

TRIBUNAL OF INQUIRY INTO PROTECTED DISCLOSURES MADE UNDER
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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 TUESDAY, 15TH MAY 2018 - DAY 75

75

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 TUESDAY, 15TH MAY
2 2018 AT 11:00AM:

3
4 MR. QUINN: Chairman, just on behalf of -- sorry,
5 Chairman, I wonder if I could just clarify something 10:01
6 that arose yesterday, just on behalf of Juno McEnroe?
7 Oisín Quinn, instructed by Ronan Daly Jermyn with
8 Mr. Shane Lynch on behalf of the Examiner and its
9 journalists. Chairman, I think just yesterday it may
10 have been put to the witness or suggested that 10:01
11 Mr. McEnroe was one of the journalists who was denying
12 that he had been negatively briefed by Superintendent
13 Taylor, or indeed anyone, and I think a question from
14 volume 19, page 5152 was put to the witness who's
15 currently giving evidence, Superintendent Taylor. And 10:02
16 that question, at 5152 in volume 19, was:

17
18 "I have been asked whether I have any information or
19 evidence about an orchestrated campaign directed by
20 senior officers of the Garda Síochána to discredit 10:02
21 Sergeant Maurice McCabe by spreading rumours about his
22 professional and personal life and if so, I have been
23 asked to provide details and all attendant
24 circumstances and detail of where this was emanating
25 from." 10:02

26
27 And he answers "No". In fact there is an important
28 previous question that wasn't put up on the screen or
29 put to the witness at line 130, where he says:

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"I have been asked to confirm whether I was briefed negatively about Sergeant McCabe by anyone and if so to detail by whom I was negatively briefed, to provide the details and all attendant circumstances."

10:02

And his answer is:

"I refer to my above statements in this regard."

10:02

And those above statements are found two pages back, Chairman, at page 5150 where he says, beginning at line 101:

"While I'm here to assist the Tribunal, I believe that I cannot answer any questions that might reveal a confidential source or that might have the tendency to reveal a confidential source on account of the obligations that I have towards my sources in my capacity as journalist. I reserve the right to refer to this statement when answering any questions put to me by the Tribunal's investigators."

10:03

10:03

So, Chairman, just to explain, it's Mr. McEnroe's instructions, and I think reflected in this statement and question and answer session, that when he was specifically asked whether he was briefed negatively about Sergeant McCabe by anyone, he doesn't actually deny that, he refers to his statement in relation to

10:03

1 privilege.

2 CHAIRMAN: All right.

3 MR. QUINN: And just given the way matters were put to
4 Superintendent Taylor yesterday and the public
5 reporting of that, we're keen on behalf of Mr. McEnroe 10:03
6 row to clarify that. He's not one of the group of
7 journalists denying that he was negatively briefed
8 about Sergeant McCabe, he's in the group who is
9 referring back to a claim of privilege.

10 CHAIRMAN: So what does 133 mean and 138 mean then? 10:04

11 MR. QUINN: well, that's a separate --

12 CHAIRMAN: "No, I have not any information or evidence
13 about an orchestrated campaign directed by senior
14 officers of the Garda Síochána to discredit Sergeant
15 McCabe by spreading rumours about his personal and 10:04
16 professional life.

17

18 No, I was not contacted by superintendent David Taylor
19 in relation to Sergeant McCabe."

20 10:04

21 Referring to his previous statement above. Am I
22 supposed to go, kind of, six pages above in order to
23 get the right answer, is that what you're telling me?

24 MR. QUINN: well, I think, Chairman, in fairness,
25 clearly, as I understand it, the questions that were 10:04
26 being put to the witness in this interview were
27 prepared questions, and I think we can only assume from
28 the fact that two separate questions were asked about
29 being negatively briefed in the first instance and

1 then, secondly, about an orchestrated campaign that
2 someone has decided they mean two different things. I
3 think, in fairness, they clearly do mean two separate
4 things. He hasn't denied the first one, he has
5 referred back to his statement of privilege. And I 10:04
6 think it was suggested to the witness that in fact
7 Mr. McEnroe had denied he was being negatively briefed,
8 whereas when he is specifically asked that, he doesn't
9 deny it.

10 CHAIRMAN: well, lawyers tend to deny things 15 10:05
11 different ways, if I'm reading Defences all my
12 professional life and reading Statement of Claims with
13 particulars 15 of which say exactly the same thing.
14 So, I suppose that can spill over into investigators.
15 But what are you telling me? I mean, are you telling 10:05
16 me that he was negatively briefed by Superintendent
17 Taylor?

18 MR. QUINN: No, Chairman, I'm telling you that he
19 hasn't denied it, he's claimed the privilege that's
20 referred to in his statement in relation to not wishing 10:05
21 to confirm or deny or discuss anything that might
22 reveal a confidential source.

23 CHAIRMAN: All right. well, Mr. McEnroe is giving
24 evidence soon, isn't he?

25 MR. QUINN: He is. 10:05

26 CHAIRMAN: In which case I think you have to engage
27 with whatever circumstances give rise to such a
28 privilege. I mean, I can't sit and do an academic
29 exercise on this thing, I have to judge it on the basis

1 of whatever facts are before me. At the moment the
2 facts which are before me are that Superintendent
3 Taylor says he did brief - and Mr. McEnroe is only an
4 example - negatively, he hasn't told me when, where or
5 in what terms, but it was on the instructions of the 10:06
6 Garda Commissioner. Now, whether that was said has not
7 been adumbrated. But he has also indicated that he has
8 waived privilege in relation to anything which he has.

9
10 Now, I know the latest case from the European Court of 10:06
11 Human Rights says that's merely a factor, but I have to
12 take into account other factors as well, so I can't do
13 it in isolation. We have evidence so far and I'm
14 grateful for your clarification, which makes things
15 even less clear than they were yesterday, but I 10:06
16 understand you have a position to take, but I think you
17 have to take a position based on evidence as opposed to
18 based on asking me to write some kind of a law essay,
19 which I do do indeed in my spare time every now and
20 then. But this is a different exercise, it has to be 10:07
21 entirely fact-based, so I think people have to engage
22 with the facts. And if you have questions to ask which
23 put particular facts, such as, for instance, that by
24 indicating the nature of whatever briefing took place
25 you would be revealing another source or would be 10:07
26 revealing a secret journalistic methodology, well, that
27 has to be engaged with. That's my view at the moment,
28 obviously subject to submissions. But thank you for
29 your intervention; I've now put a question mark beside

1 Juno McEnroe in consequence of it.

2 MR. QUINN: well, Chairman, I think you can take it
3 clearly he's not denying that he was negatively briefed
4 by Superintendent Taylor. He has given a different
5 answer to that question. Because he was specifically 10:07
6 asked that and his answer wasn't a denial, his answer
7 was to refer back to the privilege. Whereas I think as
8 a consequence of the way things emerged yesterday, it
9 was reported that Mr. McEnroe had denied that he was
10 negatively briefed, and that just simply isn't the 10:08
11 case.

12 CHAIRMAN: well, I'd certainly taken him down as being
13 among those never briefed with Paul Williams, Paul
14 Reynolds, John Burke and Michael O'Toole. And Juno
15 McEnroe also appears on that list, but he still appears 10:08
16 on that list with a question mark beside him, and I
17 don't know now what the answer is. If you wish to put
18 a question to Superintendent Taylor to contradict what
19 I heard yesterday, you're perfectly welcome to do so,
20 but I'm not prepared to sit here and read the tealeaves 10:08
21 on the basis that someone is referring to something
22 above, and it could be 15 pages above. I'm taking that
23 answer, 133, for what it says. And if people want to
24 establish something different, they're completely at
25 liberty to do so, that's why I'm here. But thank you 10:08
26 very much for your intervention.

27 MR. QUINN: Thank you, Chairman.

28 MR. MCGUINNESS: Chairman, I'm grateful to Mr. Quinn
29 for bringing that to my attention and now to your

1 attention. Obviously it may be a matter for evidence
2 and interpretation. But on the occasion when the
3 Tribunal first wrote to Mr. McEnroe and we received a
4 reply to our list of questions that were furnished to
5 him and to other journalists on, our letter was 15th 10:09
6 March and we received a reply on 28th March, in
7 contrast to the replies from the other journalists from
8 the Examiner, it was written on behalf of Mr. McEnroe
9 that, it says:

10
11 "Please note that Mr. McEnroe believes he does not have
12 any information relevant to the terms of reference of
13 the Tribunal."

14 CHAIRMAN: All right. Okay, Mr. McEnroe has said that
15 he doesn't have any information relevant to the terms 10:09
16 of reference. And the terms of reference require me to
17 investigate the allegation of Superintendent Taylor
18 that he was directed to draw journalists' attention to
19 an allegation of criminal misconduct made against
20 Sergeant McCabe. So he has said no to that and he has 10:09
21 said no at line 131 to 138 and now today he is saying
22 he's not saying anything. Well, there is the
23 background circumstance. And in due course, Mr. Quinn,
24 you'll engage and we'll see where you stand. I'm not
25 expressing any view and I'm not expressing any emotion 10:10
26 about the matter, but the process that I'm engaged in
27 is deadly serious and is supposed to be in the national
28 interest and I expect people to cooperate and be
29 absolutely straight with me. So we'll carry on.

1 SUPERINTENDENT DAVE TAYLOR WAS DIRECTLY EXAMINED BY
2 MR. MCGUINNESS, AS FOLLOWS:

3 1 Q. MR. MCGUINNESS: Superintendent Taylor, yesterday I was
4 in the course of asking you some questions in relation
5 to your first statement to the investigators, and could 10:10
6 I just go back to page 132 of that in volume 1?

7 A. Yes.

8 2 Q. Now, do you see at line 266 there?

9 A. Yes, Mr. McGuinness.

10 3 Q. At the end of that line it says: 10:11

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 had made the complaint against
15 Sergeant McCabe with a view to interviewing her. I 10:11
16 informed both the Commissioner and Deputy Commissioner
17 of this by text message. Deputy Commissioner
18 O'Sullivan called me and discussed the matter."

19
20 Now, I don't want to rehearse matters, but you know 10:11
21 that Mr. Williams believes that he went to the house on
22 5th March first, 2014, and your belief is that he
23 phoned you, giving you to believe that he was in the
24 house or had been to the house

25 A. That's my understanding. 10:12

26 4 Q. Just the way you express this is that he was in the
27 house of the person who had made the complaint with a
28 view to interviewing her. And it might be taken from
29 that that he wasn't telling you that he had interviewed

1 her. So it's perhaps consistent with you receiving the
2 phone call on 5th and not on the Saturday, is that
3 possible?

4 A. I definitely recall receiving it on the Saturday,
5 because I was at home at the time. 10:12

6 5 Q. Okay.

7 A. And I would work nine to five Monday to Friday, core
8 hours, and I would be at home on Saturdays.

9 6 Q. You see, I just wanted to draw your attention to what
10 you say you did -- 10:12

11 A. Yeah.

12 7 Q. -- and what record exists of what you appear to have
13 done. At 6994 - it'll come up on screen, it might be
14 easier for you to look at that, it's volume 26 for the
15 benefit of my friends - this is the list of your calls 10:13
16 and texts from 5th.

17 A. Yeah.

18 8 Q. And it shows in the evening of 5th, after a call to
19 Debbie McCann earlier, two texts to Commissioner
20 Callinan, two texts then almost immediately to 10:13
21 Commissioner O'Sullivan and then two texts later to
22 Commissioner O'Sullivan. So, can you recollect what
23 time of the night you got the phone call?

24 A. I understand it was the evening time. In the evening
25 time. 10:13

26 9 Q. The evening time? I mean, no more specific?

27 A. I would imagine after three o'clock, something like
28 that, from my recollection.

29 10 Q. In the afternoon then?

1 A. In the afternoon, yes.

2 11 Q. All right. Well, just looking then at the records for
3 8th, if we go to page 6996 -- perhaps just back down to
4 the previous page, 6995. There's a text to
5 Commissioner Callinan on that Saturday evening at 10:14
6 20:48:29 and then it's followed by a second text three
7 seconds later and then there appears to be two further
8 texts to Nóirín O'Sullivan, is that right?

9 A. That's right.

10 12 Q. Yeah. Now that would appear to be the Saturday, as far 10:14
11 as you recollect it. And they are the only record of
12 texts --

13 A. Yes.

14 13 Q. -- sent by you on that date to those two in that
15 sequence. Is that the sequence in which you texted 10:14
16 them?

17 A. I would've sent one text each to the Commissioner first
18 and then to the Deputy Commissioner, that was my usual
19 modus operandi.

20 14 Q. Yeah. And that appears to be immediately followed by a 10:15
21 phone call to Debbie McCann, whom you had known had
22 previously gone up, isn't that right?

23 A. I don't know what date she went up on.

24 15 Q. Yeah.

25 A. But she would normally ring on Saturdays, because she 10:15
26 was a Sunday journalist who would write on Sunday
27 editions only.

28 16 Q. But this is you ringing her.

29 A. Yeah.

1 17 Q. And were you ringing her to tell her that Mr. Williams
2 had scooped the pool perhaps?
3 A. Absolutely not.

4 18 Q. Well, if this is the Saturday - and it's your sworn
5 evidence it was the Saturday - this is the day you 10:15
6 found out that Mr. Williams had got the interview,
7 isn't that right?
8 A. That is the day he told me, that Saturday.

9 19 Q. Yes.
10 A. That he told me he'd been up at the house. 10:15

11 20 Q. And the person that you had previously encouraged to go
12 up, you were now phoning. And why were you phoning
13 her?
14 A. I can't recall why I would've been phoning. It would
15 be somewhat a related matter that Ms. McCann was 10:15
16 dealing with on that Sunday.

17 21 Q. Okay. Well, let's pass on to page 139 of your
18 statement.
19 CHAIRMAN: Sorry, yesterday I did check, I think we've
20 all checked before, 8th March is in fact a Saturday. 10:16
21 And we're talking about a phone call to Debbie McCann
22 shortly before nine in the evening when it's far too
23 late to put anything in a Sunday newspaper.

24 A. Yeah.
25 CHAIRMAN: So does that help you? 10:16

26 A. Not particularly, Mr. Chairman. But, as I said, there
27 would be phone calls back and forward from time to
28 time, so --
29 CHAIRMAN: Just about this and that?

1 A. This and that.

2 22 Q. MR. MCGUINNESS: Just going to page 139 of your
3 statement, do you see that, at line 384?

4 A. Yes.

5 23 Q. This is after the PAC meeting. 10:17

6 A. Yeah.

7 24 Q. You say:

8

9 "I heard the Commissioner say to John McGuinness that
10 Sergeant McCabe was a kiddie fiddler." 10:17

11 A. Yeah.

12 25 Q. "I was just standing behind the Commissioner and had a
13 direct view of the Commissioner and John McGuinness."

14 A. Yeah.

15 26 Q. And there's a reference there to your original 10:17
16 statement to the Tribunal, isn't that right?

17 A. Yes.

18 27 Q. DT3.

19 A. Yeah.

20 28 Q. And that's, the relevant portion is at page 147. And 10:17
21 if we go to the bottom of page 147, the second last
22 paragraph there is:

23

24 "Prior to the appearance of the Commissioner at the
25 Dáil Public Accounts Committee." 10:17

26 A. Yeah.

27 29 Q. Do you see that? The next paragraph is:

28

29 "I attended at the PAC hearing and was sitting directly

1 behind Commissioner Callinan. At the conclusion of the
2 PAC hearing the Chairman of the PAC John McGuinness
3 came down from a seat at the top of the room and came
4 down along the left side of the room, past where the
5 Commissioner was sitting. They greeted each other. I 10:18
6 was standing at this time as the hearing had concluded.
7 There was a conversation between John McGuinness and
8 Commissioner Callinan. I heard the Commissioner say to
9 Mr. McGuinness that Sergeant McCabe was a kiddie
10 fiddler." 10:18

11 A. Mm-hmm.

12 30 Q. Now, that paragraph doesn't appear in your protected
13 disclosure, isn't that correct?

14 A. That's correct, yes.

15 31 Q. Okay. Now, why doesn't it appear in your protected 10:18
16 disclosure?

17 A. Well, I was putting in the protected disclosure as much
18 information as I had at the time, that I followed it up
19 in --

20 32 Q. I beg your pardon? 10:18

21 A. That I put in the information, in my protected
22 disclosure, that I fully fleshed it out and filled it
23 out in my statements to the Tribunal.

24 33 Q. You see, you're making a protected disclosure.

25 A. Yeah. 10:18

26 34 Q. It's going to the Minister for Justice.

27 A. Yeah.

28 35 Q. It's going to the Taoiseach. You're making a complaint
29 about the Commissioner of An Garda Síochána who you had

1 served under and you failed to put in an allegation
2 that you say you heard first hand accusing Sergeant
3 McCabe of being a kiddie fiddler. And can you explain
4 that omission?

5 A. Well, it was -- as I said, my protected disclosure was 10:19
6 an initial placing of the information. I subsequently,
7 in my statement, fleshed out all the issues in relation
8 to the knowledge that I had. So it was never intention
9 of omission, it was an intention to fully put all the
10 matters before when I had an opportunity. 10:19

11 36 Q. But why would you withhold from the Taoiseach and the
12 Minister and any other persons who might be making a
13 decision that you had first hand evidence of hearing
14 the Commissioner describe Sergeant McCabe as a kiddie
15 fiddler? 10:20

16 A. When I put in the protected disclosure, I was putting
17 the information as protected disclosure, I didn't know
18 how further it would take it down the line. That I
19 would, in subsequent interviews I would fill in all the
20 information I had. In my protected disclosure, not 10:20
21 everything is in it if a protected disclosure is a
22 confined document.

23 37 Q. A confined document?

24 A. Yeah.

25 38 Q. What confines it? 10:20

26 A. Well, it's a document that not all information that you
27 would elicit when you take a full and comprehensive
28 statement.

29 39 Q. I'm just not clear as to the logic here, Superintendent

1 Taylor, perhaps you would help me in this regard. If
2 you look at page 6, this new paragraph that --

3 A. Page 6 of --

4 40 Q. Yes, of volume 1. This new paragraph that I've drawn
5 your attention to where you refer to the comment. 10:21
6 That's been inserted essentially between the first and
7 second paragraph of this narrative, isn't that right?

8 A. That's right, yes.

9 41 Q. That's right. Now, just bear with me, but you told us
10 yesterday you didn't hear Commissioner Callinan make 10:21
11 any adverse remark to Philip Boucher-Hayes?

12 A. No, because I wasn't in his earshot.

13 42 Q. Yeah. You've maintained in your evidence that you were
14 not informed by Commissioner Callinan of what he said
15 to John McGuinness in the car park. 10:21

16 A. That's correct.

17 43 Q. And you denied having any knowledge of that.

18 A. That's correct.

19 44 Q. And that's an issue between you and Sergeant McCabe as
20 to whether you said something about that to him, isn't 10:21
21 that right?

22 A. That's correct.

23 45 Q. But from your own point of view, you neither heard the
24 Philip Boucher-Hayes comment nor the John McGuinness
25 comment in the car park. This is the only comment then 10:22
26 that you are alleging you heard Commissioner Callinan
27 make, referring to Sergeant McCabe as a kiddie fiddler,
28 isn't that right?

29 A. I couldn't have heard the Bewleys one, because I wasn't

1 there.

2 46 Q. Yes.

3 A. In relation to RTÉ, I was in proximity, I was -- in
4 relation to the one at the PAC I was physically in his
5 company. 10:22

6 47 Q. The point I'm coming to is a simple one: There are
7 three occasions when Commissioner Callinan is said to
8 have made these different remarks to different people;
9 you were present for one but didn't hear it in RTÉ; you
10 weren't present and weren't told about it for one at 10:22
11 the car park; your evidence to the Tribunal is that you
12 did hear this one. And this is the only one that
13 you've heard then?

14 A. Yes.

15 48 Q. Now, why were you not including that in your protected 10:22
16 disclosure when you were making the complaint, as it
17 were, that you had been -- you were blowing the whistle
18 on the Commissioner and the former Commissioner about
19 what they had been doing and saying in relation to
20 Sergeant McCabe? 10:23

21 A. Well, at the first opportunity I put that information
22 before the Tribunal.

23 49 Q. Well, that, I'm not sure whether it deals with it or
24 not. But I mean, there's one matter of significance in
25 between the date of your protected disclosure and the 10:23
26 date of your statement to the Tribunal - because you
27 made your protected disclosure at the end of September,
28 isn't that right?

29 A. That's correct.

1 50 Q. This statement to the Tribunal is made in March, isn't
2 that right, 2017?
3 A. Yes.

4 51 Q. And in between you had met John McGuinness, isn't that
5 right? 10:23
6 A. That's right.

7 52 Q. Okay. Now, did he tell you that this is what the
8 Commissioner had said to him?
9 A. Absolutely not.

10 53 Q. And is that where you learnt that from, in order to put 10:23
11 it in the statement?
12 A. Absolutely not.

13 54 Q. Well, you see, you don't mention any of the other
14 details that Deputy McGuinness has given us evidence
15 about. Did you hear anything else that the 10:24
16 Commissioner said on that occasion at the end of the
17 PAC meeting?
18 A. As I said yesterday, when we -- it was a long day and
19 when the people arose from their chairs it was my usual
20 protocol to pick up the Commissioner's hat and satchel, 10:24
21 and hand it to him. So I was turned around for a
22 second and then I would turn back around. And then I
23 was standing right behind him and I had full sight of
24 him and Deputy McGuinness standing in front of me.

25 55 Q. And are they the only two words you heard him say? 10:24
26 A. Well, I was aware there was a conversation, but they're
27 the words that stuck out in my mind, because I never
28 heard them before.

29 56 Q. Okay. Well, that's what I am concerned to say. Are

1 you synopsising what the Commissioner said or are those
2 an actual quote of the words that the Commissioner
3 said?

4 A. They're an actual quote.

5 57 Q. An actual quote. Now, just in terms of chronology, 10:25
6 could you go to page 181 of book 1. Again,
7 Superintendent, could I just ask you to ensure that
8 you're close enough to the microphone?

9 A. Yes.

10 58 Q. Thank you. Now, I think you can identify this 10:25
11 document; this is a document notifying you of breaches
12 of discipline that were intended to be investigated?

13 A. Yes.

14 59 Q. And they relate to the alleged unauthorised access of
15 Pulse and other sources of information, the alleged 10:26
16 unauthorised disclosure of that information to third
17 parties and alleged breaches of the Garda Síochána
18 internet electronic mail policy. And you received that
19 and then your solicitors sought to engage --

20 A. That's right. 10:26

21 60 Q. -- in relation to that. Now, you were interviewed on a
22 second occasion by the Tribunal investigators on 22nd
23 September, and that statement commences at page 204.
24 But I just want to pick you up on one aspect of
25 something you said yesterday, which was that when I 10:26
26 asked you about nominating the nine journalists, I
27 referred to the list that your solicitor had provided.

28 A. Yes.

29 61 Q. And which was expressed perhaps not to be definitive.

1 But you hadn't at any stage indicated to the
2 investigators that 'I will go and check my records and
3 come back to you', isn't that right?
4 A. I can't recall --
5 62 Q. No, you said you did that yesterday. 10:27
6 A. Okay.
7 63 Q. Now, when do you think you did that?
8 A. I can't give an exact date, Mr. McGuinness, when I did
9 that.
10 64 Q. You can't give a date? 10:27
11 A. Yeah.
12 65 Q. You see, I want to suggest to you that you didn't do
13 that. Because the investigators came back to you on
14 22nd September and you hadn't provided any additional
15 names, either yourself or by your solicitor, isn't that 10:27
16 right, by that time?
17 A. That's right.
18 66 Q. And just to be clear about what you were saying about
19 the campaign, at page 215 you were asked to explain, to
20 detail how your briefings to journalists took place, 10:28
21 whether they're conducted over the phone, during
22 face-to-face meetings, "whether I ever sent such
23 negative briefings by text messages or e-mail or by
24 other electronic means whatsoever." And your answer at
25 the top of page 216 was: 10:28
26
27 "I did this over the phone and at face-to-face
28 meetings, for example at press conferences. It was
29 never by e-mail and I doubt if I ever sent it by text

1 to journalists. I did not send it by any other
2 electronic means either. Mainly face-to-face meetings
3 and by phone that I conveyed this message."
4
5 Now, I think that represents your position. Did you 10:28
6 ever send a message by text to any journalist, media or
7 politician about Sergeant McCabe?
8 A. No.
9 67 Q. No?
10 CHAIRMAN: Superintendent, I'm going to have to ask you 10:29
11 to speak up, if you don't mind?
12 A. Sorry, no. No.
13 CHAIRMAN: I appreciate it's not easy giving evidence
14 and all the rest of it, but the microphone is now on
15 full blast -- 10:29
16 A. Okay.
17 CHAIRMAN: -- to try and catch you up. Unfortunately
18 it makes me, if the microphone is on, boom all over the
19 place. If you wouldn't mind just stepping in a wee bit
20 closer and -- 10:29
21 A. I'm obliged, Mr. Chairman. Thank you.
22 CHAIRMAN: Or maybe point it up a wee bit or something.
23 But I mean, you have experience in these matters.
24 A. Yeah.
25 68 Q. MR. MCGUINNESS: And you just confirmed you never sent 10:29
26 any messages by text of a derogatory nature to
27 journalists, media, politicians or otherwise?
28 A. No.
29 69 Q. So the lack of your phone wouldn't show that, isn't

1 that right? It's got nothing to do with it?

2 A. The lack of my phone unfortunately doesn't show my
3 engagement with the text to the Commissioner and Deputy
4 Commissioner about the updating in relation to the
5 interest in Sergeant McCabe. 10:30

6 70 Q. Yeah. Well, that was in the norm, in the way of normal
7 briefing about how he was being mentioned in the press,
8 isn't that right?

9 A. It would show the level of interest that was in
10 Sergeant McCabe. 10:30

11 71 Q. It would show what you were reporting upwards in
12 relation to Sergeant McCabe?

13 A. But he was a person of particular interest.

14 72 Q. But in terms of a smear campaign, I want to be clear
15 that your evidence is that Commissioner Callinan never 10:30
16 compiled texts to send to you for you to circulate out,
17 isn't that right?

18 A. No, never.

19 73 Q. Okay. And you're in conflict with Sergeant McCabe on
20 that issue, isn't that right? 10:30

21 A. That's correct.

22 74 Q. And you're in conflict with Mr. McGuinness about that
23 too, isn't that correct, Mr. John McGuinness?

24 A. That's right, yes.

25 75 Q. Perhaps we'll just go to 3225, which is in Volume 13 -- 10:31
26 3275, I beg your pardon. And at the bottom of that
27 you're discussing the meeting that you had with John
28 McGuinness in January of 2017.

29 A. That's correct.

1 76 Q. At the top of page 3276 you said you'd been used to
2 brief the media that Sergeant McCabe had been motivated
3 by revenge and this was borne out from the Ms. D
4 allegation.

5
6 "I did tell them I had been used by Mr. Callinan and
7 Ms. O'Sullivan was aware of it. I don't know why John
8 McGuinness wanted to meet me. But to provide some
9 context, at this time Mr. Justice Iarfhlaith O'Neill's
10 report was with the Minister, there was a lot of 10:32
11 political and media attention about protected
12 disclosures and also John McGuinness was Chairman of
13 PAC and Sergeant McCabe appeared. I have been asked
14 whether I made a note or any record."

15
16 And you didn't. Then this extract from Mr. McGuinness'
17 statement is put to you:

18
19 "I met David Taylor and he told me that he had made a
20 protected disclosure. He told me that he had been used 10:32
21 by Mr. Callinan and Nóirín O'Sullivan, the current
22 Commissioner of An Garda Síochána, to circulate text
23 messages briefing the recipients against Mr. McCabe by
24 telling them that he was not to be trusted. Mr. McCabe
25 told me that Mr. Taylor had given him a similar account 10:32
26 of what he had been asked to do by Mr. Callinan and
27 Ms. O'Sullivan."

28
29 And I think you disagree with that?

1 A. I disagree with that, yes.

2 77 Q. And you say at the top, on line 28 -- sorry, 428 of
3 page 3277:
4
5 "I never stated that I circulated text messages 10:33
6 briefing the recipients against Mr. McCabe by telling
7 them he was not to be trusted."
8
9 And then there's a portion put to you from
10 Mr. Clifford's statement. 10:33
11 A. Mm-hmm.

12 78 Q. And Mr. Clifford's statement refers to his book. And
13 in the book, at the bottom of page 3277 of our papers,
14 it's quoted:
15 10:33
16 "The most basic was the conveyance of hundreds, if not
17 thousands of text messages to media and Garda personnel
18 casting McCabe in a bad light."
19
20 Now, did you say that to Mr. Clifford? 10:33
21 A. No. I would've said I sent numerous, hundreds of texts
22 to Commissioner Callinan and Deputy Commissioner
23 O'Sullivan in relation to Sergeant McCabe as updates.

24 79 Q. And I think you had some engagement with
25 Mr. Clifford -- 10:34
26 A. That's right.

27 80 Q. -- in relation to his book, isn't that right?
28 A. That's right.

29 81 Q. And he sent you, for proofing and reading, a chapter of

1 his book relating to your involvement, isn't that
2 right?

3 A. That's right.

4 82 Q. And at volume 25, page 6617... The relevant extract is
5 at page 6622. And the portion at the bottom of 6622 is 10:34
6 as quoted there:
7

8 "There were a number of strands to the campaign he told
9 the incredulous McCabe. The most basic was the
10 conveyance of hundreds, if not thousands of text 10:35
11 messages to media and Garda personnel casting McCabe in
12 a dark light."

13 A. Hmm.

14 83 Q. And you'll see from page 6617, which enclosed this, you
15 see: 10:35
16

17 "Dave, this is the chapter I was telling you about
18 where you enter the McCabe story. See what you think,
19 particularly in terms of factual accuracy."

20 A. Mm-hmm. 10:35

21 84 Q. Now, you didn't correct that?

22 A. Well, I didn't proofread it in the sense of go through
23 it line-by-line.

24 85 Q. Yeah, but did you not read what was being said about
25 you? 10:36

26 A. I gave it a very perusal look through it.

27 86 Q. Well, I mean, one of the other things that I'd like
28 your evidence on is did you pick that up as something
29 that was being said about you?

1 A. As pick it up as something that's being said about me?

2 87 Q. Yeah. Did you notice it?

3 A. No, I didn't notice it.

4 88 Q. You didn't notice it? You don't, you didn't make
5 mention originally of the second meeting in your house. 10:36
6 And you know Sergeant McCabe has given evidence that he
7 came to you the next day --

8 A. That's right.

9 89 Q. -- specifically to ask you about the text messages. Do
10 you recall that? 10:36

11 A. I do, yes.

12 90 Q. And did he do that?

13 A. Well, he didn't ask me about the text --

14 91 Q. Pardon?

15 A. He came the next day to say he was making a protected 10:36
16 disclosure.

17 CHAIRMAN: I'm sorry, Superintendent, I beg your
18 pardon, I appreciate you've got a soft voice --

19 A. Yeah.

20 CHAIRMAN: -- and I respect that, but -- 10:37

21 A. He came the second day.

22 CHAIRMAN: Even if you moved your chair in, say, six
23 inches it'll probably will pick up a wee bit better.

24 A. He came --

25 CHAIRMAN: Sorry, Mr. McGuinness, would you just go 10:37
26 back if you wouldn't mind then please?

27 92 Q. MR. MCGUINNESS: Yes. I was suggesting to you that -
28 I'm sure you've heard it - Sergeant McCabe has said he
29 specifically came to ask you about the text messages.

1 A. No. He came the next day and it was a very quick, he
2 just arrived at my house, myself and my wife was there,
3 to tell me he was making a protected disclosure.
4 93 Q. You see, at the top of page 6624, part of the same
5 extract reads as follows: 10:37
6
7 "They met at Taylor's home the day after that. McCabe
8 asked him again about some of the detail related to the
9 text messages. Then he informed Taylor he was obliged
10 to make a protected disclosure on the issue." 10:38
11
12 Is that wrong?
13 A. Yeah. Mr. McCabe came to me the second day, it was a
14 very quick conversation - I was there with my wife - to
15 say he was going to make a protected disclosure. There 10:38
16 was no conversation of the previous day's conversation.
17 94 Q. No reference to text messages --
18 A. No.
19 95 Q. -- good, bad or indifferent?
20 A. Good, bad or indifferent. 10:38
21 96 Q. Okay. Did you read Sergeant McCabe's evidence on this
22 issue?
23 A. I did.
24 97 Q. And he's got it wrong, has he?
25 A. Yes. I was there. 10:38
26 98 Q. Okay. Now, that sentence, did you read that sentence?
27 A. Which sentence?
28 99 Q. When it was sent to you?
29 A. Which sentence is this, sorry, Mr. McGuinness?

1 100 Q. About him coming back the second day and asking about
2 the text messages.

3 A. I didn't, as I said, forensically examine it, if you
4 were to ask me that.

5 101 Q. Well, I didn't ask you whether you're a forensic 10:39
6 examiner of chapters of books. Did you read it?

7 A. I would have scanned it very quickly, yeah.

8 102 Q. Well, do you pay attention when you're reading things
9 in terms of anything that's been written about you?

10 A. Not always. 10:39

11 103 Q. Not always? Okay. And is it the case that you didn't
12 see this or you just, didn't cause you any concern?

13 A. Well I didn't -- as I said, when I was asked, in
14 relation to my statements, my recollection, I gave the
15 full facts as I knew it, as opposed to what somebody 10:39
16 else was writing.

17 104 Q. Well --

18 A. Because I was actually there.

19 105 Q. All right. But, you see, you had met Sergeant McCabe,
20 isn't that correct? 10:39

21 A. That's right.

22 106 Q. You had met Mr. Clifford.

23 A. That's right.

24 107 Q. This was furnished to you --

25 A. Yes. 10:40

26 108 Q. -- in the course of his work.

27 A. Mm-hmm.

28 109 Q. And it represents, I suggest, on the evidence of
29 Mr. Clifford and others, something that you had been

1 saying.

2 A. I hadn't been saying it.

3 110 Q. You hadn't been saying that, at any stage?

4 A. No.

5 111 Q. And it's clear from your evidence, therefore, that 10:40
6 there was no text messages sent out to journalists, any
7 form of media, politicians, other senior guards about
8 Maurice?

