them in the capacity of 13:50
26 being a sort of clandestine source, would that be fair
27 to say?

28 A. I was speaking to them on behalf of the instructions of
29 the Garda Commissioner.

1 300 Q. Yes. And when so speaking to them on any of these
2 occasions - and we'll come to them in due course - were
3 you saying to them 'Look, don't quote me on that', or
4 'That's unofficial' or 'This isn't for circulation', or
5 did you put any caveat on it when you were discussing 13:51
6 it?

7 A. Well, you'd have a lot of discussions with journalists
8 which wouldn't be an official statement. A lot of the
9 time when you would discuss matters, they'd ring you up
10 and you'd be discussing matters of topics of the day 13:51
11 and matters like that. And when the Sergeant McCabe
12 topic would come up, it would come up in the discussion
13 and would be discussed in that manner.

14 301 Q. Yes, but I'm not sure if you focused on the question
15 there. Perhaps I'll just repeat it again. When you 13:51
16 were raising this issue with them, were you doing it in
17 a way so as to convey to them that you couldn't be
18 quoted on this, that this was unofficial, it wasn't
19 really to be reported upon?

20 A. Well, it was by way of background information by way of 13:51
21 briefing in relation to the attitude of the Garda
22 Commissioner.

23 302 Q. Yeah, but did you put any caveat or limitation on it
24 when conveying it in that way?

25 A. Well, all conversations between myself and journalists 13:52
26 were on that basis. Like, I mean, there would be
27 discussions on the basis that it would be part of
28 briefing, that it wouldn't be part of reportage.

29 303 Q. And can I take it that you didn't regard yourself as a

1 source whose identity required to be protected?

2 A. well, it was part of the briefing on the instructions
3 of the Commissioner that when journalists would raise
4 the issue of Sergeant McCabe, this is a briefing that
5 would be given to them to give them an overall view of 13:52
6 the Commissioner's view in relation to this matter.

7 304 Q. well, I'm not sure if that's an answer to the question
8 I was asking, so perhaps I'll just rephrase it. when
9 briefing them on behalf of the Commissioner, you were
10 acting in your capacity as the Garda Press Officer, and 13:53
11 are you doing it in that capacity and in no other
12 capacity such as being as a confidential source?

13 A. well, the conversation would be confidential in the
14 sense of it wouldn't be report -- it wouldn't be
15 attributed. But the conversation is, as I say, it's 13:53
16 the cut and thrust of engagement between the Garda
17 Press Office and journalists.

18 305 Q. Yeah, but did you impose a restriction of
19 confidentiality on any of these journalists?

20 A. well, there was always, do you know, certain 13:53
21 restrictions on certain information. But I mean, in
22 this type of a briefing it was a discussion, a briefing
23 by way of this was the view of Garda Headquarters.

24 306 Q. Yeah. And put it this way: If you were authorised to
25 put it out there, it wasn't intended to be a form of 13:54
26 secret and you weren't acting as a secret source for
27 these journalists in this capacity, would you agree
28 with that?

29 A. I don't believe in the sense of a secret source. It

1 was a source of a briefing that I would be giving to
2 journalists who intended to write an article or they
3 were just inquiring about Sergeant McCabe and this
4 would be a briefing as to what general Garda
5 Headquarters attitude was to it. 13:54

6 307 Q. Yes. But obviously information coming from the
7 official spokesman acting --

8 A. Yeah.

9 308 Q. -- as such?

10 A. But I mean, there's various forms of information that 13:54
11 goes out, Mr. McGuinness; there's the official
12 statements, there's the official press conferences and
13 then there's briefings, that would be off the record.

14 309 Q. Yes, well, you see, you haven't, in your protected
15 disclosure or in any of your statements, claimed to 13:55
16 have given a briefing to any of these journalists off
17 the record, isn't that correct?

18 A. Yeah, but as I said, the terminology within these
19 statements, as I said, I was authorised to brief the
20 media and take every opportunity when it presented 13:55
21 itself to tell this information in relation to Sergeant
22 McCabe.

23 310 Q. Well --

24 A. To convey what was his motivation in raising these
25 matters. 13:55

26 311 Q. I'm sorry to return to the question again; is it
27 correct as a matter of fact that you have not claimed,
28 either in your protected disclosure or in any of your
29 statements to the tribunal, that you were briefing them

1 as a confidential source?

2 A. Not as a confidential resource, but in a source as my
3 capacity as the Garda Press Officer speaking on behalf
4 of the Garda Commissioner.

5 312 Q. And in none of your statements, or your protected 13:56
6 disclosure, do you claim that these were off the record
7 briefings, isn't that right as a matter of fact?

8 A. But briefings by their very nature, as I said to you
9 earlier on, there's official briefings and then there's
10 unofficial briefings. By the very nature, I was 13:56
11 briefing the journalists in relation to this matter
12 that this was the method on which this briefing took
13 place.

14 313 Q. You see, you're focusing on what you say you did and
15 the practice of briefings, but I'm asking you different 13:56
16 questions. Have you said in any of your statements to
17 the tribunal or in the protected disclosure that any of
18 these briefings were "off the record"?

19 A. No, I haven't used those exact words.

20 314 Q. No. Now, your solicitor furnished a waiver and I think 13:57
21 at page 122 you note that the correspondence was sent
22 by your solicitor to the Disclosures Tribunal,
23 "enclosed a waiver from me confirming that I do not and
24 have not claimed privilege over my identification as to
25 the source of any information, briefing, allegation or 13:57
26 belief communicated to journalists in the print,
27 broadcasting or other media directly or indirectly
28 relating to Sergeant McCabe"?

29 A. (Witness Nods).

1 315 Q. And you were happy to do so?

2 A. Yes.

3 316 Q. And if we could just turn to page, I think it's 147,
4 just bear with me. I'm sorry, page 167. That's the
5 form of waiver executed by you. And just for the
6 purpose of the transcript, it records:

13:58

7
8 "I wish to confirm that I do not claim and have not
9 claimed any privilege over my identification as the
10 source of any information, briefing, allegation or
11 belief communicated to journalists in the print,
12 broadcasting or other media directly or indirectly
13 relating to Sergeant Maurice McCabe. For the avoidance
14 of any doubt, I also confirm hereby that insofar as it
15 may be necessary, I waive and abandon any such right to
16 claim privilege or have it asserted on my behalf or in
17 relation to me insofar as it relates to my identity as
18 the source of same. I understand I am giving this
19 confirmation (A) for the purpose of the Tribunal's
20 preliminary inquiries into the matters included within
21 the Tribunal's terms of reference which are attached
22 hereto and (B) for all other purposes of the Tribunal,
23 including the taking of evidence by the Tribunal from
24 myself or any other person whether in public or private
25 sittings."

13:58

13:58

13:59

13:59

26
27 And that's executed by you on 28th April.

28 A. (Witness Nods).

29 317 Q. Now, obviously you were legally advised in relation to

1 the matter and were happy to furnish it as you've said.
2 But did you speak to any journalists with whom you'd
3 been in contact with before you executed that waiver?
4 A. No.
5 318 Q. Did you speak to any journalists subsequent to the 13:59
6 execution of that to inform them that you had taken
7 this course of action?
8 A. No.
9 319 Q. Okay. Well, I think in executing that waiver and in
10 confirming it in your statement to the Tribunal, did 14:00
11 you intend to assist the Tribunal in its examination of
12 the matter by freeing up any journalist to come and
13 assist the Tribunal?
14 A. That was my intention, yes, to fully assist the
15 Tribunal in its work. 14:00
16 320 Q. Yeah. And I think in one of your statements to the
17 Tribunal -- perhaps would you just sit in a little
18 closer to the microphone?
19 A. Sorry.
20 321 Q. Just speak up a little bit. 14:00
21 A. Yeah.
22 322 Q. And I think in your statements to the Tribunal you have
23 included a request to each of the nominated journalists
24 to come forward to assist the Tribunal, isn't that
25 correct? 14:01
26 A. That's correct, yes.
27 323 Q. And from your point of view, your desire and your
28 evidence here today is that you're seeking the
29 assistance of any journalist you are may have briefed,

1 including those 11, to come forward and testify to the
2 Tribunal?

3 A. That's correct.

4 324 Q. And that's so presumably irrespective of whether it
5 supports your contention or not, would you agree with 14:01
6 that?

7 A. That's correct, yes. I'm here to assist the Tribunal
8 in whatever way I can.

9 325 Q. Now, you do still maintain, at page eight of this
10 statement, which was made on 5th March, from line 114 14:01
11 onwards you say the following: "What I can say is" --

12 A. Sorry, Mr. McGuinness, what page is that?

13 326 Q. That's page 123?

14 A. 123, sorry?

15 327 Q. Yes. At line 114 you're saying: 14:02
16
17 "What I can say is that at this particular point in
18 time I do not have in my possession any of the mobile
19 phone devices and thereby any text messages relating to
20 my time as Garda Press Officer. I can confirm as per 14:02
21 my statement DT1 that An Garda Síochána have in its
22 possession reports containing the text messages from
23 the said official mobile telephones that I had during
24 my time as Garda Press Officer and this was confirmed
25 in the report of Chief Superintendent Ki rwan, now 14:02
26 retired (DT3 refers). Particular messages from 2013 to
27 2014 were put to me in the cautioned and monitored
28 interview on 28th or 29th May 2015 during my arrest and
29 detenti on. "

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Now, I think you know that that's not correct, isn't that right?

A. No, at the beginning of my detention, my interviews, information was put to me in relation to the Roma investigation concerning the Tallaght incident and my engagement with Superintendent Duff.

14:03

328 Q. Well, don't you know that data was put to you showing that you had made phone calls to each other or had discussed the matter?

14:03

A. That's correct.

329 Q. Isn't that right?

A. Which would be normal practice.

330 Q. And the evidence of the Gardaí who questioned you in your period in custody was given last week and that wasn't challenged. And they produced and you have had produced to you BH2 and BH5, isn't that correct?

14:03

A. That's correct.

331 Q. And have you examined those?

A. Yes.

14:04

332 Q. And am I correct in stating that they do not show your texts for the period while you were Press Officer?

A. No, but they show that the investigation, the Clerkin investigation included during my time as Press Officer.

333 Q. And that's an entirely different point from there being texts in existence. The first incident dealt with in Clerkin was the Roma investigation from October 2013 --

14:04

A. Yeah.

334 Q. -- isn't that right? And that was part of the

1 investigation?

2 A. That's correct.

3 335 Q. But are you still saying or not that the Gardaí have
4 texts from your period as Press Officer and that they
5 showed them to you while you were being detained? 14:04

6 A. During my detention, a lot of information was put to
7 me. My understanding and my belief was they had all
8 the information during my time as Press Officer.

9 336 Q. In this statement, page 127, in relation to
10 Commissioner O'Sullivan, you say the following: 14:05

11

12 "Commissioner Callinan, just to clarify, I wish to
13 state that Deputy Commissioner O'Sullivan never
14 instructed me to brief the media as detailed above.
15 However, as far as I am concerned, she was aware of the 14:05
16 instruction".

17 A. Hmm.

18 337 Q. By Commissioner Callinan. Now, on one interpretation
19 that seems to raise an ambiguity, because it says as
20 far as you're concerned. What is your precise evidence 14:05
21 on this point?

22 A. As I always said consistently, Commissioner Callinan
23 directed, Commissioner O'Sullivan was aware of it,
24 because I spoke to her in relation to this matter on
25 numerous occasions. 14:06

26 338 Q. Well, what did you speak to her about, to be clear?

27 A. I spoke to her in relation to how we were, I was
28 briefing the media in relation to Maurice McCabe's
29 motivation and this motivation was driven by the

1 investigation that had been conducted into him.

2 339 Q. And can you say on what occasion by reference to any
3 date or week or month or event?

4 A. Well, I can't give, because I had consistent and
5 numerous contacts, both telephone, text and in person 14:06
6 engagement with Commissioner O'Sullivan.

7 340 Q. I think you've told the Tribunal that nobody was
8 present when Commissioner Callinan gave you this
9 initial instruction; was anyone ever present when you
10 say you discussed such matters with Commissioner 14:07
11 O'Sullivan?

12 A. No, because those engagements would be a one-to-one
13 engagement, either by phone or in person.

14 341 Q. At page 128 you say that you would say: "I always did
15 clarify that journalists that a file had gone to the 14:07
16 DPP and that there was no prosecution".

17 A. Yeah.

18 342 Q. "However, this was the narrative. It was put in such a
19 way that there was no smoke without fire. I would drop
20 that in when talking to journalists." 14:07
21

22 Now, can you remember the reaction of any journalists
23 when you said that?

24 A. Well, they would take it on board. Nobody ever said
25 'Gosh' or anything like that, it was taken on board as 14:08
26 a briefing.

27 343 Q. Well, how would they take it on board?

28 A. There would be a discussion with you in relation to
29 Sergeant McCabe and how he was bringing forward all

1 these issues in relation to the penalty points and I
2 would draw their attention, as per the instruction,
3 that these are not being brought forward for purest
4 reasons, that the reason Sergeant McCabe is bringing
5 these forward is being driven by revenge. 14:08

6 344 Q. well, did any of them ask you 'well, look, when did
7 this occur'?

8 A. well, I would tell them it happened a number of years
9 ago in, I think, 2006, this investigation. And I
10 always made it clear that, do you know, a file had gone 14:08
11 to the DPP, he had been cleared, but this was the
12 epicentre for his motivation.

13 345 Q. And did any of them ask you 'well, is alleged to be the
14 victim of this, or what's happened to her'?

15 A. No, we never went into that detail. 14:09

16 346 Q. Okay. well, were you telling people that the
17 allegation had been made relating to, in relation to
18 the daughter of a colleague of his?

19 A. Yes, that there was, it was another member's daughter.
20 But I didn't know the member's daughter and I didn't 14:09
21 know the exact nature of the connection between the
22 two.

23 347 Q. well, did you not think it prudent perhaps to say to
24 Commissioner Callinan 'Look, you better tell me a bit
25 more about this in case I have to field some follow-up 14:09
26 questions'?

27 A. Commissioner Callinan gives instructions. It is not
28 the function, or wasn't the function of me to go back
29 in to Commissioner Callinan and ask him to clarify his

1 instructions. This is a disciplined force.
2 Commissioner Callinan gave me instructions, I acted on
3 his instructions.

4 348 Q. Now, you knew the surname of the, the name of the
5 family who made the allegation, isn't that right? 14:10

6 A. That's right, yes.

7 349 Q. And how did you know that?

8 A. I'd heard the name.

9 350 Q. Well, where had you heard the name?

10 A. It'd been heard, it was generally known in 14:10
11 headquarters, the name.

12 351 Q. And was that independent of what Commissioner Callinan
13 told you?

14 A. Well, it was independent in the sense of it was well
15 known around Garda Headquarters, the allegation. 14:10

16 352 Q. Well, you knew where that other member worked, isn't
17 that right?

18 A. Yes.

19 353 Q. Without going into detail. And can you give the
20 Tribunal any flavour of any reaction of the journalists 14:11
21 or any journalist to you imparting this information to
22 them or this briefing to them?

23 A. In a sense did I get any further questioning or
24 pushback or anything like that?

25 354 Q. Yeah. 14:11

26 A. No, it was part of a conversation.

27 355 Q. Yeah.

28 A. And the conversation centred around the motivation of
29 Sergeant McCabe in relation to this matter.

1 356 Q. Yeah.

2 A. And they were just receiving information. How they

3 dealt with the information was a matter for them.

4 357 Q. Well, you see, that's what I'm not asking you about.

5 I'm asking what sort of reaction you got when you were 14:13

6 dropping this in.

7 A. I got no negative reaction, if you're asking me that,

8 or any -- it was just a conversational piece and a

9 briefing piece, that this was, with Sergeant McCabe was

10 raising all these issues, that this was a piece of 14:13

11 background information that this might be the

12 motivation why he's bringing these issues forward.