9 A. As I said yesterday, the nature of my engagement with
10 Maurice McCabe was conversational pieces with 10:40
11 journalists at opportunistic times.

12 112 Q. I referred yesterday obviously to the radio interviews
13 that Mr. Clifford and Deputy Daly did. And did you
14 perceive yourself as having some interest at that point
15 in time in doing damage to the Commissioner? 10:41

16 A. Absolutely not.

17 113 Q. well, why, when you were making what's normally a
18 protected confidential disclosure, did you decide to go
19 to a journalist and to a TD? what were you hoping to
20 achieve? 10:41

21 A. The TD came to me.

22 114 Q. Pardon?

23 A. The TD came to me.

24 115 Q. The TD came to you. well, you --

25 A. I didn't seek that meeting, Deputy Daly rang and sought 10:41
26 me. I did not seek that meeting.

27 116 Q. well, you went to the meeting.

28 A. They came to my house.

29 117 Q. Yeah. You invited them to your house.

1 A. Well, they asked to meet.

2 118 Q. Well, there's no obligation to meet TDs of any shape or
3 form. You invited them into your house. Now, why did
4 you do that?

5 A. They asked to meet. 10:41

6 119 Q. They asked to meet. And what were you hoping to tell
7 them, or what did you tell them?

8 A. Well, I just told them in relation to -- of the --
9 because of the, my protected disclosure, what I'd said.

10 120 Q. But were you conveying to them that you were being 10:42
11 unfairly targeted by the Commissioner, Commissioner
12 O'Sullivan?

13 A. Well, I felt it was a robust investigation into me.

14 CHAIRMAN: No, you really have to answer the question
15 please, Superintendent. 10:42

16 A. Yes. Well, by the very nature --

17 CHAIRMAN: I mean, if you take the view that, for
18 instance, it's a trumped up charge, we've all been
19 through the process of being in the criminal courts,
20 out of the criminal courts and you do hear that kind of 10:42
21 thing, 'The police invented it' etcetera, etcetera.
22 Sometimes it doesn't go down very well --

23 A. Yeah.

24 CHAIRMAN: -- but you do hear it a lot. So if you
25 think this was a trumped up charge, any of the three 10:42
26 things they were looking at, or the four things they
27 were looking at, I think I need to hear that. Now, if
28 you feel, on the other hand, you were completely in the
29 wrong and you'd done something wrong, therefore it

1 would seem, to me certainly, unless there's some other
2 reason that I'm not aware of, that they were perfectly
3 right to investigate you. So I mean, I think you do
4 need to take a stance on the matter one way or the
5 other please. 10:43

6 A. I don't deny the right of a Garda Commissioner to
7 investigate any member and I accept that.

8 121 Q. MR. MCGUINNESS: You see, one interpretation of it is
9 that you were enlisting, or attempting to enlist both
10 media and political support for a narrative that you 10:43
11 were being unfairly investigated and unfairly
12 targeted --

13 A. No.

14 122 Q. -- isn't that right?

15 A. No, I wouldn't, I wouldn't support that. 10:43

16 123 Q. You wouldn't support that?

17 A. Yeah.

18 124 Q. Well, what were you doing?

19 A. I made my protected disclosure.

20 125 Q. Yeah. And in terms of the matters being investigated 10:43
21 by Clerkin, you knew precisely what they were
22 investigating, isn't that right?

23 A. That's right, yes.

24 126 Q. Because they were into your actions that you had done
25 and that you've now admitted you did, isn't that right? 10:43

26 A. That's right.

27 127 Q. Yeah. So you'd nothing to complain about, isn't that
28 right?

29 A. Well, as I said I made my protected disclosure long

1 before these matters came to finality.

2 128 Q. Yeah. And is that why you made it, because all of
3 these things were in the balance?

4 A. Absolutely not.

5 129 Q. Well, why did you make it in October or September 2016? 10:44

6 A. I made it, as I said, because I wanted to do the right
7 thing.

8 130 Q. The right thing? Okay. Well, we'll come back to that.
9 Just going back to your statement that we've been
10 looking at, at page 218. 10:44

11 A. What volume is that, Mr. McGuinness?

12 131 Q. It's in Volume 1 again, Superintendent. At line 22 --

13 A. Sorry, Mr. McGuinness, what page again, sorry?

14 132 Q. I'm sorry, Superintendent, page 218.

15 A. 218. Thank you. 10:45

16 133 Q. Now, the question there is:
17
18 "I have been asked whether I provided any information
19 to the following journalists, Debbie McCann of the
20 Irish Daily Mail or Eavan Murray of the Irish Sun, 10:45
21 which led these journalists to separately attend at the
22 home of Ms. D in early 2014 and to seek to interview
23 Ms. D for the purpose of publishing newspaper articles.
24 If yes, I have been asked to provide in detail all
25 attendant circumstances in respect of these contacts." 10:45
26
27 And the answer was:
28
29 "I was aware they were going up there. I did not

1 discourage it. I did not know if I knew Ms. D's name.
2 I knew that Ms. D's family lived up in Cavan. I don't
3 know if I knew their address. I don't think so. I do
4 remember Debbie McCann and Eavan Murray contacting me
5 separately and telling me at the time that they were 10:45
6 going to do a story before each of them went up to
7 Cavan. I never had the whole detail of the Ms. D
8 allegations. I never had the minutiae of the exact
9 allegations by Ms. D against Sergeant McCabe. I never
10 saw the investigation file. I did not know that it was 10:46
11 Mr. D's daughter who made allegation against Sergeant
12 McCabe. I don't think I gave these journalists any
13 information about the address of Ms. D. I recall they
14 had a fair amount of information themselves. I was
15 aware they were going to go to the house, yes. I did 10:46
16 not discourage them from attending Cavan. I would have
17 encouraged them. I do believe that I would have texted
18 or contacted the former Commissioner Callinan at the
19 time about what the journalists told me. My strong
20 recollection is that both journalists contacted me on 10:46
21 my work mobile phone. In the context of timing, it
22 would have been post-PAC when they contacted me,
23 post-January 2014."

24
25 Now, there's a lot of statements in there I'd like your 10:46
26 assistance on. But first, your solicitor had
27 volunteered a list of nine names in April.

28 A. Mm-hmm.

29 134 Q. You hadn't come to the Tribunal with any other names,

1 isn't that right?

2 A. Yes.

3 135 Q. And why was that?

4 A. They're the names I provided at the time.

5 136 Q. Yeah, but you knew whom you had been in most contact 10:47
6 with at this period of time, isn't that right?

7 A. Yes. But as I said, I subsequently added names to that
8 list.

9 137 Q. Well, you didn't add names. You didn't add names.
10 when did you ever add a name to the list? 10:47

11 A. Well, with Debbie McCann and Eavan Murray.

12 138 Q. Well, let's come to that in a moment. But the person
13 you had most contact with, journalist, at this point in
14 time was Ms. Eavan Murray, isn't that right?

15 A. That's right, yes. 10:47

16 139 Q. Now, how is it that in neither your first statement to
17 the Tribunal, in your first interview or in your
18 solicitor's list you omitted Ms. Murray's name
19 completely?

20 A. Well, I added it in, I added it in a subsequent 10:48
21 statement.

22 140 Q. Well, that's not the question I asked you. Why did you
23 omit it? Because you must've omitted it deliberately.

24 A. No.

25 141 Q. Well, how could you forget to include it, that's what 10:48
26 I'm just --

27 A. But it wasn't a case of forgetting --

28 142 Q. -- puzzling towards?

29 A. It wasn't a case of forgetting, Mr. McGuinness. I

1 always put all the information, as it came available to
2 me, before the Tribunal.

3 143 Q. Ah, well sure, as it became available to you? I mean,
4 this is something you knew from 2014.

5 A. Mm-hmm. 10:48

6 144 Q. Isn't that right?

7 A. Well, I put all this information before the --

8 145 Q. This wasn't new information becoming available to you
9 in September 2017, isn't that right?

10 A. But I put all this information before the Tribunal. 10:49

11 146 Q. Well, you didn't.

12 A. But, I did.

13 147 Q. And of concern on one interpretation is that the
14 Tribunal had heard the evidence from the D family last
15 summer, before you were interviewed, when Mr. D, Mrs. D 10:49
16 and Ms. D gave evidence and the evidence emerged about
17 the visit of these two ladies.

18 A. Mm-hmm.

19 148 Q. Isn't that right?

20 A. That's right. 10:49

21 149 Q. That's right. And that enabled the investigators to
22 raise these issues with you, isn't that right?

23 A. And I confirmed those issues.

24 150 Q. And you said in answer to a later question -- well,
25 perhaps we'll come to that in a moment. But just 10:50
26 sticking on this paragraph; you knew from 2014 that
27 these journalists were trying to get the Ms. D story,
28 isn't that right?

29 A. Yes.

1 151 Q. You knew it suited the agenda?
2 A. Yes.

3 152 Q. You knew they were well disposed to the Commissioner,
4 isn't that right?
5 A. I don't know how they're well disposed towards the 10:50
6 Commissioner, but --
7 153 Q. Well, they're well disposed towards you.
8 A. I don't know whether they're well disposed towards me.
9 I just, information that I spoke to them about.

10 154 Q. Yeah. And you had briefed both of these, on your own 10:50
11 account, the previous year?
12 A. Yeah.

13 155 Q. And whilst never being in a position to direct
14 journalists, you were hopeful they might be interested,
15 isn't that right? 10:50
16 A. That's right.

17 156 Q. And they were interested?
18 A. Yes.

19 157 Q. They became interested?
20 A. Yes. 10:51

21 158 Q. And they called you to discuss it, isn't that right?
22 A. Well, as I said, I would've been in conversational
23 piece with them in relation to Sergeant McCabe. They
24 were doing an interest in the story. How they went and
25 did the story was their business. 10:51

26 159 Q. Yeah. But the purpose of which was to perhaps lead
27 them to publish something that showed Sergeant McCabe
28 in a poor light?
29 A. Well, how they published and if they published was a

1 matter for them.

2 160 Q. Of course. Of course, that is their matter. But that
3 was your intention as part of the campaign?

4 A. Well, my intention was, as I said yesterday, was to
5 give the narrative in relation to the attitude of 10:51
6 senior Garda management to Sergeant McCabe. How they
7 processed it and how they dealt with it was a matter
8 for their own journalistic workings.

9 161 Q. Just looking at a number of statements in this
10 paragraph; you did know Ms. D's name, you knew the 10:52
11 surname, isn't that right?

12 A. I knew the surname, yes.

13 162 Q. Yes. You knew they lived in Cavan.

14 A. Yes.

15 163 Q. You say in the middle there "I don't know if I knew 10:52
16 their address". Is that not something that you'd know
17 whether you knew it or not?

18 A. I wouldn't -- I don't know their address. I'm not
19 familiar with Cavan.

20 164 Q. Well, you see, that's not what you said. You say "I 10:52
21 don't know if I knew their address". It seems to imply
22 that you might've known their address or that you...

23 A. No, I never knew their exact address. I knew they
24 lived in Cavan.

25 165 Q. Well, you see, it would've been easy to say that, 10:52
26 rather than saying "I don't know if I knew their
27 address, I don't think so". Now, you had previously
28 sought to access the Ms. D file, isn't that right?

29 A. That's right, yes.

1 166 Q. And you referred here to never seeing the investigation
2 file.
3 A. Yes, never saw it.
4 167 Q. But did you know there was a file in the Commissioner's
5 office? 10:53
6 A. No.
7 168 Q. A synopsis of allegations that had been made in
8 relation to Sergeant McCabe?
9 A. No.
10 169 Q. On which were details of the alleged sexual assault? 10:53
11 A. I wouldn't be privileged to any documents --
12 170 Q. Pardon?
13 A. I wouldn't be privileged to any documents in the
14 Commissioner's office.
15 171 Q. But sure, you were trying to see the file originally. 10:53
16 A. I asked the Commissioner.
17 172 Q. Yeah. And did he direct you towards this file?
18 A. No.
19 173 Q. Did he provide you with that file?
20 A. No. 10:53
21 174 Q. Did you see the file when you were going in and out of
22 the Commissioner's office at any stage?
23 A. No.
24 175 Q. You see, the file seems to, in its summary as contained
25 in the synopsis, seems to veer very close to the 10:54
26 details that Ms. McCann had, as related by Ms. O'Reilly
27 in her statement. Do you recall that?
28 A. Well, I haven't seen it, but...
29 176 Q. Well, I asked you about Ms. O'Reilly's statement

1 yesterday.

2 A. Yes.

3 177 Q. And you probably recall that?

4 A. Yes.

5 178 Q. The detail, there was some detail in it of the alleged 10:54
6 offence.

7 A. I knew no intimate detail of the allegation.

8 179 Q. Now, you had extensive phone contact with Ms. McCann
9 and Ms. Murray --

10 A. That's correct. 10:54

11 180 Q. -- isn't that correct?

12 A. That's correct.

13 181 Q. And did you keep in touch with them to find out who had
14 got to the house first?

15 A. No. 10:55

16 182 Q. Well, did Ms. McCann never tell you that she went
17 there, found the house, but didn't get speaking to
18 Ms. D?

19 A. She told me afterwards that she'd gone to the house,
20 but had not obtained any interview. 10:55

21 183 Q. Yeah. And she told you that, presumably, in one of
22 your phone calls?

23 A. Yes.

24 184 Q. Yeah. So she did tell you how she got on?

25 A. Well, briefly, in the sense that I didn't know the 10:55
26 exact details of her engagement at the house.

27 185 Q. Yeah. And you say you believe you would've texted the
28 Commissioner Callinan at the time about what they told
29 you?

1 A. Yes.

2 186 Q. Is that right?

3 A. Yes.

4 187 Q. And you were encouraging them also?

5 A. I wasn't discouraging them. 10:56

6 188 Q. Pardon?

7 A. I wouldn't discourage them.

8 189 Q. Well, you've said "I would have encouraged them"?

9 A. Yes.

10 190 Q. It's in the statement there. 10:56

11 A. Yeah.

12 191 Q. At page 219, line 244 you're being asked if you confirm
13 the information that it was Mr. D's daughter that had
14 made the allegation against Sergeant McCabe "and I
15 believe that I did confirm that to them both 10:56
16 separately."

17 A. Yes.

18 192 Q. So, you've two journalists asking you who's made a
19 sexual assault against Sergeant McCabe and her
20 identity, isn't that right? 10:56

21 A. Well, not -- I didn't know her name. But yes, it was
22 the daughter of a fellow member.

23 193 Q. And why were you confirming that to them?

24 A. Because it was well known it was, that the allegation
25 was from the daughter of a fellow member. 10:57

26 194 Q. Well, if it was well known, you seem to be saying here
27 in the next sentence "they would have known this from a
28 previous briefing". So were you telling them something
29 new or were you giving them some additional piece of

1 information?

2 A. I wasn't giving them any additional information. It
3 was well known that the victim was the daughter of
4 another member.

5 195 Q. Well, you said in your statement that your attitude to 10:57
6 Sergeant McCabe would be well known, is that right?

7 A. Yes.

8 196 Q. And well known to them from what you had said to them?
9 A. Yes.

10 197 Q. And why were they ringing you to tell you that they 10:58
11 were both going up?

12 A. I can't tell you why they were ringing me, why they
13 were going up. As I said, journalists would often tell
14 me they were doing stories, or proposed to do stories
15 and end up not doing them or doing them. 10:58

16 198 Q. Yeah. Well, you see, Ms. McCann has told us that she
17 had to run this by her editor, I think Mr. Cox, and get
18 approval for it and so forth and that they sanctioned
19 the trip up, as it were, and there was a discussion
20 about taking a silhouette photographer perhaps. But do 10:58
21 you recall her reporting to you that in fact she'd got
22 the green light to go up?

23 A. She didn't give me the exact, that she got the green
24 light --

25 199 Q. Yeah. 10:58

26 A. -- I didn't ask her the mechanics of how she engaged
27 with her management.

28 200 Q. Okay. And you, on your account, were keeping
29 Commissioner Callinan informed, is that right?

1 A. That's right, yes.

2 201 Q. You don't refer to Commissioner O'Sullivan here.

3 A. Well --

4 202 Q. May I take it that you weren't keeping her informed of
5 this? 10:59

6 A. Well, my usual was to text both the Commissioner and
7 Deputy Commissioner. That was always my modus
8 operandi.

9 203 Q. Well, I know you've referred to your modus operandi,
10 but it's not clear from your own statement whether you 10:59
11 texted Commissioner Callinan or contacted him in some
12 other way here.

13 A. The only way I ever contacted him was either by text or
14 by phone call.

15 204 Q. But sure that's not right; you told us that you'd 10:59
16 frequently be called into his office to discuss matters
17 relating to Sergeant McCabe.

18 A. Yeah, but in relation to updates --

19 205 Q. Updates?

20 A. -- Mr. McGuinness, I would always send either by text 11:00
21 or by phone call.

22 206 Q. You see, what I don't understand is, you don't refer to
23 Commissioner Callinan -- or O'Sullivan in this context
24 at all. And is that an omission on your part or did
25 you intend to include her on that? 11:00

26 A. No, as I said, I always made it clear in all my
27 statements and all my -- that I always kept
28 Commissioner Callinan and Deputy Commissioner
29 O'Sullivan updated at all times in relation to Maurice

1 McCabe.

2 207 Q. The investigators asked you, at page 220, if they
3 informed you of the outcome of their visits to Ms. D's
4 house, and you say: "They both told me that they
5 called to the house." 11:01

6 A. Yeah.

7 208 Q. "I assumed after that they were going to write an
8 article." And You say: "I don't think they told me
9 about what happened at the house."
10 11:01

11 Are you sure about that?

12 A. No, they wouldn't tell me about the mech -- what
13 happened in the house. I've no recollection of them
14 telling me how they got on at the house or what
15 engagement they had at the house. 11:01

16 209 Q. Well, I mean, why would they be bothering to tell you,
17 ringing you up and saying 'Look, we've called to the
18 house', full stop and not tell you anything about
19 what'd happened? Because you were intensely interested
20 in what might happen, isn't that right? 11:01

21 A. Journalists would tell me what they wanted to tell me.
22 They wouldn't tell me always all the information and
23 the engagement they would have.

24 210 Q. I just want to ask you about a portion of Ms. McCann's
25 statement, it's at Volume 14. I don't know if you can 11:02
26 go to page 3730?

27 A. I can, Mr. McGuinness.

28 211 Q. Do you see line 20?

29 A. Yes.

1 212 Q. "In February 2014 we had been hearing murmurings about
2 Sergeant McCabe. As I say, it was around the February
3 2014 period."

4
5 Now, you had in fact briefed her prior to that, on your 11:03
6 own evidence, isn't that right?

7 A. Yes.

8 213 Q. "The Gardaí were big in the news at this point. Martin
9 Callinan had made the disgusting remark. There was
10 also controversy surrounding Alan Shatter at that 11:03
11 point. I decided to look into the murmurings of an
12 allegation against Sergeant McCabe a little more
13 closely at that point. I approached a number of
14 different sources in respect to trying to firm up the
15 allegation." 11:03

16
17 And she certainly contacted you in advance of going up?

18 A. Yes.

19 214 Q. And you confirmed -- what did you confirm to her?

20 A. Well, I confirmed that there'd been an allegation 11:04
21 against Sergeant McCabe, it had been investigated in
22 2006, it had gone to the DPP, he'd been cleared and
23 that the victim had been the daughter of another
24 member.

25 215 Q. And is that it? 11:04

26 A. That's it.

27 216 Q. Well, did you make it clear that it was an allegation
28 of alleged sexual abuse?

29 A. A sexual allegation.

1 217 Q. But did you make clear it was on someone who was a
2 child at the time?

3 A. I didn't know the intimate details of the whole
4 allegation, Mr. McGuinness, but it was known, do you
5 know, it was known that it was the child of another 11:04
6 member.

7 218 Q. Well, you see, that's what I find difficult to just
8 understand at the moment and I'd like your evidence on
9 this. You were, on your own account, running this
10 campaign on behalf of the Commissioner? 11:05

11 A. I was carrying out the instructions of the
12 Commissioner.

13 219 Q. Yeah. And did you not need to know the details, at
14 least --

15 A. No. 11:05

16 220 Q. -- to make a decision 'well, I can safely pass on this
17 detail to this journalist or that detail to another
18 journalist'?

19 A. The instruction --

20 221 Q. Or to be able to field a question about something? 11:05

21 A. The instructions I got from the Commissioner was to
22 draw the media attention to the fact about the
23 motivation of Sergeant McCabe in bringing these issues
24 about the penalty points to the public forum and that
25 it was driven by revenge based upon the allegation and 11:05
26 the investigation into him. I never got into the
27 minute detail of the allegation.

28 222 Q. Okay. She says at the bottom here:
29

1 "I approached a number of different sources in trying
2 to firm up the allegations."

3
4 And you agree you spoke to her in that respect.

5 11:05
6 "And I established that there had been an allegation
7 made around the 2006/2007 mark."

8
9 Now, did you provide that piece of information?

10 A. Yes, the 2006, yeah. 11:06

11 223 Q. "I wasn't sure of the date precisely. I was also aware
12 it related to a child at that point who now in 2014 was
13 a teenager."

14
15 You must've told her that? 11:06

16 A. No. No, I didn't.

17 224 Q. Pardon?

18 A. No, I didn't say that. As Ms. McCann says, she'd
19 numerous sources --

20 225 Q. Okay. 11:06

21 A. -- I wasn't...

22 226 Q. "I established it was an allegation of inappropriate
23 touching."

24
25 Presumably you were in a position to tell her that? 11:06

26 A. No, I didn't know that.

27 227 Q. Well, what did you tell her about the nature of the
28 sexual assault?

29 A. I just -- the nature I told her was that Sergeant

1 McCabe had been investigated in relation to a sexual
2 assault back in 2006, an investigation had been carried
3 out, a file gone to the DPP, he'd been cleared and this
4 was the root cause of his motivation, revenge on An
5 Garda Síochána. I did not know the intimate details 11:06
6 of --

7 228 Q. Yeah, but did she not ask you for, well, some detail as
8 to what he had done or what --

9 A. No.

10 229 Q. -- he was meant to have done? 11:06

11 A. No. As she said, she'd numerous other sources. I have
12 never known --

13 230 Q. well, did she say that to you at the time?

14 A. No, but I'm just saying from her statement.

15 231 Q. Yeah. 11:07

16

17 "Around the information that I received from by News
18 Editor Robert Cox, who in turn spoke to our overall
19 editor in Mail on Sunday, Conor O'Connell. As would be
20 usual, I reported along my line manager Robert Cox. I 11:07
21 run everything by him first. The decision was made in
22 mid to late February 2014. The decision was made to
23 approach the family of Ms. D and ask if they would like
24 to comment on the allegation."

25 So just in terms of your contact with Ms. McCann, 11:07
26 you've a number of texts to her --

27 A. Yes.

28 232 Q. -- you've a call on 15th February. And they're at page
29 6990, if you'd like to just look at those.

1 A. Is this in the same volume?
2 233 Q. It's in volume 26. If you go to 6989.
3 A. Volume which?
4 234 Q. Volume 26.
5 A. 26. Yeah. 11:08
6 235 Q. So in the middle of the page there, there's a number of
7 calls; there's a call to Ms. McCann at 4:28 on 12th
8 February, then there's a number of texts later the
9 following day.
10 A. Yeah. 11:08
11 236 Q. Now, would that accord with your recollection of when
12 she might've told you of her intention to go up?
13 A. Possibly.
14 237 Q. Possibly?
15 A. Yeah. 11:09
16 238 Q. You see, she says here:
17
18 "The next morning I travelled to Ms. D's family home.
19 I think from recollection it was a Friday, either 14th
20 or 21st." 11:09
21
22 So, these phone calls and texts are before 14th.
23 A. Mm-hmm.
24 239 Q. So it would seem possible that you could've had that
25 conversation at that point in time; would you agree 11:09
26 with that?
27 A. I can't recall, you know, the nature of --
28 240 Q. Yeah?
29 A. -- the conversations, I just see from the records

1 you're showing me here.

2 241 Q. Okay. On the next page, 6990, there's a call from you
3 to Ms. McCann on 15th February, 17:11:58, it's call of
4 approximately six minutes seventeen.

5 A. Yeah. 11:10

6 242 Q. And if she didn't go on 14th, the second date she
7 mentioned here was 21st. And there seemed to be then
8 this call to her on 15th and a number of other texts.
9 Presumably it's possible that you could've discussed
10 matters with her in that call? 11:10

11 A. I haven't a recollection, Mr. McGuinness --

12 243 Q. Yeah. Well, have you any recollection of what you were
13 ringing her about on these two occasions?

14 A. As of now, no, I can't have -- I don't have a
15 recollection of what I was ringing her about. As I 11:10
16 said, she worked as a Sunday journalist. They'd be
17 working on a multiplicity of stories at the time.

18 244 Q. Yes. You see, after the call on 15th at 17:11:58, if
19 we go up the page there, there seems to be a call
20 immediately then to Mr. Williams. Do you see that? 11:11

21 A. Sorry, what date is that again ?

22 245 Q. This is on 15th February.

23 A. 15th February, yes. Of February?

24 246 Q. Yes.

25 A. I'm on March here at the moment. 11:11

26 247 Q. It's on page 6990.

27 A. 6990, sorry. Oh, yes. Yes.

28 248 Q. And you see that immediately, it would seem fairly
29 closely after the call --

1 A. Yeah.

2 249 Q. -- you phone Mr. Williams and would have appear to have
3 been talking to him.

4 A. Yes.

5 250 Q. Can you recollect what that would be about? 11:11

6 A. No, I can't.

7 251 Q. Okay. But you were aware presumably, or were you at
8 that stage, of his interest in going up?

9 A. No.

10 252 Q. Okay. well, were you possibly letting him know that 11:11
11 'Look, Debbie McCann is going up to try and get the
12 story'?

13 A. No. I never discussed interactions between different
14 journalists.

15 253 Q. And you see, you appear to have sent two texts, a text 11:12
16 to Commissioner Callinan and Commissioner O'Sullivan
17 after that.

18 A. Yes.

19 254 Q. Not immediately after it, obviously, but in the period.
20 One of them was a call actually, sorry, to Commissioner 11:12
21 Callinan.

22 A. Yeah.

23 255 Q. And have you any recollection what that phone call was
24 about?

25 A. Em, I can't recall at the moment, but it would always 11:12
26 be updates, it always would be follow-ups, bringing
27 information to his attention.

28 256 Q. Yeah. It could be anything then, is it?

29 A. It could be anything, yeah.

1 257 Q. Okay. There's four or five other calls to Mr. Williams
2 then on 17th March.

3 A. I think in relation to February, Mr. McGuinness --

4 258 Q. Yes?

5 A. -- February was a very intense period -- 11:12

6 259 Q. Yes.

7 A. -- with the whole GSOC story.

8 260 Q. Yes.

9 A. And I knew Mr. Williams was heavily engaged in covering
10 that story at the time. So that was the biggest story 11:13
11 going on at that time.

12 261 Q. Yes.

13 A. And I would've engaged with Paul Williams in relation
14 to that GSOC story.

15 262 Q. Yes. On page 6991 you appear to have made a call to 11:13
16 Ms. McCann on 21st February, which was the second of
17 the two dates she initially nominated.

18 A. Yes.

19 263 Q. Do you -- perhaps were you just leaving her a message?
20 Any recollection why you were ringing her? 11:13

21 A. As I said, if she was -- if that's after the date she
22 would've been up there, she would've been telling me or
23 discussing her interaction with that family.

24 264 Q. Yes. And we subsequently got a letter written on
25 behalf of Ms. McCann, indicating that she's now not so 11:14
26 sure whether it was either of those dates and she seems
27 to believe it may not have been 21st, for a reason that
28 I needn't trouble you with, and that it might've been
29 later in the month. But if it was later in the month

1 then, could I ask you to look at 6992?

2 A. Okay.

3 265 Q. There's a short call to Ms. Murray at 9:54 in the
4 morning there.

5 A. Yes. 11:14

6 266 Q. And then later in the afternoon there's a call to
7 Mr. Williams.

8 A. Yes.

9 267 Q. And any idea what that's about?

10 A. The Mr. Williams call would definitely be, in February 11:14
11 was the whole GSOC story.

12 268 Q. Okay. On 26th then there's two calls to Ms. Murray and
13 then there's a number of texts to Debbie McCann and
14 then there's a call to the Commissioner. And then in
15 the afternoon, after one o'clock, there appear to be 11:15
16 two calls to Ms. McCann at 13:15 and 13:59, there's a
17 call to Ms. Murray briefly at 15:32 and then there's
18 apparently two calls to Mr. Williams.

19 A. Em, as I said, the whole February issue is all tied
20 into the whole GSOC story. 11:15

21 269 Q. Okay. But is there a possibility that you were finding
22 out here what you've told the investigators; that each
23 of them told you they'd been to the house?

24 A. Well, they told me after they'd been to the house, yes.

25 270 Q. Yes. 11:16

26 A. Yeah.

27 271 Q. And you're not precisely sure when they went to the
28 house?

29 A. I can't recall the exact dates they were up there,

1 Mr. McGuinness.

2 272 Q. So it's more than possible that these could be calls by
3 you to find out had they been to the house?

4 A. Well, they'd be return calls, yes. Yes, I would accept
5 that. 11:16

6 273 Q. I mean, that's a real possibility?

7 A. Yes.

8 274 Q. And you seem to ring Mr. Williams shortly after trying
9 to get through to Ms. Murray there.

10 A. Yes. 11:16

11 275 Q. Perhaps it's a coincidence, but these are the three
12 journalists who actually went to Ms. D's house.

13 A. Well, I never knew Ms. Williams -- or, Mr. Williams had
14 an interest in the Ms. D case until he told me.

15 276 Q. Okay. Well, when did he tell you? 11:16

16 A. That phone call on that Saturday, when he told me he
17 was up there.

18 277 Q. And he asked you nothing about the case in February
19 then, is that right?

20 A. In February it was all about the GSOC Garda story. And 11:17
21 he was covering it extensively.

22 278 Q. And just to be clear, are you maintaining you had
23 previously briefed Mr. Williams about Sergeant
24 McCabe --

25 A. Yes. 11:17

26 279 Q. -- and the sexual abuse?

27 A. Yes.

28 280 Q. And is that on one occasion or more?

29 A. Like, I mean, these would be conversational pieces,

1 they wouldn't be the same conversation every time.
2 But, you know, his name would come up as regards, do
3 you know, what was in the media at the time and that.
4 281 Q. well, just going forward to March, obviously by the
5 time Ms. Murray and Ms. McCann had contacted you -- 11:18
6 A. Yes.
7 282 Q. -- after their visit --
8 A. Yes.
9 283 Q. -- you must've asked them 'Are you going to get the
10 story out of this?' 11:18
11 A. well, I would've asked were they writing a story. When
12 it was going to be written, I don't know.
13 284 Q. Yeah. well, it gets published is another matter, it
14 has to go through --
15 A. Yeah. 11:18
16 285 Q. -- legal and editing and...
17 A. Yeah.
18 286 Q. But did Ms. McCann tell you that her editors weren't
19 interested in pursuing the story?
20 A. No, she didn't tell me that. 11:18
21 287 Q. Okay. well, just going back to Ms. McCann's statement
22 at 3731 - it's in volume 14 - at line 32 she says:
23
24 "I think from recollection it was a Friday, either 14th
25 or 21st February. I wasn't sure of the exact location 11:19
26 of the house, so when I arrived in the area I asked
27 some neighbours for directions. On arrival at Ms. D's
28 house, I got out of my car and knocked on the door. A
29 woman came out who I believe was Ms. D's mother. I

1 told her why I was there. I identified myself as
2 journalist with the Irish mail on Sunday. She appeared
3 to me to be a little upset. She made reference to
4 listening to the one o'clock news, so it must have been
5 that time of day. The reason I gathered she was upset 11:19
6 was that Sergeant McCabe's name had been mentioned on
7 the radio. I asked her would she would like to talk a
8 little bit more and I recall I gave her my card that
9 would have had my mobile number and contact details on
10 it. She was very nice and polite. I think we left it 11:19
11 that she would think about it or words to that effect.
12 She did not speak to me about the allegation. I was on
13 my own and only spoke to Mrs. D. We said good-bye. I
14 think I apologised if I had upset her, as if in my
15 presence brought up these matters. I got into my car 11:20
16 and drove to a petrol station. I rang my news editor
17 Robert Cox. I told him what had been said. I said
18 that Mrs. D had been upset at Sergeant McCabe's name
19 being mentioned on the news and I thought there may be
20 a possibility she would talk in the future. He then 11:20
21 told me to come back to Dublin at this point. This is
22 the only member of Ms. D's family I had contact with,
23 the only contact I had with Ms. D's family. Sometimes
24 in these cases a letter is sent as a follow-up. In
25 this case I don't believe it was. I can find no record 11:20
26 of such correspondence.

27
28 Shortly after this meeting I went on maternity leave on
29 22nd March 2014. I returned to work in September 2014.

1 Ms. D's family were never contacted by me subsequently.
2 There were multiple sources in relation to the
3 allegation against Maurice McCabe made by Ms. D. There
4 had been whisperings in a very general sense and I had
5 been approaching people trying to firm up the 11:20
6 information. Whisperings would have been in a
7 professional capacity where I would have been hearing
8 them. Obviously source protection is integral to being
9 a journalist and I cannot reveal those sources. I also
10 believe I cannot reveal the names of the persons who 11:21
11 firmed up any information. I don't believe that the
12 waivers I have been shown relating to former
13 Commissioner Martin Callinan and Commissioner
14 O'Sullivan and Superintendent David Taylor release me
15 from my obligations in respect to journalistic 11:21
16 privilege."

17
18 And on that point, as someone who has given evidence
19 that he briefed Ms. McCann, you've provided the waiver
20 and you'd like her, amongst all of the others, to come 11:21
21 forward and assist the Tribunal?