13 358 Q. Well, did you do this over the phone?

14 A. It would have been over the phone sometimes and in

15 person. 14:13

16 359 Q. And did you ever ring anyone in order to do this?

17 A. It came up in an opportunity, sometimes people ring me

18 in relation to other matters and maybe the McCabe issue

19 was topical that day and it would come up as part of a

20 conversation, or I might be at a scene and it would 14:14

21 have finished, a press conference or something like

22 that, and after that there'd be a conversational piece

23 around, what do you think the McCabe issue, what do you

24 think of this issue that came up today and it would

25 drop in. It would drop in as part of conversations 14:14

26 like that.

27 360 Q. You see, it's hard to get a flavour of any specific

28 instance. Is there any instance you can identify --

29 A. I cannot.

1 361 Q. -- as to when you did this with anyone?
2 A. Well, these were opportunist times, Mr. McGuinness,
3 that presented themselves. They didn't present
4 themselves every time. I could have lots of
5 conversations with journalists and Sergeant McCabe 14:14
6 would never enter the conversations. And sometimes, it
7 would be the first thing in the coverings. So this was
8 opportunist and it was random.

9 362 Q. Well, in terms of any place or location where you
10 dropped this in, did you do it in any cafes or pubs or 14:15
11 speaking to journalists or on the street?

12 A. Well, I do not drink in pubs as a non-drinker. These
13 would be mostly at scenes of outrages, of -- they could
14 be serious Garda incidents, they could be at press
15 conferences, on the sides of press conferences, 14:15
16 sometimes it was over the phone when they would ring
17 me. So it was a multiplicity of locations.

18 363 Q. Okay.
19 A. It was an opportunist.

20 364 Q. Okay. But I just want to be fair and want you to give 14:15
21 you every opportunity to say when and where; is there
22 no occasion that you recall doing it, particularly?

23 A. Well, I've outlined the Paul Williams situation there.
24 But in all the other situations these were where the
25 situation presented itself. Like, I didn't know when 14:16
26 I'd go into work in the morning that I could be in some
27 part of Dublin at a murder scene. And you'd meet all
28 the journalists at that scene.

29 365 Q. Well, you've mentioned the Paul Williams incident

1 370 Q. Okay. Perhaps we'd just look at volume 13, page 3323.
2 A. Sorry, Mr. McGuinness, would you remind me of the page
3 number again?
4 371 Q. Page 3323.
5 A. Yeah. 14:18
6 372 Q. Just looking at February there, this is a record of
7 your outgoing calls and texts to Mr. Williams. So
8 you'll understand it's not a complete record of any
9 interaction --
10 A. Yeah. 14:18
11 373 Q. -- that you may have had with him. You've seen these
12 before obviously?
13 A. I have not, no, I have not seen it.
14 374 Q. Okay?
15 A. I have not seen this page before now. 14:18
16 375 Q. Well, this was put to you in the course of your third
17 interview --
18 A. Well, I take it, I accept it.
19 376 Q. -- on 8th March 2018. Do you recollect a number of
20 sets of billing contact -- 14:18
21 A. Yes, I do.
22 377 Q. -- details were put to you? You see, there's quite a
23 number of calls in February there from 10th February up
24 to 27th February --
25 A. Yes. 14:19
26 378 Q. -- to Mr. Williams, and a couple of texts. Did you
27 take the opportunity on your evidence to drop this in?
28 A. Well, my understanding is Mr. Williams already knew
29 about this. As I said, Mr. Williams didn't have a huge

1 interaction with the Press Office.

2 379 Q. well, I'm not really talking about what Mr. Williams --

3 A. Yeah.

4 380 Q. -- said or what he knew or what his practice was. This
5 on its face would look like a huge interaction -- 14:19

6 A. Yeah.

7 381 Q. -- with the Press Office, initiated by you.

8 A. Well, as I say, it's backwards and forwards in the
9 sense of interaction.

10 382 Q. Yeah. 14:19

11 A. But in relation to Mr. Williams going up to that
12 location, I was not aware of that.

13 383 Q. You were not aware of that?

14 A. No.

15 384 Q. But sure, why was he ringing you to tell you I'm now 14:20
16 here?

17 A. Well, he wanted to pass on that information to me.

18 385 Q. But sure, how could that benefit you?

19 A. He was just passing it on to me. I do not know, I do
20 not know why his motivation for him ringing me to pass 14:20
21 on that information.

22 386 Q. Well, what did he say?

23 A. He said, guess where I am? And he was up at this
24 house, and he had said how he had interviewed that
25 family and how Sergeant McCabe had destroyed the family 14:20
26 and he was going to write a negative article in
27 relation to that matter.

28 387 Q. Was this after he had done the interview?

29 A. Well, I got the impression he was at the house, I do

1 not know what time he had done the interview, I didn't
2 know that level of detail.

3 388 Q. I do not know if you were here for Mr. Williams'
4 evidence?

5 A. No. 14:21

6 389 Q. Well, he says, and it was in accordance with what he
7 said in his statement, that he attended there on 5th
8 March. So do you think your date of February for
9 contact with him is correct?

10 A. It could be. As I said, I said to the investigators, 14:21
11 it could be February, March, I'm not exact because I
12 did not have the benefit of phone records to --

13 CHAIRMAN: I think perhaps the date is Saturday, 9th
14 February 2014.

15 A. Yeah. 14:21

16 CHAIRMAN: I think that was Mr. Williams' evidence.

17 MR. McGUI NNESS: It's 8th March

18 CHAIRMAN: well, there's two things getting mixed up in
19 my notes then Mr. McGuinness. But I'll just check the
20 transcript if you do not mind. So please carry on. 14:22

21 MR. McGUI NNESS: Chairman, certainly at page 12 of the
22 transcript on day 11 he said he thought it was the
23 Saturday after that, which he thought was 9th, but in
24 fact he corrected himself later --

25 CHAIRMAN: Okay. 14:22

26 MR. McGUI NNESS: -- and said it was 8th March.

27 CHAIRMAN: well, cross-examined by Mr. McDowell he said
28 it was Saturday, 9th March 2014. I don't if that is
29 the correct date. Certainly the articles didn't

1 appear, Mr. McGuinness, the very first one, as you said
2 this morning, until 12th April.

3 390 Q. MR. MCGUINNESS: Mr. Williams gave evidence that, as
4 far as he could recollect, he didn't speak to you on
5 that day. 14:22

6 A. He did.

7 391 Q. Okay. The very day that he was doing the interviewing,
8 is that right?

9 A. Well, I do not know what day he -- all I can confirm,
10 Mr. McGuinness, is that he rang me and had that 14:23
11 conversation with me. I do not know how he conducted
12 his business around that.

13 392 Q. Yes. Well, were you pleased, as it were, that he had
14 gone there to do this job?

15 A. Yes. 14:23

16 393 Q. Okay. Why was that?

17 A. Because, as I said, it would feed into the narrative
18 that a story would be written that would be negative to
19 Sergeant McCabe.

20 394 Q. And you say in your statement here that you didn't 14:23
21 instruct him to go there?

22 A. No.

23 395 Q. But is it possible that your recollection is faulty and
24 that you may have known he was going or you may have
25 spoken to him before he went? 14:23

26 A. I never knew he was going there. The first I ever knew
27 that Paul Williams had been to that house was when he
28 rang me.

29 396 Q. All right. You see, there's obviously a quite a degree

1 of contact in that month of February and I know you put
2 it in February and you may or may not be right, but
3 Mr. Williams thinks it's March, but can you recollect
4 what any of these phone calls that you had with him in
5 February were about? 14:24

6 A. I think the February calls would be all to do with the
7 GSOC bugging story. I think that was a huge story
8 during that time. He was doing a considerable amount
9 of reporting on the GSOC story at the time.

10 397 Q. His recollection is that he did contact you after he 14:24
11 had done his interview the following week. Now, you've
12 nominated Mr. Williams in your list of journalists,
13 isn't that correct?

14 A. That's right, yeah.

15 398 Q. Who you did brief negatively against Sergeant McCabe, 14:25
16 isn't that right?

17 A. Yes.

18 399 Q. In the sense intended by Commissioner Callinan?
19 A. Yes.

20 400 Q. He's maintained on his evidence before the Chairman 14:25
21 that you didn't do so. Are you confident in your own
22 mind that you did do so?

23 A. Yes.

24 401 Q. Well, can you help me then as to when you did that?
25 A. I can't give a specific date. As I said to you earlier 14:25
26 on, Mr. McGuinness, opportunities were opportunist and
27 taken when they presented themselves.

28 402 Q. Yes. I mean, just looking at it from your point of
29 view, we have your billing records from late January

1 2013. If we go to page 2231.

2 A. Yeah.

3 403 Q. Do you see it starts there at the top?

4 A. Okay.

5 404 Q. And there's regular enough contact and again, this is 14:26
6 obviously a one-sided view of it at 3321. And the
7 contact throughout 2013 continues on 3322. I'm just
8 waiting for that to come on screen. Are you following
9 me in the book there?

10 A. Yeah. 14:26

11 405 Q. So if we just go back to the previous page, 3321.

12 A. Yeah.

13 406 Q. That starts, as we see at the top, 28th January 2013?

14 A. Yeah.

15 407 Q. And then at the bottom of the page it goes down to 29th 14:27
16 July?

17 A. Yeah.

18 408 Q. All of the following page, 3322, all but the last five
19 interactions are still in 2013.

20 A. Yeah. 14:27

21 409 Q. And perhaps we'll just stop in the middle of the page
22 there. Just looking at that. Does looking at that
23 assist you in any way as to when the Commissioner might
24 have given you the instruction?

25 A. No. 14:27

26 410 Q. Okay. Obviously there's a lot of contacts here. And
27 would you expect that many contacts --

28 A. Yes.

29 411 Q. -- with Mr. Williams in that period?

1 A. Yes, as with a lot of other journalists.

2 412 Q. Normal --

3 A. Yes.

4 413 Q. -- press queries --

5 A. Yes. 14:27

6 414 Q. -- going back and forward?

7 A. Yes.

8 415 Q. Well, are you likely to have taken the opportunity to
9 drop in the instruction from Commissioner Callinan at
10 sometime in 2013 with all this interaction? 14:28

11 A. Well, as I said to you before, Mr. McGuinness, it was
12 opportunist and when the opportunity presented itself.

13 416 Q. Yes. Well, it's just you have nominated him, he
14 disagrees with that and I'm just seeing how likely it
15 is from your point of view that you would have followed 14:28
16 the instruction and, therefore, you would have briefed
17 Mr. Williams as you've claimed to have done.

18 A. Hmm.

19 417 Q. Do you understand that?

20 A. I would have discharged the instruction that was given 14:28
21 to me by Commissioner Callinan.

22 418 Q. Okay. So I mean, can the Chairman take it that from
23 your point of view, you see no reason why you would not
24 have done it?

25 A. No. 14:28

26 419 Q. Do you see any reason why you would have delayed from
27 doing it or not include Mr. Williams in the pool of --

28 A. No.

29 420 Q. Okay. And that's why I'm just asking you if you can to

1 be more precise in your recollection. Do you think you
2 would have said it to him before 2013 was over, when
3 the crisis was ongoing?

4 A. Well, I said from the middle of 2013 that was my
5 instructions. And I would have taken the opportunity 14:29
6 after Commissioner Callinan had given me that
7 instruction to carry out his instruction when the
8 opportunity presented itself.

9 421 Q. Yes, no, I understand that. But that's obviously a
10 sort of a general answer. But are you answering that 14:29
11 specifically now in relation to Mr. Williams? Are you
12 confident in your own mind that you did this?

13 A. I am confident that I did brief Mr. Williams.

14 422 Q. So it wasn't a surprise then, was it, that he was
15 ringing you, whether it would have been February or 14:29
16 March to tell you where he was?

17 A. Well, it was a surprise that he was ringing me on a
18 Saturday, which was very unusual for Mr. Williams to
19 ring me on a Saturday, to tell me this. I didn't know
20 if he had written, I cannot recall if he had written 14:29
21 any articles in relation to Sergeant McCabe prior to
22 this, I didn't know he had an interest in it, because
23 in February I think he was focusing totally on the GSOC
24 alleged bugging incident.

25 423 Q. Okay. So maybe we'll look at it from Mr. Williams' 14:30
26 point of view. He said you never briefed him in this
27 way, and obviously I am not in any way suggesting how
28 that should be resolved until all of the evidence will
29 be heard by the Chairman, but he puts the date of an

1 initial visit there at 5th March when he went up, he
2 found where the D home was and he spoke to the parents.
3 Is it possible that he told you of that at that time,
4 that he was planning to do the interview?

5 A. I was -- the nature of the phone call to me was, he was 14:30
6 up there, had done an interview, my understanding, and
7 was going to write an article. I didn't know he was
8 going there.

9 424 Q. Well, he says he spoke to you, he said he did speak to
10 you, contacted you and he had a number of questions to 14:31
11 put to you. Do you recollect that?

12 A. No. My recollection is he was just telling me what he
13 was doing.

14 425 Q. Okay. Well, perhaps we'd look at day 11 of the
15 transcripts. And at page 16, going on to page 17 he's 14:31
16 describing how it had been brought to his attention and
17 he said he checked out the Pulse issue and "while I was
18 checking out other details of the case". And at
19 question 69 there at the top of the page, 17 --

20 A. It's not up in front of me. 14:32

21 426 Q. Yes.

22 A. Thank you.

23 427 Q. He says: "But to be clear, did he tell you he had
24 checked on Pulse, that it was not on Pulse?" He said:
25 "No, it would have been just along the lines that there 14:32
26 was -- it was not recorded on Pulse. And then I put
27 that question then to Garda Press Officer Dave Taylor
28 subsequently, Superintendent Taylor.
29 Yes.

1 Did you put other questions to him about the
2 investigation or Sergeant McCabe?
3 I did, yes. After I did the interview I would have
4 contacted, I'd contacted Superintendent Taylor who was
5 Press Officer at the time and I had to put questions to 14:32
6 him. The first set of questions were: Did this
7 information take place? Who was involved? What was
8 the decision of the DPP? To confirm was there an
9 Inspector Cunningham at the time involved, because that
10 was one of the problems Ms. D had with the case. Was 14:33
11 there an arrest? And then subsequent to that the other
12 supplemental question came up in terms of the Pulse,
13 was it on pulse, and I put that question then to Dave
14 Taylor as well."

15 14:33

16 And at the top of page 18 he says:

17
18 "It would probably -- it would have been probably the
19 following week. It was about five weeks before
20 anything was published. 14:33

21 And did you speak to him personally or over the phone?
22 Only over the phone.

23 And did he confirm any of the matters you had raised?
24 He came back to me and confirmed that the investigation
25 had taken place, the file had been sent to the DPP and 14:33
26 there were no charges.

27 And did he say anything negative about Sergeant McCabe
28 to you?"

29

1 And he said "No". Now, just looking at your half of
2 the telephone records, if we just go back to page 3323,
3 the first call after the -- the first call to you after
4 8th March is on 11th March, where you appear to be
5 calling -- it's from you to Mr. Williams. You appear 14:34
6 to be calling Mr. Williams on 11th, perhaps leaving a
7 message, it seems very short. But you appear to have
8 spoken to him on 13th. Well, he spoke to you the day
9 after he said he'd first went up?

10 A. Hmm. 14:34

11 428 Q. And then you spoke to him on two occasions on the day
12 before he went back. But the first occasion that you
13 appear to have a conversation with him is two
14 conversations on 13th March. Do you see those?

15 A. I do, yes. 14:35

16 429 Q. 11:00 and 11:15?

17 A. Hmm.

18 430 Q. Have you any recollection of that?

19 A. Well, my only recollection of ever talking to
20 Mr. Williams in relation to Sergeant McCabe was that 14:35
21 Saturday. I have no recollection of ever speaking to
22 him in relation to that matter again.

23 431 Q. Pardon?

24 A. I have no recollection of meeting, of talking to him in
25 relation to the McCabe matter again. 14:35

26 432 Q. You see, he told the Chairman, at page 20, about a
27 comment that was made. He said:
28
29 "That comment came after, came from the fact I would

1 have been talking to -- when after I interviewed her I
2 contacted Dave Taylor, told him what I was looking at,
3 asked him questions. He made a throwaway remark that
4 it was known in the Park, as in the Phoenix Park, and
5 he suggested it was known in government. But it was a 14:35
6 passing comment and I actually reported that back to
7 her. I told her what he told me."

8
9 And he says:

10
11 "That's the only time I made the remark." 14:35

12
13 Do you recollect? Does that help you jog your memory?

14 A. No. I don't ever recall making such a remark.

15 433 Q. Okay. Because that came to be included in a GSOC 14:36
16 statement that Ms. D made.

17 A. Yeah.

18 434 Q. Have you seen that?

19 A. No.

20 435 Q. Okay. And Mr. Williams, at page 26, question 126, he 14:36
21 has been asked about where he heard rumours and in
22 question 126, and he's asked:

23
24 "Is that because you don't recall?

25 Answer: I don't recall. They were just there. 14:36

26 You were just aware of them?

27 I don't know where. Nobody briefed.

28 One of the things that has come up in relation to this
29 is that people were briefed.

1 I was never briefed by Dave Taylor or Níóirín O'Sullivan
2 or Martin Callinan or any of them. That's not the way
3 it would happen with me."
4

5 Is that correct, from your point of view? 14:37

6 A. Well, I spoke to him about it. He was briefed by me.

7 436 Q. And if you didn't speak to him about Sergeant McCabe
8 after the phone call --

9 A. Yeah.

10 437 Q. -- that he made saying that he was up there on the day, 14:37
11 it would seem to follow you must have briefed him
12 before that; is that right?

13 A. Oh, yeah. Yeah, we would have spoken before, yes.

14 438 Q. Now, at page 32 he's describing the list of questions 14:37
15 that he had at the bottom of page 32, that he put to
16 you. And he records you as saying "he will come back
17 to me sometime later", and he didn't know how long that
18 was, that he would have to check it out. So does that
19 help you refresh your memory; taking a list of
20 questions from him over the phone? 14:38

21 A. Mr. Williams rang me, telling me where he had been and
22 what he proposed to do. He didn't put any further
23 questions to me and I passed on to the Commissioner and
24 Deputy Commissioner the essence of my conversation with
25 Mr. Williams. It was a pure -- I took it as an 14:38
26 information phone call he was giving me, telling me
27 what he was doing.

28 439 Q. Yes. You see, it was put to Mr. Williams by your
29 counsel at page 89 that he had not phoned you from the

1 house, that he only spoke to you the following week.

2 A. Again I said earlier on he just rang me to tell me, I
3 got the impression he was up there. I do not know the
4 methodology he used or what day he actually did the
5 interview -- 14:39

6 440 Q. Okay.

7 A. -- but my strong impression was he was just after doing
8 the interview.

9 441 Q. Well, he says again in the middle of page 89, he says:
10
11 "I don't believe I called Mr. Taylor until the
12 following week."
13
14 You think that's not right.

15 A. Well, I can only say what -- on the day he rang me what 14:39
16 he told me.

17 442 Q. Yes. Well, your counsel took instructions on the day,
18 I do not know, you might have got a hurried call
19 looking for instructions, so Mr. Ferry could
20 cross-examine Mr. Williams, is that right? 14:39

21 A. That's right.

22 443 Q. And he suggested that Mr. Taylor didn't ask you to
23 confirm anything, is that right?

24 A. Sorry, could you repeat that again?

25 444 Q. Your counsel suggested to Mr. Williams that he didn't 14:40
26 ask you to confirm anything?

27 A. No, he didn't.

28 445 Q. And your counsel also put it at page 106 that he
29 didn't -- the only other matters that he instructed, he

1 didn't receive any further telephone call prior to the
2 publication of the article on I think 2nd or 3rd April.
3 And that's repeated there. Do you see that?
4

5 "Question: Superintendent Taylor instructs that he 14:40
6 didn't receive any further telephone call from you,
7 Mr. Williams, prior to the publication of the article
8 in early April, 2nd or 3rd April.

9 Answer: He got no more telephone calls from me in
10 relation to this matter until 12th, in relation to this 14:41
11 matter up to 12th April.

12 ...I think it was, 2nd or 3rd April was article."
13

14 And the answer is:
15

16 "That is untrue, Chairman."
17 14:41

18 Now, I just want to draw your attention to paragraph --
19 or sorry, page 3323 again.

20 A. Yeah. 14:41

21 446 Q. And there's in fact quite a deal of contact between
22 yourself and Mr. Williams after 8th March, isn't that
23 correct?

24 A. That's correct.

25 447 Q. And including at least one substantive call on 10th 14:41
26 April. Do you see that? It's about seven from the
27 bottom, 10th April 2004 --

28 A. Yes.

29 448 Q. -- at 18:28, which is just two days before the

1 publication of the first article.

2 A. Yes.

3 449 Q. Do you accept that your counsel was perhaps incorrect
4 in suggesting to Mr. Williams that there was no contact
5 or call? 14:42

6 A. No. I had meant there was no further contact in
7 relation to this matter. That's the McCabe matter. It
8 was never suggested there was no contact, but just we
9 never spoke about that matter again.

10 450 Q. So none of these phone calls relate to -- 14:42

11 A. No.

12 451 Q. -- the inquiries which he, Mr. Williams, said you were
13 making and you were going to come back to him on?

14 A. No.

15 452 Q. Are you clear in your own mind perhaps that this might 14:42
16 be, these might be some of the occasions on which you
17 thought were briefing Mr. Williams by confirming these
18 matters?

19 A. No. I spoke to him on that Saturday, we never spoke
20 again in relation to that matter. Obviously the phone 14:43
21 calls, we'd have spoke about other matters but I never
22 spoke about the McCabe matter again.

23 453 Q. I mean, Mr. Williams has given evidence and he's
24 obviously -- he seems to be confident of the dates that
25 he went up, 5th March and 8th March, and that he didn't 14:43
26 speak to you until the following week. He made these
27 inquiries, you said you'd get back to him and you did
28 get back to him and you had telephone contact before
29 the article was published.

1 A. All I can say is what's within my knowledge of him
2 ringing me on that Saturday and passing on that
3 information to me.

4 454 Q. Okay. Could you have been calling him to congratulate
5 him on the publication of the article when you were 14:43
6 ringing him on 12th?

7 A. No.

8 455 Q. Well, I think you told the Chairman that you did
9 welcome the fact that he was going up and writing the
10 story, because it suited the agenda, is that right? 14:44

11 A. I didn't know he was going up to there.

12 456 Q. Pardon?

13 A. I never said I knew he was going up there,
14 Mr. McGuinness. I was not aware he was up there until
15 he rang me. 14:44

16 457 Q. I'm sorry, I thought you told me that you were glad he
17 was up there.

18 A. Oh, I was glad, but I didn't know he was going up
19 there, I did not instruct him or facilitate him going
20 up there. 14:44

21 458 Q. But you were glad because this facilitated the agenda,
22 in your view, is that right?

23 A. Yes.

24 459 Q. Or it might do?

25 A. Yes. 14:44

26 460 Q. If what he was saying was correct, that he was there,
27 he was going to write a damaging article?

28 A. Yes.

29 461 Q. And when the article came out, is it not more likely

1 Commissioner?

2 A. Yeah.

3 467 Q. And what's your recollection of what you put in the
4 text?

5 A. My recollection is that I received a phone call from 14:46
6 Paul Williams, he was going to write an article that
7 was negative to Sergeant McCabe in relation to the
8 treatment of the other family.

9 468 Q. Yes. Well, from the point of view of the agenda, was
10 this a success in your view then? 14:47

11 A. Well, it was an unexpected success, because I didn't
12 know Paul Williams was examining to write, I didn't
13 know Paul Williams was up there.

14 469 Q. Yes, but you knew other journalists were going to go up
15 previous to this, isn't that right? 14:47

16 A. Yes.

17 470 Q. And they had -- had they discussed with you that they
18 were going to go up?

19 A. Well, they would not have discussed the exact date, I
20 would have known afterwards that they had been up 14:47
21 there.

22 471 Q. Yeah, but they told you they were going?

23 A. Yeah, they told me they would have done an inquiry into
24 it, yes.

25 472 Q. So two previous journalists who you knew were going up 14:47
26 and did you know --

27 A. Hmm.

28 473 Q. -- and did you know that they had not got a story?

29 A. I'd known, yeah, that they had not got a story, yes.

1 474 Q. Then the third journalist who goes up, gets the story
2 and out of the blue rings you on your account?
3 A. Yes.

4 475 Q. On his account he's looking for confirmation of
5 details, not having ever been briefed which you? 14:47
6 A. Yes.

7 476 Q. That's obviously a difference. Can you shed any more
8 light on that difference? Would you like to comment
9 any further on that?
10 A. I can only say what happened. That Paul Williams rang 14:47
11 me. I didn't know he was going up there. He just told
12 me he was going writing an article, I reported that, as
13 I would always do, to the Commissioner and Deputy
14 Commissioner.

15 477 Q. Okay. And did you have any discussion with the 14:48
16 Commissioner about it?
17 A. I sent a text to the Commissioner outlining -- within
18 the confines of the text and he acknowledged it back I
19 think "thanks D" or "thanks" Dave. And Deputy
20 O'Sullivan replied "perfect" and then she rang me. 14:48

21 478 Q. She replied?
22 A. "Perfect".

23 479 Q. "Perfect"?
24 A. Yeah. It's her usual terminology.

25 480 Q. And was that that night? 14:48
26 A. No, it was in a short period after I sent her the text.

27 481 Q. Yes, but did you send her the text on the Saturday?
28 A. Yes.

29 482 Q. To Commissioner?

1 A. Yes.

2 483 Q. And to her?

3 A. Yes.

4 484 Q. And then she phoned you?

5 A. Yes. 14:48

6 485 Q. And what was the gap between receiving the text and
7 phoning you?

8 A. I think very short, it wouldn't be that long.

9 486 Q. And was there some discussion about it?

10 A. Well, she just discussed -- I just told her that Paul 14:49
11 Williams had rang me. He had been up with the family
12 at that location. He had said how that family had been
13 destroyed and that how he was going to write a negative
14 article concerning Sergeant McCabe.

15 487 Q. And did the Deputy Commissioner respond in any way? 14:49

16 A. She just listened to this. You know, she didn't ask
17 that we sent him up or how did he get up there or who
18 put him up there, she just took it as a very
19 unremarkable phone call.

20 488 Q. Okay. Well, I mean, the way you put it there and in 14:49
21 your statement, "She never asked who sent him up or did
22 we send him up"?

23 A. Hmm.

24 489 Q. And, "She never asked me to stop it"?

25 A. Yeah. 14:50

26 490 Q. "I mean, when I say stop it, I mean there was no
27 instruction to me to speak to Paul Williams to
28 influence him or otherwise."

29 A. Yeah.

1 491 Q. But presumably you had no knowledge or evidence to
2 suggest the Commissioner had sent him up?
3 A. I didn't know who sent him up.
4 492 Q. Well, I mean, was he sent up at all from your point of
5 view? According to his evidence he decided to do this 14:50
6 himself.
7 A. Well, all I can say is, he told me he was up there.
8 How he got up there and who, that's not within my
9 knowledge.
10 493 Q. But you see, why would you include this in your 14:50
11 statement: "She never asked who sent him up or did we
12 send him up."
13 A. Well, as I say, one question that would be asked is how
14 did Paul Williams end up going up there.
15 494 Q. Yes? 14:50
16 A. Would we have supplied information that would have sent
17 him up there?
18 495 Q. Yeah. I mean, you can interest journalists in stories
19 without obviously instructing them or directing to do
20 anything, isn't that right? 14:50
21 A. That's right, yes.
22 496 Q. And presumably you've some experience of having done
23 that over your time in the Press Office?
24 A. Yes.
25 497 Q. Is that right? 14:51
26 A. Yes.
27 498 Q. And you can be, I suppose instrumental may be too
28 strong a word, but you can be successful in achieving
29 that sort of sparking of interest by pieces of

1 information I suppose?

2 A. Yes.

3 499 Q. Okay. And certainly in the later part of 2014 you were
4 doing that in an unauthorised way, isn't that right?

5 A. Well, I'd a relationship with the media that continued 14:51
6 after the Press Office.

7 500 Q. Yes. Well, you forwarded lots of documents and reports
8 to journalists and in particular to one particular
9 journalist, isn't that right?

10 A. As I said, there was a relationship with journalists 14:51
11 after I left the Press Office.

12 501 Q. We'll come back to that perhaps, if necessary. But in
13 the statement that we're looking at, you say:
14

15 "The journalists I spoke to are set out in DT3, page 14:51
16 2."

17 A. Sorry?

18 502 Q. Perhaps we'd look at page, this is page 131 in volume
19 1.

20 CHAIRMAN: Mr. McGuinness, are we moving off the Paul 14:52
21 Williams matter just for the moment anyway?

22 MR. DONAL MCGUINNESS: Yes

23 CHAIRMAN: Yes. There was just one thing that was on
24 my mind, superintendent, if you don't mind me
25 intervening at this point. I suppose every profession 14:52
26 claims to have standards and lawyers claim it, doctors
27 claim it. Journalists claim that their standard is
28 that they check out things before publishing. You
29 would be the obvious person to check things out, and

1 Paul Williams says that his reason for ringing you was
2 to check out was there such an investigation, was a
3 file sent to the DPP, what happened about the file and
4 you'd be the obvious source of such information. And
5 his testimony to me was you did give him that 14:52
6 information after a pause of some time, perhaps some
7 days.

8 A. Well, in my experience, Mr. Chairman, journalists have
9 a number of sources they go to before they publish a
10 story and often the Press Office is the last place they 14:53
11 come to, to confirm a source.

12 CHAIRMAN: Well, if he wanted to get an official view
13 as to whether there had ever been an investigation,
14 weren't you the person to go to? Otherwise he'd have
15 to find the investigator, and that might not be very 14:53
16 easily ascertainable.

17 A. Well, I have found with my experience that journalists
18 are extremely resourceful in finding information from a
19 lot of Garda sources.

20 CHAIRMAN: But you're telling me that the conversation 14:53
21 was simply to the following effect, and I'll just leave
22 it at this, as you said to Mr. McGuinness: Hello, I'm
23 up here, or certainly the impression was that he was up
24 there, had been there very, very recently, could have
25 been in the car outside or somewhere in Cavan or in the 14:53
26 environs, and I've spoken to that girl and Maurice
27 McCabe has ruined that families' life and I'm going to
28 published a story, just that?

29 A. That's it.

1 CHAIRMAN: He didn't say, ask you, look, before I
2 publish I really need to know was there an
3 investigation or is this a load of hogwash, was there
4 indeed a file sent to the DPP, can you give me any
5 insight as to what the DPP may have said or anything 14:54
6 like that?

7 A. Well, in my experience, Chairman --

8 CHAIRMAN: No, forget about your experience. It's a
9 straightforward question, superintendent. Was there
10 any conversation -- 14:54

11 A. No.

12 CHAIRMAN: -- of that kind --

13 A. No.

14 CHAIRMAN: -- by way of confirming things with you?

15 A. No. It was a pure confirmation phone call to me 14:54
16 telling me where he was, what he was doing and what he
17 proposed do.