22 A. Yes.

23 CHAIRMAN: what if the story she has to tell,
24 Superintendent - I don't know obviously - is completely
25 different to the story you're telling me? In other 11:21
26 words, what if the story is that you told her the name,
27 the address of Ms. D, that you told her the details
28 from the file, that you encouraged her to go up there
29 and that you checked with her all the way through in

1 relation to how she was getting on and whether that
2 story was ever going to actually hit the newsprint;
3 what if it be that story, would you still say you wish
4 to waive your obligation?
5 A. Completely, Chairman. 11:22
6 288 Q. MR. MCGUINNESS: Just in that regard, have you spoken
7 to Ms. McCann or Ms. Murray directly and asked them to
8 come forward at any stage?
9 A. No.
10 289 Q. Or any other journalist? 11:22
11 A. No.
12 290 Q. And have you spoken to them, not in the context of a
13 waiver, but in order to discuss these matters?
14 A. No. Like, I mean, as I said, I provided my statements.
15 291 Q. Yeah. 11:22
16 A. I signed the waiver.
17 292 Q. Yeah. No, I understand that answer, you have provided
18 your statements. But the question was: Have you
19 spoken to them in order to discuss these matters?
20 A. No. 11:23
21 293 Q. On any occasion?
22 A. No.
23 294 Q. Have you spoken to them since the setting up of the
24 Tribunal?
25 A. I haven't spoken to Ms. McCann. Ms. Murray spoke to 11:23
26 me, yes.
27 295 Q. In what context?
28 A. In just a conversational piece, it wasn't anything to
29 do with the Tribunal.

1 296 Q. well, about the issues in the Tribunal?
2 A. No, no, not the issues. I wouldn't discuss that.
3 297 Q. what issues then?
4 A. It was in the sense of a conversational piece, personal
5 pieces in relation to personal matters. 11:23
6 298 Q. well, we'll leave that for the moment. But I want to
7 draw your attention to what was put to Ms. McCann --
8 A. Yes.
9 299 Q. --n at one point. And at page 3779 -- sorry, 3739, at
10 line 161, Ms. McCann had been asked: 11:24
11
12 "Have you any information or evidence about an
13 orchestrated campaign directed by senior officers of An
14 Garda Síochána to discredit Sergeant Maurice McCabe by
15 spreading rumours about his professional/personal life? 11:24
16 Ms. Alison O'Reilly of the Irish daily mail has stated
17 the following to the disclosure Tribunal:
18
19 ' I do not have any direct information. I was told by
20 my former colleague in the Irish Mail on Sunday, Debbie 11:24
21 McCann, between 2013 and 2014 that Superintendent Dave
22 Taylor and then acting Commissioner Nóirín O'Sullivan,
23 told her Maurice McCabe abused a girl when she was a
24 child. Debbie told me that the abuse was covered up
25 because Mr. McCabe was a Garda and the case was never 11:24
26 given a Pulse number' ."
27
28 And the question then to Ms. McCann is as follows:
29

1 "I have been asked whether what Ms. O'Reilly has stated
2 above is accurate and whether I wish to make any
3 comment."

4
5 And the answer given is:

11:25

6
7 "I wasn't involved in any orchestrated campaign to
8 malign Sergeant McCabe. I have no evidence of any
9 orchestrated campaign to malign Sergeant McCabe. The
10 allegations that we were looking at, at the time were 11:25
11 discussed in the office. I certainly did not
12 negatively brief Alison O'Reilly. We certainly would
13 have discussed the allegations. As journalists, we
14 become aware of allegations all of the time. Our job
15 is to investigate them, see if we can substantiate them 11:25
16 and publish them if they are in the public interest.
17 But until proven, they are treated only as an
18 allegations. The allegations were discussed in a
19 private capacity. They were never going to be aired
20 and shared with anyone else. I worked primarily on 11:25
21 crime with the Mail on Sunday. Alison would also have
22 worked on crime. We would have discussed stories all
23 the time together. She was a colleague and friend at
24 that point and any discussion around stories were in
25 that context. Just to say, it wasn't a briefing in any 11:25
26 description, it was a discussion among colleagues. To
27 clarify, any discussion was into the allegation we were
28 looking at already as described above in my statement."

29

1 And she doesn't appear to dispute the accuracy of what
2 Ms. O'Reilly said she said, do you see that?

3 A. I see that, yes.

4 300 Q. So would you like to comment then on what Ms. O'Reilly
5 has said there, that you provided these details? 11:26

6 A. I never knew the intimate details of the allegation.

7 301 Q. And does it in fact reflect a position that you were,
8 in effect, attempting to orchestrate the airing of
9 newspaper stories about the allegation that had been
10 made against Sergeant McCabe, would that be a fair 11:27
11 description?

12 A. What I was putting by the journalists is the narrative
13 in relation to Sergeant McCabe's motivation and where
14 this motivation stemmed from. And how the journalists
15 took that forward was their prerogative. 11:27

16 302 Q. Yeah. But you were hoping to light the match, as it
17 were, isn't that right, and get the publicity?

18 A. Well, I was hoping to draw their attention to Sergeant
19 McCabe's motivation.

20 303 Q. Yeah. 11:27

21 A. How they took that forward and in what form they took
22 that forward was their sole choice.

23 304 Q. And it was to point them northwards to Cavan, isn't
24 that right, to the home of Ms. D?

25 A. It was to point them towards the motivation of Sergeant 11:28
26 McCabe.

27 305 Q. Yeah. And to go to Ms. D's house, isn't that right, to
28 try and get a story from her?

29 A. I never directed them to go to Ms. D's house.

1 306 Q. Ah, sure I know that. But we're not going to quibble
2 over the use of the word "direction", are we
3 Superintendent Taylor? What was your intent and
4 purpose?
5 A. My intention was to draw their attention to Sergeant 11:28
6 McCabe's motivation, acting on the instructions of the
7 Commissioner.
8 307 Q. Was it for that reason that you facilitated each of
9 those two ladies with information about the allegation,
10 Ms. D and Ms. Murray? 11:28
11 A. I didn't know the intimate details of the allegations.
12 308 Q. Whatever you did know you were providing to them?
13 A. Well, the allegation that I did know was there had been
14 an investigation in 2006.
15 309 Q. Yeah. I am not asking you what you knew, but the 11:28
16 purpose for which you were providing the information to
17 them was to enable them to go up, if they wanted to
18 pursue the story?
19 A. Well, I provided them with that narrative, the
20 motivation, they would have a lot more sources that 11:29
21 they would go and verify and build their story.
22 310 Q. And having learnt of the outcome of their visits, you
23 had the interaction with Paul Williams, isn't that
24 right?
25 A. Yes. 11:29
26 311 Q. And you had the telephone calls with him, as indicated
27 on this, after his visit there --
28 A. Yes.
29 312 Q. -- isn't that right? And just bearing in mind that,

1 does that refresh your memory as to whether that was
2 the only occasion on which you provided him with
3 information and that he may be correct in saying that
4 you hadn't previously briefed him?
5 A. I had previously spoke to him. But I didn't know he an 11:30
6 interest in the story.
7 313 Q. Now, could I just ask you about a different topic?
8 CHAIRMAN: Just, Mr. McGuinness, before you move on to
9 that, sorry, if I can perhaps clarify one thing,
10 superintendent, with you please. You say, am I correct 11:30
11 in thinking, Debbie McCann never asked you for the name
12 and address of Ms. D and what the allegation precisely
13 was?
14 A. No.
15 CHAIRMAN: And you never gave her that information? 11:30
16 A. I don't know that intimate detail, Chairman.
17 CHAIRMAN: You did not know the name, you did not know
18 the address --
19 A. No.
20 CHAIRMAN: -- you did not know precisely what the 11:30
21 allegation made was, and so, therefore you couldn't
22 have and didn't pass those on to her.
23 A. No, I didn't.
24 CHAIRMAN: You simply told her that there had been an
25 allegation against Maurice McCabe, a file had been sent 11:30
26 to the DPP, no prosecution had been directed and that
27 bitterness in consequence arose against his colleagues
28 arising out of that.
29 A. That's correct Mr. Chairman.

1 CHAIRMAN: And that is as far as you went with any
2 journalist.

3 A. That's correct, Mr. Chairman.

4 CHAIRMAN: And you feel that's as far as you could have
5 gone because at that stage you didn't know the name, 11:31
6 you didn't know the address, you didn't know precisely
7 what the allegation was, though you knew they probably
8 lived in County Cavan because they served in County
9 Cavan.

10 A. Yes, I did know that, Chairman. 11:31

11 314 Q. MR. MCGUINNESS: Just going back to one of your answers
12 in relation to contact with Ms. Murray.

13 A. Yes.

14 315 Q. Did you ask her, on the occasion when you spoke to her,
15 whether she would support your evidence at the 11:31
16 Tribunal?

17 A. No, I didn't.

18 316 Q. But she is the journalist that you had most contact
19 with in this period that we're looking at?

20 A. Yes. 11:31

21 317 Q. She is the journalist that you had an extraordinary
22 degree of contact with after you ceased to be Press
23 Officer, isn't that right?

24 A. That's correct, yes.

25 318 Q. The journalist to whom you, one could use the word, 11:32
26 leaked or disclosed, or whatever, you provided multiple
27 pieces of Garda information to her from 2014 onwards,
28 isn't that right?

29 A. That's a regrettable situation.

1 319 Q. Yeah. So I mean, you weren't acting as a Press Officer
2 in that capacity and I don't know whether she knew
3 that - did she know that?
4 A. I can't speak for her.
5 320 Q. You can't say? 11:32
6 A. Yeah.
7 321 Q. Well, it was common knowledge presumably that you must
8 have been moved?
9 A. Oh yes.
10 322 Q. A lot of journalists had expressed sympathy with you, 11:32
11 had they?
12 A. They had, yes.
13 323 Q. Yeah. And you knew you weren't Press Officer?
14 A. Yes.
15 324 Q. So did you not ask her whether she might support you in 11:32
16 your testimony of --
17 A. No.
18 325 Q. -- what you had been asked to do?
19 A. No.
20 326 Q. You never discussed it with her at all? 11:33
21 A. No.
22 327 Q. Okay. All right. We will leave that for the moment.
23 Now I did refer in passing to a file that had been
24 found in the Commissioner's office and I will just ask
25 you to look at it. I think we should have a copy to 11:33
26 hand up [SAME HANDED].
27 A. Thank you.
28 328 Q. Sir, this is one of the documents discovered by the
29 FSNI in respect of which Mr. McConnell gave evidence

1 last week, resulting from the electronic searches of
2 Garda Headquarters and this came from the
3 Commissioner's office. It's headed: "Confidential
4 report: Maurice McCabe. Complete synopsis." I just
5 want to draw your attention to, it should be the second 11:34
6 page, there's a lot of redactions on it?

7 A. Yeah.

8 329 Q. The page number is, in the new volume is 7225?

9 A. Yes.

10 330 Q. It's at the bottom of that page. There's a file 11:34
11 reference number which is apparently a discipline file
12 reference number. And it says:

13
14 "On the 4th November 2006, Ms. D, 14 years, made a
15 statement to Sergeant Denise Flynn and D/Sergeant James 11:34
16 Fraher. In the statement she alleges when she was six
17 years of age she was playing in the home of Garda
18 McCabe. Ms. D was playing with the member's children.
19 During the day she alleges Sergeant McCabe took hold of
20 her behind and began pressing against her. After a few 11:35
21 minutes it ended. The statement does not contain any
22 other details.

23
24 Inspector Noel Cunningham was appointed to investigate
25 criminal aspects on the matter. A file on the matter 11:35
26 was sent to the DPP, not recommending prosecution. On
27 the 24th August 2007 the DPP directed no prosecution.
28 Chief superintendent Monaghan decided not to initiate
29 discipline in the matter and the file was closed."

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And that is the complete synopsis. And it's a synopsis, the last event of which is recorded as occurring in 2013, and it was apparently available in the Commissioner's office. That appears to contain many of the details which Ms. O'Reilly apparently recites Ms. McCann as knowing. Does that help you?

11:35

A. I never had access to this file.

331 Q. You never saw that?

A. No.

11:36

332 Q. And did anyone read that out to you --

A. No.

333 Q. -- or tell you of its contents?

A. No.

334 Q. Thank you.

11:36

CHAIRMAN: But it does contain a name.

A. No. I never --

CHAIRMAN: I don't want anyone to mention the name, because let's for once let bygones be bygones, it hasn't helped anybody, clearly, this matter being brought up at all. But the Commissioner knew the name.

11:36

A. Yes.

CHAIRMAN: why didn't he tell you?

A. He didn't, Mr. Chairman.

CHAIRMAN: Did he tell you the rank or the place where the father of Ms. D served or what kind of relations he had with Maurice McCabe?

11:36

A. No. I was aware it was a daughter of another member, Mr. Chairman. I didn't know the intimate details.

1 CHAIRMAN: It's not much in the way of an intimate
2 detail.

3 A. Yeah, but no.

4 CHAIRMAN: People don't -- we have been going around
5 saying -- I've almost forgotten the name now. We've 11:37
6 been going around saying Ms. D for about a year and a
7 half. But no one would be doing that in Garda
8 Headquarters.

9 A. It was never brought to my attention. I never saw this
10 file, Mr. Chairman. 11:37

11 CHAIRMAN: And the Commissioner's briefing you but he
12 doesn't tell you that.

13 A. No. He verbally briefs me. He never handed me any
14 documentation or showed me any file.

15 CHAIRMAN: When did you first -- did you ever learn the 11:37
16 name?

17 A. Subsequently.

18 CHAIRMAN: From where? Because that name has not been
19 mentioned in here. It's not in any document the
20 Tribunal has sent out. Where did you get it from. 11:37

21 A. I just heard the name that --

22 CHAIRMAN: From who?

23 A. -- that it was a member's daughter.

24 CHAIRMAN: From who?

25 A. I don't know her actual name. 11:37

26 CHAIRMAN: I thought you told me you did?

27 A. Sorry, the surname, but I don't know her actual first
28 name, Mr. Chairman.

29 CHAIRMAN: Where did you get her surname?

1 A. Oh, I knew it was a member's daughter, I knew --
2 CHAIRMAN: I know that. We all know that.
3 A. Yeah.
4 CHAIRMAN: But I'm asking you where did you get her
5 surname from, superintendent? 11:38
6 A. I would have heard it from Garda Headquarters. It was
7 going around it was another member's daughter.
8 CHAIRMAN: Yes, but you're saying you didn't hear it
9 back in 2013/2014?
10 A. What I'm saying is, I would have known it was another 11:38
11 member's daughter and that name would have been known.
12 CHAIRMAN: I'm talking about a name.
13 A. I didn't know her first name, no. I knew --
14 CHAIRMAN: The second name.
15 A. I knew the surname, yes. 11:38
16 CHAIRMAN: So, did you pass on the surname to
17 journalists?
18 A. No. I didn't, no. No, I didn't.
19 CHAIRMAN: But you certainly would have got the surname
20 from this, you're saying certainly the surname was 11:38
21 mentioned in 2013/2014.
22 A. Oh yeah, the surname would have been known.
23 CHAIRMAN: Yes. And the rank of the dad?
24 A. Yes, would have been known, yes.
25 CHAIRMAN: Did the Commissioner tell you that? 11:38
26 A. No, he didn't, no.
27 CHAIRMAN: So what did he call her?
28 A. He didn't call her anything. Basically what he always
29 said is that Sergeant McCabe had been investigated for

1 alleged assault.

2 CHAIRMAN: what did he call the dad? And please don't

3 mention the name.

4 A. No, he didn't call the dad anything. It was just, draw

5 to the attention of the allegation and let journalists 11:38

6 make their own inquiries after that.

7 CHAIRMAN: It would be like looking for a needle in a

8 haystack, wouldn't it, unless you have a name? If you

9 have a name suddenly everything comes into very sharp

10 focus; you can make an inquiry very, very quickly. And 11:39

11 you say the name was being mentioned, let's say the

12 name was, I'm giving a random name, O'Neill I think is

13 the most common name in Ireland --

14 A. Yes.

15 CHAIRMAN: -- so if that name was mentioned up in Garda 11:39

16 Headquarters, why wouldn't you pass that on to the

17 journalists, if that was your job?

18 A. Well, my job was not to pass on -- my job was to pass

19 on Sergeant McCabe's motivation and where this

20 motivation came from, not the actual details. And then 11:39

21 the journalists then were most resourceful in their own

22 inquiries with other contacts they would have had.

23 CHAIRMAN: I mean, you know, it is a criminal offence

24 to pass on the name of someone who makes an allegation

25 of a sexual offence? 11:39

26 A. Yes.

27 CHAIRMAN: It can happen, but you need the leave of a

28 Court.

29 A. Yes.

1 CHAIRMAN: So, are you saying people were using the
2 name up in Garda Headquarters --

3 A. The name was known, Mr. Chairman.

4 CHAIRMAN: No. Look, the question I asked was: Are
5 you saying the name was being used up in Garda 11:40
6 Headquarters?

7 A. I don't know if it was being used. It's just that the
8 name was known, of who the man -- the other -- the
9 victim's family was.

10 CHAIRMAN: So you were moving on to something else, 11:40
11 Mr. McGuinness.

12 MR. MCGUINNESS: Yes, Chairman.

13 335 Q. Just before I leave your second statement, the
14 investigators asked you about the contacts with the
15 journalist who had gone to Ms. D's house. 11:40

16 A. Yes.

17 336 Q. And that was obviously after the D family had given
18 evidence to the Tribunal in the matter. So those
19 visits were now known about?

20 A. Yes. 11:40

21 337 Q. And you were then asked at page 223:
22
23 "I have been asked whether I should have included
24 Debbie McCann and Eavan Murray in this list in DT2 and
25 whether there are any other journalists on reflection 11:41
26 that should also now be included."
27
28 And your answer was:
29

1 "Yes, they should be included. I was trying to put
2 together a list at the time I created it. It may not
3 have been complete."
4

5 Now, just it seems that on one view it would seem very 11:41
6 difficult to believe that you could have forgotten the
7 extent of the contact you had with Ms. Murray and
8 Ms. McCann in 2014, and it seems difficult to believe
9 that you could have forgotten that they were the two of
10 the three journalists that you knew had gone up to 11:41
11 Ms. D, which would have facilitated or was intended to
12 facilitate the campaign. So, how is it that you didn't
13 include them in your initial list of nine provided to
14 you, to your solicitor and from your solicitor to the
15 Tribunal? 11:41

16 A. Well, I put, as I said, the initial list and then
17 subsequently when I was asked to provide more
18 information I put the whole list completely. It was
19 never a case of trying to not put the information
20 before this Tribunal. 11:42

21 338 Q. I mean, one interpretation of it that might be open or
22 not open, I would like your comment on it, is that you
23 were perhaps intending to conceal their involvement and
24 your involvement in assisting them?

25 A. Absolutely not. Absolutely not. 11:42

26 339 Q. And I am just wondering is it possible that if you were
27 encouraging these journalists to go up and it suited
28 your agenda and you were providing them with
29 information, was this something that you had taken on

1 yourself to do, that wasn't authorised by Commissioner
2 Callinan and/or Commissioner O'Sullivan?

3 A. No. The decision for journalists to go to that house
4 was a professional decision of the journalists.

5 340 Q. I know that. But it's all about your part in it, the 11:43
6 information you provided and my question is a direct
7 one: Were you intending to conceal that from the
8 Tribunal?

9 A. Absolutely not.

10 341 Q. And the question then is: why was it not revealed at 11:43
11 any stage?

12 A. I revealed it and placed it in my statement when asked.
13 And it was always my intention to provide a full --

14 342 Q. Well, you're taxed with the investigators by this 11:43
15 question as to whether they should have been included
16 and you conceded, only at this stage, that they should
17 have been conceded, and my question is: why did you
18 not make it clear from the very beginning these two
19 ladies should have been on your list?

20 A. The first available opportunity afterwards I did. 11:43

21 CHAIRMAN: No, what Mr. McGuinness is putting to you is
22 that our investigators came to you and they said, let's
23 just say, what about Joe Soap and Mick O'Toole, and you
24 say oh yes, Joe Soap and Mick O'Toole.

25 A. Yeah. 11:44

26 CHAIRMAN: But you provided the list with nine names,
27 now it becomes 11.

28 A. Yeah.

29 CHAIRMAN: And you've had two opportunities in between

1 and yesterday you said you had to check your records.

2 A. Yeah.

3 CHAIRMAN: Now, I don't know what records you were
4 referring to there. But Mr. McGuinness has referred
5 to, for instance, SM3, which is your phone from the 8th 11:44
6 September to 18th December, showed apparently 2,800
7 contacts with Eavan Murray, that is actually 110 days,
8 25 a day.

9 A. Well --

10 CHAIRMAN: It's very hard to forget. So that is the 11:44
11 question Mr. McGuinness is asking you.

12 A. I'm not suggesting I forgot. I'm suggesting that at
13 the first available opportunity I put that information
14 before the Tribunal.

15 CHAIRMAN: No, but we put the information to you, 11:44
16 superintendent.

17 A. Yeah. And I confirmed it.

18 CHAIRMAN: All right.

19 343 Q. MR. MCGUINNESS: Can I ask you just about another piece
20 of evidence you gave yesterday, Superintendent Taylor. 11:44
21 You told the Tribunal that you asked the Commissioner
22 for the file, you wanted to read the file?

23 A. Yes.

24 344 Q. Obviously that's not in your protected disclosure, but
25 you made a statement to the Tribunal and then you've 11:45
26 had three other interviews with our investigators and
27 that doesn't appear in any of those five documents as
28 something that you did in relation to Ms. D's file and
29 in relation to interaction with Commissioner Callinan,

1 why is that?

2 A. It came up as part of cross-examination yesterday.

3 It's not a really salient point. I asked the

4 Commissioner to see the file, he didn't provide it to

5 me, and that was it. 11:45

6 345 Q. Well, did he tell you, look, I've got a little

7 electronic synopsis and Superintendent Walsh might

8 print it off if you ask him --

9 A. No.

10 346 Q. -- or anything of that nature? 11:45

11 A. No.

12 347 Q. I mean, my concern is that it's not in any of those

13 five documents and I wondering why that might be?

14 A. As I said, it came up yesterday during our

15 cross-examination. It's a matter that you asked and I 11:46

16 profited yesterday.

17 348 Q. All right. I mean, it might be thought that, you know,

18 it was consistent with a desire to have the file for a

19 purpose of knowing what was on the file?

20 A. But I never got the file, Mr. McGuinness. 11:46

21 349 Q. Yes. So why were you looking for it?

22 A. I was just asking for the file. Have you a file on the

23 matter? You know.

24 350 Q. Did you speak to anyone who had been involved in the

25 investigation? 11:46

26 A. No.

27 351 Q. Superintendent Cunningham at that point in time?

28 A. Never.

29 352 Q. Or did you speak to anyone in the divisional area? Did

1 you know Detective Superintendent John O'Reilly?
2 A. I knew him professionally, but I didn't know him
3 personally.
4 353 Q. Yeah. Apparently, I don't know if you heard his
5 evidence, but he apparently had a discussion with Mr. D 11:47
6 about perhaps suggesting Mr. Williams as a person who
7 might interview Ms. D, did you become aware of that?
8 A. I'm aware of that from the transcripts.
9 354 Q. But had you any contact with him at the time in
10 relation to that -- 11:47
11 A. No. No.
12 355 Q. -- or in particular, obviously if Ms. Murray and
13 Ms. McCann failed to get an interview?
14 A. I had no contact with superintendent --
15 356 Q. Had you any concern as to whether there might be 11:47
16 another way of doing it, with another journalist?
17 A. I'm unclear as to what you are asking, Mr. McGuinness.
18 357 Q. Well, in terms of no story appearing and then
19 Mr. Williams in fact became one of the first
20 journalists to write in a number of articles about the 11:47
21 story, I'm not suggesting anything sinister on his
22 part, but for your part, were you still keen to fulfil
23 the agenda of getting the story out there and getting
24 Sergeant McCabe written about?
25 A. Em, I didn't know Mr. Williams had an interest in it. 11:48
26 358 Q. Okay.
27 A. Never knew that.
28 359 Q. Well, he phoned you about it anyway.
29 A. Sorry?

1 360 Q. He phoned you about it.

2 A. Oh yeah, but that's after the incident.

3 361 Q. Okay.

4 A. I didn't know prior that he had any interest in it.

5 362 Q. But you certainly facilitated him in terms of what you 11:48
6 told him?

7 A. Oh yes.

8 363 Q. Now can I just ask you to look at volume 20, this is a
9 statement from Mr. Boucher-Hayes?

10 A. Yeah. 11:48

11 364 Q. At page 3260.

12 A. These are all fives, Mr. McGuinness. They're not
13 three, Mr. McGuinness.

14 365 Q. I'm sorry. Volume 13, 3260. It's your third
15 interview. It's dealing with Mr. Boucher-Hayes. At 11:49
16 line 152 --

17 A. This is my statement?

18 366 Q. Yes.

19

20 "Afterwards I recall Philip Boucher-Hayes shook hands 11:49
21 with the former Commissioner and wished him a happy
22 Christmas. I can state that I did not hear former
23 Commissioner Callinan negatively brief Philip
24 Boucher-Hayes against Sergeant McCabe, but I know he
25 was extremely annoyed with the fact that Philip 11:50
26 Boucher-Hayes wanted to raise the penalty points issue
27 on the programme."
28
29 So that confirms that you didn't know what the

1 Commissioner had said to Mr. Boucher-Hayes.

2 A. No, I wasn't within earshot.

3 367 Q. Okay. The issue of what Mr. Boucher-Hayes says at the
4 bottom of his statement, which is dealt with at page
5 3261, there's a portion of his statement read to you, 11:50
6 it says:

7

8 "As our conversation was ending, he added that if there
9 was anything else I wanted to know about Maurice McCabe
10 or the penalty points issue that I should ask 11:50

11 Superintendent Dave Taylor from the Garda Press Office
12 who was also present that evening. Almost immediately
13 afterwards Superintendent Taylor buttonholed me and
14 asked 'Now do you know what the problem with Maurice
15 McCabe and the penalty points is?' " 11:51

16

17 And you have been asked about that and your answer at
18 line 177 is:

19

20 "I don't remember mentioning the name Sergeant Maurice 11:51

21 McCabe to Philip Boucher-Hayes. The issue on the day,

22 as I have already said, was to do with the penalty

23 points. The issue of penalty points and Sergeant

24 McCabe are interwoven. Any discussion I had with

25 Philip Boucher-Hayes on that date was to do with the 11:51

26 penalty points and in that context Sergeant McCabe may

27 have been mentioned. However, I did not make reference

28 to any sexual abuse allegations or any negative

29 briefing against Sergeant McCabe to Philip

1 Boucher-Hayes. "

2

3 That appears to have been your recollection on the date

4 of your interview on the 8th March 2008. But yesterday

5 you appeared to say that you do remember saying that to 11:51

6 Mr. Boucher-Hayes, is that right?

7 A. I remember saying the penalty points.

8 368 Q. Yeah.

9 A. That this was the issue in relation to the penalty

10 points. 11:52

11 369 Q. But not this quotation attributed to you; "Now do you

12 understand what the position is with Maurice McCabe?"

13 You see, yesterday you appeared to agree that you said

14 that and you don't appear to have a recollection of it

15 in your statement? 11:52

16 A. You couldn't mention the word penalty points without an

17 obvious connection to Sergeant McCabe.

18 370 Q. But in any event --

19 A. Penalty points and Sergeant McCabe were intricately

20 interwoven. 11:52

21 371 Q. All right. But whatever you said to Mr. Boucher-Hayes

22 it wasn't in reference to or with knowledge of what

23 Commissioner Callinan had said to him?

24 A. You have to understand that day when Commissioner

25 Callinan went out to RTÉ, Mr. Hayes wanted to raise the 11:52

26 penalty points issues and that was a red rag to

27 Mr. Callinan.

28 372 Q. But whatever was attributed to you by Mr. Boucher-Hayes

29 was not said by you with the knowledge of anything that

1 Commissioner Callinan had said to him,
2 Mr. Boucher-Hayes?

3 A. I didn't hear the conversation between the two.

4 373 Q. You didn't hear, okay. Could I ask you about some
5 newspaper articles that were written in the period, you 11:53
6 might be able to help us, if you could go to volume 25.
7 I beg your pardon, volume 24.

8 A. 24, okay.

9 374 Q. At page 6512 there's an article by Mr. Juno McEnroe.

10 A. Yes. 11:55

11 CHAIRMAN: If you wouldn't mind giving me the date as
12 we go along Mr. McGuinness, it's at the top of the
13 page.

14 375 Q. MR. MCGUINNESS: Yes, sorry. It's 27th January 2014.
15 And I am really only interested in the final paragraph 11:55
16 which says:

17
18 "A senior Garda source said he does not approve that
19 PAC is the place for Garda members to deal with
20 widespread allegations made but there may be some 11:56
21 wriggle room to deal with them."

22
23 Now obviously Mr. McEnroe is being very responsible
24 there, in identifying where this piece of information
25 is coming from, "a senior Garda source", and you were 11:56
26 the Garda Press Officer at the time, and there is a
27 record of a phone call from you to Mr. McEnroe on the
28 26th February, do you recall briefing him to that
29 effect or along those lines?

1 A. I recall briefing him in relation to the PAC and the
2 concern of the Garda Commissioner that a serving member
3 would be appearing before the PAC.

4 376 Q. well, this appears to relate to, I call it, the
5 interregnum perhaps between when the Committee had 11:57
6 taken Commissioner Callinan's evidence on the Friday --
7 A. Yeah.

8 377 Q. -- or on the Thursday, there had been the car park
9 meeting?

10 A. Yes. 11:57

11 378 Q. And we've heard that Commissioner Callinan apparently
12 saw in something that Deputy McGuinness had said that
13 there might be a way to deal with it, and did he report
14 back to you on that?

15 A. No. I was never aware of the conversation between the 11:57
16 Commissioner and Deputy McGuinness.

17 379 Q. All right. But is the wriggle room here perhaps the
18 PAC hearing it in private?

19 A. I can't -- I can't definitively say that.

20 380 Q. Okay. well, is it likely that you were the senior 11:57
21 source referred to there?

22 A. I would have spoken to Mr. McEnroe in relation to the
23 appearance before PAC and the deep concern of Garda
24 management that a serving member was going to appear
25 before PAC. This is something that they didn't want. 11:57

26 381 Q. Okay. And you have no problem identifying yourself as
27 the source?

28 A. No.

29 382 Q. If that is consistent with what you think you were

1 briefing?

2 A. Yeah.

3 383 Q. There's an article then from Mr. Lally on the next
4 page, along with Mr. Kelly. And at the bottom of the
5 first, it's dated 29th January, and it says:

11:58

6

7 "Senior Garda sources have told the Irish Times that
8 they were disappointed at PAC's actions, saying they
9 believed the issue had moved on substantially with the
10 GSOC opening investigation. Some of these sources
11 suggest the investigations represented a challenge to
12 the Gardaí's internal command structures and discipline
13 that would have unforeseen repercussions. However,
14 others in Garda Headquarters said Garda Commissioner
15 Martin Callinan had no plans at that time to go to the
16 Court to seek an injunction to stop the hearing."

11:58

11:59

17

18 Now again, that's related to the PAC issues and the
19 onset of the impending GSOC investigation commencing.
20 Is that source likely to have been you? Do you think
21 it was you?

11:59

22 A. I think part of it, part of that narrative would have
23 been me.

24 384 Q. Yes?

25 A. I would certainly have been authorised to brief in
26 relation to the serious concern Garda management had at
27 the likelihood of a serving member going before PAC and
28 giving evidence.

11:59

29 385 Q. Okay. Just drawing your attention to those two

1 publications referring to Garda sources, senior Garda
2 sources, does that assist you in any way in determining
3 whether you might have briefed Mr. Lally and/or
4 Mr. McEnroe in the negative way about Sergeant McCabe
5 by reference to the allegation? 12:00

6 A. I would have briefed them -- well, probably around that
7 time for Mr. McEnroe, but certainly earlier than that
8 for Mr. Lally.

9 386 Q. So are you plumping for probably briefing Mr. McEnroe
10 about it at that time? 12:00

11 A. Probably around that time, yeah.

12 387 Q. In connection with this?

13 A. Yeah, but Mr. McEnroe dealt with the political
14 reporting.

15 388 Q. Okay. 12:00

16 A. He wasn't a crime reporter. So I would have had less
17 contact with him.

18 389 Q. Okay. I think I may have misstated that there was a
19 phone call with Mr. McEnroe, actually, prior to that.
20 I will check that, Chairman. But going to another 12:01
21 article referring to Garda sources at 6520 -- no,
22 perhaps we're going to 6524. This is an article that
23 appeared in the Irish Times by Cormac O'Keefe on the
24 22nd February and there's a long reference to sources
25 there. It says: 12:02

26
27 "Senior Gardaí yesterday insisted all the complaints in
28 the dossier at the centre of a government review have
29 already been fully investigated by a high level team.

1 However, top officers are conducting a fresh probe of
2 the case as part of the Department of Justice review of
3 the dossier expected to... conducted at the request of
4 Taoiseach Enda Kenny. "

12:02

5
6 It goes on to say in the third column:

7
8 "Senior officers are taking a fresh look at the
9 complaints again as part of the Department of Justice
10 review. The Garda source said that all claims of
11 conspiracies and cover-ups were untrue. "

12:03

12
13 Now this is Mr. O'Keefe's article. Do you recall
14 briefing him to that effect?

15 A. No.

12:03

16 390 Q. Or is that likely to have been you as a source?

17 A. No, that wasn't me.

18 391 Q. Pardon?

19 A. That wasn't me.

20 392 Q. That wasn't you. At page 6527 there's an article in
21 the Irish Examiner by Mr. McEnroe of the 24th February,
22 you do appear to have had a conversation with
23 Mr. McEnroe on the 23rd February at four o'clock in the
24 afternoon or thereabouts, but there's a quotation here:

12:03

25
26 "Senior Garda source claimed another letter on December
27 11th from Garda Commissioner Martin Callinan directed
28 Sergeant McCabe to cooperate with the force's pending
29 Pulse inquiry. This would be used to justify

12:04

1 Mr. Shatter's claims that Sergeant McCabe refused to
2 cooperate with the inquiry."
3
4 Now, that appears to have been, on your evidence, one
5 of the matters that you were required to brief about -- 12:04
6 A. Yes.
7 393 Q. -- is that right?
8 A. That's right.
9 394 Q. And is it likely that you are the senior source
10 referred to there? 12:05
11 A. Yes.
12 395 Q. Okay. And would you have taken the time and trouble to
13 again brief Mr. McEnroe in relation to the negative
14 claim?
15 A. I don't know on that particular day, but, do you know, 12:05
16 I would have spoken to Mr. McEnroe prior to that. So I
17 can't give you the exact date I spoke in relation to
18 the motivation of Sergeant McCabe. It would have been
19 around that period of time.
20 396 Q. There's an article by Mr. McConnell in the Irish 12:05
21 Independent on the 24th February at 6531. It's in the
22 fourth column, towards the bottom of that column on the
23 right, it says:
24
25 "A spokesman for the Garda Commissioner said he would 12:05
26 not be making any comments. However, Garda sources
27 last night insisted both Sergeant McCabe and his fellow
28 whistleblower, John Wilson, were directed by
29 Commissioner Callinan on December 14, 2012 to cooperate

1 with the O'Mahony inquiry but failed to do so."