18 CHAIRMAN: I suppose the second question on my mind
19 would be out of that, well, if he was just ringing you
20 up to tell you what seemed to be, from your point of 14:54
21 view, a good piece of news, what had you done for him
22 that he was telling you this?

23 A. Well, in the sense of Mr. Williams, like every other
24 journalist, would have a relationship with me and with
25 the Garda Press Office and other members in relation to 14:55
26 a multiplicity of matters concerning this.

27 CHAIRMAN: So it was kind of building brownie points?

28 A. Well, as I say, Mr. Williams was a well established
29 journalist before I came on the scene.

1 CHAIRMAN: No, but I mean was it just building brownie
2 points?
3 A. I can't say what he wanted, but definitely he was
4 telling me to pass it onto the higher echelons.
5 CHAIRMAN: Right. No, that's clear, thank you very 14:55
6 much
7 A. Thank you. Sorry, Mr. McGuinness.
8 MR. MCGUINNESS: Just on this point, given that the
9 Chairman has raised the issue of the file, I'd like to
10 get your comments on some evidence or suggestion that 14:55
11 the tribunal has received from Ms. Alison O'Reilly.
12 And perhaps we could look at page 3830 of the papers.
13 A. Sorry, what volume is that?
14 503 Q. I beg your pardon, it's volume 15.
15 A. Sorry, Mr. McGuinness, the number again? 14:56
16 504 Q. 3830.
17 A. Thank you.
18 505 Q. And this is at paragraph C towards the end of the page.
19 A. Yeah.
20 506 Q. And it says: 14:56
21
22 "The story of the penalty points controversy continued
23 for a few weeks or months and Debbie told me she got
24 the name and address of the girl who was allegedly
25 abused by Maurice McCabe from the Gardaí. I asked her 14:56
26 where did she get her information and she said from
27 someone high up in the Gardaí. She told me she was
28 going to Cavan and she was going to get the girl to
29 talk. I said, are you sure he was a child abuser?

1 Debbie said, she was and all the Gardaí hate him. She
2 said her father, who is John McCann, was now a senior
3 member of the Garda Sexual Assault and Domestic
4 Violence Unit, had confirmed the story. She said on
5 several occasions Mr. McCabe was a pedophile. Debbie 14:57
6 said she heard from Dave Taylor that the girl was in a
7 bad way."

8 A. Sorry, I cannot hear you.

9 507 Q. I'm reading from paragraph C of the page.

10 A. Thank you. 14:57

11 508 Q. Will I start again?

12 A. Please, if you would not mind.

13 509 Q. Yes. I beg your pardon.

14 A. Okay.

15 510 Q. C, quotation: "The story of the penalty points 14:57
16 controversy continued for a few weeks or months and
17 Debbie told me she got the name address of the girl who
18 was allegedly abused by Maurice McCabe from the Gardaí.
19 I asked her where did she get her information and she
20 said from someone high up in the Gardaí. She told me 14:57
21 she was going to Cavan and she was going to get the
22 girl to talk. I said, are you sure he was a child
23 abuser? Debbie said she was and all of the Gardaí hate
24 him. Her father John McCann, who was then a senior
25 member of the Gardaí Sexual Assault and Domestic 14:58
26 Violence Unit, had confirmed the story. She said on
27 several occasions Mr. McCabe was a pedophile. Debbie
28 said she heard from Dave Taylor that the girl was in a
29 bad way. Debbie called Mr. McCabe several names. She

1 said he was a paedo, child abuser, dirty looking
2 bastard. I remember standing at the back of office
3 with Debbie McCann and the news editor, Robert Cox, and
4 she told us she had the details for the woman who was
5 allegedly abused by Maurice McCabe and she was going to 14:58
6 get her to talk. Robert Cox said he would check with
7 the editor, Conor O'Donnell, and said he might arrange
8 for a photographer to go with her. The woman could do
9 silhouette photos, he said. I said to both of them,
10 are you sure he is a paedophile? I pointed out that 14:58
11 was very suspicious, but Debbie insisted... She told
12 me she had heard from Dave Taylor that the woman was
13 going to try and bring the matter to government
14 because it was not fully investigated. Throughout all
15 of this Debbie continued to insist the Gardaí had no 14:58
16 case to answer in relation to the issues."

17
18 Now, obviously we have a statement from Ms. O'Reilly
19 confirming that and a statement from Ms. McCann which
20 deals with some aspects of it that I'll refer to later, 14:59
21 but there's obviously reference to you there.

22 A. Yeah.

23 511 Q. Did you brief Debbie McCann about Sergeant McCabe?

24 A. Oh, yes.

25 512 Q. And is what's reported there in relation to your 14:59
26 involvement --

27 A. No.

28 513 Q. -- is that correct?

29 A. No.

1 514 Q. Okay. Well, you see, there's a quotation there -
2 "Debbie said she'd heard from Dave Taylor the girl was
3 in a bad way" - is that something that you gleaned from
4 Mr. Williams' account given to you on --
5 A. No. 14:59
6 515 Q. -- on the Saturday?
7 A. I didn't know anything about that girl. I didn't know
8 her condition or anything about her.
9 516 Q. Okay. You did obviously say I think a couple of times
10 that you reported Mr. Williams as saying that Sergeant 15:00
11 McCabe had destroyed her life?
12 A. Yes.
13 517 Q. And did he provide any more details?
14 A. No.
15 518 Q. All right. The second piece of information referred to 15:00
16 there - "She told me she had heard from Dave Taylor
17 that the woman was going to try and bring the matter to
18 government because it was not fully investigated." -
19 was that something in fact touched upon Mr. Williams in
20 one of his later phone calls to you? 15:00
21 A. No.
22 519 Q. Did you in fact become aware that that was so?
23 A. Well, I've subsequently become aware of it, but I
24 didn't know at the time.
25 520 Q. Yeah. But you certainly must have known that in April 15:00
26 2014, because Mr. Williams was writing on 15th that she
27 was anxious to meet Mr. Mícheál Martin, presumably you
28 remember that?
29 A. I don't remember reading the article. I was not aware

1 of the article, as I said previously. I didn't know
2 what Mr. Williams was doing in relation to that girl or
3 where he was taking her.

4 521 Q. Okay. Well, did you see what he in fact published?

5 A. I didn't actually.

15:01

6 522 Q. You see, at page 3832, this is under heading paragraph
7 I:

8
9 "I cannot recall if it was the day after the interview
10 or during the same week when Debbie went to the house 15:01
11 of the alleged victim. She described in detail the
12 state the woman was in. She told me I needed to be
13 careful of Maurice McCabe because she was in no doubt
14 he abused the woman she interviewed. I told her I was
15 always on the side of the victim but I found the story 15:01
16 hard to believe and I feared it was malicious because
17 the Gardaí were spreading rumour. Debbie said it was
18 not a rumour, that she had spent around an hour with
19 the alleged. I felt pressurised into believing her and
20 that her behaviour was causing a rift in our 15:02
21 friendship. She told me the woman was in a terrible
22 state. She claimed Maurice McCabe had abused when she
23 was a young child, possibly five or six or seven years
24 old. McCabe was a friend of the woman's father and
25 they fell out at some stage. They were having a party 15:02
26 or a gathering in the woman's house and the woman was
27 behind a couch and Maurice McCabe went behind the couch
28 and pushed against her using his groin."

29

1 Now, I think it's fair to say that Ms. McCann has said
2 in her statement that she didn't interview the witness.
3 But she gives a great deal of detail there in relation
4 to the alleged abuse. Were you aware of that detail?

5 A. No. 15:02

6 523 Q. Did you provide that detail to her?

7 A. No.

8 524 Q. Did you seek details of the file in relation to the
9 original allegation?

10 A. I asked Commissioner Callinan for the file. 15:02

11 525 Q. You did?

12 A. Yes. He never furnished it.

13 526 Q. Pardon? He never furnished it?

14 A. No.

15 527 Q. Well, you see, I'm not sure you've ever said that in 15:03
16 any of your statements --

17 A. Yeah.

18 528 Q. -- am I right about that?

19 A. Yes.

20 529 Q. Why did you not reveal that? 15:03

21 A. Because it wasn't -- I never got my -- I never saw the
22 file, so the only part of the allegation I ever knew
23 was in relation to that Sergeant McCabe had been
24 investigated in 2006.

25 530 Q. Can you just help me with this detail, can you 15:03
26 recollect when you asked for the file?

27 A. I cannot remember the exact date. It would be sometime
28 in late 2013.

29 531 Q. Late 2013. Before 2014?

1 A. Yes.

2 532 Q. Okay. And so, it sounds from the way you're describing
3 it that it was perhaps months after the original
4 instruction was given?

5 A. Hmm. 15:03

6 533 Q. Is that right?

7 A. Yes.

8 534 Q. And in what context do you recall asking for it?

9 A. Just for the file, because the only detail I had was
10 what Commissioner Callinan had supplied to me. 15:04

11 535 Q. Okay. Well, why did you want more detail?

12 A. Just to see the context of the file.

13 536 Q. Yeah. And where did you make that request to him?

14 A. In the Commissioner's office.

15 537 Q. In the Commissioner's office. Was anyone else present 15:04
16 for that?

17 A. No.

18 538 Q. Okay. And another detail: Did he answer you
19 immediately about the file?

20 A. He just gave me no, non answer, he never supplied any 15:04
21 file to me.

22 539 Q. Yes, but did he refuse to supply it there and then?

23 A. Oh, he just didn't have it, he didn't have any file, so
24 he just didn't give any indication he was getting a
25 file. 15:04

26 540 Q. Yes, but what I'm just keen to understand the
27 interaction, did he tell you, look, I don't have it or
28 I won't get it or you won't see it or any combination
29 of those?

1 A. Because it moved on quite quickly, it was, do you know,
2 do you have the file? And he didn't have it and that
3 was it and we just moved on.

4 541 Q. But is that all he said, I didn't have it?
5 A. Yeah. I mean, didn't have it there and then. 15:05

6 542 Q. Yeah?
7 A. So I never returned to it again.

8 543 Q. And did he tell you look, you can't see it or I won't
9 get it or anything of that nature?
10 A. Well, the way you interact with Commissioner Callinan, 15:05
11 you ask, you might ask a request of him, he may answer
12 you or may not answer you, and I wasn't going to go
13 back and badger a Commissioner.

14 544 Q. Yes. But obviously your inquiry doesn't seem to have
15 been rebuffed other than by reason of the fact that he 15:05
16 didn't have it there, is that fair to say?
17 A. But he just moved on fast from it, just didn't engage
18 any further with it.

19 545 Q. But did you maintain your interest in what was in the
20 file? 15:05
21 A. No.

22 546 Q. Well, did you seek details of it --
23 A. No.

24 547 Q. -- from somebody else?
25 A. No. 15:05

26 548 Q. Did you know where the file was?
27 A. No.

28 549 Q. Okay. But from your Gardaí experience you'd know where
29 the file was, wouldn't that be right?

1 A. Well, I didn't know where the file resided at that
2 time. I did not look for it, I did not contact anybody
3 about it, I just carried out the instructions that
4 Commissioner Callinan had given to me.

5 550 Q. But just in terms of where the file was, you know it 15:06
6 was in the Cavan Monaghan area?

7 A. Yes.

8 551 Q. And presumably you knew where the district headquarters
9 were?

10 A. Yes. 15:06

11 552 Q. And you'd expect to find it there, I take it?

12 A. I wouldn't know where the PEMS office would be or where
13 they'd keep the files.

14 553 Q. But they wouldn't be kept in another division, would
15 they? 15:06

16 A. No, but I did not make inquiries as to where it
17 resided.

18 554 Q. Okay. Well, did you speak to anyone about the details
19 of it?

20 A. No. 15:06

21 555 Q. Will you agree with me that the details there seem to
22 be reasonably accurate?

23 A. Only what subsequently I've found out. But I didn't
24 know those details until you showed them to me here
25 there now. The only I ever knew was the instructions 15:07
26 that Commissioner Callinan gave me.

27 556 Q. Just before the Chairman had asked you some questions,
28 I was moving on to the issue of some other journalists.
29 And at page 131 of your first statement you say:

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"The journalists I spoke to are set in DT3, page 2. "

And that's to be found at page 158 of book 1.

A. Volume 1?

15:07

557 Q. volume 1, thank you, yes. Now, here the letter written by your solicitor says:

"With respect to the names of journalists, our client instructs us that he would have spoken to the following --"

15:08

A. Hmm.

558 Q. And there's a list of nine there, isn't that correct?

A. Yeah.

559 Q. And just the context of that is these are the journalists identified by you as having been briefed --

15:08

A. Yes.

560 Q. -- negatively about Maurice McCabe in the terms that you've told us you received your instruction?

A. Yes.

15:08

561 Q. I mean, there's no ambiguity about what you intended this list to mean, is there?

A. No. They were the people I spoke to, yeah.

562 Q. Okay. Now, we've dealt with Mr. Williams. Mr. Reynolds there, that's Mr. Reynolds of RTÉ, is it?

15:08

A. That's correct, yes.

563 Q. And he's obviously a well-known reporter, of very considerable years of experience. You must have had a lot of contact with him?

1 A. Yes.

2 564 Q. In the course of your ordinary career as a press
3 officer, isn't that right?

4 A. That's right.

5 565 Q. And just, you've nominated Mr. Lally, Mr. Mooney, 15:09
6 Mr. O'Toole, Mr. O'Keefe, Mr. Burke, Mr. McConnell and
7 Mr. McEnroe, and you then say:

8

9 "Without having access to the records, as referred to
10 above, he cannot confirm this list definitively." 15:09

11 A. Hmm.

12 566 Q. Now, is that right?

13 A. Yes.

14 567 Q. Okay. I'll come to any dealings with those journalists
15 nominated by you particularly, but have any journalists 15:09
16 come to you since the commencement of the Tribunal and
17 said well, in fact, I just want to help you here,
18 because I was one of the ones you also briefed
19 negatively?

20 A. No. 15:10

21 568 Q. Have there been any queries dealt with by you from any
22 journalist as to what your waiver meant or was intended
23 by you to mean?

24 A. No.

25 569 Q. Can the Chairman take it you do intend it to mean that 15:10
26 these journalists and all other journalists that you
27 may have briefed should come forward and as a necessity
28 help the Tribunal in the course of its inquiries?

29 A. That's my intention.

1 570 Q. Okay. Now, Mr. Reynolds, I think we have the details
2 of your contacts with him in volume 13, page 3308.
3 A. Volume? Same volume, Mr. McGuinness, is it?
4 571 Q. It's volume 13, yes, page 3308. Now, I think you were
5 shown these records in the course of your interview in 15:11
6 March and they extend over some 12 pages of --
7 A. Yeah.
8 572 Q. -- contacts from your side. Is it a fair assumption
9 that there might have been an equal number from
10 Mr. Reynolds' side? 15:11
11 A. That would be a fair assumption.
12 573 Q. Okay. Now, in the context of the events that we're
13 talking about, does this help you in any way to perhaps
14 determine when you might have spoken to Mr. Reynolds
15 and briefed him in that negative way as instructed by 15:12
16 Commissioner Callinan?
17 A. As I said earlier, Mr. McGuinness, from about mid '13 I
18 received those instructions. I cannot give a
19 definitive date when I spoke, it would always be an
20 opportunist time that it presented itself. 15:12
21 574 Q. Now, obviously there's a lot of contacts there, but
22 would you have seen him face-to-face on many occasions
23 also?
24 A. I'd meet him at -- as I said, I attended a vast
25 majority of scenes of murders, of various outrages and 15:12
26 press conferences and media briefings and
27 Commissioner's briefings and Commissioner's conference,
28 and I'd meet him, yes, face-to-face.
29 575 Q. Yes. You see, we have received a statement from

1 Mr. Reynolds, and I presume you've had the time to read
2 that?

3 A. No.

4 576 Q. Okay. Well, perhaps I could just ask you to comment on
5 this portion, as it relates to you. It's at Volume 18 15:13
6 at page 5092. Have you found that page,
7 superintendent?

8 A. I am just getting it. 5092?

9 577 Q. 5092.

10 A. It's at 18, is it? It's not in 18. 15:13

11 578 Q. Volume 18. 5092?

12 A. 5012?

13 579 Q. 5092.

14 A. I have 5142 to a 5341 in volume 18, in this ledger
15 here, Chairman. 15:14

16 CHAIRMAN: It's on the bottom of the screen there.

17 A. All right.

18 CHAIRMAN: The Q and A, 65 and 68 will actually do the
19 trick really.

20 580 Q. MR. McGUINNESS: Yes. He's being asked for his mobile 15:14
21 number, he's happy to volunteer it there. And the
22 question is:
23

24 "In respect of the foregoing, I have been asked whether
25 I wish to make any comment in respect of the contact 15:14
26 from the former Commissioner Callinan and former
27 Commissioner O'Sullivan and Superintendent Taylor and
28 to confirm whether these contacts related to matters
29 within the terms of reference of the Tribunal."

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And he says:

"I was not negatively briefed by anyone in relation to Sergeant McCabe verbally, by text, email or other form of communication." 15:14

That appears to be a fairly clear and plain expression of his position. I am just wondering do you agree with that? 15:15

A. No.

581 Q. You do not? Can you help us perhaps as to how you say you briefed Mr. Reynolds or not?

A. I did.

582 Q. Can you help us as to how you did it on any particular occasion? 15:15

A. As I've said previously, it was opportunist where the situation would present it; it would be at scenes, at press conferences, Commissioner conferences, where we'd have conversations on the margins and the matter would come up. I cannot identify specific dates, but it was opportunist. 15:15

583 Q. Mr. John Burke from RTÉ is also on your list, isn't that right?

A. That's right, yeah. 15:16

CHAIRMAN: Mr. McGuinness, I wonder just for a second before we go on to Mr. Burke. I mean, superintendent, presumably as a Garda you've within in court?

A. Yes.

1 CHAIRMAN: And you've listed to witnesses
2 A. Yes.
3 CHAIRMAN: People saying unpleasant things about other
4 people. And they usually give, if not exact times and
5 dates, certainly details of the circumstances and the 15:16
6 surrounding circumstances. Now, what you seem to be
7 saying to Mr. McGuinness is, well, he says I didn't,
8 but I say I did. And that's the full extent of any
9 information you're putting before the Tribunal. And
10 Mr. McGuinness has been asking you, I think most of the 15:16
11 day, look, can you supply any other detail, for
12 instance, what the reaction of Mr. Reynolds was, when
13 it actually happened, do you remember a specific
14 tragedy where he was there, you were there, for
15 instance, let us say a person known to the Gardaí was 15:16
16 shot in the course of a drugs feud and that unfortunate
17 person called for -- what happened to that unfortunate
18 person called for a Garda media presence, you're there
19 and you spoke to him at the side of that, you
20 specifically remember that; is there any such thing? 15:17
21 A. I cannot, Mr. Chairman, give you a specific date. As I
22 said, the opportunities I took were opportunist.
23 Sometimes at these scenes a conversation would come up,
24 other times they would not. I did not keep a
25 contemporaneous note as to when exactly I did, because 15:17
26 it was reactive, it was on the hoof. It was -- just
27 presented itself.
28 CHAIRMAN: But he didn't turn to you at any stage and
29 say anything like 'You don't say' or 'How about that?'

1 or anything that would stick in your mind like, oh,
2 that's first time I've heard that. You know the way
3 Mr. McGuinness, when you mentioned today saying to the
4 Commissioner well, I'd like to see the file of the
5 investigation and he said to you well, that's the first 15:18
6 time you've said that. Nobody said to you -- he didn't
7 say to you, specifically Mr. Reynolds, 'well, this is
8 all news to me' or 'I know about this already' or
9 'Sure, those rumours have been going around for years'
10 or 'Can you get me any further info on that, I'd like 15:18
11 to dig further'?

12 A. Well, we'd have conversational pieces on the side of
13 these press conferences and that.

14 CHAIRMAN: I know, but they could be about the price of
15 sausages, they could be about anything. I'm talking 15:18
16 about this

17 A. Well, as I said, the conversation sometimes would come
18 up, sometimes it wouldn't come up. And we would talk
19 about Sergeant McCabe and that's when I would give the
20 briefing in relation to the motivation of Sergeant 15:18
21 McCabe in bringing these matters forward.

22 CHAIRMAN: I'm sorry for detaining you on this,
23 superintendent, but I suppose I'm looking at it
24 selfishly from my point of view. I mean, if it comes
25 to it and I have to certify someone as being in 15:18
26 contempt of the Tribunal, am I going to do so on the
27 basis of you simply saying it happened with no detail
28 and the person involved saying well, no such thing ever
29 happened and I cannot give you any detail because of

1 course if it never happened then there was nothing that
2 I was a witness to? I mean, is that the situation I am
3 going to be left in?

4 A. well, I want to be as helpful as possible,
5 Mr. Chairman.

15:19

6 CHAIRMAN: well, if you answered that question you'd be
7 helpful

8 A. But I just can't give the exact dates. As I said, I
9 attended all these scenes and opportunities presented
10 themselves.

15:19

11 CHAIRMAN: Okay, all right. So thank you very much.

12 584 Q. MR. MCGUINNESS: Superintendent, just following on from
13 the Chairman's point that he was interested in. In
14 relation to Mr. Reynolds now, would it have been
15 necessary to brief him more than once or do you
16 recollect briefing him more than once?

15:19

17 A. well, there would be a conversational piece from
18 various times, so depending on what will have broken
19 out on the news.

20 585 Q. I mean, from your point of view you're trying do it, I
21 suppose, discretely and effectively, would that be
22 fair?

15:19

23 A. Yes.

24 586 Q. And I mean, were you keeping a tick list of who you had
25 got to or who you had not got to?

15:20

26 A. well, there's a small cohort really within the crime
27 reporting circle and you generally met the same people
28 all the time at the scenes. The media is quite small
29 in this country and crime reporting is a quite small

1 cohort of people.

2 587 Q. well, were you focusing primarily on them or...

3 A. Oh, you sometimes spoke to other people who were in
4 different fields or who were covering different fields,
5 political fields and that. 15:20

6 588 Q. Okay. But in relation to Mr. Reynolds, do you
7 recollect speaking to him more than once on this issue
8 or not?

9 A. I would have spoken to him on a number of occasions
10 about it, yes. 15:20

11 589 Q. In this way, in terms of --

12 A. In this way, not specifically the same way every way.
13 Because I'm saying that, do you know, Sergeant McCabe's
14 motivation, we know what his motivation is in relation
15 to bringing these matters forward. 15:21

16 590 Q. Yeah. But are you clear in your own mind that you
17 linked it with the abuse allegation that had been made
18 against him?

19 A. well, the investigation, I linked it with the
20 investigation that had been conducted into him. 15:21

21 591 Q. And did you link it with an agenda of revenge on his
22 part for that reason?

23 A. Oh, yes. As I said, his motivation was revenge in
24 relation to this investigation and that's why he was
25 coming forward with this, with these allegations in 15:21
26 relation to penalty points.

27 592 Q. Now, I was moving on to Mr. Burke and I do not know if
28 you want to pick up volume 20. Is there a volume 20 in
29 front of you? Just to be clear, the Mr. Burke on your

1 list is the RTÉ Mr. Burke?

2 A. That's right, yes.

3 593 Q. And at page 5339 --

4 A. 5339?

5 594 Q. 5339. The answer at the top of the page is, in answer 15:22
6 to a question:
7
8 "I have been asked whether I have ever in my experience
9 spoken off the record to the Garda Press Office and
10 received information off the record." 15:22
11
12 And he says:
13
14 "No, I do not believe so. In fact, I would be certain
15 I did not. The nature of our exchange was almost 15:22
16 formal you could say.
17
18 I have been asked whether I have any information or
19 evidence about an orchestrated campaign directed by
20 senior officers of An Garda Síochána to discredit 15:22
21 Sergeant McCabe by spreading rumours about his
22 professional/personal life. If so, I have been asked
23 to provide details on all attendant circumstances and
24 to detail where it is emanating from if known."
25 15:22
26 And he answers:
27
28 "None whatsoever.
29

1 Question: I have been asked whether I was contacted by
2 Superintendent David Taylor in relation to Sergeant
3 Maurice McCabe. If so, I have been asked to provide
4 detail on all attendant circumstances."

15:23

5
6 And he answers that "No". He then is asked the
7 following question:

8
9 "I have been asked whether my attention was drawn by
10 Superintendent Taylor to an allegation or suggestion of
11 criminal misconduct made against Sergeant McCabe in any
12 respect. If so, I have been asked to provide details
13 on all attendant circumstances."

15:23

14
15 And he answers:

15:23

16
17 "No, never.

18
19 Question: I have been asked whether Superintendent
20 Taylor drew my attention to an allegation that the root
21 cause of Sergeant McCabe's agenda was revenge against
22 An Garda Síochána. If so, I have been asked to provide
23 details on the attendant circumstances."

15:23

24
25 And the answer is "No".

15:23

26
27 "Question: I have been asked whether I was informed by
28 Superintendent David Taylor that he was
29 instructed/directed by former Commissioner Martin

1 Callinan and/or then Deputy Commissioner Nóirín
2 O'Sullivan to contact the media to brief the media
3 negatively against Sergeant McCabe. If so, I have been
4 asked to provide details on all attendant
5 circumstances. "

15:23

6
7 And he answers that "No".

8
9 "I have been asked whether I am aware and whether I
10 have any evidence of any attempt made by former
11 Commissioner Martin Callinan and/or former Commissioner
12 Nóirín O'Sullivan or any other senior members of An
13 Garda Síochána to discredit Sergeant Maurice McCabe by
14 reference to an allegation of criminal misconduct made
15 against him. If so, I have been asked to provide
16 specific details on all attendant circumstances. "

15:23

15:24

17
18 And he says "No". Now, it's just obviously from the
19 point of view of looking at all sides of the issue, I
20 have to put these to you. They seem like very clear
21 denials where he's ruling out any negative contact from
22 you in the sense of negatively briefing against
23 Sergeant McCabe. Do you agree with that?

15:24

24 A. No.

25 595 Q. Okay. Does that cause you in any way to question your
26 own recollection in the matter as to whether you might
27 be mistaken; maybe I got it wrong about the list?

15:24

28 A. No.

29 596 Q. Because you obviously seem to have a lack of

1 recollection about whether others were briefed on top
2 of the 11 -- or there's nine in this list actually?

3 A. Well, I spoke to a lot of journalists in my time as
4 Press Officer and afterwards.

5 597 Q. But it certainly leaves open the view or possibility 15:25
6 perhaps that you're not sure who you spoke to about
7 this?

8 A. I am sure.

9 598 Q. You are sure?

10 A. Yes. 15:25

11 CHAIRMAN: But you said when you gave the list first of
12 all "I cannot confirm this list definitively because I
13 don't have the records", the records you were referring
14 to seems to be the phone, your phone from October 2013.

15 A. (Witness Nods). 15:25

16 CHAIRMAN: But now you're telling Mr. McGuinness that
17 you are sure, for instance, in relation to John Burke
18 of RTÉ.

19 A. I am sure, Mr. Chairman.

20 CHAIRMAN: How have you become sure? 15:25

21 A. Well, I know who I spoke to, Mr. Chairman.

22 CHAIRMAN: When you actually made the statement closer
23 to the time, as Mr. McGuinness just put to you, you
24 were not sure. You said I can't say definitively.

25 A. Well, as I say, I spoke to a lot of people during my 15:26
26 period, Mr. Chairman, and I was just trying to be as
27 helpful as possible. I may have had to return to this
28 list if I wanted, do you know, subsequently if I found,
29 recalled more information.

1 599 Q. MR. MCGUINNESS: Your telephone contacts initiated by
2 yourself with Mr. Burke are at page 3294 of volume 13.
3 And there's a relatively small number of contacts
4 initiated by you both in 2013 and 2014. Obviously the
5 year 2013 is when it all blew up and you got your 15:27
6 instruction as you say, isn't that right?
7 A. (Witness Nods).
8 600 Q. The O'Mahoney report was an issue, the Commissioner's
9 response, the whistleblowers, the leaking of material
10 from the fixed penalty dossier, as it were, the naming 15:27
11 of people; do any of these dates give you any inkling
12 as to whether you might have spoken to him over the
13 phone and briefed him over the phone?
14 A. I spoke to him over the phone, on my mobile and also my
15 landline. You don't have my landline, it's not 15:27
16 available there at the time. I cannot pin down the
17 exact date. I cannot help you in relation to that.
18 But I would have spoken to him.
19 601 Q. Okay. But do you think it was done over the phone?
20 A. Yes, over the phone, yes. Because Mr. Burke is a 15:27
21 reporter with News at One on Sunday, so he would not be
22 going to scenes like the other reporters.
23 602 Q. So that is a detail that you think helps you place it,
24 certainly over the phone?
25 A. Over the phone, yes. 15:28
26 603 Q. Well, would he tend to ring you then in advance of a
27 programme on a Sunday or --
28 A. Yes. They put questions and media queries to the Press
29 Office seeking the Commissioner's reply to various

1 matters they were going to raise on the Sunday
2 programme.

3 604 Q. Yeah. Obviously the last three contacts there are
4 after the Commissioner has resigned.

5 A. Yes. 15:28

6 605 Q. And the first few contacts, perhaps five or six, are
7 before you got the instruction there in 2013?

8 A. Yeah.

9 606 Q. So there's perhaps very few there that it could be?
10 A. Well, as I said to you Mr. McGuinness, you do not have 15:28
11 my landline records there.

12 607 Q. Yeah, no.

13 CHAIRMAN: well, I'm not sure your landline would
14 actually tell us very much, chief superintendent,
15 because landlines which come from a headquarters, like 15:28
16 the Department of Justice, they all seem to come from
17 the same number when you're ringing out.

18 A. But I would have used my desktop phone --

19 CHAIRMAN: Yeah, no, I know, it's the same

20 A. -- to talk to journalists. 15:29

21 CHAIRMAN: As I understand it, it is the same. It
22 would just show Gardai Headquarters, that's all. It
23 could be anyone. Similarly with the Department of
24 Justice. So I'm not sure there's much missing in the
25 way of information. 15:29

26 A. I would suggest, Mr. Chairman, that my landline -- I
27 would have frequently used my landline from my desktop
28 to make phone calls.

29 CHAIRMAN: well, I think we've discussed that.

1 A. Thank you, Mr. Chairman.

2 MR. McGUINESS: There's obviously a call in August
3 there, a very brief call, but all of the other calls in
4 2013 are in the December period.

5 A. Hmm. 15:29

6 608 Q. Up to, from between 8th and 14th December. Was
7 Mr. Burke involved in any way with the Commissioner's
8 appearance on the Crimecall programme?

9 A. As I said, Mr. Burke is a very respected journalist and
10 I respect him. He was covering the penalty points 15:30
11 issue quite extensively at that time and there was a
12 number of programmes, segments of programmes on the
13 News at One.

14 609 Q. Yes, but that's what I'm wondering: Are these
15 conversations perhaps related to that penalty points 15:30
16 issue and whether the Commissioner could be questioned
17 about it when he went out to RTÉ?

18 A. I think it's in relation to coming up to PAC and coming
19 up to various reports that were coming out at the time.

20 610 Q. I mean, we know that the Commissioner went out to RTÉ 15:30
21 and you went with him?

22 A. That was for a separate issue completely that had
23 nothing to do with Mr. Burke. That was the annual
24 Christmas appearance on the Crimecall that each
25 Commissioner does on the last show each year. 15:30
26 Mr. Burke had nothing to do with that.