2

3 So it appears to be another report relating to that
4 issue. Are you likely to have been the source of that?

5 A. Yes, yes.

12:06

6 397 Q. Does that assist you in any way in whether you can
7 recall a negative briefing about the sex abuse
8 allegation?

9 A. Well, that was a huge -- looking back on it now that
10 was a huge political event at the time. So that's when
11 I came into contact more with Mr. McEnroe and
12 Mr. McConnell. So it would have been around that
13 period.

12:06

14 398 Q. Okay. Well, does that rule out you having done it in
15 2013 then?

12:06

16 A. Well, I spoke to other journalists in 2013. Different
17 types of journalists. These are political journalists,
18 I wouldn't have the same level of contact.

19 399 Q. Okay. There's an article in the Irish Examiner on the
20 26th February by Mr. O'Keefe.

12:07

21 A. What number is that, Mr. McGuinness?

22 400 Q. At 6537, it's headed: "Top Gardaí hit back at claims
23 by McCabe." But again, in the middle of it there's a
24 single sentence:

25

12:07

26 "A senior Garda source said a directive issued on the
27 14th December 2013, publicised in the newspapers on
28 Tuesday, told Sergeant McCabe that he could bring his
29 concerns to the internal inquiry."

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Now, it's not clear whether that's a repetition of what had been actually printed on the 24th, two days ago, but do you recall briefing Mr. O'Keefe to that effect?

A. No, I don't recall that one.

12:07

401 Q. Okay. At 6579, it's an article by Mr. Stephen O'Brien and Mr. John Mooney. It's published on the 23rd March 2014. It appeared to have been preceded by a phone call that you had with Mr. Mooney for six minutes on the 22nd March, the day prior to the article. But under the paragraph headed "Gilmore" it says:

12:08

"Gilmore also said it would be helpful if Callinan withdrew his description of the whistleblowers' actions as "disgusting". Senior Garda sources are indicating that the Commissioner will not apologise to Maurice McCabe or John Wilson, however. "There is nothing to apologise for," said a Garda source. Whistleblowers did not pursue their complaints about the deletion of penalty points through the appropriate channels in every case but chose to release information to politicians and others."

12:09

12:09

Now is that likely to have been you, do you think?

A. Yes.

12:09

402 Q. Okay. And that phone call with Mr. Mooney is shown on page 3295 of the documents. But I mean, obviously that's not a report of a negative briefing in the sense of the campaign instruction, isn't that right?

1 A. Yes. But there would be, like I mean, constant to-ing
2 and fro-ing, asking questions in relation to attitudes
3 to various issues that were arising.

4 403 Q. Yeah. But does that help your recollection as to
5 whether you briefed Mr. Mooney then or ever in the very 12:10
6 negative sense about the sexual --

7 A. I would have had a lot more engagement with Mr. Mooney
8 because he covered crime and serious stories. So I
9 would have spoken to him in 2013.

10 404 Q. Pardon? 12:10

11 A. I would have spoke to him in 2013.

12 405 Q. So you still believe you would have briefed him back
13 then --

14 A. Yes.

15 406 Q. -- in the negative sense about the allegation, is that 12:10
16 right?

17 A. Yes.

18 407 Q. 6583, there's an article by Mr. Beasley and Mr. Lally.
19 It's just at the bottom of the page there, the second
20 last paragraph, it's about the issue of the word 12:11
21 "disgusting":
22
23 "But sources said the only possible compromise centres
24 on his use of the word "disgusting" but they emphasise
25 no firm decision has been made." 12:11
26
27 Is that likely to have been you, do you think?

28 A. No.

29 408 Q. No. There's another article by Mr. Lally on the 5th

1 April?
2 A. What page is that?
3 409 Q. 6594. It's published on the 5th April, as I have said,
4 it's headed:
5
6 "Senior Gardaí believe the Commissioner's resignation
7 was stage managed."
8
9 And the third last paragraph says:
10
11 "Senior Garda source whose have spoken to the Irish
12 Times believe Callinan was sacrificed as part of a
13 well-crafted plan to make the government look strong
14 and united and to suggest the ongoing controversies
15 were of his making." 12:11
16
17 Is that something that you would have been involved in?
18 A. No, no.
19 410 Q. Do you recollect speaking to Mr. Lally around that
20 period? 12:12
21 A. If the phone records show I would have, but I certainly
22 didn't brief that story.
23 411 Q. Yes. And at 6598, there's an article by Mr. Williams
24 here, which we referred to earlier, and published in
25 the Irish Independent on the 12th April, and the final 12:12
26 line of it is:
27
28 "Last night a Garda spokesman said that he could not
29 comment."

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So, is that likely to have been you?

A. It's possible. It's possible, yeah.

412 Q. And in the context of having firmed up information with Mr. Williams, were you not willing to be associated with that?

12:12

A. Sometimes -- well, I don't get your question, Mr. McGuinness, sorry.

413 Q. Well, he appears to be recording that a Garda spokesman was asked for a comment and they wouldn't comment, now you had in fact provided some information to Mr. Williams, but did you provide this no comment?

12:13

A. It's possible.

414 Q. Possible?

A. It's possible. I can't actually recall that.

12:13

MR. MCGUINNESS: Okay. Chairman I have no further questions at present.

CHAIRMAN: Yes. Thank you very much, Mr. McGuinness. Can I just ask about order? Mr. O'Higgins, you go last. Ms. Burns, you go last. Yes. Thanks. Mr. McDowell if you have questions.

12:14

WITNESS WAS CROSS-EXAMINED BY MR. McDOWELL AS FOLLOWS:

415 Q. MR. McDOWELL: Superintendent Taylor, I'm appearing on behalf of Maurice McCabe. I wonder could you indicate to the Tribunal when you first received this instruction from Commissioner Callinan to brief journalists in the manner you say you were instructed, did you believe that the substance of the briefing that

12:14

1 you were being instructed to give was correct?

2 A. Yes.

3 416 Q. So you believed that Sergeant McCabe was motivated by
4 revenge motive, is that right?

5 A. Yes. 12:14

6 417 Q. And you believed at that time that he was -- that this
7 all arose out of a complaint of sexual abuse by him and
8 how it was handled, is that right?

9 A. Yes.

10 418 Q. So, in spreading these statements about Sergeant McCabe 12:15
11 in the manner you've described, did you believe you
12 were doing wrong at the time?

13 A. No.

14 419 Q. You believed you were giving factual information to the
15 journalists? 12:15

16 A. Yes.

17 420 Q. And can you tell the Tribunal why then it was that you
18 decided to indicate to Sergeant McCabe that you had
19 done him wrong and when you had your change of mind?

20 A. As I said yesterday, when I had removed myself from the 12:15
21 hothouse of Garda culture and I could reflect and see
22 what was done, I realised it was wrong.

23 421 Q. It was wrong for what reason? That it was untrue or
24 that it shouldn't have been done whether it was true or
25 untrue? 12:16

26 A. It shouldn't have been done whether it was true or not.

27 422 Q. I see. And I just want to be clear about this: Are
28 you saying that you still are of the view that he was
29 motivated by revenge?

1 A. No.

2 423 Q. So that wasn't true?

3 A. I now know it's not true.

4 424 Q. Yes. Arising from that, do I understand your evidence
5 to be that you decided that you would slip this into 12:16
6 conversation but never commit it to writing in your
7 dealings with journalists, is that right?

8 A. That's correct. It would be taken as an opportunity,
9 when the opportunity would present itself, to slip it
10 in as part of our conversation. 12:17

11 425 Q. And what was the danger of putting it in writing?

12 A. It was never a matter -- like, I get lots of briefings,
13 Mr. McDowell, and you'd never commit it to writing.
14 That would be part of off the record briefings.

15 426 Q. Yes. We will come to that in a moment. But were you 12:17
16 -- even though you thought what you were saying was
17 true, you didn't want any of those statements to be
18 attributed to either you or to An Garda Síochána at an
19 official level, is that right?

20 A. That's correct, yes. 12:17

21 427 Q. Now would you just indicate to the Tribunal how you, in
22 your own mind, differentiated between off the record
23 briefings and statements to journalists and on the
24 record briefings? What was the distinction in your
25 mind? 12:17

26 A. The distinction: where you could be attributed on the
27 record, where you would be attributed, your name or
28 your title or your office would be on the record; off
29 the record would be sources.

1 428 Q. I see. And isn't there a third category of not for
2 publication?
3 A. I'm not aware of that category.
4 429 Q. Let's take it step-by-step.
5 A. Yeah. 12:18
6 430 Q. You can say something on the record, isn't that right?
7 A. Yes.
8 431 Q. And my understanding is that journalistic practice is
9 that you can say something off the record and the
10 journalist can decide to attribute it to sources or it 12:18
11 is generally believed or something like that, and use
12 the information but not attribute it to somebody, is
13 that right?
14 A. Yes.
15 432 Q. And there's a third category, isn't there; don't 12:18
16 publish this but X, Y and Z is the true situation?
17 A. Well, that'd be part of -- in relation to this, that I
18 would have drawn their attention to the motivation of
19 Sergeant McCabe and how they would have dealt with it
20 is a matter for their professional opinion. 12:19
21 433 Q. You see, if any of the journalists to whom you
22 expressed these views had said Sergeant McCabe is
23 making complaints about abuse of the penalty points
24 system, sources say that he was involved in an
25 accusation of sexual assault in 2006 and is motivated 12:19
26 by revenge, that would be -- that would not be
27 acceptable to you, would it, as an outcome?
28 A. No.
29 434 Q. So I'm suggesting to you that this wasn't purely just

1 off the record. This was a confidential type of
2 statement you were making. You didn't expect to see it
3 in print under "sources say" or "it is believed in
4 Garda Headquarters that"?

5 A. No.

12:19

6 435 Q. So this was the third category of not for publication,
7 but just for information, isn't that right?

8 A. Yes.

9 436 Q. Background information?

10 A. Yes, yeah.

12:19

11 437 Q. Can I ask you what did you expect to flow from this not
12 for publication but for information negative briefing
13 about Sergeant McCabe?

14 A. Well, I expected, and what Garda management expected --

15 438 Q. Yes?

12:20

16 A. -- is that there'd be a critical eye taken at the
17 allegations that Sergeant McCabe was bringing forward.

18 439 Q. So that people wouldn't look at say, for instance, his
19 penalty points complaints, uncritically they would ask
20 themselves the question is any of this reliable or is
21 all of this ill-motivated as an assault on the force
22 arising out of --

12:20

23 A. Yes.

24 440 Q. -- revenge?

25 A. Yes.

12:20

26 441 Q. Now could I ask you in that context about the evidence
27 that was given here by Sergeant Molloy on the 9th May,
28 at page 77, day 71 and maybe it could be brought up on
29 the screen for you. Do you see it there?

1 A. No, it hasn't come up, Mr. McDowell.

2 442 Q. We will wait for it to come up. Page 76. At line 4 --
3 sorry, at line 13 the question was put by Mr. Murrinan:

4
5 "Now in terms of Sergeant McCabe and what was known 12:22
6 about him in the Press Office or what may have been
7 discussed in the Press Office concerning Sergeant
8 McCabe in late 2013 up to June 2014, can you help us in
9 that regard?"

10 12:22

11 And he replied:

12
13 "Well, I can't say that I heard Superintendent Taylor
14 say anything and I can't say who said things, but I
15 mean, obviously the case would be discussed." 12:22

16 12:22

17 And Mr. Murrinan said:

18
19 "Well, one would have thought so."

20 12:23

21 And he said:

22
23 "Yeah.

24 Q. But every witness so far as told us, and I think
25 you're the last witness from the Press Office, has said 12:23
26 that it was never discussed.

27 A. Yeah, discussed in the sense that I would hear from
28 other staff what -- let's put it this way, I was clear
29 if there was a side to be taken in this which side

1 David Taylor was on, and it wasn't on Maurice McCabe's
2 side, let's put it that way."

3
4 would you say that that is a fair description of the
5 impression that you made with your staff? 12:23

6 A. Yes.

7 443 Q. And he said:

8
9 "Can you just expand on that a little bit?

10 A. My difficulty is that I can't point to a particular 12:23
11 day and time and say Superintendent Taylor said this
12 and therefore I just want to be careful."

13
14 And Mr. Murrinan said:

15 12:23
16 "It's an impression that you had."

17
18 And you said:

19
20 "It's that, married with the fact that other staff 12:23
21 members would tell me something that was said as well,
22 possibly by Superintendent Taylor, not in the sense
23 they were repeating the gossip, but in the sense that
24 guess what he said, it would be uncomplimentary about
25 Maurice McCabe, it would be uncomplimentary about any 12:24
26 journalist who was writing in favour of Maurice McCabe
27 and it wouldn't be very complimentary about any members
28 of the Oireachtas who are taking Maurice McCabe's
29 side."

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Now, do you think that that is a fair description of the impression you created in the Press Office at that time?

A. I'd agree with that. 12:24

444 Q. And this was at a time, as I understand it, that you believed that Sergeant McCabe was motivated by revenge and that it originated in a sexual assault claim against him, is that right?

A. That's correct. 12:24

445 Q. Now could I ask you again in relation to that, you've given evidence here that you weren't the only person in Garda Headquarters who apparently was privy to the fact that Sergeant McCabe had been the subject of an allegation in 2006, sorry 2014, relating to back to 2006. You say --

12:25

CHAIRMAN: 2006, relating back to about seven or eight years prior to that. 6, 7 and then obviously there was the other thing which emerged later on.

MR. McDOWELL: Sorry, yeah. 2006 was the allegation, some time in late 1990s was the -- 12:25

CHAIRMAN: Yeah.

446 Q. MR. McDOWELL: Sorry, in relation to that, who do you say -- or sorry, at what level do you say that this knowledge was generalised in Garda Headquarters?

12:25

A. It was well known at all levels. Like, I mean, it was well known around Garda Headquarters.

447 Q. And was it spoken about among members of An Garda Síochána?

1 A. It would be spoken in the sense of almost like a
2 watercooler conversation.

3 448 Q. You see, thus far we've heard very few members of Garda
4 Headquarters who have ever said that they heard about
5 it spoken about and I just want to explore this with 12:26
6 you. You think it was the subject of general
7 conversation and frequent conversation among members of
8 An Garda Síochána at Headquarters level, is that right?

9 A. I can't say how vast it was known, Mr. McDowell. It
10 was well known in Garda Headquarters. 12:26

11 449 Q. I see. And likely to arise if Sergeant McCabe's name
12 was mentioned?

13 A. Yes, yes.

14 450 Q. I see. Now, going from there, can you tell the
15 Tribunal the extent to which you were the sole source 12:26
16 of information for crime journalists and political
17 journalists dealing with Garda related stories or had
18 they other -- would you imagine that they had other
19 sources in Garda Headquarters, apart from yourself?

20 A. I would imagine they would have a multiplicity of 12:27
21 sources in my estimation with journalists, they don't
22 depend on one.

23 451 Q. So when it comes to contact between journalists and
24 members of An Garda Síochána other than yourself, have
25 you any view as to whether what you were imparting on a 12:27
26 directed basis was also coming to them from other
27 sources?

28 A. Em, they never told me that because they would never
29 disclose other sources to me.

1 452 Q. Well, for instance, the Chairman asked you yesterday
2 did they not express surprise to you?
3 A. No.

4 453 Q. And the Chairman said this was perhaps big news to some
5 of them, that you were slipping this information into 12:28
6 their possession?
7 A. Well, as I said yesterday, journalists are hard nosed,
8 it takes a lot to shock them and they take information,
9 they don't fall over with a feather.

10 454 Q. Did you ever, did you ever encounter the response 'I've 12:28
11 heard that before from somewhere else'?
12 A. I can't be certain I didn't. It's possible, yes.

13 455 Q. I'm just trying to work out, did you feel that you were
14 revealing a huge secret or did you feel that you were
15 fanning the flames of an already current rumour? 12:28
16 A. The rumour was out there. Em, I don't think I was in
17 all cases breaking new news.

18 456 Q. I see. Now Sergeant Molloy mentioned that you would be
19 uncomplimentary about any journalist who was writing in
20 favour of Sergeant McCabe. And I think you identified 12:29
21 two journalists yesterday who were, is that right?
22 A. That's right.

23 457 Q. One of them was Mick Clifford and the other was?
24 A. Katie Hannon.

25 458 Q. Hmm? 12:29
26 A. Katie Hannon.

27 459 Q. And can you just tell the Tribunal, in respect of those
28 kind of journalists, what steps would you take to show
29 your displeasure towards them?

1 A. Well, we'd no engagement with Michael Clifford while I
2 was in the Press Office. With Ms. Hannon we had some
3 engagement, because she'd seek confirmation of
4 questions she'd sent in about the air programmes and it
5 would be kept at a very professional level. 12:29

6 460 Q. I see. And am I right in believing - and correct me if
7 I'm wrong - that among your list of nine named persons
8 in your protected disclosure, there were a number of
9 people whose job it was to get on well with An Garda
10 Síochána, crime correspondents? 12:30

11 A. The relationship between An Garda Síochána and crime
12 correspondents, and with the media, can be complex at
13 times.

14 461 Q. I can well imagine that it can be complex, but it's not
15 a one-way street, is it? I mean, in one sense the 12:30
16 journalist in question is dependent on the Garda
17 machine, so to speak, to keep them on the inside track
18 as regards stories and to make sure that they aren't
19 always the last person to hear about something.

20 A. Well, it's no secret that crime sells and crime stories 12:31
21 sells inches and inches of publications.

22 462 Q. Yes.

23 A. So there's a huge connection and a big connection
24 between media and police service.

25 463 Q. Yes. 12:31

26 CHAIRMAN: Right, Mr. McDowell, it would be appropriate
27 to leave it there maybe for an hour.

28 MR. McDOWELL: Yes, Judge.

29 CHAIRMAN: Thank you very much.

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THE HEARING THEN ADJOURNED FOR LUNCH

1 THE HEARING RESUMED AS FOLLOWS AFTER THE LUNCHEON
2 ADJOURNMENT

3
4 464 Q. MR. McDOWELL: Superintendent Taylor, just arising out
5 of what we were discussing before lunch, could you tell 13:33
6 me what your understanding was in relation to
7 confidential briefings which weren't to be used in
8 publication; did you regard the journalist as free to
9 reveal the fact that you'd given that confidential
10 briefing to them to anybody else? 13:34

11 A. Once I'd provided them with the information - on the
12 confidential basis obviously - I depended on their
13 journalistic code.

14 465 Q. So you were relying on a kind of omertà, is that right,
15 that nobody would say, that neither you nor they would 13:34
16 say that this had happened, was that your
17 understanding?

18 A. Well, it's --

19 466 Q. I see.

20 A. -- engagement between... 13:34

21 467 Q. Now, could I ask you to go to page 245, which I think
22 is in volume one? Well, maybe if we go to the previous
23 page it would make more sense. Halfway down the page
24 Sergeant McCabe, in his protected disclosure, is
25 saying: 13:35

26
27 "Last week I learned from a different but equally
28 reliable third party that Superintendent Dave Taylor,
29 who is currently suspended from duty pending

1 investigation of disciplinary charges against him, had
2 stated that the main reason why he was being targeted
3 was that he knew too much about what Garda Commissioner
4 Nóirín O'Sullivan and ex Garda Commissioner Martin
5 Callinan had done to me in an attempt to destroy me for 13:35
6 reported wrongdoing. "

7
8 Had you intimated that to anybody, or was that your
9 belief?

10 A. Well, my belief is that they knew what I knew in 13:36
11 relation to the briefing in relation to Sergeant
12 McCabe.

13 468 Q. I see. And you thought that that was a significant
14 factor in your removal from the Press Office?

15 A. Well, that was part of the factor in the sense of I 13:36
16 understand that one of the major factors was the
17 release of the letter on the night that Commissioner
18 Callinan resigned.

19 469 Q. I see. And that was that you had released a letter on
20 behalf of Commissioner Callinan, is that right? 13:36

21 A. Yeah, Commissioner Callinan ordered me to release a
22 letter in relation to the bugging of Garda stations and
23 his engagement with the Department of Justice.

24 470 Q. I see. And his protected disclosure continues:

25 13:36
26 "This information was obviously important to me and I
27 made contact with Superintendent Taylor. I met with
28 Superintendent Taylor and his wife Michelle by
29 arrangement on Tuesday, 20th September 2016 at their

1 home. This was the first time I had ever met or spoken
2 to Superintendent Taylor. "
3
4 was that correct?
5 A. Correct. 13:37
6 471 Q. And he said:
7
8 "Our meeting lasted over three hours. Superintendent
9 Taylor spoke at great length of how when he was Garda
10 Press Officer he had, in a sustained campaign, 13:37
11 destroyed my character and reputation by disseminating
12 false, scurrilous and damaging allegations about me to
13 persons of influence and persons in the media acting on
14 orders and instructions from Garda management. "
15 13:37
16 Is that a fair summation of what you told him?
17 A. Well, I wouldn't agree with all the wording that's
18 there, but I told him that I had been directed by the
19 Garda Commissioner --
20 472 Q. I see. 13:37
21 A. -- to brief out in relation to his motivation and his
22 malice.
23 473 Q. He then says: "He stated he was now being targeted
24 because he knew too much." And you think that that is
25 a factor in why you were targeted as -- 13:37
26 A. Well, they did know. Like, I mean, both the
27 Commissioner and Deputy Commissioner did know what I
28 knew.
29 474 Q. "And he outlined to me the following information that

1 he was prepared to stand by. He also allowed me to
2 take notes. I have indicated to him that I intended to
3 make a protected disclosure under the Protected
4 Disclosures Act 2014 in relation to the information he
5 gave me. "

13:38

6
7 And then he refers to the events in Dundalk and he says
8 at the third paragraph -- third line of that indented
9 paragraph:

10
11 "Commissioner Callinan received a return call from John
12 McGuinness. When Commissioner Callinan finished the
13 call, he asked Superintendent Taylor to postpone the
14 press conference an hour and a half. Commissioner
15 Callinan stated that he was going to 'meet McGuinness
16 about McCabe'. The Commissioner was then driven to
17 Dublin, where he met John McGuinness and then he
18 returned to Dundalk to do the press conference. Deputy
19 McGuinness was warned against believing any evidence
20 that I would give at the PAC on the basis that I was a
21 serial sex abuser who abused my own children and
22 nieces."

13:38

13:38

13:38

23
24 Now, are you saying that you didn't tell him the last
25 three lines?

13:38

26 A. I never knew the conversation between Commissioner
27 Callinan and Deputy McGuinness.

28 475 Q. Well, did you discuss what Deputy McGuinness had stated
29 to Sergeant McCabe about that meeting on the occasion?

1 A. No, I was never, I never knew anything about that
2 meeting. I never knew the contents of that meeting.

3 476 Q. I've got to suggest to you that you did discuss that
4 with Sergeant McCabe on the occasion.

5 A. No. No, I did not. 13:39

6 477 Q. I see. The next bullet point reads:
7
8 "Superintendent Taylor said that Commissioner Nóirín
9 O'Sullivan would have known about the meeting because
10 Commissioner Callinan always kept her informed of such 13:39
11 matters. He stated that anything he knew, she knew.
12 It is remarkable to think that Commissioner Callinan
13 would post upon an important press conference to travel
14 to Dublin in an attempt to destroy my character."
15 13:39

16 Did you say that about Commissioner O'Sullivan knowing
17 about that meeting?

18 A. It would be my belief they would know. Because they
19 worked very closely together.

20 478 Q. I see. And do you think you probably did say something 13:39
21 like that?

22 A. Well, I can't say what - did I say something like that?

23 479 Q. Yes.

24 A. I just said that they would have, that both
25 commissioners would be, would work very closely 13:40
26 together.

27 480 Q. And did you tell Sergeant McCabe "Superintendent Taylor
28 then informed me of the sustained campaign by ex Garda
29 Commissioner Callinan, Garda Commissioner O'Sullivan

1 and other senior members to destroy my character"?

2 A. I told him about the briefing and what I was instructed
3 by Commissioner Callinan and what Deputy Commissioner
4 O'Sullivan knew.

5 481 Q. He says: 13:40
6
7 "He became upset at this stage" - that's referring to
8 you - "He admitted that he himself was also involved in
9 this campaign to destroy me and that the common
10 intention was to 'bury McCabe'." 13:40
11

12 Is that a fair summation of what you told him?

13 A. I wouldn't say the word "bury". But it was definitely
14 to paint him in another light.

15 482 Q. And Sergeant McCabe says: "While I was angry and 13:40
16 disappointed to hear of his involvement, I didn't show
17 it" because of circumstances in relation to your
18 household, is that right? There had been a problem in
19 your household --

20 A. Yes, yes. 13:41

21 483 Q. -- the previous evening, isn't that right?
22 A. Yes.

23 484 Q. "He continued by stating that Commissioner Nóirín
24 O'Sullivan knew everything. He said that she was the
25 pusher in the campaign to discredit me, not Martin 13:41
26 Callinan".

27 A. No, I never said that.

28 485 Q. You're certain you never said that?
29 A. Certain.

1 486 Q. Because Sergeant McCabe's note, I think from memory,
2 has the word "the pusher" recorded in it.
3 A. It's a word I'd never use.
4 487 Q. Then he goes on:
5
6 "He said that he, David Taylor, was involved in sending
7 hundreds of text messages about me to the then
8 Commissioner O'Sullivan and other senior officers and
9 members of the media."
10
11 Did you say that to him?
12 A. I said to him I would send hundreds of texts to the
13 Commissioner and Deputy Commissioner about him.
14 488 Q. And could it have been -- and you also said that you
15 sent everything that you sent by text to the
16 Commissioner to the then Deputy Commissioner
17 O'Sullivan, is that right?
18 A. They both got the same texts.
19 489 Q. And what about other senior members, did any of them
20 get any?
21 A. No.
22 490 Q. And members of the media?
23 A. No.
24 491 Q. You're saying you never mentioned Sergeant McCabe in
25 texts to the media, is that it?
26 A. No, we spoke -- my briefing was always either by phone
27 or in person.
28 492 Q. Is that because you didn't trust the media and you
29 didn't want to put it in writing?

1 A. Well, as I say, it was the method I used.

2 493 Q. "He stated that Commissioner Martin Callinan usually
3 provided the text of the vile messages about me and my
4 family and sent them to Superintendent Taylor's mobile.

5 A. No. Never said that. 13:42

6 494 Q. Well, I've got to suggest to you that that is what you
7 told Sergeant McCabe. He'd hardly have invented that
8 himself.

9 A. Well, I was there, Mr. McDowell.

10 495 Q. And so was he. 13:42

11 A. And so was my wife.

12 496 Q. Yeah.

13

14 "Commissioner Callinan's orders and instructions were
15 to forward the messages to the above persons, which he 13:43
16 always did. Commissioner O'Sullivan usually replied
17 with the one word, 'Perfect'."

18

19 Did you say that to him?

20 A. Yes. 13:43

21 497 Q. "He stated that Commissioner O'Sullivan would go 'to
22 any level to lie'." Did you say that to him?

23 A. No.

24 498 Q. So Sergeant McCabe is inventing that, according to you?

25 A. Well, I can't say what Sergeant McCabe is saying. But 13:43
26 I was there.

27 499 Q. You were the man who was upset and he was taking notes.

28 A. I was the man that was there and that's my
29 recollection. I can't account for what Sergeant McCabe

1 is saying.

2 500 Q. "Superintendent Taylor told me he was so sorry for what
3 he had done. He stated that he had contacted a
4 spiritual person two weeks ago looking forgiveness. He
5 broke down twice and told me that he had destroyed and 13:43
6 ruined me. He said this to me a number of times. He
7 says he absolutely destroyed me, but he was under
8 instructions and orders to do so."
9

10 Now, what of that do you say happened? 13:43

11 A. I apologised to Sergeant McCabe for my involvement.
12 And I apologise here today again.

13 501 Q. Did you tell him that you'd gone to a spiritual
14 person --

15 A. Yes. 13:44

16 502 Q. -- and that you'd been advised to apologise to Sergeant
17 McCabe?

18 A. No, I apologised on my own volition.

19 503 Q. I see.
20 13:44

21 "He stated that his three phones were seized from him
22 under warrant and that these phones would show all the
23 text messages he got from Commissioner Callinan and
24 sent on to Deputy Commissioner O'Sullivan."
25 13:44

26 Did you say that?

27 A. Yes.

28 504 Q. Just while we're on that subject, are you saying that
29 you always believed that the data had been transferred

1 from the phone you used for the latter part of your
2 Press Officership to the phone which was seized from
3 you in its entirety?

4 A. Well, my understanding, Mr. McDowell, is that data was
5 always available there. How it technically moves 13:45
6 around, I don't know. But my understanding is that
7 data would be available.

8 505 Q. I see. Tell me, at the time that you made this, or you
9 had this conversation with Sergeant McCabe, had you had
10 any conversation with former Commissioner Callinan -- 13:45

11 A. No.

12 506 Q. -- about deleting texts?

13 A. No.

14 507 Q. I'm curious, because even if you had deleted texts
15 solely for the purpose of creating room on your own 13:45
16 phone, there should've been a copy of every text sent
17 to you and received from you by those people on their
18 phones, isn't that right?

19 A. I would imagine so, yes.

20 508 Q. Did you ever have any reason to believe that none of 13:45
21 the texts you'd sent them would be available?

22 A. No.

23 509 Q. Was there a custom or a practice in An Garda Síochána
24 of deleting this type of material?

25 A. There was no custom or practice or formalised 13:46
26 instruction.

27 510 Q. Well, we know, for instance, that former Commissioner
28 Callinan, the day he retired, apparently destroyed the
29 sim card from his phone. You're aware of that now,

1 aren't you?

2 A. No, I wasn't aware until after.

3 511 Q. That transpired at the Fennelly Commission I think.

4 A. Yeah.

5 512 Q. But you weren't aware at the time? 13:46

6 A. No. No.

7 513 Q. I see.

8 MR. MÍCHEÁL O' HIGGINS: Chairman, I wonder could

9 Mr. McDowell indicate the basis for that last comment

10 regarding Commissioner Callinan? My understanding is 13:46

11 that that's not accurate.

12 CHAIRMAN: What do you say is accurate, Mr. O'Higgins,

13 in that regard? It might help to, I suppose, balance

14 the record at this point.

15 MR. McDOWELL: That was my understanding from the 13:47

16 document --

17 MR. MÍCHEÁL O' HIGGINS: My understanding of matters,

18 Chairman, is that the phone was returned but the sim

19 card was missing, not destroyed. And certainly not

20 destroyed, I've no information that it was destroyed on 13:47

21 that day. But perhaps Mr. McDowell can indicate the

22 basis of his information.

23 MR. McDOWELL: No, sorry, well, maybe I'm -- I presume

24 that if it was available to former Commissioner

25 Callinan and not destroyed, he'd have discovered it to 13:47

26 this Tribunal. So I'm assuming it must've been

27 destroyed.

28 CHAIRMAN: We didn't get it, isn't that right?

29 MR. McGUI NNESS: No, Chairman, we didn't get the sim.

1 But Superintendent Flynn gave evidence that it had been
2 deactivated as a sim.

3 CHAIRMAN: Yes.

4 MR. McDOWELL: well, whatever its status, it may still
5 exist, Judge, but it hasn't been discovered to the 13:47
6 Tribunal, that's all I'd say.

7 CHAIRMAN: well, if it's only a piece of silicone, it's
8 not much use if there's nothing on it. And I
9 understand that there's nothing on it. And there it
10 is. Now, what inference I'm to draw from that, I don't 13:48
11 know, but I'm not sure it's the greatest piece of
12 evidence so far.

13 514 Q. MR. McDOWELL: Yes. Now, could I ask you, in relation
14 to the sending of -- well, I'll come back to it in a
15 moment. Could I ask you in relation to the last bullet 13:48
16 point on that page:

17
18 "He told me there were a number of intelligence files
19 on me in Garda Headquarters and I should look for them
20 under disclosure." 13:48

21
22 Did you tell him that?

23 A. I said there could be files in Garda Headquarters in
24 Crime and Security.

25 515 Q. On what basis had you to make that remark to him? Had 13:48
26 you ever seen or been informed of the existence of such
27 a file?

28 A. I'd never seen, but I know if members have been
29 investigated or there's issues, there may be files

1 there contained.

2 CHAIRMAN: well, of course there are files. I mean,
3 there's discipline files or whatever, as there would've
4 been in relation to yourself. But that doesn't mean
5 that there's some, you know, hidden gem or cache, as in 13:49
6 some huge conspiracy theory lying somewhere in Garda
7 Headquarters that they haven't even shown me. But I
8 mean, what are you talking about there? what are you
9 trying to convey?

10 A. well, in relation if you're under investigation then 13:49
11 Crime and Security would be the people who'd be the
12 conduit to get downloads of your phones and your phone
13 records and that type of stuff.

14 CHAIRMAN: There's no suggestion that anyone ever
15 bugged Sergeant McCabe's phone - unless you're telling 13:49
16 me now that you have evidence of that.

17 A. No, I don't have evidence, Chairman.

18 CHAIRMAN: But I don't know what you're trying to
19 suggest. I mean, to put it mildly, we've spent a great
20 deal of money and a great deal of time investigating 13:49
21 this, and that includes me going up to Garda
22 Headquarters, because there's things they will not show
23 to anybody apart from a judge. I happen to be a judge.
24 So unless there's a group of about a dozen people up
25 there deceiving me, do you still think there's some 13:49
26 kind of record in headquarters of a secret kind about
27 Maurice McCabe or...