27 611 Q. Okay. Well, just to be clear, that's your evidence and
28 he'd nothing do with that. So therefore, these phone
29 calls had nothing to do with that, would that be right?

1 A. which phone calls are these now?

2 612 Q. These phone calls in the list here, the December phone
3 calls?

4 A. No, they had nothing do with the Crimecall.

5 613 Q. Okay. But given the fact that he was interested in the 15:31
6 penalty points issue, as you say, is it likely that
7 some of these could be the dates that you --

8 A. It's possible, yes.

9 614 Q. Okay. You can't put it any higher than that?

10 A. I cannot put it any higher. And I understand what the 15:31
11 Chairman is saying to me. But, as I said, these were
12 opportunist; you took the opportunity when the
13 opportunity presented itself.

14 615 Q. I'm just going to explore this issue with you and it's
15 not a criticism of your briefing skill, but if you're 15:31
16 right, at least certainly these two journalists and
17 Mr. Williams, they do not seem to believe that they
18 were briefed by you negatively, and they've said they
19 were not. Is it possible that you were, looking back
20 on it, ineffectual in what you are doing, giving effect 15:32
21 to the Commissioner's instructions, that you were not
22 getting the message out?

23 A. No.

24 616 Q. No? And how can you be confident in that answer, if I
25 can ask you that? 15:32

26 A. Because of my own recollection.

27 617 Q. It's your own recollection?

28 A. Yes.

29 618 Q. Well, did any of them at any stage say look, that's

1 old hat, Dave, we've heard that, that's nothing new?
2 Did any of them say anything like that at any stage?
3 A. They would never say old hat, they'd just hear what you
4 had to say. How they process that was their business.
5 619 Q. Yeah. No, I understand. I mean, obviously your 15:32
6 intention was that it would have sort of a chilling
7 effect and sway the media against --
8 A. Yes.
9 620 Q. -- Sergeant McCabe?
10 A. Yes. 15:32
11 621 Q. And can I ask you for your assessment, do you think you
12 were successful in that regard?
13 A. Well, I suppose that's for others to assess. But it
14 goes without saying that a lot of the media didn't
15 support Sergeant McCabe in his endeavours to bring 15:33
16 these matters to the public attention.
17 622 Q. No, I appreciate your answer there that you said that
18 it's up to the reporters, the people whom you're
19 briefing, to process it whatever way they liked. I
20 mean, you weren't obviously directing them to do 15:33
21 anything or putting it in any strong way?
22 A. No, I was just merely putting information by their way.
23 623 Q. Yeah.
24 A. How they processed it and how they disseminate it and
25 how they incorporate it into their reporting was a 15:33
26 matter for them.
27 624 Q. But what I'd be anxious to hear, superintendent, is:
28 Did none of them react in any way that you remember at
29 all on any occasion? Is there nothing that strikes you

1 as a reaction from any of the reporters?

2 A. The only person that ever pushed back on anything I
3 reported was in relation to the Sergeant McCabe not
4 cooperating with the John O'Mahoney report, Mr. Conor
5 Lally pushed back and basically said he didn't believe 15:34
6 it.

7 625 Q. Yeah. Well, was that a key part of the briefing?

8 A. Well, that was another part of the briefing in relation
9 to the O'Mahoney report and the engagement of Sergeant
10 McCabe with it. 15:34

11 626 Q. Well, that was a battle really that was being fought
12 out in public, isn't that right?

13 A. Yes, but as I say, there's the public and private
14 battle that was going on, do you know?

15 627 Q. But you think he pushed back on that, is that right? 15:34

16 A. Yes, yes, he did.

17 628 Q. But that's not really a reaction then to the sort of
18 the revenge, Sergeant McCabe's revenge being borne out
19 of the criminal investigation and his reaction to that.

20 A. I mean, you asked me for an example, Mr. McGuinness -- 15:35

21 629 Q. Yes.

22 A. -- did anybody push back --

23 630 Q. Yes.

24 A. -- and I've just given you an example --

25 631 Q. All right. 15:35

26 A. -- how a journalist did push back on a briefing that I
27 was given by the Commissioner in relation to -- I know
28 it is not same, but it was a briefing in relation to
29 the O'Mahoney report.

1 632 Q. And I think in fairness to you, you do identify that in
2 one of your statements, isn't that right?
3 A. Yes.

4 633 Q. But I'm trying to assist you in seeing whether you can
5 rummage through your recollection and think of any 15:35
6 other occasion when there was any sort of reaction from
7 any of the other journalists?
8 A. Well, any of the journalists we would speak to are
9 people we would speak to on a daily basis, we obviously
10 didn't speak to journalists that wouldn't be 15:35
11 sympathetic to our view.

12 634 Q. You'd obviously have to be selective?
13 A. Yes.

14 635 Q. Okay. Mr. McEnroe from the Irish Examiner, in volume
15 19, at page 5152, have you -- 15:35
16 A. I see it on the screen here.

17 636 Q. Have you got that?
18 A. Yes.

19 637 Q. Perhaps if we go to 5150. Mr. McEnroe, at line 133,
20 he's asked: 15:37
21
22 "I have been asked whether I have any information or
23 evidence about an orchestrated campaign directed by
24 senior officers of the Garda Síochána to discredit
25 Sergeant Maurice McCabe by spreading rumours about his 15:37
26 personal/professional life, and if so, I have been
27 asked to provide the details on all attendant
28 circumstances and to detail from where this was
29 emanating from."

1
2 And he says "No". So he is referring other questions
3 then back to that previous statement there. He seems
4 to be clearly saying he has no information or evidence
5 about an orchestrated campaign. Are you clear that you 15:37
6 briefed him negatively?

7 A. Yes. Just for the sake of clarity, he would not know
8 about the campaign, he'd just know about my briefing.

9 638 Q. Yes?

10 A. So the question, he would not know about that part of 15:37
11 the question, but he'd know that I had briefed him in
12 relation to the motivation of Sergeant McCabe.

13 639 Q. You are drawing that distinction there from the answer?

14 A. Well, the answer suggests that he knew about this
15 campaign and had been orchestrated, he would not know 15:38
16 about that campaign, he would just know that I was
17 briefing him on behalf of An Garda Síochána. The
18 mechanics of how that briefing came about he would not
19 know or any other journalist would not know.

20 640 Q. Ah yeah, but sure, he's talking about the Garda Press 15:38
21 Officer, that's you, I mean --

22 A. That's right, but he wouldn't know the -- as I say, I'm
23 just trying to -- the mechanics of it.

24 641 Q. Yeah?

25 A. I'm just saying he would know that I am in my position 15:38
26 I was speaking to him.

27 642 Q. Yes. But you'd be the orchestra conductor of the
28 campaign, isn't that right?

29 A. Well, I'd be more like the person who was being told

1 what to say and go out and say it.

2 643 Q. Yeah. But I mean, in terms of orchestrating the
3 campaign you were the only person charged with it,
4 isn't that right?

5 A. Well, I'm not aware of anybody else or if Commissioner 15:38
6 Callinan had given instructions to other people. I
7 just know about the instructions he gave me.

8 644 Q. Yes. But you're dealing with the media --

9 A. Yes.

10 645 Q. -- more directly than perhaps anyone else in the Press 15:39
11 Office, isn't that correct?

12 A. No. Everybody in the Press Office deals with the
13 media.

14 646 Q. Yes, no, but in these terms, nobody else, to your
15 knowledge, was briefed to do what you were doing? 15:39

16 A. Not to my knowledge.

17 647 Q. You were the campaign man, you were the only man that
18 we've heard about leading the campaign, isn't that
19 right?

20 A. Well, I can only tell you the instructions that were 15:39
21 given to me, I do not know if those instructions were
22 given to other people or who else spoke.

23 648 Q. Yeah. But I thought you were drawing a distinction
24 between Mr. McEnroe not knowing about an orchestrated
25 campaign. Because if you were directing it and you 15:39
26 were in charge of it and you were executing it and you
27 did it in relation to him, he should know about it, is
28 that not logical?

29 A. No, it's logical, as I said, that he wouldn't know how

1 it came about; that I was merely -- when he was
2 speaking to me, I was passing on the briefing that I
3 had received.

4 CHAIRMAN: Superintendent, have you got some issue that
5 Juno McEnroe is denying being negatively briefed by you 15:40
6 or are you focusing on the word orchestration for some
7 purpose?

8 A. I'm trying to be clear that he wouldn't know how --

9 CHAIRMAN: Let's leave orchestration out of it for the
10 moment. He's saying, as far as I can see, no, David 15:40
11 Taylor never said boo about Sergeant McCabe to me.

12 A. I don't accept that, Mr. Chairman.

13 CHAIRMAN: Can you remember what you did say to Juno
14 McEnroe?

15 A. Just in relation to that, the motivation, that Sergeant 15:40
16 McCabe had been investigated back in 2006 in relation
17 to a sexual matter, that it had gone to the DPP,
18 directed no prosecution and this was the motivation of
19 his revenge in bringing all these matters to the public
20 arena. 15:40

21 CHAIRMAN: Can you remember his reaction to you saying
22 that?

23 A. They don't give a reaction, didn't give a reaction. He
24 just took it as information that I was passing on to
25 him. 15:41

26 CHAIRMAN: They just take out their notebook and write
27 everything down as if it's the gospel being dictated to
28 them?

29 A. Yeah. As I said earlier on, Mr. Chairman, how they

1 process it and deal with it, they may discard the
2 information or will go and get another source.

3 CHAIRMAN: Okay.

4 649 Q. MR. MCGUINNESS: There's one page of phone contacts
5 with Mr. McEnroe at page 3297. And obviously we'll 15:41
6 hear from Mr. McEnroe in due course as to his
7 interpretation of what that means in his statement.
8 But again, these were produced to you in March.

9 A. (Witness Nods).

10 650 Q. And I presume you've reflected on them since and -- 15:41
11 A. Yes.

12 651 Q. -- is there any occasion or any particular date that
13 you think --

14 A. I think --

15 652 Q. -- might be relevant? 15:42
16 A. -- a lot of this would have come -- like, Mr. McEnroe,
17 unlike the other journalists is a political journalist,
18 had been formerly a crime journalist, so his contact
19 with me in relation to that briefing would be around
20 the time of the Commissioner's appearance before a Dáil 15:42
21 Committee.

22 653 Q. Obviously the Examiner was the old Cork Examiner, but
23 it's a national paper now?

24 A. Yes.

25 654 Q. And is Mr. McEnroe based in Dublin? 15:42
26 A. Yes. That is my understanding, yes.

27 655 Q. And did you meet him up in the Houses of the
28 Oireachtas?

29 A. I don't recall meeting him, I remember talking to him

1 on the phone.

2 656 Q. Okay. well, perhaps we'll look at a couple of articles
3 he's written in a while.

4 A. Yeah.

5 657 Q. But the list doesn't help you in any event? 15:42

6 A. Well, as I said, he is a political reporter, so the
7 correlation with my briefing would correspond with when
8 the Commissioner and senior officers would be appearing
9 before the Dáil Committee or entering into the
10 political world. 15:42

11 658 Q. Okay. Mr. Michael O'Toole, was is a journalist with
12 The Daily Star, is on your list of nine that we have
13 been looking at?

14 A. Yes.

15 659 Q. And perhaps you'd look at volume 18 in that regard. If 15:43
16 you turn to page 5029.

17 A. I think volume 18, Mr. McGuinness, is off sync.

18 660 Q. I beg your pardon?

19 A. volume 18 is off sync I think. I'll see it on the
20 screen. 15:43

21 661 Q. In the middle of page 5029 at line 68 he says:
22
23 "I have been provided with a copy of text interaction
24 between the official Garda mobile phone assigned to
25 Superintendent David Taylor and a mobile phone 15:44
26 attributed to me. The timeframe for these contacts
27 is... a copy of a document containing these contacts
28 has been exhibited. In respect of the foregoing, I
29 have been asked if I wish to make any comment in

1 respect of these contacts..."

2
3 And he says:

4
5 "I am going to claim journalistic privilege. The 15:44
6 principle of journalistic privilege is very important
7 to me. However, I do wish to state that I
8 categorically believe that nobody in any position of
9 authority in An Garda Síochána smeared Maurice McCabe
10 to me or negatively briefed me about Maurice McCabe. I 15:44
11 have no recollection of any smear or negative briefing
12 and I firmly believe that never happened to me from my
13 experience. In order to assist the Tribunal, I have
14 submitted stories I published about Maurice McCabe
15 which to my mind are very benign. I also wish to say 15:44
16 that at no stage did anyone ask me to write a story
17 about Maurice McCabe, nor did anyone allege any
18 criminality on the part of Mr. Maurice McCabe, nor did
19 I pitch any stories about Maurice McCabe to my news
20 desk, apart from those references in this statement. 15:45
21 M01 refers. There is nothing that has been shown to me
22 to date by the Tribunal that changes my view in respect
23 of my position."

24
25 So he's making it clear there at the bottom of page 15:45
26 5029 that he's claiming journalistic privilege but he's
27 more than, it seems, content to say that he
28 categorically believes that "nobody in any position of
29 authority in An Garda Síochána smeared Maurice McCabe

1 to me or negatively briefed me about Maurice McCabe".
2 Do you agree with that statement?

3 A. No. I respect what he says, but I disagree that I did
4 brief Michael O'Toole in the manner I've outlined.

5 662 Q. Again I think a list of contacts from your phone to 15:45
6 Mr. O'Toole was produced, it's at page 3298. It goes
7 on over several pages up until 3307, from August 2012
8 until June of 2014. You've had that and you've
9 examined that. Where would you meet Mr. O'Toole in
10 order to brief him? 15:46

11 A. Mr. O'Toole is one of the most active crime reporters I
12 think I've ever encountered. He's prolific at turning
13 up at every scene no matter what part of the country.
14 So those opportunities would have been taken at scenes.

15 663 Q. So, are you in a position to rule out briefing him over 15:46
16 the phone?

17 A. No, we'd have had a lot of discussion over the phone,
18 there could have been briefings over the phone, but I
19 mean more likely with Michael O'Toole it would have
20 been at scenes of outrages. 15:47

21 664 Q. Obviously you've referred to his experience and his
22 doggedness in pursuing crime stories --

23 A. Yes.

24 665 Q. -- was it new to him what you were telling him?

25 A. I don't think so. 15:47

26 666 Q. And you seem to be able to answer that question, did he
27 say that to you?

28 A. Well, he gave no reaction to say I never heard this
29 before. So I did not get any reaction back to say

1 you're telling me something that I have not heard
2 before.

3 667 Q. All right. Now, we have statements from other
4 journalists, Debbie McCann, Conor Lally, John Mooney,
5 Eavan Murray, Cormac O'Keefe and Daniel McConnell, 15:48
6 they invoked journalistic privilege, which is an issue
7 that will be dealt with at some stage, but they have
8 not come forward and their statements at present do not
9 corroborate or verify anything that you've said in your
10 protected disclosure in your list of journalists; is 15:48
11 there anything that you want to say particularly in
12 relation to those who are all represented here today?
13 Do you see it as essential that they should come
14 forward to help the Tribunal in its necessary work?

15 A. I've signed my waiver, I would encourage anybody to 15:48
16 come forward. I want to assist and encourage anybody
17 to assist in establishing the truth, Mr. Chairman.