28 A. well, I've heard the evidence and I accept there isn't,
29 Judge -- or Chairman.

1 CHAIRMAN: But you feel entitled to just make an
2 allegation without any evidence at all?

3 A. No, it was my -- sorry, Chairman, I don't mean to be
4 rude. It was my understanding there would be.

5 CHAIRMAN: Where did you get that from? 13:50

6 A. Well, being a member of Crime and Security - I was part
7 of Crime and Security - there would be files kept. So
8 it would be my understanding there would've been files
9 kept on members who had been the subject of
10 investigation. 13:50

11 CHAIRMAN: Well, of course --

12 MR. McDOWELL: Separate from --

13 CHAIRMAN: But in the same way as if I was the subject
14 of an investigation, they'd have a file on me, wouldn't
15 they? 13:50

16 A. Yeah, but you're not a member of An Garda Síochána.

17 CHAIRMAN: No. Not yet.

18 A. But...

19 516 Q. MR. McDOWELL: Superintendent Taylor, are you saying
20 that separate from, say, a discipline file or an 13:50
21 investigation file or a personnel, a human resources
22 file that it was your understanding that it was likely
23 that there was a Crime and Security file on Sergeant
24 McCabe because of his activities in relation to making
25 trouble for the guards, is that what you're suggesting? 13:51

26 A. It's a possibility.

27 517 Q. It was a possibility? But I mean, I've got to suggest
28 to you that you told Sergeant McCabe that there was
29 such a file, it wasn't just that it was a possibility

1 there was such a file.

2 A. I never said there was such a file, because I wouldn't
3 have that knowledge. I said there's a possibility
4 there could be a file.

5 518 Q. I see. I've got to suggest to you that you told 13:51
6 Sergeant McCabe there was such a file and that you said
7 there was one file with Crime and Security and another
8 file on a special computer at Garda HQ, and you said
9 that this latter file is named Oisin. Now, did you
10 tell him, did you inform him about the word "Oisin"? 13:51

11 A. Yes, there's a standalone system within Crime and
12 Security which is separate from the general Garda
13 files.

14 CHAIRMAN: Yeah, and all of that is true. But all of
15 that relates to... 13:51

16 A. Other matters.

17 CHAIRMAN: Yeah, matters that shouldn't be in any way
18 connected to a general computer system because of fear
19 of hacking, let us say, terrorism, be it Slavic,
20 Islamic, IRA, Unionist, whatever, it makes sense, 13:52
21 doesn't it?

22 A. It does make sense.

23 CHAIRMAN: why would they put Sergeant McCabe on it?
24 why do you think Sergeant McCabe was on it?

25 A. Well, I mean I'm not saying put in the same category as 13:52
26 those people, Chairman, but there's just, there's a
27 standalone system which is separate from the general
28 Garda system on which files would be kept. I'm not
29 suggesting for a minute he'd be within that category,

1 but it is --

2 CHAIRMAN: I'm just wondering - I'm sorry to interrupt,
3 Mr. McDowell - were you trying to wind him up?

4 A. Absolutely not.

5 CHAIRMAN: Because he was wound up enough already. But 13:52
6 I mean, to tell him that there's files on him in Crime
7 and Security as if he's some kind of a leading
8 terrorist...

9 A. I never suggested, Chairman, he was a terrorist. I was
10 just merely trying to assist him. Because I knew how 13:52
11 concerned he was.

12 519 Q. MR. McDOWELL: well, on the next page it says:
13
14 "Superintendent Taylor also stated that there was no
15 doubt that my phone had been" - I presume it's "had 13:52
16 been tapped" - "but he was not aware of the present
17 position."
18
19 Did you say that to him?

20 A. Absolutely not. 13:53

21 520 Q. Are you saying that Sergeant McCabe invented that?

22 A. I can't say what Sergeant McCabe did. But I was there
23 and I didn't say that.

24 521 Q. I've got to suggest to you, you did say that and that
25 it caused very deep concern to Sergeant McCabe. 13:53

26 A. Well, I was there, Mr. McDowell. I know what I said
27 and I didn't say that.

28 522 Q. You see, Sergeant McCabe told you that he was going to
29 make a protected disclosure the following day, isn't

1 that right?

2 A. That's right, yes.

3 523 Q. And he's putting into this protected disclosure his
4 note of what had happened very shortly previously. And
5 I've got to suggest to you that there was absolutely no 13:53
6 basis for him to attribute to you the suggestion that
7 his phone had been tapped if you hadn't told him that.

8 A. I never said that to him, Mr. McDowell.

9 524 Q. By the way, do you believe that persons' phones are
10 tapped other than on foot of a Ministerial warrant? 13:54

11 A. No.

12 CHAIRMAN: well, I think you need a High Court judge,
13 don't you?

14 MR. McDOWELL: Sorry, Judge?

15 CHAIRMAN: You need a High Court judge, don't you? 13:54

16 MR. McDOWELL: No, it's a Ministerial warrant I think
17 you have to have.

18 CHAIRMAN: I thought you had to go before a High Court
19 judge as well.

20 MR. McDOWELL: No. unless things have changed. 13:54

21 CHAIRMAN: There's one of my colleagues who seems to
22 have been doing something in relation to that for a
23 number of years, Mr. McDowell.

24 MR. McDOWELL: No, I think there's two categories --

25 CHAIRMAN: Maybe I'll ask him, but I'm sure he won't 13:54
26 give me any information.

27 MR. McDOWELL: No, I think there's two stages; I think
28 the Minister signs warrants and a judge supervises in
29 retrospect the Minister's activity.

1 CHAIRMAN: As to whether it's being done, yes. well,
2 okay, that's what it's about, yeah.

3 525 Q. MR. McDOWELL: And I'm just asking you because it's not
4 the first time that it's been mentioned in this
5 Tribunal that people were afraid that their phone was 13:54
6 tapped. And I just want to ask you now, do you believe
7 that anybody's phone is ever tapped other than on foot
8 of a Ministerial warrant?

9 A. I've never had direct knowledge in interception of
10 phones, so I wouldn't know that. As I said, I assume 13:55
11 it's all done --

12 526 Q. Well, what was your belief at the time? Do you think
13 it could happen, that peoples' phones were tapped
14 without --

15 A. I've no -- 13:55

16 527 Q. -- Ministerial authority?

17 A. I have no knowledge of that, Mr. McDowell.

18 528 Q. You've no knowledge at all? He then records that:
19
20 "Superintendent Dave Taylor stated that he received a 13:55
21 phone call from Superintendent Noel Cunningham one
22 day. "
23
24 And he deals with Noel Cunningham and his own view of
25 him at that stage. And then he continues: 13:55
26
27 "Superintendent Cunningham had heard on the news that
28 Commissioner O'Sullivan had sent the Mullingar meeting
29 to GSOC. When he rang Superintendent Dave Taylor,

1 Superintendent Cunningham was annoyed and said 'Nóirín
2 is after throwing me under the bus'. "
3
4 Did that happen?
5 A. Superintendent Noel Cunningham rang me around -- or I 13:55
6 rang him, sorry, I rang him around --
7 529 Q. You rang him?
8 A. Yes. I got information that he had heard that the file
9 from the DPP had been returned with no prosecution. So
10 I got his phone number and I rang Superintendent 13:56
11 Cunningham and he told me that he had heard a rumour --
12 530 Q. Stop for a second. You heard that his name was on the
13 file, the DPP file relating to Maurice McCabe?
14 A. No, no. No, no. No, no. I'll go back.
15 Superintendent Cunningham, I'd heard that 13:56
16 Superintendent Cunningham had heard that the file in
17 relation to me --
18 531 Q. Oh, in relation to you? I see.
19 A. Yes. Had been returned and with no prosecution. When
20 I heard this information, I obtained Superintendent 13:56
21 Cunningham's number and I rang him to verify what he
22 had heard. And he had said he had heard a rumour that
23 the file was back. So it was in relation to me, not in
24 relation to anybody else.
25 532 Q. I just want to go through this again. How did you hear 13:57
26 this from Superintendent Cunningham?
27 A. I heard it from another colleague.
28 533 Q. That Superintendent Cunningham believed that the file
29 in relation to you had been returned marked "No

1 Prosecution"?

2 A. Yes.

3 534 Q. This is arising out of the Clerkin --

4 A. Yes.

5 535 Q. -- investigation? 13:57

6 A. Yes.

7 536 Q. And how would Superintendent Cunningham have anything

8 to do with that?

9 A. He's President of my Superintendents Association.

10 537 Q. I see. And you say that you heard this from another 13:57

11 Garda and rang Superintendent Cunningham for

12 confirmation, is that right?

13 A. Yes.

14 538 Q. And did he give you that confirmation?

15 A. He said he had heard that rumour. But it subsequently 13:57

16 wasn't true, it didn't return until February '17.

17 539 Q. I see. And then did he mention that he had been thrown

18 under the bus?

19 A. I sympathised with the situation he was going under.

20 And he had told me that that matter had been in 13:58

21 relation to GSOC and he felt that he had, yeah, gone

22 under the bus.

23 CHAIRMAN: You mean the referral by Ms. D to GSOC

24 saying that Superintendent Cunningham hadn't

25 investigated the matter properly or the referral by 13:58

26 Nóirín O'Sullivan that Sergeant Martin and

27 Superintendent Cunningham may have in some way misled

28 the O'Higgins commission?

29 A. That's correct, Chairman.

1 CHAIRMAN: It is the second thing?

2 A. The second theory, yes.

3 540 Q. MR. McDOWELL: He then says:

4

5 "Chief Superintendent Fergus Healy attended the 13:58
6 O'Higgins Commission each day."

7

8 Did you have any conversation with him about
9 Superintendent Healy?

10 A. I was talking to him in relation to both Superintendent 13:58
11 Cunningham and Chief Superintendent Fergus Healy and I
12 was telling him how good and generous those two
13 officers had been. And a few days after I had been
14 suspended I was outside Headquarters picking up some
15 documentation in relation to my thesis and 13:58
16 superintendent -- or Chief Superintendent Fergus Healy
17 drove by and he waved to me and then he went back into
18 Headquarters and he walked back out and came over to my
19 car and shook hands with me and wished me well in what
20 was before me. And I was telling Sergeant McCabe the 13:59
21 generosity of this man. Like, I mean, as I said, there
22 was nothing in it for him to come out and show me such
23 comfort. And I was explaining in relation to that to
24 Fergus Healy.

25 541 Q. And did you explain to him that Chief Superintendent 13:59
26 Healy had been carpeted by the Commissioner for not
27 telling her what had happened at the --

28 A. No.

29 542 Q. -- O'Higgins commission?

1 A. No. I was given these two stories in relation to those
2 two officers, who, as I say, were very generous in
3 their time with me and their engagement with me and I
4 want to pay tribute to them here again.
5 CHAIRMAN: But I mean, you didn't tell them when they 14:00
6 came up to shake your hand, look, the investigation is
7 absolutely right, everything that they claim against me
8 is true.
9 A. No. But I was making it in the situation their
10 generosity in just sympathising with me and that, you 14:00
11 know, as a fellow officer.
12 CHAIRMAN: Okay.
13 MR. McDOWELL: Did you suggest --
14 CHAIRMAN: I understand. I understand.
15 MR. McDOWELL: Sorry, judge. 14:00
16 CHAIRMAN: No, no.
17 543 Q. MR. McDOWELL: Did you suggest to Sergeant McCabe that
18 Chief Superintendent Healy had told you that he had
19 been carpeted by the Commissioner, accusing him of
20 keeping her in the dark about what had happened -- 14:00
21 A. No.
22 544 Q. -- at the O'Higgins Commission?
23 A. I didn't know the engagement of Chief Superintendent
24 Healy with Commissioner O'Sullivan.
25 CHAIRMAN: Honestly, Mr. McDowell, I might get a bit 14:00
26 excited if we keep on about the O'Higgins Commission.
27 I thought we really had months of it so far. It's not
28 going to influence me. Surely there are more important
29 things than that. I think there are.

1 MR. McDOWELL: I will pass on from it, but I mean, this
2 is the conversation as recorded by my client.

3 CHAIRMAN: No, I appreciate that, and there's a certain
4 element of agreement, it seems to me, between you and
5 Superintendent Taylor. 14:01

6 MR. McDOWELL: well, I'll pass on from that, Judge.

7 545 Q. Did you inform him that there was a person called
8 Kieran in Garda Headquarters who monitored all Sergeant
9 McCabe's activities on Pulse?

10 A. No. I was. 14:01

11 546 Q. You didn't tell him that?

12 A. I spoke to him in relation to Pulse and your Pulse
13 activity would be monitored, that peoples' Pulse
14 activity --

15 547 Q. Did you suggest that somebody called Kieran -- 14:01

16 A. No.

17 548 Q. -- was in charge of monitoring?

18 A. I don't know anybody, Kieran.

19 549 Q. So that is an invention by Sergeant McCabe is it?

20 A. I don't know a person Kieran that looks after -- I know 14:01
21 there's lots of people up there who looks after Pulse.

22 550 Q. And finally, did you tell him that you were informed by
23 Deputy Commissioner John Twomey that if you,
24 Superintendent Taylor, slipped out and retired all of
25 this, the discipline charges against you would go away 14:01
26 and that Deputy Commissioner Twomey could facilitate
27 it?

28 A. Deputy Commissioner Twomey and my chief superintendent
29 met my legal team and there was no suggestion that I

1 could slip out or slip away anywhere. I was just
2 saying that they had met my legal team in relation to
3 the situation that I was in.

4 551 Q. So let's see what he said. "He said he was informed by
5 Deputy Commissioner John Twomey that if he, 14:02
6 Superintendent Taylor, slipped out and retired, all
7 this, i.e. his discipline charges, would "go away" and
8 that Deputy Commissioner Twomey could facilitate it.
9 Superintendent Taylor adamantly refused to adopt such a
10 course." 14:02

11 A. No, I actually never met Deputy Commissioner Twomey.
12 My legal team met him.

13 CHAIRMAN: So the whole thing is, in other words,
14 resign and everything will be fine, we'll drop
15 everything? 14:02

16 A. No, that's not allowed.

17 CHAIRMAN: Well, it happened a number of times in the
18 Morris Tribunal and that's not going back terribly far.
19 So you're saying in any event, if there is such an
20 offer, it wasn't made to you? 14:02

21 A. No, it wasn't.

22 CHAIRMAN: And any report of that by Sergeant McCabe is
23 incorrect, he's got the wrong end of the stick?

24 A. Yes.

25 CHAIRMAN: In some way he's got the wrong end of the 14:03
26 stick?

27 A. (Witness Nods).

28 CHAIRMAN: All right.

29 552 Q. MR. McDOWELL: Now, you see, I've got to suggest to you

1 that you did say that to him and that Sergeant McCabe
2 did not imagine that.

3 A. I didn't say it, because I couldn't have said it,
4 because I did not meet Deputy Commissioner John Twomey.

5 553 Q. Could he have said it to you over the phone? 14:03

6 A. No.

7 CHAIRMAN: The sense I'm getting from that,
8 Mr. McDowell, I'm sorry I'm interrupting, but I'm just
9 trying to understand it, is that this was some kind of
10 an offer made in the course of -- I am not entitled as 14:03
11 a judge normally to hear negotiations between people
12 with a view to settling cases, but you did have a case
13 before the High Court?

14 A. Yes.

15 CHAIRMAN: And there was a discipline proceedings? 14:03

16 A. Yes.

17 CHAIRMAN: And there were criminal proceedings --

18 A. Yes.

19 CHAIRMAN: -- being investigated.

20 A. (Witness Nods). 14:03

21 CHAIRMAN: And the sense I am getting is that your
22 lawyers met with somebody high up in Headquarters,
23 maybe Assistant Commissioner Twomey, and he said look,
24 we'll forget about the whole thing if he just goes
25 quietly or something to that effect and that you said 14:04
26 that to Sergeant McCabe; that is what Mr. McDowell is
27 asking you about.

28 A. No, it wasn't said in that way. I just repeated that
29 they had met my legal team in relation to it a number

1 of days after I had been released from Balbriggan Garda
2 station at their legal offices.

3 554 Q. MR. McDOWELL: Now, could I ask you to look at pages
4 686 -- 6856 and 6857 in book, volume 25? And this is a
5 statement by Mick wallace TD. And you do recall 14:05
6 meeting Mick wallace TD, is that right?

7 A. Yeah, he called to my house.

8 555 Q. And did you say to him concerning Commissioner
9 O'sullivan when she moves, she's lying?

10 A. No. 14:06

11 556 Q. That when she is sitting and moves her seated position,
12 she's telling a lie. And you referred to her
13 appearance before the Justice Committee as an example.

14 A. No.

15 557 Q. You see, I suggest to you that if you did say something 14:06
16 like that to Deputy wallace that what you said to
17 Sergeant McCabe about her lying is true.

18 A. I do not accept that.

19 558 Q. I see. Now, I think, did you -- can you explain --

20 CHAIRMAN: Sorry, Mr. McDowell, you are going on to a 14:06
21 question, but I am not connecting the two things. What
22 are the two things you are connecting please?

23 MR. McDOWELL: He told Deputy wallace apparently,
24 according to Deputy wallace's notes, that you could
25 detect when Commissioner O'sullivan was lying by the 14:06
26 fact that she shifts in her seat when she's lying.

27 CHAIRMAN: All right, yes.

28 MR. McDOWELL: And I'm suggesting to him that he had
29 already told Sergeant McCabe that she would do anything

1 to lie.

2 559 Q. And I'm just suggesting that you were in the habit of
3 impugning her honesty and saying that she was a liar.
4 CHAIRMAN: Yeah, in a colourful way, if you like. what
5 do you say about that? 14:07

6 A. I do not accept that.

7 CHAIRMAN: Yes.

8 560 Q. MR. McDOWELL: Now, Sergeant McCabe is very clear that
9 you told him that there were hundreds and thousands of
10 text messages and that on the day that he, the 14:07
11 following day when he told you he was going to make a
12 protected disclosure, he specifically checked that out
13 with you.

14 A. No, he did not.

15 561 Q. You say he didn't mention it at all? 14:07

16 A. It was a very quick conversation. He came in, I do not
17 think he actually sat down, he might have sat down in
18 our house for about two minutes. He was on the move
19 straightaway. It was a very quick conversation. He
20 never mentioned once -- he was telling me he was going 14:08
21 to make a protected disclosure.

22 562 Q. But he isn't the only person who you told, according to
23 them, that there were hundreds or thousands of text
24 messages.

25 A. I always said I sent lots of texts or hundreds of texts 14:08
26 to both Deputy Commissioner Callinan and Deputy
27 Commissioner O'Sullivan by way of updates in relation
28 to Sergeant McCabe.

29 CHAIRMAN: Mr. McDowell, I'm interrupting too much, but

1 now please just for the point of view of clarity.
2 Mr. McGuinness put this point to you and the point made
3 was this: You're the Garda Press Officer at the
4 relevant time, your function obviously is to act as
5 spokesman for the Commissioner and you have certain 14:08
6 other functions and we've heard about those indeed.
7 But part of your job was to keep him updated and also
8 to copy things to the Deputy Commissioner about Maurice
9 McCabe. Now, if Maurice McCabe, for instance, let us
10 say for the sake of argument, appeared on the Late Late 14:09
11 Show and made some statement about the Gardaí, you
12 would send that over by way of a text to Martin
13 Callinan, copied to Nóirín O'Sullivan.

14 A. (Witness Nods).

15 CHAIRMAN: If somebody, let us say for instance a 14:09
16 public representative, did a big laudatory piece on
17 radio about Maurice McCabe, you would again send the
18 details of that, because your eyes and your ears are
19 open.

20 A. Yeah. 14:09

21 CHAIRMAN: It's not just the press clippings, it's
22 what's happening on the television and the radio, you'd
23 have people reporting that to you, you keep them
24 informed. But you see, the problem is this: There's
25 nothing wrong with that. 14:09

26 A. Yeah.

27 CHAIRMAN: You may say this shows their level of
28 obsession but then again, he was a very, very big story
29 at the time, and still is a big story, but then it was

1 a very big story and possibly their jobs depended on it
2 and what was being said about him and about them
3 together. So there's nothing wrong with any of that.
4 It's a very, very different thing to saying you got
5 suggestions as to what you should tell the media from 14:10
6 Martin Callinan and that this was copied by way of, I'm
7 going to tell the media the following thing to Nóirín
8 O'Sullivan, she says perfect or thanks or doesn't
9 dissent in any way. Those two situations, they're
10 radically different. 14:10

11 A. Yes.

12 CHAIRMAN: But that's what Mr. McDowell is asking you
13 about. I'm going to take it as a given that you were
14 sending lots of information about Maurice McCabe in the
15 sense that I have spoken about to the two 14:10
16 commissioners.

17 A. That's the way I was --

18 CHAIRMAN: Yes. So that's what Mr. McDowell is asking
19 you about. I think we need to have a Grand Canyon
20 between those two things because they are very 14:10
21 different.

22 A. Yeah.

23 CHAIRMAN: All right.

24 563 Q. MR. McDOWELL: Now, could I ask you about your
25 knowledge of Paul Williams? He was a serious crime 14:10
26 writer for a number of newspapers, isn't that right?

27 A. That's right, yes.

28 564 Q. And a regular person to appear on television and radio,
29 isn't that right?

1 A. That's right.

2 565 Q. Prior to the Ms. D interview episode, what was your
3 relationship with Mr. Williams?

4 A. Well, he would contact me and contact the Press Office
5 in relation to ongoing stories. He never turned up at 14:11
6 any crime scenes or press conferences or formal events
7 like that.

8 566 Q. He was a lone wolf, was he? He was not in the pack, is
9 that it?

10 A. Well, he had his own distinctive practice. 14:11

11 567 Q. I see. And as I understand your evidence, you say that
12 you did inform him that there had been a complaint of
13 sexual assault against Sergeant McCabe in 2006 and that
14 he was motivated, his complaints, his current
15 complaints were motivated by a desire to have revenge 14:12
16 against An Garda Síochána. That's your evidence, isn't
17 it?

18 A. That's correct.

19 568 Q. And can you put any -- given that you claim that you
20 got this instruction in mid-2013, are we to take it 14:12
21 that you imparted this information to him on more than
22 one occasions in late 2013?

23 A. It would be during 2013 and, as I say, it would be
24 various conversational pieces around Sergeant McCabe.

25 569 Q. I see. And are you saying that you had no inkling 14:12
26 whatsoever that he was making contact with the D family
27 or Ms. D to investigate her, to investigate her story?

28 A. Absolutely not.

29 570 Q. And do I understand your evidence to be that the first

1 inverted commas, to the Commissioner and the Deputy
2 Commissioner?

3 A. That's correct, yes.

4 580 Q. And you say that the Deputy Commissioner telephoned you
5 back -- 14:14

6 A. Yes.

7 581 Q. -- to discuss the matter. Could you tell the Tribunal
8 what was your discussion with Deputy Commissioner
9 O'Sullivan, as you recollect it?

10 A. She rang me back and I told her that I had received a 14:14
11 phone call from Paul Williams, he was up at that house,
12 he had conducted an interview.

13 582 Q. Well, you told her that in a text. So what was the
14 conversation about, according to you?

15 A. Well, the conversation was along similar lines as the 14:14
16 text; about what Paul Williams had passed on to me,
17 where he had been and what he was going to do.

18 583 Q. And you said that, and was anything said to you by the
19 Deputy Commissioner?

20 A. No. It was a very matter-of-fact conversation. 14:15

21 584 Q. Did she seem worried or upset for Sergeant McCabe --

22 A. No.

23 585 Q. -- that he was going to be accused in public of sexual
24 abuse?

25 A. No. 14:15

26 586 Q. Did she give any reaction to what you told her?

27 A. No. It was just literally filling out on what I had
28 said on the text.

29 587 Q. And did she express pleasure or displeasure at being

1 told that this was planned?

2 A. It was very matter of fact conversation, it wasn't any
3 emotions shown.

4 588 Q. I see. So stopping there, based on your implementation
5 of what you say was Commissioner Callinan's strategy to 14:16
6 discredit Sergeant McCabe, this was going to be a
7 blockbuster, wasn't it, if it was published?

8 A. Well, it would be a significant piece of article.

9 589 Q. It would do terrible damage to Sergeant McCabe,
10 wouldn't it? 14:16

11 A. It would, yes.

12 590 Q. And you and the Commissioner and the Deputy
13 Commissioner, according to you, were waiting for this
14 article to appear, is that the situation?

15 A. Well, I don't know if you could say we were waiting for 14:16
16 the article to appear. Mr. Williams said he would be
17 writing an article. I didn't know the timeline in
18 which the article would be published.

19 591 Q. No, but you said it was a welcome development, so
20 presumably there was anticipation that it would appear 14:16
21 at some stage?

22 A. Oh, yes.

23 592 Q. And there would have been disappointment if nothing
24 appeared, isn't that right?

25 A. Well, sometimes articles do appear, sometimes articles 14:16
26 don't appear for whatever legal reasons or journalistic
27 reasons.

28 593 Q. The lawyers get at them or whatever?

29 A. (Witness Nods).

1 594 Q. But in any event, as far as -- you were never consulted
2 about whether it was being, to use the journalist term,
3 legalised in the background. You were unaware what
4 happened to the articles?
5 A. I was unaware, yeah, unaware. 14:17
6 595 Q. And do I understand you to say that you were unaware
7 completely that subsequently Mr. Williams did publish,
8 I think, on 12th April --
9 A. Yes.
10 596 Q. -- the article? You were unaware of that? 14:17
11 A. I was, yeah.
12 597 Q. How did it come about that you were unaware of that?
13 A. I may have been off at the time, it may have been a
14 weekend. As I said, by that time I was in the Press
15 Office, Commissioner O'Sullivan had been taken out, I 14:17
16 didn't have a lead role.
17 598 Q. But surely it was very, very big news if --
18 A. As I said, I have said it from day one, Mr. McDowell, I
19 didn't see it, because whether I was on leave or
20 whether I was off or what, I just didn't see it. 14:18
21 599 Q. And are we to accept then that in the two subsequent
22 follow-up stories by Mr. Williams, where he reheated
23 that story and said that there was going to be an
24 attempt to meet the Opposition leader, Mícheál Martin,
25 to discuss it, that you were unaware of that as well? 14:18
26 A. Well, this period of time, Mr. McDowell, was, we had
27 just lost the Commissioner that I had worked closely
28 with. It was, I can't overestimate, the shell shock to
29 me, the shock to the system. I have to be honest with

1 you, my interest in a lot of those articles had waned
2 completely because of the situation that we were now
3 in.

4 600 Q. But we know that even after you lost your position in
5 the Press Office that you were in regular communication 14:18
6 with a number of journalists?

7 A. Yes.

8 601 Q. So you hadn't lost total interest in Garda affairs?

9 A. I hadn't, no. I hadn't. But I mean at that stage I
10 was just in -- that was just in the aftermath of the 14:19
11 traumatic events of March 25th. There was a lot of --
12 it was a difficult time.

13 602 Q. And are you saying that you were completely unaware
14 that Mr. Williams had published a number of articles
15 and that Sergeant McCabe was, so to speak, the subject 14:19
16 of complaints to the Commissioner of An Garda Síochána
17 -- sorry, to the leader of the Opposition, and that
18 there were proposals that she might refer the whole
19 matter to GSOC and have it reinvestigated, you're
20 completely unaware of all that? 14:19

21 A. I never saw the articles.

22 603 Q. But did you hear about them?

23 A. I think I could have heard of them subsequently, later.
24 I don't know how long afterwards I would have heard
25 about them. But at the time I didn't see them. 14:19

26 604 Q. Well, when you were dealing with Debbie McCann and
27 Eavan Murray in relation to possible visits to the D
28 home, I take it, it was with the same expectation that
29 Ms. D's complaints would be given publicity against

1 Sergeant McCabe, is that right?

2 A. Yes.

3 605 Q. And did you ever check with either of them as to what
4 had happened to their efforts to publish these stories?

5 A. Well, I understand they never got a chance for an 14:20
6 interview. So I wouldn't think an article would ever
7 be written, because I didn't think they got an
8 interview.

9 606 Q. Would you not have thought to tell one or other of them
10 by the way, Paul Williams has that story and it's about 14:20
11 to be published?

12 A. I never discussed inter-journalistic contacts and
13 telling tales on what other journalists were doing.

14 607 Q. So can I take it then that as far as you were
15 concerned, at all material times you thought nothing 14:21
16 had come of any effort to talk to Ms. D, is that right?

17 A. Except for the fact that Mr. Williams had told me he
18 had spoken to the family.

19 608 Q. Yes, but nothing had come of it?

20 A. Well, I didn't see it, I never saw, never read the 14:21
21 articles or saw the articles.

22 609 Q. And that must have been a disappointment to you?

23 A. Well, as I said, by that stage, Mr. McDowell, I was out
24 of frontline Press Office.

25 610 Q. Can I suggest to you that, as Mr. McGuinness did, that 14:21
26 the exclusion of Debbie McCann and Eavan Murray from
27 your list of people to whom you gave information about
28 Sergeant McCabe was selective in order to protect them?

29 A. Absolutely not.

1 611 Q. Was it a pure lapse of memory?
2 A. No. At the first opportunity afterwards I included
3 them and I've always -- and I've given --
4 612 Q. But on the day that you didn't mention them, was it 14:22
5 just a pure lapse of memory? They didn't occur to you
6 as people who you might have spoken to?
7 A. Well as I say, I said in my correspondence that I would
8 check and complete the list, which I did.
9 613 Q. I see.
10 CHAIRMAN: I'm sorry for interrupting, Mr. McDowell, 14:22
11 but I'm just wondering, what did you check?
12 A. Well, I just checked by own recollection and memories
13 and that and --
14 CHAIRMAN: You mentioned checking records on two or
15 three occasions yesterday -- 14:22
16 A. Well, forgive me.
17 CHAIRMAN: -- and I'm just wondering where the records
18 are, because I certainly don't have them.
19 A. Forgive me if I misled you, Chairman. I mean my own
20 recollection, records, my own recollection, within my 14:22
21 own memory. I don't mean any physical records. I
22 apologise if I gave that impression.
23 CHAIRMAN: The matter has been put to you already by
24 Mr. McGuinness and it's clear that the Tribunal came to
25 you with those names in a particular context. 14:23
26 A. I accept that.
27 CHAIRMAN: Sorry, Mr. McDowell.
28 614 Q. MR. McDOWELL: Can I suggest to you that the exclusion
29 from your protected disclosure of the reference to

1 Commissioner Callinan using the term "kiddie fiddler"
2 to Deputy John McGuinness after the PAC meeting was
3 probably motivated by a desire to protect him and to
4 increase the focus on Nóirín O'Sullivan with whom you
5 had a grievance?

14:23

6 A. Absolutely not.

7 615 Q. Did it just slip your mind at the time that you were
8 making your protected disclosure?

9 A. I put it in at the first available opportunity in my
10 full statement. It was not --

14:24

11 616 Q. I have to suggest to you the first available
12 opportunity was your protected disclosure. Because
13 this was irrefutable proof and corroboration of your
14 claim that you were instructed to carry out this, that
15 the Commissioner himself had, perhaps in a moment of
16 exasperation, done the same thing in your presence to a
17 member of the Oireachtas.

14:24

18 A. I brought this information to the Tribunal's attention
19 in my statement.

20 MR. McDOWELL: Thank you.

14:24

21 A. Thank you.

22 CHAIRMAN: would you mind again reminding us who appear
23 for before you asking any questions of Superintendent
24 Taylor, he needs to know that.

25 MR. GILLANE: Yes, Chairman. Sean Gillane for RTÉ,
26 John Burke, Paul Reynolds and Philip Boucher-Hayes.

14:24

27

28

29

1 THE WITNESS WAS THEN CROSS-EXAMINED BY MR. GILLANE

2 617 Q. MR. GILLANE: Good afternoon, Superintendent Taylor. I
3 have a very small number of questions for you and I
4 hope to be finished with you in about five or six
5 minutes so I hope you will bear with me. 14:25

6 A. Thank you.

7 618 Q. Can I just ascertain, if I can, firstly, if I'm correct
8 in my understanding of your evidence in relation to the
9 parameters of what we're talking about; insofar as you
10 describe the initiation or the starting point of 14:25
11 negatively briefing journalists in relation to Sergeant
12 McCabe, you've no memory with any particularity as to
13 when that started and where and with whom who?

14 A. I would say mid 2013. I don't have a particular date.

15 619 Q. All right. Nothing better than mid year? 14:25

16 A. Yes, roughly then.

17 620 Q. And do I understand also that you have no particularity
18 in relation to when that campaign of negative briefing
19 ended?

20 A. Well, it would have ended with the departure of 14:26
21 Mr. Callinan.

22 621 Q. All right. And do I also understand it that between
23 those two bookends you have no details whatsoever in
24 relation to where, when and with whom and what the
25 substance of these briefings were? 14:26

26 A. Well, I told you that I said the substance of the
27 briefing was to draw their attention --

28 622 Q. No, I understand that, but my question is: You've no
29 detail, you've no particularity in relation to any of

1 those potentially innumerable instances that you were
2 referring to yesterday?

3 A. Am I correct to say you're asking me do I have records?

4 623 Q. No, no. I am asking you -- well, if you have records
5 you might tell me that, if you do. But you have no
6 detail, you have no memory of any detail between the
7 start point and the end point? 14:26

8 A. No. These were opportunist situations, Mr. Gillane.

9 624 Q. No, I understand that and you said that a number of
10 times yesterday. But is the answer to my question yes 14:27
11 then; you have no detail to offer me --

12 A. No, I do not.

13 625 Q. -- in respect of any of those instances? And we are
14 clear together on that?

15 A. Yes. 14:27

16 626 Q. Because as you are aware, and I will put it to you
17 directly, Mr. Burke and Mr. Reynolds deny receiving the
18 negative briefings that you have mentioned and detailed
19 insofar as there is any detail. All right?

20 A. (Witness Nods). 14:27

21 627 Q. Can you confirm for me in relation to your protected
22 disclosure, dated September 2016, that neither
23 Mr. Burke nor Mr. Reynolds are in fact mentioned in
24 that protected disclosure as being part of this
25 campaign that you say you were engaged in? 14:27

26 A. I said in my protected disclosure that I briefed media,
27 I didn't name any particular person.

28 628 Q. Yes. Again, is the answer to my question yes?

29 A. Yes.

1 629 Q. They're not named in --
2 A. No.
3 630 Q. -- September 2016 --
4 A. No.
5 631 Q. -- as being part of that campaign? 14:27
6 CHAIRMAN: I think the only person named is Paul
7 Williams, isn't that right?
8 MR. GILLANE: Paul Williams, yes
9 CHAIRMAN: That is the only name that comes out in any
10 particular context, yes. 14:28
11 632 Q. MR. GILLANE: what then happens is, in the following
12 year, GT3 I think is the document, there's the list of
13 the nine named journalists --
14 A. Yes.
15 633 Q. -- is that right? And it's in that list that Mr. Burke 14:28
16 and Mr. Reynolds now appear?
17 A. Yes.
18 634 Q. Now, can I ask you, and I'm not going to go over ground
19 Mr. McGuinness covered and Mr. McDowell covered, but
20 it's just a curious aspect of that list that I just 14:28
21 want to try and put some focus on if I can; you knew
22 what you were doing in terms of compiling that list,
23 what you were about, what its purpose was in terms of
24 that information being transmitted to the Tribunal,
25 setting out an aspect of this inquiry with clarity? 14:28
26 A. Yes.
27 635 Q. All right. And in terms of the timeframe we've
28 mentioned, 2012 is out of the picture, the first half
29 of 2013 is out of the picture, the second half of 2014

1 is out of the picture. So, in terms of this campaign,
2 such as it was, if it existed, we're actually dealing
3 with a fairly narrow timeframe?
4 A. About nine, ten months, yeah.
5 636 Q. Yeah. Second half of 2013 and maybe the first third of 14:29
6 2014. So it's a narrow enough timeframe?
7 A. Yes.
8 637 Q. Now, to use a phrase I think you might have used
9 yesterday, in the epicentre of that timeframe, sort of
10 the bull's-eye period, at the very start of 2014, as I 14:29
11 understand it, and correct me if I'm wrong, you're
12 having extensive contact with Ms. Murray and
13 Ms. McCann, isn't that right?
14 A. Yes.
15 638 Q. And it is extensive and that's not an exaggeration to 14:29
16 describe it thus?
17 A. Yes, yes.
18 639 Q. You've been engaged in the campaign that you've
19 mentioned which seems to have borne no fruit, because I
20 think as you've told us yesterday, positive media 14:29
21 reporting of Sergeant McCabe continued, isn't that
22 correct?
23 A. A certain element of it, yeah.
24 640 Q. And I think indeed I think you may have told us
25 yesterday that Commissioner Callinan on your account 14:30
26 was particularly concerned that RTÉ was one of the
27 media organisations that was consistently presenting
28 Sergeant McCabe in a positive way and persistently
29 keeping the matters that he was complaining of on the

1 public agenda?

2 A. I do not recall saying that yesterday.

3 641 Q. I think we can return to the transcript, I think you
4 mentioned Mr. Callinan in particular as being very
5 annoyed about the fact that that profile was being 14:30
6 maintained and I think you mentioned RTÉ in particular?

7 A. I don't recall saying RTÉ.

8 642 Q. I'll go back and check that.

9 A. Yeah, but I do remember saying he was very annoyed.

10 643 Q. In any event, the broad picture is as I've described, 14:30
11 isn't that right?

12 A. Yes.

13 644 Q. So now we have a position in early '14 where two
14 journalists associated with two of the largest
15 circulating tabloid newspapers in the country are 14:30
16 biting. Do you understand what I mean?

17 A. Yes.

18 645 Q. You've been negatively briefing them, as you say, and
19 they're now biting. The agenda is getting traction, is
20 that fair enough? 14:31

21 A. Well, I was briefing them. How much traction they got
22 was a matter for themselves.

23 646 Q. All right, you say you were briefing them. They're now
24 biting, in this sense, that in early 2014 we're now on
25 the cusp of two significant publications, possibly 14:31
26 publishing a story that couldn't be more damaging to
27 Sergeant McCabe, is that fair enough?

28 A. Whether they published it or not, Mr. Gillane, was
29 their prerogative.

1 647 Q. No, I know. But I think you heard my question. Where
2 we're at now in terms of the timeframe is that we're on
3 the cusp of, in terms of your understanding, a story
4 being published in two of the largest circulating
5 papers in the country which could not be more damaging 14:31
6 to the target of your campaign, is that fair enough?
7 A. Yes.

8 648 Q. And you describe that in your evidence as potentially
9 significant. That, I'm going to suggest to you, is
10 maybe underselling it. You must have been ecstatic if 14:32
11 that was the position at that time.
12 A. I wouldn't say I was ecstatic. I was just doing what I
13 was directed to do.

14 649 Q. Well, the campaign that you say you were involved in
15 was now about to achieve a very, very serious and 14:32
16 explosive crescendo. Am I right?
17 A. I wouldn't put it --

18 650 Q. That would have been the expectation at that stage?
19 A. I wouldn't put it in those dramatic terms. I passed on
20 the information to the two journalists. 14:32
21 651 Q. All right.
22 A. How they pursued it and how they developed it and
23 published it was a matter for them.

24 652 Q. Well, here is a question that I do want to ask you in
25 that connection, because I know Mr. McGuinness and 14:32
26 Mr. McDowell have traversed the other aspects of this:
27 This, from all of the paper I've gone through, appears
28 to be about the only aspect of this negative briefing
29 that in fact you have some detail, is that fair enough?

1 A. I just placed the information before the journalists.

2 653 Q. No, no.

3 A. And briefed the journalists as I've named.

4 654 Q. Maybe I've asked the question inelegantly. In terms of
5 all of what the Tribunal has gathered together, in 14:33
6 terms of relevant paper work and this suggested smear
7 campaign, and your account of it, this in fact is the
8 one period where you do in fact have detail, not much
9 of it, but detail.

10 A. (Witness Nods). 14:33

11 655 Q. Am I right? You can remember talking to these people,
12 when you were talking to them, what it was about, where
13 they were to go, the agenda, who you reported to, all
14 of that; that's colour, it's detail.

15 A. Yes, but I spoke to a number of journalists. 14:33

16 656 Q. Yeah, but these are the only suggested aspects of the
17 campaign I'm putting to you that actually have some
18 flesh on them, some detail that someone could
19 cross-examine on for example.

20 A. Well, the purpose of the conversations and briefings 14:34
21 with journalists was to put -- across the platform of
22 the journalists was to put that information out to a
23 multiplicity of --

24 657 Q. No, you misunderstand me, and it's my fault. Do you
25 accept that this is the only aspect of the putative 14:34
26 smear campaign in respect of which we have detail from
27 you?

28 A. Well, these journalists, as I said, they were involved
29 in going to the house of Ms. D, yes.

1 658 Q. Yeah, I understand. But do you understand my question?
2 This is the part of the campaign on which we now have
3 actual detail.

4 A. But the campaign, Mr. Gillane, wasn't -- out, wasn't
5 solely focused on product, it was solely focused on 14:34
6 putting a narrative out there in relation to people.

7 659 Q. Again that's answering a question I don't think I've
8 asked. This is the only detailed account you've
9 actually given of an instance of this negative
10 briefing. 14:35

11 A. Well, I gave an instance of how I briefed all
12 journalists along the way.

13 660 Q. Yeah, but that was all generality. This is very, very
14 specific; named people, times, locations,
15 subject-matter. 14:35

16 A. Well, I named all the other people.

17 661 Q. No, no, you --

18 A. And there would be considerable phone traffic between
19 me and them.

20 662 Q. No, no, this -- I'm suggesting, and I think you know 14:35
21 what I'm at here, this is the only time --

22 CHAIRMAN: Mr. Gillane, forgive me for interrupting
23 just for a moment, just so that I clarify maybe.
24 You've been asked on a number of occasions, including
25 by our investigators, look, can you give a 14:35
26 conversation, I spoke to so and so on the phone and it
27 was on the occasion of, let us say, some terrible
28 tragedy and they were there and we started off talking
29 about their mother who was ill or some personal matter

1 and then it moved on to Sergeant McCabe and I said the
2 following to this specific person? Now, all of that is
3 absent. But what Mr. Gillane is saying is when you
4 come to Eavan Murray and Debbie McCann there is some
5 detail of them ringing you, what you said, what they 14:36
6 said to you, what you did in consequence of it, which
7 is missing in relation to everybody else, all the other
8 nine. We have eleven altogether.

9 A. Yeah.

10 CHAIRMAN: These are the only two where you have that 14:36
11 kind of --

12 A. And Mr. Williams.

13 CHAIRMAN: -- I suppose that kind of tangible fact that
14 you can hold on to, as if it's a reliving of the event.
15 So that is what Mr. Gillane is asking you about. I 14:36
16 think, do you understand?

17 A. I understand. I am much obliged, Judge.

18 663 Q. MR. GILLANE: You understand?

19 A. I understand.

20 664 Q. And are we in agreement? 14:36

21 A. Yes.

22 665 Q. All right. Well, that's why it seems all the more
23 curious, if I can put it to you this way, that when
24 setting out your account of who it is you say you
25 negatively briefed, that they're not just off the list, 14:36
26 but they're off the list, the original list, in a
27 context where you actually have memory and detail of
28 what you were about in relation to the Ms. D story.
29 And I just ask you to explain how that could be so.

1 A. Well, at the first opportunity I placed all that
2 information before the Tribunal.

3 666 Q. But the Chairman and other lawyers have been through
4 this, but that couldn't be so even in the sense in
5 which you suggest it is so. Because when you put this 14:37
6 before the Tribunal, as has been pointed out, in fact
7 it was put to you, but it's put to you in fact I think
8 halfway through that interview. Do you understand?
9 The investigators were already asking you questions,
10 already asking you to be specific and you made no 14:37
11 mention of Ms. McCann and Ms. Murray. And you'll find
12 your first mention of them halfway through your
13 interview when the investigators name them to you.

14 A. Well, where the investigators asked me within the
15 statement is a matter for the investigators. But when 14:38
16 they asked me, I confirmed it without hesitation.

17 667 Q. All right. Is it, and I'm going to suggest to you the
18 situation, that being on that original list or being
19 off it is something of potluck?

20 A. Absolutely not. 14:38

21 668 Q. Will you confirm for me in relation to Mr. John Burke
22 that in your entire time as Press Officer and
23 beforehand, you'd never in fact even met him?

24 A. I never -- I can't say if I ever met him.

25 669 Q. Well, I'm putting it to you that you never met him. 14:38
26 A. Well, I have to accept that.

27 CHAIRMAN: I mean, if he was here would you be able to
28 recognise him?

29 A. I would, yes.

1 CHAIRMAN: From what? The internet or...

2 A. Well, like, I know him well to see from television and
3 that.

4 CHAIRMAN: Okay, all right.

5 670 Q. MR. GILLANE: You know him from being on the 14:38
6 television?

7 A. Yes.

8 CHAIRMAN: But you never shook his hand or shared a
9 pleasantry?

10 A. Yeah, during my time as Press Officer. 14:39

11 671 Q. MR. GILLANE: And he's someone, whom you've never met,
12 winds up on your list --

13 A. Yeah.

14 672 Q. -- yet Ms. McCann and Ms. Murray with whom you are
15 having thousands of contacts in the specific context of 14:39
16 Ms. D stay off your list?

17 A. But I would have spoken to Mr. Burke.

18 673 Q. And just to be fair to you, in terms of my reference
19 earlier to your evidence yesterday, I think you
20 indicated that you were monitoring radio stations and 14:39
21 the like and that one of the issues was that RTÉ shows
22 were praising Sergeant McCabe and that infuriated Mr.
23 Callinan.

24 A. Okay. Much obliged, Mr. Gillane, for that.

25 MR. GILLANE: All right. Thanks very much. 14:39

26 CHAIRMAN: Was there any questions on behalf of Alison
27 O'Reilly?

28

29

1 THE WITNESS WAS THEN CROSS-EXAMINED BY MR. WALL

2 674 Q. MR. WALL: Michael wall for Alison O'Reilly. It comes,
3 superintendent, back to this morning, just to ask you,
4 are you aware of any other senior Gardaí talking to
5 journalists about penalty points or Maurice McCabe 14:40
6 either off the record or just provide information but
7 not to publish? I think that comes from a remark you
8 made this morning.

9 A. Journalists would have a multiplicity of Garda sources.
10 who they are, I don't know, but I would know that 14:40
11 journalists have more than just one source.

12 675 Q. And in terms of briefing or talking to journalists off
13 the record or just provide information, but not to
14 publish?

15 A. Yes, there would be relationships, yes. 14:40

16 MR. WALL: Thank you.

17 CHAIRMAN: Thanks. Mr. Quinn.

18
19 THE WITNESS WAS THEN CROSS-EXAMINED BY MR. QUINN

20 676 Q. MR. QUINN: Good afternoon, Superintendent Taylor. 14:40
21 Oisín Quinn is my name and I am acting for the Irish
22 Examiner and their journalists, Juno McEnroe, Daniel
23 McConnell, Cormac O'Keefe, former editor Tim Vaughn
24 and then Mr. Mick Clifford.

25 A. Yes. 14:40

26 677 Q. I just want to go back and ask you some questions about
27 the exchanges you had earlier today in relation to the
28 email you received from Michael Clifford with the draft
29 of the chapter --

1 A. Yes.

2 678 Q. -- of his book. And perhaps if that could just be put
3 up on the screen for you. That's in volume 25 at page
4 6617. Thank you. And we can just see that email there
5 at the bottom of that page. It's from 25th May last 14:41
6 year --

7 A. Yeah.

8 679 Q. -- from Michael Clifford, "Subject: Book". And then:
9
10 "Dave, this is the chapter I was telling you about 14:41
11 where you entered the McCabe story. See what you
12 think, particularly in terms of factual accuracy.
13 Thanks, talk soon. Mick."

14 A. Hmm.

15 680 Q. And I just want to ask you some questions about what 14:41
16 preceded that email and we'll see what we can agree on
17 and what you can remember. Mr. Clifford recalls
18 calling you shortly before this.

19 A. Yes.

20 681 Q. And he said something to you to the effect that he'd 14:42
21 written a passage about you in the book.

22 A. Yes.

23 682 Q. And he said that he'd like you to throw your eye over
24 it for factual accuracy or something to that effect?

25 A. (Witness Nods). 14:42

26 683 Q. He recalls that you agreed and then he asked for and
27 you gave him your, an email address to send the draft
28 to?

29 A. Yes.

1 684 Q. Okay. And just to put the timing of this in context,
2 by May last year, obviously the Tribunal had been
3 established in February --

4 A. Yes.

5 685 Q. -- and in fact there had been an initial hearing even 14:42
6 by this juncture and I think you already had been
7 granted representation by early April?

8 A. (Witness Nods).

9 686 Q. And you were taken to the passage on page 6622 of the 14:42
10 Tribunal's materials, if I can just call that up, where
11 he -- towards the bottom of that page, I think it's
12 perhaps the last paragraph, you'll see there six or
13 seven lines up from the bottom, the draft of the book
14 at this stage reads:

15 14:43

16 "There are a number of strands to the campaign he told
17 the incredulous McCabe. The most basic was the
18 conveyance of hundreds, if not thousands, of text
19 messages to media and Garda personnel casting McCabe in
20 a dark light." 14:43

21

22 And I think you agree that that passage makes it into
23 the book exactly in those terms, isn't that right?

24 A. Yes.

25 687 Q. And I think just perhaps in passing if we look over to 14:43
26 page 6623 and look at the top of the page, there's
27 another reference I want to draw your attention to, the
28 draft of the book at this stage read:
29

1 "He told McCabe that an intelligence file had been
2 created on McCabe in Garda HQ. The file was kept under
3 a Christian name which coincided with the name of the
4 offspring of a senior officer. An intelligence file is
5 only created when the subject is suspect of serious 14:44
6 crime, usually involving violence, yet HQ, according to
7 Taylor, saw fit to place McCabe in such company."
8
9 And that was in the draft book. And it makes it into
10 the book as well. 14:44
11 A. (Witness Nods).
12 688 Q. Do you agree with that?
13 A. Yes.
14 689 Q. I can show you the bit of the book if needs be. Now,
15 just to tell you what Michael Clifford can recall. He 14:44
16 says that -- or he'll say that he recalls that you
17 phoned him within the week of getting this. would that
18 be right?
19 A. Yes.
20 690 Q. And you said to him the passage was fine by you. 14:44
21 A. Yes.
22 691 Q. And the only issue you had was a concern about a detail
23 that related to you not being interviewed by the
24 Children's Ombudsman?
25 A. Yes. 14:44
26 692 Q. So I think you know that the draft of the book
27 contained a reference, it's at page 6620 of the
28 Tribunal's pagination and in the bottom third of that
29 page there was an extract in the draft that said:

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"However, context is required. Taylor has always denied being the source of the leak."

This relates to the leaking of the Roma child's name. 14:45

"But on the assumption that he was the prime suspect there are mitigating factors. The culture of the Garda media interface... to ensure that informal contacts between the Press Office and certain crime correspondents were routine." 14:45

And you drew to Michael Clifford's attention, having read this draft, that your only concern was to point out factually that you had not in fact been interviewed by the Children's Ombudsman, isn't that correct? 14:45

A. That's correct.

693 Q. And Michael Clifford will say that he checked this out and he found it to be accurate, so he inserted a line to that effect in the book? 14:46

A. Yes.

694 Q. So that therefore, in the book at page 320, he included the sentence:

"He was not interviewed in the Ombudsman's inquiry." 14:46

And that was the only factual issue that you raised with him, having been sent the draft of that chapter, isn't that correct?

1 A. That's correct.

2 MR. QUINN: Thank you, Superintendent Taylor. Those
3 are the only questions I have for you.

4
5 Chairman, I should just say, I suppose to point out as 14:46
6 we've indicated in the correspondence we've written to
7 the Tribunal on 11th May, that the superintendent has
8 alleged that he negatively briefed three of the
9 journalists who I act for - Cormac O'Keefe, Juno
10 McEnroe and Daniel McConnell - and to point out that I 14:46
11 do not intend to cross-examine Superintendent Taylor on
12 that issue, but to point out that that should not be
13 taken as either an admission or denial by them of
14 Superintendent Taylor's claims. And the reason we're
15 doing this is in furtherance of those journalists' 14:47
16 entitlement to protect the journalistic privilege which
17 they assert.

18 CHAIRMAN: Mr. Quinn, at the moment we know that this
19 is the source. Certainly if any question were to be
20 asked which would reveal a different source, privilege 14:47
21 could be asserted, I'm not saying you'd assert it
22 successfully, but I'm not sure I understand how you're
23 in a position to say the source who has revealed
24 himself as a source and who has said on oath, in
25 public, that he would like anyone whom he negatively 14:47
26 briefed to confirm that he negatively briefed them, I
27 do not understand how that gives rise to any claim of
28 privilege. I just don't understand it. Now, maybe
29 that's a fence to be taken down the way or maybe it's a

1 fence to be taken today, I don't know. But I mean,
2 what you are saying is: I'm not going to ask any
3 question to the effect that he didn't, I'm not going to
4 ask any question to the effect that I did, I'm going to
5 sit on the fence. Rather than taking the fence, you're 14:48
6 going to sit on the fence. Now, that is a not a
7 criticism of you personally, Mr. Quinn, but just I
8 don't know where you are coming from on that. And if
9 there is to be any legal submission by anybody, it's
10 certainly helpful for the Tribunal to get a letter, but 14:48
11 this is a public tribunal and people have to explain
12 themselves publicly as to what they are doing and what
13 their legal basis for doing it is. So I'm mystified as
14 to what your basis for this assertion is. Is it simply
15 that if you talk to a journalist it's like talking to 14:48
16 some kind of sacerdotal individual or what is your
17 basic submission on this?

18 MR. QUINN: well, Chair, I can approach this in a
19 number of ways. I had not anticipated necessarily that
20 we would have a detailed discussion now about this 14:49
21 privilege and how it may apply in this Tribunal. And I
22 think to some degree it would be premature to do so,
23 given the, I think, factors and issues that need to be
24 taken into account and I think it is perhaps too early
25 to assess the position given that this module is only 14:49
26 relatively recently under way and there's further
27 evidence to be heard.

28 CHAIRMAN: No, it's very recent -- it's very recently
29 to finish, Mr. Quinn. I absolutely intend to finish by

1 13th June.
2 MR. QUINN: Yes
3 CHAIRMAN: I do not intend to hang around Dublin Castle
4 for the rest of my life or anything close to it.
5 MR. QUINN: No 14:49
6 CHAIRMAN: So I mean, you have an obligation under --
7 MS. BURNS: Chairman, could I interrupt for one moment?
8 CHAIRMAN: No, you can't actually interrupt for the
9 moment, sorry.
10 MS. BURNS: I just wanted to ask if Mr. Taylor could -- 14:49
11 CHAIRMAN: No, I am sorry. Can I deal with something,
12 sorry, Ms. Burns, I'm trying to think. I am actually
13 trying to think and you come in, in the middle of it.
14 MS. BURNS: Of course. I was trying to save time.
15 CHAIRMAN: Could you just give me a second? I am not 14:50
16 trying to be Judge Judy or anything else like that, but
17 if you just let me please formulate my thought.
18
19 where the dot, dot, dot appears in the transcript I am
20 going to try and continue. 14:50
21
22 You have an obligation under Brown v. Dunne if you have
23 a case to put it to the witness. If your case is, no,
24 there was no such briefing now is the time to put it;
25 if your case is, yes, there was such a briefing now is 14:50
26 the time to put it. It is unfair to Superintendent
27 Taylor for him to actually leave the witness box
28 without knowing what your case is.
29

1 Furthermore, and this is a further nuance on the
2 matter, Juno McEnroe did write in a letter in April
3 2017 to this Tribunal saying he believes he has no
4 information relevant to the terms of reference. He
5 actually wrote that. Now, I speak English, and that 14:50
6 means that he doesn't know anything about any negative
7 briefing coming from Superintendent Taylor or Garda
8 Headquarters. That's what I understand that to mean.
9 Now, is that position to shift? I mean, I know I'm
10 putting a lot out there before you, Mr. Quinn, but 14:51
11 there is the obligation under Brown v. Dunne and there
12 is, furthermore, the letter and there is, furthermore,
13 a process set up by the Oireachtas whereby I am
14 urgently required to inquire into matters of public
15 moment and to report, and I am desperately trying to do 14:51
16 that and I'd like peoples' help.

17 MR. QUINN: And Chairman, we are very conscious of that
18 and that is why we are here today to explain why I do
19 not propose to cross-examine Superintendent Taylor on
20 his claim that he negatively briefed Juno McEnroe, 14:51
21 Daniel McConnell and Cormac O'Keefe, rather than
22 simply say nothing about it. And the reason is because
23 we feel it would compromise the entitlement of those
24 three journalists to maintain journalistic privilege.
25 And I respectfully submit, very firmly, that that 14:51
26 applies notwithstanding the fact that the alleged
27 source has waived privilege. And I would respectfully
28 submit, and it can be done in a more detailed way at
29 another juncture, I think perhaps more efficiently, if

1 we are to have a more detailed argument about it, that
2 there's very cogent reasons why the entitlement of a
3 journalist not to reveal a source applies even when
4 persons who claim to be sources come forward and say
5 they were sources and waive privilege. And while I 14:52
6 appreciate it's relatively rare, it is not a unique
7 circumstance. There are cases where either the source
8 or an alleged source has been perceived to be known, or
9 indeed the source in one case that went to the European
10 Court of Human Rights has come forward and said I'm the 14:52
11 source and I'm waiving privilege, where the courts have
12 nonetheless upheld the entitlement of the journalist
13 not to reveal or to discuss -- either reveal the source
14 or to discuss the contents of any discussions that they
15 were alleged to have had with the source. And there 14:52
16 are a number of reasons why that is so.

17
18 So this is very much a real proposition rooted in the
19 circumstances that pertain here and it's why we're
20 flagging at this juncture that it shouldn't be taken 14:53
21 from the fact that I will not be cross-examining
22 Superintendent Taylor about his claims that he
23 negatively briefed Mr. McEnroe, Mr. McConnell and
24 Mr. O'Keefe, that it shouldn't be taken that we're
25 either accepting or denying that. And it's for the 14:53
26 reason that to engage in that cross-examination would
27 inevitably compromise the journalistic privilege those
28 journalists assert.

29 CHAIRMAN: But I need to know why. I mean, the

1 European Court of Human Rights, and I know the case you
2 are referring to, and I have read all the relevant case
3 law, and I know about the chilling effect and
4 furthermore I am aware of my obligation under the Human
5 Rights Act to apply the Convention, and given that the 14:53
6 European Court of Human Rights doesn't operate on a
7 precedent basis, it operates on a case-by-case basis,
8 the facts have to be laid, I would imagine, without
9 deciding it, Mr. Quinn, before I could actually make a
10 ruling. I don't know, even know what the facts are. 14:54
11 The only fact that I know in relation to it is, number
12 one, that the witness is saying that in relation to
13 three people you represent that two of them are
14 refusing to cross-examine and one of them wrote a
15 letter to the Tribunal and said that he doesn't believe 14:54
16 he has any information relevant to the terms of
17 reference, which would automatically include, if he was
18 negatively briefed by Superintendent Taylor. If
19 there's something else that's out there, I do think I
20 actually need to know about it before I can actually 14:54
21 make a ruling. Where is the chilling effect?

22
23 I can understand a situation, let's say this, that a
24 board of directors, where, let us say, the higher
25 echelons of An Garda Síochána is leaking and all of 14:54
26 them are required to sign waivers, well, in those
27 circumstances, effectively you are taking away the
28 journalistic privilege, because if people go and do
29 that and apparently require people to voluntarily sign

1 waivers then the ability of the person, let's say, in
2 Garda Headquarters to communicate is undermined, the
3 ability of journalism to do its job with a view to
4 informing the public is undermined.

14:55

5
6 I also have a job to do with a view to informing the
7 public. That is the job that's cast on me. I cannot
8 see how that now arises. I also can't see how, for
9 instance, one of your clients can't write an article
10 tomorrow in the newspaper saying I was negatively
11 briefed by Superintendent Taylor, who has now waived
12 his entitlement to anonymity, or to say a source high
13 in Garda Headquarters briefed me negatively. They can
14 write that tomorrow if they wish, but apparently they
15 don't want to tell the Tribunal anything about it.

14:55

14:55

16
17 I just don't get it, Mr. Quinn. I don't see what your
18 factual foundation is at the moment, apart from the
19 only fact I have is: I appear for a journalist.
20 That's all. Now the European Court of Human Rights
21 tells me I have to take all the facts into
22 consideration. I just don't know what other facts
23 there are.

14:55

24
25 Can I ask you to maybe think about that?

14:56

26 MR. QUINN: Indeed, chair. But our position is as I've
27 stated, and I'm happy to engage in a more detailed
28 discussion.

29 CHAIRMAN: No, I know you are, Mr. Quinn, and indeed I

1 could engage in a detailed discussion for the next
2 several days about it, but that's not the way court
3 cases are decided. I appreciate that. You feel you
4 want to, I suppose, prime your ammunition and let it
5 off at the correct time. Well, can we do it in this 14:56
6 way, it's subject to recalling Superintendent Taylor,
7 if the necessity arises?

8 MR. QUINN: Chair, we are very happy to facilitate
9 having a more structured debate in relation to the
10 issue or set of submissions at whatever is the 14:56
11 convenient time from the Tribunal's point of view, but
12 I think the important thing, allowing for the fact that
13 the witness is in the box, was we felt it was
14 appropriate to flag firmly and clearly at this stage
15 that we wouldn't be cross-examining Superintendent 14:56
16 Taylor on that allegation and to explain why.

17 CHAIRMAN: But I would be entitled to raise an
18 inference if you're not denying it. I mean, I had a
19 situation, if I can just go back, Mr. Quinn, in the
20 Library in relation to something I'm not going to say 14:57
21 anything about, obviously for perfectly good reasons,
22 where I had a list of people who were allegedly in the
23 public eye and people in the Law Library were accusing
24 a colleague or a former colleague of being on that
25 list, and this was being said over coffee, and I said, 14:57
26 well, I have the list in my office and sorry, that
27 person isn't on it. Now, is that a breach of legal
28 professional privilege? I actually don't think so,
29 because I was never instructed by that person. But if

1 the person was on the list certainly I could say
2 absolutely nothing and wouldn't have said anything.
3 But, even as Mr. McEnroe has told me, he's saying no, I
4 know nothing in relation to any negative briefing
5 coming from Garda Headquarters or Superintendent 14:57
6 Taylor, even if that were to be done, at least it might
7 be some progress.

8
9 By the way, Mr. Quinn, you're dodging the issue as to
10 whether you might recall Superintendent Taylor. Is 14:58
11 that what you want in the event the matter is ruled
12 against negatively? And I have come nowhere close to
13 making up my mind. Or, do you want to ask him any
14 questions with a view to laying any foundation, apart
15 from the fact that I represent a journalist, I am 14:58
16 saying nothing?

17 MR. QUINN: No, there is no questions I need to ask
18 Superintendent Taylor in relation to the issue.

19 CHAIRMAN: well, how do I know --

20 MR. QUINN: And I do not anticipate that we'll require 14:58
21 him to be recalled.

22 CHAIRMAN: Because you are sticking by that and that's
23 it?

24 MR. QUINN: Yeah.

25 CHAIRMAN: No matter what ruling I make? But you're 14:58
26 entitled to write about it tomorrow, of course, in the
27 newspaper, but you are not going to tell the Tribunal?

28 MR. QUINN: No, those three journalists are sticking by
29 their journalistic privilege, Chairman. That's the

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position

CHAIRMAN: we don't know if they have it as yet. I don't know anything to indicate that they have it. This is the person who says he is the source, he says he's voluntarily waived his privilege; you're saying the journalists have a privilege even though the person waves the source. Now, what other facts would you like to establish --

14:59

MR. QUINN: well, Chair --

CHAIRMAN: -- which would indicate that the situation that emerges in the most recent European Court of Human Rights decision may apply in these circumstances?

14:59

MR. QUINN: well, Chair, I would strongly submit that it doesn't pierce or demolish the privilege simply because an alleged source says I'm waiving it. The journalist is entitled to hold on to it because there can be any number of reasons why an alleged source might claim to be a source, why either confirming or denying that the source is or isn't a source could be problematic. And of course it's not simply the question of whether or not the alleged source is a source, there are then the follow-up questions which can create difficulties with inadvertently revealing other potential sources, or not, as the case may be.

14:59

14:59

So it's certainly not straightforward and I do not think, with respect, should be portrayed as being as straightforward as simply saying well, the man who claims to be the source is simply waiving the source so

15:00

1 can't we all get on with it?

2 CHAIRMAN: That is the problem, Mr. Quinn. I have
3 constantly said it's not as straightforward as that;
4 you need to lay a foundation in fact. And I have been
5 inviting you to do that. I never said it's 15:00
6 straightforward. All right, it's parked. So are there
7 any other questions?

8 MR. QUINN: No, not from me, Chairman.

9 CHAIRMAN: No, I didn't mean from you, Mr. Quinn, but I
10 understand you position. 15:00

11 MS. BURNS: Chairman, I am sorry.

12 CHAIRMAN: Sorry, Ms. Burns, it's my fault for not
13 coming back to you.

14 MS. BURNS: My apologies. Superintendent Taylor just
15 wants a very short break just to use the facilities. 15:00

16 CHAIRMAN: Okay. I don't know how he is able to
17 communicate that to you but not to me. But anyway,
18 that's what's happened, apparently.

19

20 AFTER A SHORT ADJOURNMENT THE HEARING RESUMED AS 15:01
21 FOLLOWS

22

23 THE WITNESS WAS THEN CROSS-EXAMINED BY MR. LEHANE

24 695 Q. MR. LEHANE: Good afternoon, Superintendent Taylor. My
25 name is Darren Lehane, down here at the back, and I am 15:07
26 counsel for Deputy John McGuinness and I have a small
27 number of questions to ask you arising out of your
28 meeting with Deputy McGuinness in the Skylon Hotel in
29 January 2017. I think it's your evidence that when you

1 met Deputy McGuinness you were in a low mood?

2 A. That's correct.

3 696 Q. You were concerned about yourself and your family?

4 A. Very much so.

5 697 Q. And Deputy McGuinness was anxious to establish the 15:07
6 facts about what had happened to you?

7 A. That's correct.

8 698 Q. And he was sympathetic to you?

9 A. That's correct.

10 699 Q. And you've no reason to doubt his, that is Deputy 15:08
11 McGuinness', sincerity, reliability or truthfulness, do
12 you?

13 A. I've no doubt to question his sincerity.

14 700 Q. Okay. But you are questioning his reliability and 15:08
15 truthfulness?

16 A. Well, I'm just questioning in relation to the
17 statements that were put to me.

18 701 Q. Okay. And I can come to that. Because you've read
19 Deputy McGuinness' evidence in relation to what
20 transpired at that meeting? 15:08

21 A. Yes.

22 702 Q. And I have to put to you Mr. McGuinness' account of
23 what happened at that meeting and I have to put to you
24 that you told Deputy McGuinness that you had been used
25 by Mr. Callinan and Ms. Nóirín O'Sullivan to circulate 15:08
26 text messages briefing the recipients against Maurice
27 McCabe by telling them that he was not to be trusted.

28 A. That's not correct.

29 703 Q. Okay. Do you have any view on why Deputy McGuinness

1 has come in here and given unreliable or untruthful
2 evidence in relation to those, to that matter?

3 A. I can't account for other peoples' evidence.

4 MR. LEHANE: Okay, thank you very much.

5 CHAIRMAN: Thanks very much. Are there any questions? 15:09

6 MR. FANNING: Yes, Chairman, I think I'm next in the
7 sequence.

8

9 THE WITNESS WAS THEN CROSS-EXAMINED BY MR. FANNING

10 704 Q. MR. FANNING: Superintendent Taylor, my name is Rossa 15:09

11 Fanning and I'm counsel appearing for Paul Williams and
12 for the INM interests in respect of other journalists
13 in this Tribunal. I have a number of questions for you
14 arising out of your interaction with Mr. Williams.