18 668 Q. Just going back to Volume 20 for a moment, just to
19 clear one thing out of the air. You went out to RTÉ in
20 late December with the Commissioner, isn't that right? 15:49

21 A. That's correct, yes.

22 669 Q. And Mr. Boucher-Hayes has given a statement to the
23 Tribunal in which he says, attributes some remarks to
24 the Commissioner and perhaps I should just ask you
25 about those. 15:49

26 CHAIRMAN: Mr. McGuinness, I wonder, just forgive my
27 tidy mind, which is perhaps not appropriate in these
28 circumstances, but the original list given was Paul
29 Williams, Paul Reynolds, Conor Lally, John Mooney,

1 Michael O'Toole, Cormac O'Keefe, John Burke, Daniel
2 McConnell and Juno McEnroe, of which Paul Williams,
3 Paul Reynolds, John Burke, Juno McEnroe and Michael
4 O'Toole are saying no, we were never negatively briefed
5 by anyone in the Gardaí and not by Superintendent 15:50
6 Taylor. They were nine names and we've added on to
7 those five, we've added on another six, that makes 11.
8 The two extra names?

9 MR. McGUI NNESS: I was going to come to that now.

10 CHAIRMAN: I'm sure you were going to come to that, but 15:50
11 is it the case that you are going to cover as to
12 whether there was any contact with any of these six
13 individuals again? Just forgive me for being conscious
14 of the potential consequences of where this whole thing
15 is going, the depth of any evidence that there might be 15:51
16 to support any action I might have to take. And I've
17 decided nothing so far, I just emphasise that.

18 MR. McGUI NNESS: Yes. No, I will come to it, Chairman.

19 CHAIRMAN: Yes, all right.

20 MR. McGUI NNESS: Just while we're on volume 20 here, 15:51
21 the third last paragraph at page 5317, this is
22 Mr. Boucher-Hayes' statement to the Tribunal made on
23 about 13th March. And if we just scroll down a little
24 bit, just to capture the last three paragraphs:

25
26 "He told me that McCabe was a troubled individual and
27 he had a lot of psychological issues and psychiatric
28 issues. He claimed that McCabe was motivated by a set
29 of grievances against Garda management and that he was

1 famous within An Garda Síochána for this. He warned me
2 that McCabe was not to be trusted and went on to add
3 that there were other things he could tell me about
4 him, horrific things, the worst kind of things, but
5 that he did not elaborate further. 15:52

6
7 As our conversation was ending he added that if there
8 was anything else I wanted to know about Maurice McCabe
9 or the penalty points issue that I should ask
10 Superintendent David Taylor from the Garda Press 15:52
11 Office, who was also present that evening.

12
13 Almost immediately Superintendent Taylor buttonholled me
14 and asked 'Now do you understand what the problem with
15 Maurice McCabe and the penalty points is?' " 15:52

16
17 Is that accurate? Do you recall that?

18 A. That's fairly accurate, yeah. As I said, I remember
19 that evening distinctly. Mr. Hayes wanted to bring up
20 and question Commissioner Callinan on air in relation 15:52
21 to the penalty point controversy and Commissioner
22 Callinan was having none of it. And I think at one
23 stage the broadcast may not have gone forward.

24 670 Q. I just want to be clear, were you present when the
25 Commissioner said anything to Mr. Boucher-Hayes? 15:53

26 A. No, I was aware, spatially I was aware that they were
27 speaking, but I was not within earshot.

28 671 Q. So you did not in fact know what the Commissioner had
29 said?

1 A. No.

2 672 Q. I think you've confirmed that in one of your other
3 statements?

4 A. Yes.

5 673 Q. And your evidence, as I understand it, is that you do 15:53
6 not know what the Commissioner said to Mr. McGuinness
7 in the car park?

8 A. As I said earlier on, Mr. McGuinness, Commissioner
9 Callinan could compartmentalise conversations and he
10 would tell you a conversation whether you needed to 15:53
11 know it or not. If he didn't want to tell you, he
12 would not tell you.

13 674 Q. But does it follow that the only negative thing you
14 heard the Commissioner say was on the occasion of, at
15 the end of the PAC meeting, is that correct? 15:54

16 A. That was when I heard, yeah, that comment. Plus I was
17 aware of Commissioner Callinan's attitude to Sergeant
18 McCabe.

19 675 Q. And did you ever refer to him as a kiddie fiddler?

20 A. No. 15:54

21 676 Q. It seems to be a phrase that Ms. McCann picked up.
22 You've no idea where she got that?

23 A. No.

24 677 Q. In terms of contact with other journalists, Mr. Lally,
25 I think your phone contact with him was made available? 15:54

26 A. That's right, yeah.

27 678 Q. And it's at page 3282 in volume 13. And there's a
28 great deal of contact on page -- going from page 3283
29 on to 3284, in and around the time of the PAC issues.

1 A. Yeah.

2 679 Q. And you've referred already to him pushing back --

3 A. That was in relation to the O'Mahoney --

4 680 Q. -- in relation to the O'Mahoney thing, the
5 noncooperation. Was that on the basis of a 15:55
6 face-to-face meeting?

7 A. No, a phone call.

8 681 Q. That was a phone call?

9 A. Yes.

10 682 Q. Okay. Can you yourself identify it from the list? 15:55

11 A. If you could -- I think it was once the day the
12 O'Mahoney report came out or a day, a few days
13 afterwards. I cannot. Maybe you might be able to
14 assist me. But it would be around that time.

15 683 Q. Yes. I will be asking you about some of Mr. Lally's 15:55
16 articles.

17 A. Yes.

18 684 Q. Have you seen the volume where we have put together a
19 compendium of all articles written by --

20 A. I have not Mr. McGuinness. 15:56

21 685 Q. Pardon?

22 A. I have not.

23 686 Q. You have not, no?

24 A. No, I have not.

25 687 Q. But is it your evidence that you briefed him not merely 15:56
26 about the noncooperation, the alleged noncooperation
27 with O'Mahoney and the other matters?

28 A. Yes.

29 688 Q. On the same occasion?

1 A. No, no, not the same occasion, no. The O'Mahoney
2 report would have been after the briefing in relation
3 to -- the initial briefing.

4 689 Q. And had you done the other negative briefing prior to
5 that then?

15:56

6 A. Yes.

7 690 Q. And do you have any estimate as to when you did that?

8 A. It would be 2013.

9 691 Q. 2013?

10 A. Yes.

15:56

11 692 Q. That's as good as you can guess, as it were, is that
12 right?

13 A. Yes.

14 693 Q. Mr. Mooney, he's another journalist whose contact
15 initiated by you is provided in the same volume at
16 3295. Perhaps you'd have a look at that. It's two
17 pages of contacts between February and June of 2014.
18 Was Mr. Mooney a scene attender?

15:57

19 A. No.

20 694 Q. Do you recollect meeting him face-to-face?

15:57

21 A. I would have met him at one scene in Ballyfermot, a
22 murder scene at Ballyfermot. He wasn't a regular. He
23 would come to some press conferences but he was not a
24 regular at crime scenes.

25 695 Q. And do you recollect briefing him?

15:57

26 A. Yes.

27 696 Q. So, do you think both himself and Mr. Lally have
28 evidence to give which could assist the Tribunal in
29 determining --

1 A. I'm sure they have.

2 697 Q. In terms of a timeframe for having briefed Mr. Mooney
3 negatively?

4 A. It would be 2013 going in, maybe the start of it.

5 698 Q. Sometime in 2013? 15:58

6 A. (Witness Nods).

7 699 Q. Okay. Mr. Mooney obviously writes for The Sunday
8 Times?

9 A. That's right.

10 700 Q. And has been doing for some period, isn't that right? 15:58

11 A. That's right, yeah.

12 701 Q. And in terms of sources that he has, has he ever
13 approached you as a source in order to get information
14 about the investigation into Sergeant McCabe?

15 A. I do not think he approached me. He has extensive 15:58
16 contacts, Mr. Mooney; a very experienced,
17 well-established journalist. My specific role always
18 was to brief in relation -- because he'd bring up or
19 that he was writing stories on Sergeant McCabe and I
20 would brief him the negative briefing that I was 15:59
21 instructed to do.

22 702 Q. But I mean, no less than others as a crime and security
23 correspondent, would you not have expected Mr. Mooney
24 to have been, as it were, up to speed and in knowledge
25 about the -- 15:59

26 A. I'm sure he was. I'm sure he was. But, as I said, my
27 experience, journalists have a multiplicity of sources
28 throughout An Garda Síochána.

29 703 Q. Okay. Well, I'm just sort of exploring the likelihood

1 of Mr. Mooney perhaps saying to you look,
2 Superintendent Taylor, everybody knows this is doing
3 the rounds; did you get any sort of reaction from him?
4 A. No. In the sense of you pass on information to
5 journalists, how they process it and how they deal with 16:00
6 it is a matter for themselves. They may ignore it and
7 put it aside or they may go off and seek further source
8 material in order to confirm it or dispute it.
9 704 Q. It's just that the Tribunal has heard some evidence
10 from politicians -- 16:00
11 A. Yeah.
12 705 Q. -- members of the Houses up in Leinster House
13 obviously, who've given evidence of sort of general
14 rumours out there and there being knowledge of the fact
15 that there'd been an investigation etcetera, etcetera. 16:00
16 Were you aware that there was a general rumour out
17 there?
18 A. Oh, yes. Like I said previously, it was well known in
19 Garda Headquarters about the investigation and Sergeant
20 McCabe and that. Like, it was not a state secret, it 16:00
21 was well known.
22 706 Q. Yes. But the question is somewhat different; did you
23 know that it was out there in other circles, government
24 circles?
25 A. I didn't know what was in government circles. 16:01
26 707 Q. Oireachtas circles?
27 A. No, I didn't know. I would not have dealt with those
28 circles.
29 708 Q. The issue then is: Were you aware that it was out

1 there then in media circles?

2 A. I was aware that -- well, I mean I had put it out, I
3 was aware -- like, I mean, when I spoke to journalists
4 there was no shock horror, as you said earlier on.
5 Like, I mean, the journalistic world or the crime 16:01
6 reporting world is a very small cohort of people and
7 they have a close connection with members of An Garda
8 Síochána.

9 709 Q. All right.

10 CHAIRMAN: No, but the question you were asked, 16:01
11 superintendent, was were you aware that the media knew
12 before you said anything to the media?

13 A. well, I had a general awareness that there was rumours
14 out there.

15 CHAIRMAN: But "out there" could be in outer space for 16:01
16 all I know. You were specifically asked were you aware
17 when you briefed the media negatively that they already
18 knew?

19 A. well, in some I didn't know, Mr. Chairman. But I knew
20 there was knowledge out there in relation to Sergeant 16:01
21 McCabe.

22 CHAIRMAN: What am I expected to make of that answer?

23 A. well, there was a rumour going around the place in
24 relation to Sergeant McCabe.

25 CHAIRMAN: Where? A rumour might be going around the 16:02
26 Law Library, it doesn't necessarily mean it's going
27 around, I do not know, the Beacon Hospital.

28 A. well as I say, as I said, it was knowledge, common
29 knowledge in Garda Headquarters and as far as I was

1 concerned it was common knowledge pretty around the
2 place.

3 CHAIRMAN: What Mr. McGuinness is trying to test is
4 whether, you know, any journalist came back to you and
5 said well, I knew that already? 16:02

6 A. Well, as I said, they never came back and said they
7 knew it, they never said they didn't know it either.
8 They just took the information, as I gave it.

9 CHAIRMAN: Like a tape recorder?

10 A. Well, as I said, they would take the information, 16:02
11 record it and deal with it, how they dealt with it
12 themselves you know.

13 CHAIRMAN: So there was no dialogue with you?

14 A. Well, as I said, the dialogue was this -- the dialogue,
15 Mr. Chairman, was in relation to Sergeant McCabe and 16:02
16 his motivation and how these issues were coming to the
17 media.

18 CHAIRMAN: And can you remember a single comment when
19 you told a journalist about this, that a journalist
20 made to you? 16:02

21 A. Well, some journalists would have probably said --

22 CHAIRMAN: No, I'm not interested in probability. I am
23 asking you, can you relive this experience, please, for
24 me because I am actually asked to write a report about
25 this. I may be asked to do very unpleasant things in 16:03
26 relation to your evidence. Can you please relive it
27 and can you please tell me any reaction by any
28 journalist --

29 A. I cannot --

1 CHAIRMAN: -- when you gave this information?

2 A. I cannot tell if any negative reaction -- because you
3 just gave information and generally the journalist
4 didn't challenge you on it, you were just giving this
5 information. 16:03

6 CHAIRMAN: So the answer to my question is no?

7 A. No.

8 CHAIRMAN: You can't remember a thing?

9 A. I cannot remember, no. I cannot remember that I've
10 been challenged or saying I knew this or that. It was 16:03
11 just the information you were giving out there in
12 general conversation.

13 CHAIRMAN: So no reaction at all --

14 A. No.

15 CHAIRMAN: -- to the explosive news that the man who is 16:03
16 apparently a national hero you are saying is a child
17 abuser?

18 A. Well, as I said, you give information out, there was no
19 jumping up and reaction, Mr. Chairman, just I was
20 giving that information out. 16:04

21 CHAIRMAN: Okay, I understand. Thank you,
22 superintendent.

23 A. Thank you.

24 710 Q. MR. McGUINESS: Just turning to the other journalists
25 who have claimed privilege. Mr. O'Keefe's contacts 16:04
26 that you initiated are set out at page 3285 in volume
27 13, if you wouldn't mind looking at those, they're on
28 screen, are they? And there's three pages of contacts
29 there going from August '12 to, again, June 2014 at

1 this point in time. He was obviously also writing for
2 the Examiner.

3 A. That's right, yes.

4 711 Q. And was he on the political side more than the crime
5 side? 16:04

6 A. No, he was crime, a crime reporter.

7 712 Q. Exclusively is it?

8 A. Yes. I understand he writes novels, but he would have
9 been on the crime side.

10 713 Q. In terms of your interaction with him, could you 16:04
11 describe the nature of it? was it primarily over the
12 phone or --

13 A. It would be at scenes, he would be at scenes and it
14 would be over the phone. I would meet him at Garda
15 conferences, on the various association conferences, I 16:05
16 would meet him at Commissioner's conferences, I would
17 meet him at press conferences, I would meet him at --
18 he turned up regularly at all these events.

19 714 Q. And how many times do you think you briefed him?

20 A. A number of times we'd have discussion in relation to 16:05
21 Sergeant McCabe and how the Sergeant McCabe thing was
22 playing out in the media.

23 715 Q. Pardon?

24 A. How the Sergeant McCabe situation was playing out in
25 the media. 16:05

26 716 Q. Yes. I mean, just so I can be clear, I'm not obviously
27 talking about sort of ordinary talk about Sergeant
28 McCabe, you understand that?

29 A. Yes.

1 717 Q. I'm talking about occasions where you were acting out
2 the Commissioner's instruction?
3 A. Yes.

4 718 Q. And do you think you did that more than once with
5 Mr. O'Keeffe? 16:06
6 A. I would imagine yeah, a few times, yeah.

7 719 Q. And any idea when or where or in what circumstances?
8 A. It would be probably at scenes, at conferences where we
9 would have dealt with them, the topic that would have
10 been dealt with that day and then there would be 16:06
11 general, you know, sidebars going on in relation to the
12 topical issues of day and sometimes the topical issue
13 was the Sergeant McCabe issue.

14 720 Q. Now, obviously the Sergeant McCabe issue had many
15 different facets to it -- 16:06
16 A. Yeah.

17 721 Q. -- but I want to be clear, are you saying that when
18 you're referring to the Sergeant McCabe issue you're
19 talking about the allegation made against him, that
20 being the motive for his -- 16:06
21 A. Well, I was talking about --

22 722 Q. -- his actions and revenge because of --
23 A. I'm talking about the issue that the penalty points
24 issue was, you know, breaking out in the news and
25 various other forums, and how it was increasing and 16:06
26 increasing with volume in all the forums. And we would
27 speak in relation to -- you know, it would have broken
28 out that day in the media or some new controversy would
29 have broken out and things like that.