15

15:09

16 Your evidence yesterday, and it's recorded on the
17 transcript yesterday, being day 74, page 95, was that
18 you were confident that you did brief Mr. Williams
19 adversely as to Sergeant McCabe and you repeated that
20 evidence again today before lunch when Mr. McGuinness
21 raised it with you. He asked you this morning if this
22 occurred on one occasion or a number of occasions and I
23 think you said something along the following lines,
24 that it was by way of conversational pieces.

25 Mr. McDowell also explored the same issue with you this 15:10

26 afternoon, as did Mr. A Gillane on behalf of certainly
27 RTÉ journalists in relation to your briefing of
28 journalists. Now, just insofar as Mr. Williams is
29 concerned, can you identify a single specific occasion

1 upon which you briefed Mr. Williams adversely in
2 respect of Sergeant McCabe?

3 A. I can't identify a specific date. As I said in my
4 evidence, these were opportunist in their nature, they
5 presented themselves when they presented themselves. 15:10

6 705 Q. Is there anything distinctive about any of the
7 conversations that you had with Mr. Williams on these
8 opportunistic occasions that would assist you remember
9 the context or colour of the conversation?

10 A. Well, as I said before, they presented themselves in -- 15:11
11 when they presented themselves. It could start off
12 with one topic and migrate into the McCabe topic.
13 There'd be no set agenda. It would be a conversation,
14 as is normal with journalists would ring me, they could
15 cover a number of topics, do you know, of topical 15:11
16 issues of the day.

17 706 Q. But you can't assist the Tribunal in isolating any of
18 these conversations to a particular day, week, month or
19 occasion?

20 A. Well, only through isolation in relation to my phone 15:11
21 records and when I was in contact. But can I give you
22 a specific day, time? No, I can't. As I said before,
23 these were opportunist situations.

24 707 Q. All right. Well, just to be clear, Mr. Williams,
25 unlike most of the other journalists, has already given 15:11
26 evidence to this Tribunal. And he gave evidence on day
27 11, and I'll just ask that page 26 of day 11, question
28 126 be put before you. No, it hasn't come up yet.
29 CHAIRMAN: It will come, don't worry.

1 708 Q. MR. FANNING: It's day 11, page 26, question 126. Now,
2 this is Mr. Williams' response, where he says -- the
3 previous question at 125 was:

4
5 "Can you tell the Tribunal where you heard them from?" 15:12

6
7 These are rumours concerns Sergeant McCabe. And he
8 says:

9
10 "No, I can't. 15:13

11 Q. And is that because you don't recall?

12 A. I don't recall. They were just there, they were
13 just aware of them. I don't know where -- nobody
14 briefed -- one of the things that has come up in
15 relation to this is that people were briefed. I was 15:13
16 never briefed by Dave Taylor or Nóirín O'Sullivan or
17 Martin Callinan, or any of them. That's not the way it
18 would happen with me."

19
20 So, just to put it to you very clearly, Superintendent 15:13
21 Taylor, Mr. Williams has already given evidence to this
22 Tribunal and his evidence is that he was not negatively
23 briefed by you in respect of Sergeant McCabe.

24 A. I do not accept that.

25 709 Q. You don't accept that? One slight qualification to 15:13
26 that, and it's relevant to a topic I'm going to come
27 to, is if we can just go back on the same transcript to
28 page 20, six pages previous to where the screen is
29 currently, he refers to a throwaway remark, if you look

1 at line 14.

2 CHAIRMAN: what page are you on there again?

3 MR. FANNING: Page 20, Chairman.

4 CHAIRMAN: Yes.

5 710 Q. MR. FANNING: And this is Mr. Williams' evidence of a 15:14
6 conversation that he had with you subsequent to the
7 interview that he conducted with Ms. D. And he says:

8
9 "After I interviewed her I contacted Dave Taylor, told
10 him I was looking at it, asked him questions. He made 15:14
11 a throwaway remark that it was known in the Park, as in
12 the Phoenix Park, and he suggested it was known in
13 government. But it was a passing comment and I
14 actually reported that back to her. I told her what he
15 told me." 15:14

16
17 So save for the throwaway remark that is identified by
18 Mr. Williams at page 20 of day 11, his evidence is that
19 you never negatively briefed him in relation to
20 Sergeant McCabe. And you're rejecting that evidence, 15:15
21 is that so?

22 A. I'm rejecting that.

23 711 Q. And viewing the matter objectively, Superintendent
24 Taylor, I want to suggest to you that it might be said
25 that you're unfortunate in that you find yourself in 15:15
26 disagreement not just with Mr. Williams, but with a
27 host of other journalists, isn't that so?

28 A. I don't accept that totally.

29 712 Q. You don't accept that?

1 CHAIRMAN: well, there's potentially five.
2 A. Five, yeah.
3 CHAIRMAN: Possibly four out of the original nine.
4 A. Yeah.
5 CHAIRMAN: And now there are 11. So, it was a 15:15
6 majority, it's now potentially a minority. So that's
7 it.
8 713 Q. MR. FANNING: Is it not the case, Superintendent
9 Taylor, that even from this afternoon's exchanges with
10 Mr. Gillane on behalf of RTÉ that Mr. Reynolds and 15:15
11 Mr. Burke, the two journalists that that he represents,
12 also disagree with a similar proposition that you've
13 urged upon the Tribunal in respect of them?
14 A. Well, that's their evidence and this is my evidence.
15 714 Q. Yes. And you know that Mr. O'Toole, another journalist 15:16
16 who I do not represent, also takes issue with you on
17 similar grounds?
18 A. I can't comment on their stance.
19 715 Q. Yeah. And can you offer the Tribunal then any
20 objective explanation as to why multiple journalists 15:16
21 from different media organisations would all reject
22 your evidence that you adversely briefed them in
23 relation to Sergeant McCabe?
24 A. I can't comment on other peoples' evidence or --
25 716 Q. I want to suggest to you that the only rational 15:16
26 explanation is that your evidence is untrue in respect
27 of all of them and that it's more likely that their
28 evidence is accurate, including that of my client,
29 Mr. Williams.

1 A. I do not accept that.

2 717 Q. All right. I will move on to a slightly different
3 topic now, which is the attendance of Mr. Williams at
4 Ms. D's house. Now, there has been evidence of
5 Mr. Williams' attendance at Ms. D's house given by 15:17
6 Mr. Williams, by Ms. D and by her father also last
7 year. And the evidence, just to remind you of it, is
8 to the effect that Mr. Williams attended at Ms. D's
9 house on two occasions in March 2014. He met her
10 parents on the first occasion, on 5th March, and he 15:17
11 returned on Saturday, 8th March when he conducted an
12 interview that was recorded with Ms. D. You're
13 familiar with that evidence now, I take it?

14 A. You're telling me that, yes.

15 718 Q. Well, were you familiar with it before I mentioned it 15:17
16 in the last 60 seconds?

17 A. I hadn't recalled it now, you're just refreshing it to
18 me now. I hadn't read that transcript.

19 719 Q. I see. And I think you accept, and there's no dispute
20 between us, that you had nothing whatsoever to do with 15:17
21 Mr. Williams attending at the D house?

22 A. That's correct.

23 720 Q. And are you familiar with Mr. Williams' explanation as
24 to how he came to be at the D house?

25 A. Is that in relation to Superintendent Reilly? 15:18

26 721 Q. It is.

27 A. Yes.

28 722 Q. That he was contacted by Ms. D's father, who in turn
29 was given the contact details for Mr. Williams by Chief

1 Superintendent O'Reilly, who had been historically
2 familiar with Mr. Williams from other matters?
3 A. (Witness Nods).
4 723 Q. And both Ms. D's father and Chief Superintendent
5 O'Reilly gave evidence to that effect, as did 15:18
6 Mr. Williams last year.
7 A. I'm aware of that.
8 724 Q. Yeah. So we're agreed, therefore, that you had no role
9 good, bad or indifferent insofar as Mr. Williams
10 attended at Ms. D's house to interview her? 15:18
11 A. I accept that.
12 725 Q. Yeah. And in respect of the discussions that you had
13 with Mr. Williams about Ms. D, you have given slightly
14 different versions of those discussions on different
15 occasions. The first account you gave was in your 15:19
16 protected disclosure of 30th September 2016, isn't that
17 correct?
18 A. That's correct.
19 726 Q. And we can put that up perhaps before you, page 5 of
20 the protected disclosure, or page 5 of the Tribunal's 15:19
21 documents. If we scroll down the page to:
22
23 "I recall a telephone call with a journalist, Paul
24 Williams."
25 15:19
26 Do you see that paragraph --
27 A. Yes.
28 727 Q. -- in the centre of the page?
29

1 "I recall a telephone call with the journalist Paul
2 Williams where he informed me that he was in the house
3 of the person who had made the complaint against
4 Sergeant McCabe with a view to interviewing her."

15:19

6 I just want to pause there. Your protected disclosure
7 was made on 30th September 2016, isn't that so?

8 A. That's right.

9 728 Q. And that's already at a remove of approximately two
10 years and three months or two years and four months
11 after these events, isn't that so?

15:20

12 A. That's right.

13 729 Q. And your recollection as of two years and four months
14 after the relevant events was that you'd spoken with
15 Mr. Williams at a time when he was in the house of
16 Ms. D. You committed yourself to a version which
17 placed him in the house at the time of the telephone
18 conversation, would you agree with me there?

15:20

19 A. Well, that could be a matter of just terminology, 'in',
20 'at' the house. My recollection is, when he rang me he
21 said "Guess where I am?".

15:20

22 730 Q. "Guess where I am?" With a view to interviewing her;
23 did you mean to convey by that in your protected
24 disclosure that he was speaking to you on the telephone
25 before he had conducted the interview?

15:20

26 A. I didn't know when the interview had taken place,
27 either before or what timeline within that interview
28 was taken.

29 731 Q. And the next sentences in your protected disclosure are

1 that you informed both the Commissioner and Deputy
2 Commissioner of this and then he say that no article
3 was ever published. Now, insofar as the last sentence
4 in that paragraph in your protected disclosure is
5 concerned, we know now that that's incorrect, isn't 15:21
6 that so?

7 A. Well, when I put that in there I hadn't seen the
8 articles and I didn't know if they were published. I
9 had never seen them.

10 732 Q. So your position is you believed it to be correct as of 15:21
11 the date of your protected disclosure but you now
12 accept that it is incorrect?

13 A. I accept that articles were published.

14 733 Q. And that to the extent that your protected disclosure
15 says otherwise, it is consequently inaccurate? 15:21

16 A. I accept that articles were published subsequently, I
17 didn't see the articles and I've always made that
18 clear --

19 734 Q. Yeah?

20 A. -- in all my statements. 15:21

21 735 Q. In your protected disclosure you didn't say who
22 initiated the telephone call, you didn't say
23 Mr. Williams telephoned me or I telephoned
24 Mr. Williams; you say that you recollect a telephone
25 call with Mr. Williams. Do you see the omission? 15:22

26 A. Well, I think it's a very minor omission. It's a
27 telephone call, I recall a call with journalist Paul
28 Williams.

29 736 Q. Yeah. In your protected disclosure you don't identify

1 the month or the day of the week upon which the
2 telephone call occurred. Do you accept that that is
3 so?

4 A. I didn't have access to phone records, so I couldn't
5 give a definitive date. But I knew it was a Saturday. 15:22

6 737 Q. I see. And by that answer do you mean to convey to the
7 Tribunal that you reconstructed your memory of when
8 these matters occurred by reference to telephone
9 records?

10 A. No, but I was able to always remember and be definitive 15:22
11 it was a Saturday.

12 738 Q. I see. And in your statement of 5th May 2017, if we
13 can go to page 130, I think it might be slightly lower
14 down that page, it's line 241, yes, it's about three
15 lines from the foot of the page, you say: 15:23
16

17 "I remember getting a phone call from the journalist
18 Paul Williams on a Saturday in February 2014."

19 A. Yeah.

20 739 Q. And you confirmed yesterday on the transcript at page 15:23
21 87 of day 74 that that indeed was your recollection.

22 A. Yes.

23 740 Q. Now, do you accept that insofar as it was your
24 recollection, that the conversation took place in
25 February, you must be incorrect? 15:23

26 A. Well, I understand the date has now been fixed,
27 Mr. Chairman. And I understand -- and when I made that
28 statement I didn't have access to my records, but I
29 always remembered it was a Saturday and Paul Williams

1 ringing me.

2 741 Q. And what's so distinctive in your recollection,
3 Superintendent Taylor, that assists you be so certain
4 that the conversation took place on a Saturday?

5 A. Because I was at home. 15:24

6 742 Q. I see. And if the Tribunal is to accept the evidence
7 of Ms. D, her father, Mr. D, and Mr. Williams that the
8 only Saturday that Mr. Williams ever attended at their
9 house was Saturday, 8th March 2014, you'd have no basis
10 for challenging that? 15:24

11 A. Well, I always remember it was a Saturday.

12 743 Q. Yeah. So on your view then, the conversation must have
13 taken place with the benefit of hindsight, on Saturday,
14 8th March 2014, is that correct?

15 A. Well, if that's the date of the date he was there I 15:25
16 accept that, yes.

17 744 Q. Yeah. And indeed your counsel, when Mr. Williams gave
18 evidence, Mr. Ferry, put that version of events to
19 Mr. Williams at day 11, page 89. Now, tell me about
20 that telephone conversation. 15:25

21 A. In what sense do you want me to?

22 745 Q. Well, did Mr. Williams call you?

23 A. Yes.

24 746 Q. At what time of the day?

25 A. I understand it was in the afternoon, early afternoon. 15:25

26 747 Q. Yeah. And what's not in dispute is that you'd a long
27 history of contact with Mr. Williams, you'd an
28 established pattern of communication with him?

29 A. Yes.

1 748 Q. And I presume you'd have had his mobile telephone
2 number saved on your mobile telephone number?
3 A. Yes.

4 749 Q. And you'd agree with me, I presume, that the
5 established mode of communication between you was from 15:25
6 mobile to mobile?
7 A. Yes.

8 750 Q. So I presume that when the call came in, you could see
9 on your screen that it was Paul Williams calling?
10 A. Yes. 15:26

11 751 Q. And do you recall that?
12 A. Yes.

13 752 Q. So we know, therefore, that he definitely called you
14 from his mobile on Saturday, 8th March 2014?
15 A. Well, you're asking me did I see his name coming up. 15:26
16 When I answered the phone it was Paul Williams.

17 753 Q. Yes. But I asked you something different 30 seconds
18 ago. Did you see Paul Williams' name on your phone
19 when you answered the call?
20 A. I can't remember seeing his name. But when I answered 15:26
21 the phone, it was Paul Williams on the phone.

22 754 Q. And is your evidence to the Tribunal that he called you
23 on his mobile phone on that day?
24 A. He called me on a phone and when I answered the phone
25 it was Paul Williams. I knew him well. 15:26

26 755 Q. Yeah. And Mr. Williams' practice is to make telephone
27 calls on his mobile phone, a number that you'd called
28 him on many times and received calls on many times?
29 A. I don't know how many phones Mr. Williams has.

1 756 Q. Well, let me tell you, he has one, or there was one
2 mobile phone that he was using at that time. And do
3 you agree with me, therefore, that for your evidence to
4 make sense there should be a record of your number
5 being called by Mr. Williams on his mobile phone on 15:27
6 Saturday, 8th March 2014?

7 A. Well, all I know is that Mr. Williams rang me on a
8 Saturday.

9 757 Q. Yeah. Because Mr. Williams is going to come back to
10 the Tribunal and give further evidence, he's scheduled 15:27
11 to give evidence in a number of weeks time, and I want
12 to give you fair warning now and put the proposition to
13 you that he has retrieved his telephone bill --

14 MR. McGUI NNESS: Chairman, I just have an issue in
15 relation to this. 15:27

16 CHAIRMAN: Yes?

17 MR. McGUI NNESS: Mr. Fanning will be familiar with our
18 rules of procedure, but it's obviously premised upon
19 the Tribunal, as it were, being in control of
20 assembling the evidence and distributing the evidence. 15:28
21 And under rule 7.9, unless permission is sought from
22 the Tribunal, a witness shouldn't be referred to a
23 document that hasn't been produced to the Tribunal or
24 circulated.

25 CHAIRMAN: You're absolutely right, Mr. McGuinness. 15:28

26 MR. McGUI NNESS: I anticipate Mr. Fanning may be going
27 down that road.

28 CHAIRMAN: I was anticipating a gigantic big elephant
29 trap, and I don't mean that in any personal way,

1 superintendent, opening up because of this line of
2 questioning. I was wondering where the final
3 denouement was going to come. This apparently is it.
4 You, for some extraordinary reason, have kept your
5 telephone records beyond a period when anyone keeps 15:28
6 telephone records or indeed telephone service providers
7 are obliged to keep metadata. Is that what you are
8 telling me? It is.

9 MR. FANNING: Mr. Williams has procured, Chairman, his
10 telephone bill for his mobile phone for the month of 15:29
11 March 2014 and it contains a log of the calls that he
12 made that are billed to his account. And the simple
13 proposition arising from that is that he did not call
14 Superintendent Taylor on Saturday, 8th March 2014.

15 CHAIRMAN: And he can't say from that whether 15:29
16 Superintendent Taylor called him? Because he's not
17 billed for an incoming call.

18 MR. FANNING: The bill doesn't answer that proposition.
19 But of course that's not Superintendent Taylor's
20 evidence. Superintendent Taylor's evidence is that 15:29
21 Mr. Williams called him.

22 CHAIRMAN: That's fine. That's fine. If you want to
23 put that, but I think we'll have to have the bill and
24 we'll have to distribute it. Is there anything else?
25 I mean, is there any other -- 15:29

26 MR. FANNING: Oh, there are a few more questions, yes.

27 CHAIRMAN: No, I don't mean -- is there any other big
28 surprise by way of documentary evidence that you
29 haven't decided to reveal to the Tribunal and for us to

1 distribute?
2 MR. FANNING: Firstly, Chairman, I should say that I
3 was conscious that this might create a minor degree of
4 controversy and I did have a word with Mr. McGuinness
5 about it during the luncheon break. 15:30
6 CHAIRMAN: well, I don't think you should tell me about
7 that, so -- you are entitled to communicate whatever
8 you want to him. I'm not going to blame you,
9 Mr. Fanning, because everybody makes mistakes. But
10 that is the procedure. 15:30
11 MR. FANNING: Yes, and I did --
12 CHAIRMAN: So I think we should move on maybe.
13 MR. FANNING: I am anxious to move on, but I have
14 discussed this with Mr. Kelly and I am not sure whether
15 the Tribunal ever sought Mr. Williams' records 15:30
16 previously.
17 CHAIRMAN: well, I made a big huge statement asking for
18 anyone who knew anything about anything to come
19 forward, you know, and there it is. I think it was
20 John Kelly who used the phrase coloratura foghorn 15:30
21 wailing in the wind in the Dáil Eireann some many years
22 ago about the Minister for Finance, but I have used it
23 here, it stuck in my mind. There it is. Look, I'm not
24 going to take offence. That's it.
25 MR. MCGUINNESS: Just on that point though, Chairman, 15:30
26 Mr. Fanning said he didn't think the Tribunal had ever
27 sought Mr. Williams' records and the issue was raised
28 with him in his first interview with the investigators
29 and he was happy to provide his mobile number, which we

1 were obviously grateful for confirmation of.

2 CHAIRMAN: Yes.

3 MR. MCGUINNESS: However, he made it clear that that
4 was a caveat, that he wasn't giving the Tribunal access
5 permission to access any of his phone records. 15:31

6 CHAIRMAN: Yes, all right.

7 MR. MCGUINNESS: So, that is where it stood at that
8 stage.

9 CHAIRMAN: This may seem at the present time to be an
10 enormous point, I am not quite so sure, trying to step 15:31
11 above matters, that it is an enormous point, but you
12 have made the point and if you wouldn't mind also
13 providing the record.

14 MR. FANNING: We will do that and Mr. Kelly will
15 discuss with the Tribunal's solicitor after the 15:31
16 Tribunal rises this after the question of any
17 redaction. But we do have the telephone bill that
18 substantiates the point. Perhaps I'll just move on,
19 Chairman.

20 CHAIRMAN: All right. I mean, how definite are you, 15:31
21 superintendent, that he rang you?

22 A. He rang me, yes.

23 CHAIRMAN: You're very definite?

24 A. Yes.

25 CHAIRMAN: Can you really be so definite? I mean -- 15:31

26 A. I'm --

27 CHAIRMAN: -- we're talking about more than four years
28 ago now.

29 A. I do remember it. Yeah, he rang me. I didn't see --

1 why it stuck in my mind, Mr. Chairman, is because it
2 was a Saturday. And because it was a weekend.

3 CHAIRMAN: No, I appreciate how Saturday would stick in
4 your mind, but as to whether a friend of mine rings me
5 yesterday or I ring the friend, I'm not sure I'd 15:32
6 remember that detail. But in any event, it's there for
7 whatever you feel I ought to make out of it,
8 Mr. Fanning. So will we move onto the next point then?

9 MR. FANNING: But, Chairman, just on the point that you
10 have raised, just to be clear about it: The Tribunal 15:32
11 obviously does have the calls from Superintendent
12 Taylor to Mr. Williams and there were no calls made by
13 Superintendent Taylor to Mr. Williams on Saturday, 8th
14 March either. And that appears from page 6994. I do
15 not think we need to call it up on the screen. 15:32
16 CHAIRMAN: No, no.

17 MR. FANNING: But that is the position.

18 CHAIRMAN: No, that is fine. And if it was indeed from
19 Garda Headquarters it would appear as a general number
20 anyway, and besides it was a Saturday and he works 15:32
21 office hours, nine to five, Monday to Friday. I do
22 understand the point.

23 758 Q. MR. FANNING: Superintendent Taylor, just coming back
24 to that, you have obviously heard the exchange between
25 me and the Tribunal chairperson and you understand the 15:33
26 point; Mr. Williams has a telephone bill which will be
27 produced in due course which does not show any call
28 from his mobile to your mobile on Saturday, 8th March,
29 which is the only Saturday that he was in the D house.

1 likely that his version of what occurred is correct
2 than your version and his version is that he telephoned
3 you the subsequent week after attending at the D house
4 and there is a record of him telephoning you on Monday,
5 10th March. And I want to suggest to you that that's 15:34
6 what occurred.

7 A. My firm recollection was he rang me on a Saturday.

8 763 Q. Yeah. And the sworn evidence of Mr. Williams on this
9 issue was given by him on day 11, page 32, and I'm just
10 going to bring that to your attention. And it's 15:35
11 question 169, page 32. And you'll see the question
12 was:

13
14 "What were the next steps that you took in relation to
15 this story?" 15:35

16
17 This is after having concluded the video interview and
18 returning to Dublin with the videographer. At question
19 168:

20
21 "What were the next steps that you took?" 15:35

22
23 Is question 169. He says:

24
25 "I contacted Superintendent Taylor in the Garda Press 15:35
26 Office.

27 Question 170: When did that happen?

28 A. I don't have a record of when it happened, but it
29 would probably have been the subsequent week. "

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And there is a record of a phone call from Mr. Williams on his mobile phone to your mobile phone on Monday, 10th March. And I want to suggest to you that that's consistent with the position of Mr. Williams and it's inconsistent with your evidence.

15:36

A. I can only stand by the evidence, Mr. Chairman, that I submitted.

764 Q. And Superintendent Taylor, I want to suggest to you in conclusion that we have an unhappy situation, in that your testimony to this Tribunal is almost devoid of detail or specifics in relation to the nature of your contact with journalists, specifically with Mr. Williams, but once you attempt to commit to specifics, your testimony is seen to be demonstrably false.

15:36

15:36

A. I'm here to give my evidence to the Tribunal and for the Chairman to make a determination.

765 Q. You see, the only thing you're certain about in terms of your engagement with Mr. Williams about the Ms. D interview is that it was a conversation that took place when he was in the D house on a Saturday. And his mobile phone record categorically disproves that assertion.

15:37

A. Mr. Williams rang me and the first conversation "Guess where I am?" I didn't know whether he was in the house, out of the house, or whether a part of the house he was in. This is the conversation he started with me.

15:37

1 766 Q. But on your version of events, he'd have had to have
2 used the D family telephone or somebody else's
3 telephone to make that call. Why would he have done
4 such a thing when he always called you on his mobile
5 phone? 15:37

6 A. You're asking about something that somebody else has
7 done. I do not -- I can't answer that. I can only
8 give you what's within my knowledge.

9 767 Q. I want to suggest to you that the thesis that you're
10 offering to the Tribunal in support of your evidence is 15:37
11 inherently implausible.

12 A. I gave my evidence to the Tribunal, it's a matter for
13 the Chairman to determine it.

14 MR. FANNING: No further questions, Chairman.

15 CHAIRMAN: Mr. Fanning, thank you for that. But the 15:38
16 rule in Brown v. Dunne indicates you ought to put your
17 client's case and your client's case in relation to
18 this conversation is different to Superintendent
19 Taylor's case

20 MR. FANNING: Yes. And he's already given his 15:38
21 evidence, Chairman. His evidence on day 11.

22 CHAIRMAN: No, but I mean you ought to put it, in
23 fairness, to Superintendent Taylor. It doesn't take
24 long, but if you wouldn't mind please.

25 MR. FANNING: Certainly. 15:38

26 CHAIRMAN: There was a list of questions, as I
27 understand it, and that Superintendent Taylor came back
28 to him by phone with answers to the list of questions
29 to a particular effect. Now, Superintendent Taylor has

1 obviously given different evidence, but it's only fair
2 he should have the opportunity to answer those
3 questions.

4 768 Q. MR. FANNING: Superintendent Taylor, your evidence to
5 this Tribunal is that the only occasion that you spoke 15:38
6 to Mr. Williams about the Ms. D issue was in that
7 solitary telephone call which you date as the Saturday
8 that he was in the D house.

9 A. That's correct.

10 769 Q. Mr. Williams' position is that he spoke to you the 15:39
11 subsequent week and that he sought some back up
12 information from you in relation to whether the DPP
13 prosecuted and what happened to the complaint that had
14 been advanced by Ms. D against Sergeant McCabe, and
15 that you came back to him and provided him with some 15:39
16 clarification.

17 A. That's not correct.

18 770 Q. Well, that's been his evidence to the Tribunal. And I
19 want to suggest to you that that's consistent with the
20 temporal gap between Mr. Williams attending at the D 15:39
21 house and the publication of any article in the Irish
22 Independent newspaper in relation to this, the first
23 article of which was published approximately a month
24 later on 12th April.

25 A. I've given my evidence. I can't make any further 15:39
26 comment on that.

27 MR. FANNING: Very well. Thank you, Superintendent
28 Taylor.

29 CHAIRMAN: There's one other factor, which is that Paul

1 williams is supposed to have said over the telephone to
2 superintendent Taylor that he was -- let's leave out
3 the bit about being at the house, Mr. Fanning, but as I
4 understand it, that he had spoken to the family or the
5 person involved, that's an unclear matter, and that 15:40
6 Maurice McCabe had destroyed this person and that he
7 was going to write an article about it. Now, that was
8 the evidence that was given, if you look on the
9 transcript at page 104, day 11. Because Mr. Ferry took
10 the opportunity to put the specific differences to 15:40
11 Mr. Williams on that occasion on behalf of
12 superintendent Taylor.

13 771 Q. MR. FANNING: I'll formally put that to you, but I
14 think it's clear that there's a distinction between us
15 on that issue. Superintendent Taylor, Mr. Williams 15:40
16 does not accept that he used language of that nature at
17 all or had any conversation with you along those lines,
18 either on Saturday, 8th March or on any subsequent
19 occasion.

20 A. I do not accept that. 15:41

21 CHAIRMAN: All right. Well, that's clear enough. And
22 thank you, Mr. Fanning. Sorry, I beg your pardon.

23 MR. THUILLIER: Anthony Thuillier, for Michael O'Toole
24 from The Daily Star. I just have a number of questions
25 for Superintendent Taylor. 15:41

26 CHAIRMAN: Yes.

27
28
29

1 THE WITNESS WAS THEN CROSS-EXAMINED BY MR. THUILLIER

- 2 772 Q. MR. THUILLIER: Superintendent Taylor, yesterday you
3 were giving your evidence - and I appear for
4 Mr. O'Toole of the Daily Star - and you were highly
5 complimentary of Mr. O'Toole. 15:41
- 6 A. I would be very complimentary of Mr. O'Toole. He is
7 the most prolific crime journalist I know. He turns up
8 at every scene in the country I've turned up to.
- 9 773 Q. Yes, you said that. Does he strike you as a person who
10 mixes things up? 15:41
- 11 A. I do not understand the question you're saying - you're
12 saying mixing things up?
- 13 774 Q. Well, you've met Mr. O'Toole on many occasions, as you
14 said yesterday.
- 15 A. Yes. 15:42
- 16 775 Q. Over the course of your interactions with Mr. O'Toole
17 did he strike you as somebody who would mix facts up?
- 18 A. I have the height of respect Mr. O'Toole.
- 19 CHAIRMAN: No, but is he a bit of an eejit? That's
20 what you're being asked, let's put it plain. 15:42
- 21 A. No, he's not. I accept he's --
- 22 776 Q. MR. THUILLIER: Is he the kind of journalist you would
23 expect to generally be very accurate?
- 24 A. Yes.
- 25 777 Q. Because your statements are diametrically opposed. And 15:42
26 were you surprised to learn that Mr. O'Toole had a
27 completely different version of events; that
28 Mr. O'Toole says that he was never on the receiving end
29 of a smear campaign by you of Sergeant McCabe?

1 A. I can't say what Mr. O'Toole says but I'm just saying
2 what I said.

3 778 Q. Oh, I know that. But were you surprised to learn that
4 Mr. O'Toole had a different view of --

5 A. I can't express an opinion on Mr. O'Toole's reaction. 15:42

6 779 Q. I'm not asking you for Mr. O'Toole's reaction, I'm
7 asking you for your reaction to Mr. O'Toole's witness
8 statement?

9 A. I don't have a reaction to it. I've just -- I gave you
10 the evidence I gave and if Mr. O'Toole has a contrary 15:43
11 view well that's his view.

12 780 Q. And that doesn't surprise you at all?

13 A. He he's entitled to whatever view he wants.

14 781 Q. I'm just asking about your level of surprise.

15 A. It's not a case of my level of surprise, it's -- I gave 15:43
16 my evidence and what Mr. O'Toole responds is a matter
17 for Mr. O'Toole.

18 782 Q. Very good. And in relation to these matings that you
19 would have had with Mr. O'Toole, the smear campaign,
20 was this a drum you were banging regularly with 15:43
21 Mr. O'Toole?

22 A. No, it wasn't a drum. As I said to you in my earlier
23 evidence, it was an opportunist, it would come up at
24 times that the McCabe issue would be topical in the
25 news or the McCabe issue would be a subject of 15:43
26 conversation.

27 783 Q. But your intent was that Mr. O'Toole -- that there
28 would be an effect on Mr. O'Toole's journalism in some
29 respect, because of the things that you were saying to

1 him in respect of Sergeant McCabe?
2 A. As I said earlier I was bringing information to
3 Mr. O'Toole. How he processed that information or
4 dealt with that information was a matter for his
5 professional opinion. 15:44
6 784 Q. Over the course of your professional life as press
7 secretary, did you follow Mr. O'Toole's stories in The
8 Daily Star?
9 A. When you say follow him, the McCabe stories?
10 785 Q. If you wish to call them the McCabe stories, but 15:44
11 stories in general?
12 A. I would have seen him in the press clippings and that,
13 yes.
14 786 Q. And did you feel you were getting anywhere?
15 A. It wasn't a case was I feeling was I getting anywhere, 15:44
16 it was a feeling that I provided him with information.
17 I would never dare tell a journalist how to write a
18 story or construct a story.
19 787 Q. Well, it's not an issue of you daring to tell a 15:44
20 journalist how to write a story, you had an agenda; the
21 agendas was to smear Mr. O'Toole, you set about that
22 deliberately?
23 A. Yes.
24 788 Q. It's your evidence that you targeted Michael O'Toole?
25 A. I wouldn't say targeted. Like, I mean, Michael 15:45
26 O'Toole, like a number of crime journalists, moved in a
27 circle and that turned up at every scene. So it wasn't
28 a case of targeting, it was a case of taking an
29 opportunity when the opportunity arose.

1 789 Q. Well why then, why did you smear Sergeant McCabe to
2 Michael O'Toole at all?

3 A. Michael O'Toole was a crime journalist, he was a
4 journalist that we worked closely with in the Press
5 Office, he was at all crime scenes, Garda conferences, 15:45
6 the Garda press conferences, so he was a regular
7 attender at Garda events.

8 790 Q. And Michael O'Toole says that any stories he wrote in
9 relation to Sergeant McCabe were relatively benign.
10 And I might just direct the Tribunal's attention to two 15:45
11 of those stories. The first is from 20th February
12 2014, it's on page 6520.

13 CHAIRMAN: Do you want to just read it out, and it will
14 come up in due course.

15 MR. THUILLIER: I can indeed, I can synopsis. In fact 15:46
16 it's there now. Superintendent Taylor, you can see
17 this story. This story from 20th February 2014, in any
18 references to Sergeant McCabe -- it is a story
19 principally about the sacking of the confidential
20 recipient and the reaction of Mícheál Martin to certain 15:46
21 revelations and his support of Sergeant McCabe. This
22 kind of story, did you see it at the time?

23 A. I would have. Yes, I would have seen it at the time,
24 yes.

25 791 Q. And having made those representations to Michael 15:46
26 O'Toole, would you be disappointed by a story like
27 this?

28 A. No, I wouldn't be disappointed with any journalist.
29 Like, I mean, as I said, I provided them with

1 information, how they produced that was their
2 professional --

3 792 Q. And would you agree that there's no trace of the smear,
4 in fact it's positive towards Sergeant McCabe?

5 A. Well, I haven't read the full article and it's very 15:46
6 hard to see it in this, but I accept what you are
7 saying.

8 793 Q. I will just direct the Tribunal to another article, the
9 page is 6593. And it's from 5th April 2014, and it's
10 entitled "Dissent isn't disloyalty" and it's an article 15:47
11 principally about the new Garda Commissioner, as she
12 then was, and her attitude towards whistleblowers,
13 which, as reported in the article, was a positive one
14 and an encouraging one to whistleblowers. Again I
15 suppose -- 15:47

16 A. Sorry, could you advise me on what date that article
17 was?

18 794 Q. That date is 5th April 2014.