1 723 Q. Well, I mean, did you ever say to him or any of the
2 other journalists how do you think my campaign is
3 going?
4 A. No, I wouldn't.

5 724 Q. I mean, what was the purpose of the campaign? 16:07
6 A. The purpose of the campaign was to frame a message.

7 725 Q. Which was?
8 A. Is that Sergeant McCabe's motivation in relation to
9 bringing these penalty points issues was motivated by
10 revenge, that the matter has been fully investigated 16:07
11 and that this was the motivation of Sergeant McCabe in
12 bringing these issues to the public arena.

13 726 Q. And what was the thinking there? was it that that
14 would cause people to say oh, look, we can't trust him
15 or -- 16:07
16 A. As I say, it would cause people to pause and think
17 about supporting Sergeant McCabe without questioning
18 and maybe a chilling effect in relation to writing
19 articles that would be supporting him.

20 727 Q. Mr. O'Keefe then, on your evidence, has information 16:08
21 and evidence about your campaign as directed to him
22 also?
23 A. Hmm.

24 728 Q. Is that right?
25 A. Yes. 16:08

26 729 Q. Mr. McConnell from the Irish Examiner, again you were
27 provided with the record of your telephone and text
28 contacts to him, isn't that right?
29 A. That's right.

1 730 Q. And they're at -- in fact, they're not in -- I'm
2 misstating it, there is no record which was produced to
3 you of your telephone contacts with him, isn't that
4 right?

5 A. Yes. 16:09

6 731 Q. So just to be clear then, how did you brief him? Or,
7 did you brief him negatively?

8 A. I spoke to him on the landline, we'd have spoken when
9 he rang me.

10 732 Q. Pardon? 16:09

11 A. I spoke to him by phone. It was, Daniel McConnell is a
12 respected journalist who deals with the political world
13 and that would have been around the PAC and in relation
14 to the penalty points and how they were coming before
15 the PAC and Dáil committees. 16:09

16 733 Q. And are you fairly clear then that it was over the
17 phone?

18 A. Yes.

19 734 Q. Okay. Well, are you placing it in and around the time
20 of the PAC hearings? 16:09

21 A. Yes. Yes.

22 735 Q. And did you do this once or more than once with him?
23 Was it a concentrated evidence effort on your part?

24 A. It could have been a couple of engagements.

25 736 Q. And you'd never done anything like this before, had
26 you, this sort of negative personal briefing based upon
27 a Garda investigation? 16:09

28 A. No.

29 737 Q. So with all the journalists, this was a first time for

1 you to do it, isn't that right?

2 A. Yes.

3 738 Q. And were you not perhaps apprehensive that you'd get a
4 very bad reaction to it or people might blow the
5 whistle on what you were doing? 16:10

6 A. Well, we were careful as to who we approached. Not all
7 journalists did we approach -- did I.

8 739 Q. Well, you see, you are using the plural there, "we"?

9 A. Sorry, I mean "I". Me.

10 740 Q. I mean, did you consult with Commissioner Callinan at 16:10
11 any stage about who you were briefing?

12 A. I would tell him who I was briefing and he would tell
13 me, we were clear on who we would not brief.

14 741 Q. Well, when was this discussion held?

15 A. It would be 2013, late 2013 to '14. 16:10

16 742 Q. And when was that? Was it on the occasion that he gave
17 you this instruction?

18 A. No. Like, this was a rolling situation,
19 Mr. McGuinness. Like, I mean, I would be on the clock
20 from about six o'clock in the morning or half six in 16:11
21 the morning listening to Morning Ireland, going all the
22 way to Vincent Browne at night-time.

23 743 Q. Yes. No, I mean it was part of your job --

24 A. Dealing with the media and engaging with the
25 Commissioner. And the Commissioner would be coming 16:11
26 back and forward to me all the time during the day.

27 744 Q. Yeah. But did you have a list then of who you were not
28 briefing?

29 A. Well, there was particular journalists we didn't brief.

1 745 Q. Yes. Well, who were they?
2 A. Michael Clifford and Katie Hannon.
3 746 Q. Okay. Because they were on the McCabe side?
4 A. Yeah.
5 747 Q. Is that the perception, is it? 16:11
6 A. Yes.
7 748 Q. And is that a perception just because of their
8 journalistic work then?
9 A. Well, they were clearly writing articles and programmes
10 that were sympathetic to Sergeant McCabe. 16:11
11 CHAIRMAN: So in other words, they weren't swing
12 voters, if you like?
13 A. Yes.
14 CHAIRMAN: They had already nailed their colours to the
15 mast. So were you looking for people who were maybe 16:12
16 more malleable than those two?
17 A. Well.
18 CHAIRMAN: Did you feel all the other journalists were
19 going to fall for this stuff?
20 A. Well, as I said, we were talking to journalists that 16:12
21 would have had a closer connection to An Garda Síochána
22 by the very nature of the business they conducted with
23 us.
24 749 Q. MR. McGUINNESS: And in relation to Mr. McConnell then,
25 I mean, did you feel that you knew all of these people 16:12
26 well enough that you could execute this smear --
27 A. Well, as I say --
28 750 Q. -- there'd be no repercussions?
29 A. Well, there's always a risk in that. But I mean, I

1 felt I had a relationship with them and built up a good
2 relationship with him that we could do this.

3 751 Q. But I mean, this comment or question, I suppose, is
4 applicable to all of them; I mean, you couldn't have
5 thought, surely, that they'd be complicit in the smear, 16:13
6 that they'd take it and they'd allow it to affect their
7 work?

8 A. As I said earlier, I provided them with the briefing,
9 how they process it and how they disseminate it and
10 used it was a matter for themselves. 16:13

11 752 Q. Yeah.

12 A. If they didn't use it, they didn't use it. If they
13 did, they did. That was a matter for their only
14 journalistic --

15 753 Q. But did none of them say 'Look, this is clearly a dirty 16:13
16 tricks campaign, you can't expect me to buy any of this
17 stuff you're peddling'?

18 A. Well, as I said, it's a big world out there in media
19 and media briefing and there's a lot of dirty tricks
20 goes on. 16:13

21 754 Q. Okay. But you're not suggesting that any of these
22 journalists were involved in it?

23 A. I've great respect for all the journalists mentioned, I
24 think they're great professionals, I think they do
25 professional work and very important work for this 16:13
26 State.

27 755 Q. Including being the recipients of what's said to be a
28 smear campaign orchestrated by you? Is that important
29 work to hear that?

1 A. Well, they receive a lot of information from a lot of
2 different sources and any journalist, in my experience,
3 don't take one information/one person, they go and seek
4 other sources and confirm or stand up the story. But
5 in my thing, they've all acted in the highest 16:14
6 integrity.

7 756 Q. There's a journalist, Ms. McCann, at page 3288 and
8 there's a couple of issues I just want to raise here.

9 A. Yeah.

10 757 Q. There's quite an extensive list of contacts initiated 16:15
11 by you which are set out from page 3288 onwards --

12 A. Yeah.

13 758 Q. -- in relation to your time as press officer.

14 A. Yes.

15 759 Q. Isn't that right? 16:15

16 A. That's right.

17 760 Q. Now, why did you omit her from the original list of
18 nine?

19 A. It wasn't a case of omission or hide. I was always, do
20 you know, I was trying to get the list together and I, 16:15
21 at the first opportunity I inserted her name, because I
22 knew she'd have been up at that house.

23 761 Q. Well, what date did you insert her name?

24 A. I don't have the dates exactly to hand, Mr. McGuinness.

25 762 Q. Well, I mean, this was obviously going to be a thing of 16:15
26 most material importance.

27 A. Hmm.

28 763 Q. You told the Tánaiste and Judge O'Neill that you had
29 briefed various journalists.

1 A. Yes.

2 764 Q. This letter sent forward by your solicitor in April
3 2017 lists the nine journalists.

4 A. Yeah.

5 765 Q. And you don't include Ms. McCann, with whom you had 16:16
6 extensive contact.

7 A. But I did say --

8 766 Q. And whom you knew was going up and had gone up to visit
9 Ms. D's house isn't that right?

10 A. That's right. But I did say in the next paragraph that 16:16
11 I would add, if we could read the next paragraph, that
12 I would check.

13 767 Q. Well, you don't say you couldn't do it because of about
14 checking, you said nothing about checking. You said:
15 "Without access to the records as referred to above" 16:16
16 you cannot confirm this list definitively.

17 A. Well, I mean, that was the list at the time. But I
18 subsequently completed that list.

19 768 Q. Yeah. And the question is: why did you leave her off
20 the first time? 16:17

21 A. It wasn't a case of -- do you know, I was always going
22 to complete that list.

23 769 Q. But she had a quality that another person that you left
24 off the list had; they had both gone up to Ms. D's
25 house? 16:17

26 A. Yeah, but I was trying to --

27 770 Q. Now, forgetting one might be perhaps understandable if
28 there was a reason for it, but it seems difficult to
29 see how you might forget two, in fact the two

1 journalists who'd gone up to Ms. D's house before
2 Mr. Williams went up.

3 A. Yeah. But as I always said, I would complete that list
4 at the first opportunity.

5 771 Q. Well, where did you say that? 16:17

6 A. Well, I'm just saying that the paragraph there that
7 with my records I would confirm the list.

8 772 Q. Pardon?

9 A. With my records, I would confirm the list and added
10 those two journalists to it. 16:17

11 773 Q. Well, you don't say you're going to confirm the list,
12 you're saying you can't confirm the list definitively.

13 A. Well, at the time --

14 774 Q. You don't say you're going to check records and add to
15 it? 16:18

16 A. Well, I mean, as I said, that wasn't a definitive list.
17 I subsequently furnished a definitive list from my
18 recollection.

19 775 Q. You obviously had discussed Sergeant McCabe with
20 Ms. McCann. 16:18

21 A. Yes.

22 776 Q. Prior to her going up.

23 A. Yes.

24 777 Q. And when did you brief her negatively?

25 A. I can't give the exact date, Mr. McGuinness, but I 16:18
26 would have -- as I say, I got the initial briefing in
27 2013, middle of 2013 and from there on, do you know, I
28 would've taken the opportunity.

29 778 Q. You've seen the list of your phone contacts with her?

1 A. Yeah.

2 779 Q. Would it be fair to assume there's an equal number
3 coming the following direction from her --

4 A. I would say so, yeah.

5 780 Q. -- is this is only half of them? And do you think you 16:19
6 briefed her negatively in 2013 then as well?

7 A. I would imagine so, yes.

8 781 Q. Okay.

9 A. I would have, yes.

10 782 Q. And can you remember any occasion when you would've 16:19
11 done so?

12 A. I can't remember a specific occasion, because
13 Ms. McCann wrote for a Sunday edition, so she would be
14 in contact with me say from a Thursday on in the week.
15 So there would be engagement, do you know, sending in 16:19
16 stories and then requests for media interviews, sending
17 in questions, so there would be engagement.

18 783 Q. Yes. We've seen a reference in Ms. Reilly's statement
19 that I put to you that her father was a Detective
20 Superintendent John McCann. 16:19

21 A. Yes.

22 784 Q. And I think he retired, I think, in, was it August
23 2013?

24 A. I think so, yeah. I'm not certain.

25 785 Q. And am I correct in asking you, or do you know, is it 16:19
26 her description of the fact that he had been the
27 detective superintendent in charge of the sexual
28 assault unit, is that correct?

29 A. That's my understanding, yes.

1 786 Q. Did you know him?
2 A. I did.
3 787 Q. You did. In what capacity did you know him or in what
4 circumstances?
5 A. We had both not ever served together, but we had served 16:20
6 together in Harcourt Square, he was in Fraud Office and
7 I was in Special Branch and we were both based in
8 Harcourt Square and we would know each other to see and
9 say hello to and that. And then I had engagement with
10 him when I came to the Press Office, because he was 16:20
11 dealing with historical cases and a particular case and
12 I would've had dealings with him in relation to
13 handling the media around that.
14 788 Q. Yes. Presumably you'd have him in your phone contacts?
15 A. Yes. 16:20
16 789 Q. Do you recollect phoning him in connection with
17 Sergeant McCabe at any time?
18 A. No.
19 790 Q. I'm not necessarily suggesting you did, I'm inquiring.
20 A. No. 16:20
21 791 Q. And he obviously retired from the force and wasn't
22 involved in the force from August 2013 onwards. In the
23 context of your contacts with Ms. McCann, can you say
24 how she reacted?
25 A. Well, again there was no pushback, as I would call, and 16:21
26 things like that. Like, you would give information --
27 journalists are very hard nosed - and I'm not
28 suggesting Ms. McCann, but I'm just saying journalists
29 are very hard nosed and they hear a lot of information

1 and especially people in the crime world hear a lot of
2 gruesome information and all sorts of information and
3 they don't shock or wither very easily.

4 792 Q. Yes. So you don't think she had any reaction any
5 different to the others? 16:21

6 A. No.

7 793 Q. But when you discussed her impending trip up --

8 A. Yes.

9 794 Q. -- how did that come about?

10 A. Well, she was telling me that she was doing a story 16:21
11 around that case and that she was going up there to try
12 and meet the person at the centre of it. I didn't know
13 the exact day she was going up, but she did inform me
14 she was going up there.

15 795 Q. And this is obviously subsequent to your briefing of 16:22
16 her?

17 A. Oh, yes, yeah. Yeah.

18 796 Q. Well, were you as pleased, as it were, that you'd got
19 -- and this was the first journalist you had got
20 interested in going up, is it? 16:22

21 A. Well, when I say I got them interested, I would've
22 given them a briefing, they would obviously have run it
23 by their editors and whatever other mechanism they do.
24 I couldn't tell them go up.

25 797 Q. Oh, no. 16:22

26 A. That's a matter they took upon themselves.

27 798 Q. Yes. No, indeed. And to be clear, Ms. McCann, in her
28 statement to the Tribunal, says she wasn't directed to
29 go up.

1 A. Yeah.

2 799 Q. But it was never going to be that way, you would never
3 be directing any of the journalists - they wouldn't
4 take direction from you presumably, they're quite
5 independent? 16:23

6 A. No, no. No.

7 800 Q. But just in terms of the briefing that you'd given her,
8 had you had to brief her more than once or would you --

9 A. I don't know about briefing once. Sometimes the
10 briefing would change, like we'd do an initial briefing 16:23
11 and then we'd talk about Sergeant McCabe and things
12 like that and all the issues coming out in the media.
13 So it was a rolling narrative.

14 801 Q. But can you recollect the date she phoned you, or did
15 you phone her? 16:23

16 A. In what date now?

17 802 Q. The time in advance of her intended trip up. Can you
18 recollect when she phoned you, or did you phone her?

19 A. It could've been a day or two beforehand.

20 803 Q. And what's your recollection as to when that was? 16:23

21 A. I can't recall exactly now the a date, but I would
22 imagine it's some time in '14.

23 804 Q. Yes.

24 A. I'd imagine it was February/March '14.

25 805 Q. February/March. You can't be any more specific than 16:24
26 that?

27 A. No, not at the moment Mr. McGuinness.

28 MR. MCGUINNESS: Chairman, I'm going to move on to a
29 different phase of the questioning and I was going to

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806 Q. CHAIRMAN: I was just interested as to how you reacted to that news. Was she -- I know Cavan pretty well for personal reasons, but you can certainly get lost up there pretty easily.

16:24

A. Yeah.

CHAIRMAN: Like even in Dublin you can get lost.

A. Well, as I said, Mr. Chairman, the journalist, I wasn't their only source, they had a multiplicity of sources in which they would conduct their business on. So they would pick a story and build their story around that.

16:24

CHAIRMAN: Right. Thank you then, Superintendent, we'll break until tomorrow. And it's ten o'clock tomorrow. Thank you.

16:25

THE HEARING WAS THEN ADJOURNED UNTIL TUESDAY, 15TH MAY 2018 AT 10:00

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