19 A. Okay, yes.

20 795 Q. Sorry it's rather blurred up at the top left-hand 15:47
21 corner.

22 CHAIRMAN: So the sub-headline is "Nóirín will support
23 whistleblowers". So it looks as if it didn't work, the
24 smearing, if you like. That's Mr. Thuillier's
25 question, yes. 15:47

26 A. Yes.

27 796 Q. MR. THUILLIER: So that is exactly the point. In fact,
28 the point I want to put to you is that in fact there's
29 no traces in Mr. O'Toole's journalism of these smears

1 that you say you made but he says you never made to
2 him.

3 A. well, the evidence I gave is that I spoke to Michael
4 O'Toole, again who I highly respect, and I put that
5 information, how he used it was his prerogative. 15:47

6 797 Q. So you had a specific agenda, there was a specific aim
7 to that agenda, but if the aim wasn't realised it was
8 no skin off your nose and in fact you didn't mind at
9 all?

10 A. well, the aim was to put that information, how the 15:48
11 journalist processed that was how the journalist
12 processed it.

13 798 Q. You previously said that you were simply carrying out
14 the orders of the Garda Commissioner, Martin Callinan,
15 at the time, and his orders were, you say, to smear 15:48
16 Sergeant McCabe, and if it was a case that you never
17 minded that journalists never actually did that or that
18 there was no effect whatsoever, it seems to me a
19 strange situation, would you agree with that?

20 A. As I said, and I keep saying it, I put the information, 15:48
21 how the journalists dealt with it is their own
22 professional opinion.

23 799 Q. I put it to you that if there was a smear campaign run
24 by you it was spectacularly unsuccessful?

25 A. well, you might say that. 15:48

26 CHAIRMAN: well, just on that point made by
27 Mr. Thuillier made there, obviously the Tribunal has
28 searched through newspapers, as well as everything
29 else, and it's very hard to come across anything

1 negative to Sergeant McCabe, never mind anything about
2 him being embittered in consequence of an investigation
3 which took place all of 14 years previously or there or
4 thereabouts. No, no, sorry, it was more like eight
5 years previous. So what he is saying is: Wasn't it a 15:49
6 flop?

7 A. I accept that.

8 800 Q. MR. THUILLIER: Very good, just one or two more
9 questions. Why did you leave Debbie McCann and Eavan
10 Murray out of your list of nine? 15:49

11 A. That was the initial list. I came back to the list and
12 I provided it at the next opportunity.

13 801 Q. You said that many times today, but why did you leave
14 them out of the initial list?

15 A. It's not a case of leaving out, I included them at the 15:49
16 first available opportunity.

17 802 Q. Well, it is a case of leaving them out though of the
18 initial list?

19 A. Well, I included them when I was asked about them, when
20 the Tribunal brought it to my attention. 15:49

21 803 Q. I put it to you that you left people out who should
22 have been put in and you put people in who shouldn't
23 have been there, and I specifically refer to
24 Mr. O'Toole in that regard?

25 A. I do not accept that. 15:49

26 804 Q. Finally then, I'd just like to ask you, you've said
27 that you certainly made these briefings or
28 representations to Mr. O'Toole, but they were always of
29 a generic nature. Is it the case that you are unable

1 to provide any details of that now?

2 A. In what sense?

3 805 Q. Can you give any specifics of anything you ever said at
4 any point?

5 A. AS I have consistently said, these were opportunist of 15:50
6 their nature. They presented themselves when they
7 presented themselves.

8 806 Q. Very good. Are you troubled by your own lack of
9 specificity?

10 A. I am here to give all the information that's within my 15:50
11 memory to the chairperson or to the Tribunal and for
12 the chairperson to make a determination.

13 807 Q. But do you think given the lack of specificity that,
14 perhaps Mr. O'Toole -- and I will put to you
15 Mr. O'Toole's account, where he says that such 15:50
16 representations were never made to him by any garda in
17 any position of authority in An Garda Síochána, that
18 that is a more accurate categoric denial of your
19 version and yours is simply a vague assertion; of the
20 two, I put it to you that his must be more reliable? 15:50

21 A. That's matter for the Chairman to determine.

22 MR. THUILLIER: Thank you very much

23 CHAIRMAN: Mr. Keeley, did you want to ask any
24 questions as of this particular point?

25 MR. KEELEY: I have no questions, Chairman. 15:51

26 CHAIRMAN: At this point, yes. Can I just ask
27 Ms. Kelly -- sorry, we can go off transcript. Can we
28 go on until 4:30? Yes, we will do that. Mr. Murphy?
29 If that's convenient to you, you're not uncomfortable

1 or anything like that?

2 A. I'm in your hands, Chairman.

3 CHAIRMAN: It's only 30 more minutes. I'm sorry, I
4 have to sit late tomorrow and on Thursday, and I have
5 to say that, just to try and get as much time used as
6 possible.

15:51

7

8 THE WITNESS WAS THEN CROSS-EXAMINED BY MR. MÍCHEÁL
9 O' HIGGINS

10 808 Q. MR. MÍCHEÁL O' HIGGINS: Good afternoon, Superintendent 15:51
11 Taylor. My name is Mícheál O'Higgins and I propose to
12 ask you some questions on behalf of former Commissioner
13 Callinan, former Commissioner O'Sullivan and also some
14 limited questions on behalf of Mr. McLindon, Andrew
15 McLindon, the Director of Communications. 15:52

16

17 First of all, I'm going to start with some general
18 questions, superintendent, if I may. You arrived in
19 the Press Office when? what date?

20 A. I think it's on 12th July 2012. 15:52

21 809 Q. 2012. And you've told us yesterday, I think, in
22 evidence that you were, you brought in, and I think you
23 indicated you were rightly proud of certain initiatives
24 you introduced --

25 A. Yes. 15:52

26 810 Q. -- in the Press Office?

27 A. Yes.

28 811 Q. Can I just ask you briefly about those? what were they
29 and were they a success?

1 A. I had -- the Press Office is based on two floors, the
2 bottom floor being the office of the superintendent and
3 the Director of Communications and upstairs is the main
4 Press Office. And I initiated a full refurbishment of
5 that office. 15:53

6 812 Q. Yes?

7 A. New furniture, new infrastructure, new hardware, proper
8 workstations laid out in accordance with health and
9 safety, the installation of a large television set that
10 was hooked up to the city traffic cameras. 15:53

11 813 Q. Yes.

12 A. And various refurbishments throughout the whole office
13 for streamlining efficiency.

14 814 Q. Yes. And apart from refurbishments, were you concerned
15 to introduce system improvements in terms of Press 15:53
16 Office systems and the organisation of management
17 tasks? Did you do any of that?

18 A. Well, I was ensuring that there was good governance and
19 we provided the best possible service we could to the
20 public. 15:54

21 815 Q. Yes. And I think you told us as well yesterday that
22 upon you starting the role, you received, I'll use the
23 word, briefing, but you met with Commissioner Callinan?

24 A. Yes.

25 816 Q. And he gave you the instruction to go out and develop 15:54
26 good relations --

27 A. Yes.

28 817 Q. -- with the media --

29 A. Yeah.

1 818 Q. -- and make sure -- I'm just looking at the transcript,
2 page 12:

3

4 "Make sure you project the Garda Síochána in the best
5 light."

15:54

6

7 And broadly speaking that was the riding instruction he
8 gave to you at that time.

9 A. Yes.

10 819 Q. Right. Now I'm going to ask you about obviously a
11 number of issues that are in dispute, you'll
12 appreciate, between Martin Callinan, Nóirín O'Sullivan
13 and Andrew McLindon and your position.

15:54

14 A. Yes.

15 820 Q. But firstly then can I ask you a number of questions in
16 relation to your claim that you were given an order by
17 Martin Callinan to engage in a smear campaign on his
18 behalf?

15:54

19 A. Yes.

20 821 Q. All right. Can you assist the Tribunal, did you and
21 Commissioner Callinan discuss how best the smear
22 campaign could be implemented?

15:55

23 A. Well, he instructed me to take every opportunity when I
24 would meet the media to brief them in relation to what
25 he had told me, that the media's attention should be
26 drawn to the fact that Sergeant McCabe's motivation was
27 driven by revenge and this revenge was centred in the
28 fact of him being the subject of an investigation in
29 2006.

15:55

1 822 Q. Yes. And in terms of how it was to be implemented, did
2 you discuss that, the two of you?
3 A. He told me to take every opportunity with the media to
4 drop this into conversations.
5 823 Q. Did you ask him who was in on the plan? 15:55
6 A. No, I did not ask him who was in on the plan.
7 824 Q. Would that not have been a natural thing and a logical
8 thing to ask him from your purposes if you were to be
9 the person who was the -- not just the chief, but the
10 only implementer of the order, is that right? 15:56
11 A. If --
12 825 Q. You would at least like to know or you would need to
13 know who else was in on it?
14 A. If the Garda Commissioner gives you an order, you don't
15 start to question his order. 15:56
16 826 Q. Well, did you ask him is there anybody else with whom I
17 might discuss this to ascertain who was in on it?
18 A. I wasn't questioning -- it wasn't my role or function
19 as a superintendent to question a Garda Commissioner
20 further on what instruction he had given to me. 15:56
21 827 Q. How long did this meeting take place where you claim
22 this order was given to you?
23 A. These meetings were usually on a Friday, they could go
24 on for an hour or so, we would deal with a multiplicity
25 of issues. 15:57
26 828 Q. Well, I'm talking now about, I had understood you to
27 indicate that at some point in 2013 --
28 A. Yes.
29 829 Q. -- you're in a position, are you, to recall the very

1 first --

2 A. I can't give you the exact day, but it was mid-2013.

3 830 Q. Were you called to his office to receive this order?

4 A. I would call to his office regularly, because I was
5 dealing with a multiplicity of issues, press queries, 15:57
6 decisions that he'd be required to give, advice that
7 he'd be required to give in response to media queries,
8 which was the normal practice. He would direct how
9 media queries -- not in all of them, but in sensitive
10 ones and critical ones and what response to give. 15:57

11 831 Q. Yes. But this one stood out, didn't it? This was a
12 command to carry out quite far-reaching and really
13 quite unpleasant smearing of another human being, isn't
14 that right, another Garda member?

15 A. He was giving me a direction to do, as he did in 15:58
16 various directions, with regards to our interaction
17 with the media and I was carrying out his direction.

18 832 Q. Did you and Martin Callinan discuss which journalists
19 should be negatively briefed?

20 A. We didn't discuss which ones we'd negatively brief, but 15:58
21 we certainly stayed away from two.

22 833 Q. Did you discuss whom you might stay away from?

23 A. Yes.

24 834 Q. When you say you discussed it, did you ask questions to
25 elicit that information? 15:58

26 A. Well, it was quite evident and quite known that those
27 two journalists were not popular.

28 835 Q. No, my question is, I'm trying to get a sense of, and I
29 think it might be of assistance to the Tribunal if you

1 explain the run of this conversation that you say you
2 had with Martin Callinan. You've heard the complaints
3 about lack of specificity --

4 A. Yeah.

5 836 Q. -- I'm inviting you to give what specifics you can. 15:58
6 Now, you're in his office?

7 A. Hmm.

8 837 Q. Do you say it's a Friday?

9 A. It's, Friday was the longest day I would give in his
10 office because we'd be on a wash-up for the weekend, 15:59
11 cleaning up matters, there'd be Sunday paper queries
12 coming in, we'd be dealing with something that might be
13 starting on Monday, I'd be going through his diary list
14 and he might be going to Templemore for functions, he
15 might be going to various functions and where I, as the 15:59
16 Press Officer, would have to accompany him and things
17 like that.

18 838 Q. Right.

19 A. So it would be a wash-up time in the evening time.

20 839 Q. So are you saying that was the routine, that was the 15:59
21 stuff of a normal Friday evening or was that the stuff
22 of this smear campaign order meeting?

23 A. That was the stuff of a normal Friday, weekends.

24 840 Q. Well, forget that. I am asking you about the specific
25 first day you got an order from Martin Callinan to 15:59
26 conduct a smear campaign?

27 A. You are asking me --

28 841 Q. When was that first time?

29 A. I can't give you the exact day, but it was mid-2013.

1 Commissioner Callinan was becoming deeply frustrated
2 that the McCabe issue was building and building and he
3 just couldn't seem to get it off the agenda. In
4 exasperation he would say to me, Dave, if they only
5 knew what I've to put up with. And he became deeply 16:00
6 frustrated and deeply despondent that one side of a
7 story was coming out all the time and he was having to
8 respond and put up with this all the time.

9 842 Q. Can you put a month on it?
10 A. The middle of 2013. So... 16:00

11 843 Q. What season are we talking about?
12 A. You're talking about the summer season.

13 844 Q. So it was the summertime?
14 A. Yes.

15 845 Q. In 2013? 16:00
16 A. Yes.

17 846 Q. And how was Martin Callinan to know whom you'd briefed
18 as part of this smear campaign?
19 A. Well, he -- like, I mean, the Commissioner would attend
20 and knew a lot of journalists himself, because he would 16:00
21 have attended a lot of scenes and, do you know, he
22 would go to the Garda conferences, and by and large the
23 same cohort of journalists would turn up at all these
24 events.

25 847 Q. Yes, that's my point. How was he to know, how was he 16:01
26 to know to whom you had spoken so that he would know to
27 whom you'd spoken in case he himself came in contact
28 with them? How was he to know that?
29 A. Well, he left that job to me, in the sense that I would

1 talk to these journalists and I would tell him I'd been
2 talking to journalists. And he would ask me - you know
3 he'd become frustrated further on from the time of that
4 instruction - what is going on. He'd become animated
5 and maybe flowery in language as to why isn't this -- 16:01
6 do you know, why aren't the people being told what I've
7 to put up with?

8 848 Q. So did you -- perhaps there's a yes or no to this. Did
9 you and he discuss the list of journalists to whom you
10 should smear? 16:01

11 A. I don't know if we discussed the list, but he certainly
12 would know who I would be talking to because he'd know
13 the group I would be operating within.

14 849 Q. All right. Did you agree a system whereby you'd report
15 back to him on the ongoing progress of the campaign? 16:02

16 A. Well, I don't know if there was an ongoing progress. I
17 would keep him updated that I would keep this briefing
18 going, because he'd become very frustrated from
19 listening to the news, from listening to reports. I'd
20 be following him up on updates, telling him that the 16:02
21 McCabe thing is on this show, it's on this paper, it's
22 in this article. And he'd be becoming --

23 850 Q. Updates on the smear?

24 A. Well, he'd be frustrated that the McCabe story was
25 keeping going all the time. 16:02

26 851 Q. No, no, did you give him updates on the smear campaign?

27 A. No, he would ask me, do you know, are you talking to
28 people and I said yes, I am.

29 852 Q. He would ask you?

1 A. Am I talking to people.

2 853 Q. Right. So presumably you'd give him some detail on to
3 whom you'd spoken?

4 A. Well, I said I spoke to this person on this day and
5 that person on that day? No, I would say I would be 16:02
6 talking to the journalists.

7 854 Q. The journalists?

8 A. Yes.

9 855 Q. You'd withhold from him from whom you'd spoken, would
10 you? 16:03

11 A. Well, sometimes I would tell him, sometimes I did not
12 tell him. Just, he was just inquiring about -- like, I
13 mean, he was deeply, deeply frustrated --

14 856 Q. And would you --

15 A. -- this story wasn't going away. 16:03

16 857 Q. No, I have that point. But would you keep a note of
17 the persons, the journalists to whom you had spoken?

18 A. No, no. No, I wouldn't.

19 858 Q. You didn't. Would that not have been a natural thing
20 to do, to at least have a check-list (a) to know to 16:03
21 whom you'd spoke know to, (b) to know the list to whom
22 you needed to speak?

23 A. Well, as I said to you earlier, Mr. O'Higgins, the
24 amount of journalists that were within the Garda circle
25 was a small, relatively small cohort. There wasn't a 16:03
26 huge -- that I knew them all personally, I knew them
27 all on a first name basis, I had their phone numbers.

28 859 Q. The order to commence this smear campaign, which you
29 say Martin Callinan gave you, was it before or after

1 15th May 2013 when the O'Mahoney report was published?

2 A. As I said, I can't give you the specific date, but it
3 was mid-2013.

4 860 Q. Well, was it before or after the incident when the Roma
5 children were taken into care by the Gardaí? 16:04

6 A. Oh, it was before that.

7 861 Q. It was before that?

8 A. Yes.

9 862 Q. Right. That was October 2013, isn't that right?

10 A. Yes. 16:04

11 863 Q. Right. Well, say a period of four weeks or so after
12 you say the Commissioner gave you the command --

13 A. Hmm.

14 864 Q. -- how many journalists had you briefed?

15 A. I can't give you the exact number, because, as I always 16:04
16 say, it was opportunist. Sometimes it came up,
17 sometimes it didn't come up. I couldn't give the exact
18 number. But when the opportunity did arise I availed
19 of it.

20 865 Q. No, but you must have some sense of how quickly you got 16:04
21 stuck into your task?

22 A. Well, I executed the task as quickly as possible. But
23 then, as I said, it wasn't always possible to execute
24 it, because it was opportunist in reason.

25 866 Q. And is it your evidence that you never jotted down in a 16:05
26 notepaper or a diary or a piece of paper any record of
27 the journalists to whom you'd spoken --

28 A. No.

29 867 Q. -- or any record of the journalists you needed yet to

1 speak to?

2 A. As I said earlier on, I knew all the journalists that
3 were within the Garda circle, that were turning up at
4 all the events, I knew them personally, so it wasn't an
5 exhaustive list that I couldn't store in my own mind. 16:05

6 868 Q. You seem to have had difficulty, if you don't mind me
7 saying, remembering the names of the journalists when
8 you were called upon to put them down on paper. So
9 would it not have been a natural thing to have a record
10 of the ones you intended to speak to? 16:05

11 A. No.

12 869 Q. That didn't occur to you?

13 A. No.

14 870 Q. What about the criteria for eligibility to be
15 journalist to have the smear campaign conveyed to you, 16:05
16 what criteria did you decide upon?

17 A. Could you rephrase that? What do you mean by criteria?

18 871 Q. How would a journalist get on the list of persons to be
19 involved in the smear campaign --

20 A. It was generally -- 16:06

21 872 Q. -- to be briefed?

22 A. It was generally -- as I said to you earlier on, there
23 was a consistent circle of journalists who were within
24 the Garda circle.

25 873 Q. Did you discuss that with Martin Callinan? 16:06

26 A. I did not -- Mr. Callinan knew the same journalists and
27 the same circle that I knew.

28 874 Q. And it's your evidence, is it, that, I think you've
29 told us already, you didn't discuss at any point with

1 the Commissioner the other persons who were to be let
2 in on this command?

3 A. Sorry?

4 875 Q. Did you discuss with the Commissioner or did he discuss
5 with you whom else was to know about -- 16:06

6 A. No.

7 876 Q. -- this plan?

8 A. No.

9 877 Q. You didn't. would that not have been a logical and
10 natural point to clarify? 16:06

11 A. I make the point, the Garda is a disciplined force. If
12 the Garda Commissioner tells you to do something, you
13 don't start taking out a check-list and start asking
14 questions. It doesn't work like that.

15 878 Q. Well, in circumstances where you say the Commissioner 16:07
16 didn't -- it didn't come up, who was in on it, how did
17 you know it was safe that you could risk talking to
18 Nóirín O'Sullivan or Andrew McLindon?

19 A. Because Mr. Callinan, when I took up my position, told
20 me always to keep him and Deputy O'Sullivan fully 16:07
21 informed of all matters.

22 879 Q. No, no, but this was a smear campaign, this was a
23 command to do something quite far-reaching, I suggest.

24 A. Well, I kept them informed.

25 880 Q. But how did you know it was safe to discuss this with 16:07
26 Nóirín O'Sullivan?

27 A. Well, this was the Deputy Commissioner, this was number
28 two. This was the closest person working with the
29 Commissioner, Commissioner Callinan, and Andrew

1 McLindon was my direct boss.

2 881 Q. But I had understood you to indicate that Martin
3 Callinan didn't indicate to you, you can tell Nóirín or
4 you can tell Andrew?

5 A. Well, he indicated to me that, as I said, I was to keep 16:08
6 Deputy Commissioner O'Sullivan always informed, which I
7 always did. And I took it as a matter of -- when
8 Mr. McLindon came on board, to inform him.

9 882 Q. But wasn't that, the command, the standing instruction
10 to keep the Deputy Commissioner informed, I suggest to 16:08
11 you that was in relation to proper legitimate Garda
12 operational matters concerning the Press Office?

13 A. I kept her fully informed with all - as with the
14 Commissioner and with Mr. McLindon - of all matters,
15 including this matter. 16:08

16 883 Q. That has nothing to do with a smear campaign.

17 A. I kept them informed of all matters and I spoke to
18 Deputy Commissioner O'Sullivan by phone, we discussed
19 the matter, we discussed how I was engaging with
20 journalists in relation to the McCabe thing and she was 16:08
21 fully informed. I never not kept her informed.

22 884 Q. Well, can you assist the Tribunal on this: Are you or
23 are you not saying that Martin Callinan said, or
24 indicated it was all right to speak to Nóirín
25 O'Sullivan? 16:09

26 A. He always told me, yes, never to keep anything from
27 Commissioner O'Sullivan.

28 885 Q. Concerning the smear campaign?

29 A. Concerning any matter.

1 886 Q. And did he give a -- did he green light you speaking to
2 Andrew McLindon about the smear campaign?
3 A. Well, Mr. McLindon was the Director of Communications,
4 which was the senior media advisor to the Commissioner
5 and it would be natural I would tell Mr. McLindon of 16:09
6 this issue, and I did.
7 887 Q. You see, by that logic, it would be natural that you'd
8 tell your Deputy Press Officer as well. But you
9 didn't.
10 A. Mr. O'Higgins, it's a rank structure -- 16:09
11 888 Q. That's my point.
12 A. Conversations between the Commissioner and me were kept
13 at a certain level.
14 889 Q. So was the instruction to keep it in among a tight
15 cabal? 16:09
16 A. Well, I kept Deputy Commissioner O'Sullivan and
17 Mr. McLindon fully informed. I did not discuss it with
18 more junior ranks within the Press Office.
19 890 Q. But you see, forgive me for repeating the question, how
20 did you know it was safe to discuss it with Andrew 16:10
21 McLindon if you weren't told he was in on it?
22 A. But Mr. Mac Linden was Director of Communications, he
23 was the highest ranking media advisor on strategy to
24 the Garda Commissioner, he'd the equivalent of a Chief
25 Superintendent rank, which is a rank above me. 16:10
26 891 Q. But by that logic you should be discussing the smear
27 campaign command with the assistant commissioners and
28 chief superintendents across Garda Síochána.
29 A. Absolutely not.

1 892 Q. why not?
2 A. Because this was a media event. This was not a general
3 operational matter.
4 893 Q. You see, would it not have been, on your logic, the
5 natural thing to do for you to organise a four-way 16:11
6 discussion with Martin Callinan, Nóirín O'Sullivan,
7 yourself and Andrew McLindon to discuss implementing
8 this smear campaign?
9 A. Commissioner Callinan gave me instruction, personally
10 to me. I carried out that instruction. And I kept 16:11
11 Deputy O'Sullivan and Mr. Mac Linden fully informed.
12 894 Q. Well, as the weeks went by, Superintendent, and
13 according to the briefing you claim you'd received to
14 keep an eye out for newspaper articles -- sorry, to
15 smear Sergeant McCabe, did you keep an eye out for 16:11
16 newspaper articles that were critical of Sergeant
17 McCabe?
18 A. I kept an eye on, because the press clippings were
19 generated each morning and delivered to senior Garda
20 management and we kept an eye on the McCabe stories, as 16:11
21 well as a lot of other stories as well, it wasn't
22 exclusively the McCabe story.
23 895 Q. Well, as the weeks became months and there still
24 appeared to be either radio silence or newspaper
25 articles not critical of Sergeant McCabe, did you 16:12
26 become -- did you follow up with the journalists to
27 wonder what's the story, what's the problem?
28 A. Well, I kept it going, but I was getting it in the neck
29 from Commissioner Callinan.

1 896 Q. I beg your pardon?
2 A. I was getting it in the neck from him.
3 897 Q. You were getting it in the neck from Martin Callinan?
4 A. Yes.
5 898 Q. Can we take it from that that you say there were 16:12
6 further meetings between you and he where the smear
7 campaign progress was discussed?
8 A. Well, he was deeply frustrated. He'd ring me up after
9 Morning Ireland or some other show and he'd be pretty
10 robust on the phone to me. 16:12
11 899 Q. And would he be saying 'what about journalist X or
12 journalist Y' what's the story?'
13 A. Well, he'd be telling me in a very robust and colourful
14 exchange what the hell was I doing and to ring this
15 show and ring that show and whatever show was on. And 16:13
16 I would be ringing television -- radio shows to seek
17 clarification and to put -- to say 'That's not true'.
18 900 Q. And --
19 A. He listened to every radio programme as well, so.
20 901 Q. And did he demand from you the names of the journalists 16:13
21 to whom you'd negatively briefed?
22 A. No. But he was telling me, do you know, he was quite
23 animated that this story wasn't going away and what the
24 hell were we doing about it?
25 902 Q. Sorry, why was he not asking you as to progress 16:13
26 concerning the list of journalists whom you'd
27 negatively briefed? would that not have been the first
28 thing to come up if, as you say, he was becoming irate?
29 A. He wouldn't be coming up and saying 'Have you rang this

1 person', 'Have you rang that person', he would be
2 saying 'what the' - I don't want to be colourful - but
3 'what the hell is going on' or 'what is doing? Like,
4 this story's coming up'. And he'd be very animated and
5 very agitated over it from time to time. 16:14

6 903 Q. The man has given you a job, on your evidence.
7 A. Yes.

8 904 Q. A rather significant job.
9 A. Yes.

10 905 Q. It wasn't an every day occurrence. 16:14
11 A. No.

12 906 Q. You discuss it within his office. It's a command to go
13 out and smear another Garda member.
14 A. Yes.

15 907 Q. Right. There appear in the succeeding weeks and months 16:14
16 to be no fruits from the plot, from the smearing
17 campaign. You indicate your boss was annoyed about
18 this.
19 A. Yes.

20 908 Q. I want to know from you how is it possible he didn't 16:14
21 demand from you a list of the journalists to whom you'd
22 spoken and an update on why they weren't delivering the
23 goods.
24 A. He never demanded a list, he was -- that was my job,
25 because my job was frontline dealing with the 16:14
26 journalists, it wasn't his job to frontline dealing
27 with the journalists. He had given me a task, he
28 wanted that task executed and I did it to the best of
29 my ability.

1 909 Q. Well, whatever about Martin Callinan, did you phone up
2 or contact any of the journalists to whom you'd
3 negatively briefed to find out -- with a view to
4 prodding it along?

5 A. As I said earlier on, it wasn't my job to prod it along 16:15
6 or -- I gave them the information; if they went and
7 wrote an article, fair enough. If they didn't, I
8 couldn't push them towards that point.

9 910 Q. Can I ask you in relation to some of the journalists
10 whom you've now nominated as being parties to whom you 16:15
11 briefed negatively: Paul Reynolds?

12 A. Yes.

13 911 Q. Did you give him an in person briefing or was it on the
14 phone?

15 A. It would be in person. 16:15

16 912 Q. In person?

17 A. Yes.

18 913 Q. You're clear on that?

19 A. Yes.

20 914 Q. So you have a mind's eye memory of briefing Paul 16:15
21 Reynolds negatively on a person-to-person encounter,
22 are you clear on that?

23 A. Because again Mr. Reynolds is a very respected
24 journalist, I would have -- he was always being at
25 scenes and I'd meet him quite a lot at all the various 16:16
26 Garda events.

27 915 Q. Right. So it was person to person and it stands out,
28 the particular briefing you gave him, the negative
29 briefing?

1 A. Well, we discussed the whole Maurice McCabe. Because
2 the Maurice McCabe issue was becoming a huge issue.
3 916 Q. Well, I presume you discussed Maurice McCabe if you
4 were implementing the negative briefing policy?
5 A. Yes. 16:16
6 917 Q. Right. So does it stand out in your mind as a
7 recollection you have negatively briefing Paul
8 Reynolds?
9 A. I recollect, yes, I do mean talking to go Paul
10 Reynolds, yes. 16:16
11 918 Q. Right. When was this?
12 A. I can't give you the exact date when it was.
13 919 Q. Where was this?
14 A. It would've been at some scene, it would've been at
15 some event, I can't give the exact location. But as I 16:16
16 say, as I said earlier on in my evidence, it was
17 opportunist.
18 920 Q. Was it outdoors? Indoors?
19 A. Most of the crime scenes I went to would be outdoors.
20 921 Q. Yes. 16:16
21 A. Most of the conferences I went, we were indoors.
22 922 Q. Yes, so which was it?
23 A. As I said, it was opportunist in its nature. I can't
24 give you the geography or the topography of where it
25 happened. It happened. 16:17
26 923 Q. Michael O'Toole; in person or on the phone?
27 A. It would be probably both.
28 924 Q. Both?
29 A. Yes.

1 925 Q. So you would've -- well, which came first?
2 A. I can't tell you which one came first. As I said, it
3 was opportunist. When the opportunity arose.
4 926 Q. Can you put a month on it?
5 A. I can't give an exact month, but I can give you the 16:17
6 time period. It was between mid 2013 and March '14.
7 927 Q. 2013 and March '14?
8 A. Yes.
9 928 Q. So the period is as broad as what you're indicating is,
10 is it the commencement of the smear campaign -- 16:17
11 A. From about mid --
12 929 Q. -- and the departure from Martin Callinan from office?
13 A. Yeah.
14 930 Q. That's the period, that's the specifics you're
15 offering, is it? 16:17
16 A. Yes.
17 931 Q. John Burke; in person or on the phone?
18 A. On the phone.
19 932 Q. And you're clear on that?
20 A. Yes. 16:18
21 933 Q. Where were you?
22 A. I can't say where I was. It's -- I was on the phone as
23 well.
24 934 Q. But do you have a memory of briefing him negatively in
25 this particular phone call? 16:18
26 A. Yes.
27 935 Q. Right. In your mind's eye, where were you for this
28 phone call that you say you remember? Where were you?
29 A. I can't state where I was. I was on the other end of

1 the phone line. And in what location that was, I can't
2 tell you that.

3 936 Q. Was it day or night?

4 A. Like, I mean, it's impossible for me to state whether
5 it's day or night. It was within the 24-hour clock. 16:18

6 937 Q. I think we're probably safe in that. Paul Williams;
7 was it by phone or was it in person?

8 A. It was by phone.

9 938 Q. And when was that?

10 A. Again, Mr. O'Higgins, it was opportunist in its nature. 16:18
11 When it presented itself, it presented itself on
12 occasions when the matter was topical.

13 939 Q. Did you ever send to Martin Callinan a text to say
14 something along the lines of 'I've spoken to Juno
15 McEnroy' or 'I've spoken to Paul Reynolds' or 'Spoken 16:19
16 to Michael O'Toole and he's been fully briefed'?

17 A. I wouldn't have sent that. I would've, do you know,
18 spoken to him, I would've -- what I was sending to
19 Commissioner Callinan and Commissioner O'Sullivan was
20 updates in relation to the McCabe issue of where it was 16:19
21 breaking out in the media and that.

22 940 Q. But why would you have not sent a text? Would that not
23 have been a perfectly natural thing to do, just by way
24 of update?

25 A. Well, I would've followed up in personal calls and 16:19
26 spoke to him. Because as I say, texts are limited in
27 their very nature as to what, how many characters - I
28 think there's 40 characters I think you can put into it
29 or something like that.

1 941 Q. I beg your pardon?
2 A. I think they're limited, the texts, by their very
3 nature. And I'm not the most prolific dexterity when
4 it comes to texting.
5 942 Q. You're not a prolific text sender, is it? 16:20
6 A. Well, as to get, to put a big long narrative into it.
7 943 Q. So are you saying that the limitation on the number of
8 characters in a text was the reason as to why you
9 wouldn't have sent a text to Martin Callinan to let him
10 know that you'd spoken to a particular journalist to 16:20
11 indicate you'd briefed them?
12 A. As I said, I always remember the Paul Williams one.
13 Like I mean, that stands out to me, telling him about
14 Paul Williams ringing me and going to write an article.
15 944 Q. So you do have a memory of sending a particular text -- 16:20
16 A. Yes.
17 945 Q. -- to Martin Callinan in relation to Paul Williams?
18 A. And Deputy O'Sullivan.
19 946 Q. But I had understood you to indicate that you hadn't
20 negatively briefed. Is that right? You're not claiming 16:20
21 ownership, so to speak, of the Ms. D visit --
22 A. No.
23 947 Q. -- of any journalist?
24 A. No, I was just claiming that I had received information
25 from Paul Williams and I passed it on. It'd be the 16:20
26 nature of the way I would pass on information to the
27 Commissioner and Deputy Commissioner.
28 948 Q. Am I correct on that, you're not asserting that the
29 Ms. D piece in relation to the journalist concerned,

1 that was not part of this disputed smear campaign,
2 isn't that so?

3 A. No, I didn't know Mr. Williams was going up there. He
4 went up there on his own steam.

5 949 Q. Yes. So I just come back to my question then: What was 16:21
6 to prevent you sending a text to Martin Callinan to
7 update you on speaking to any given journalist?

8 A. It wasn't the case. I would be in the Commissioner's
9 company almost every day and I'd speak to him on
10 matters. 16:21

11 950 Q. You claim, don't you, that you believed in the order
12 from Commissioner Callinan which you maintain he gave
13 you?

14 A. Yes.

15 951 Q. That being so, there was nothing to prevent you passing 16:21
16 it on to Inspector Ferris, your second in command.

17 A. Again, there's a rank structure. There's the nature of
18 the conversation with the Commissioner, I told it to,
19 Deputy O'Sullivan and Mr. McLindon. It's not the
20 practice to come back from the Commissioner's office 16:21
21 and discuss conversations with the Commissioner with
22 lower ranks.

23 952 Q. I don't quite follow that. I thought, I'd understood
24 you to indicate you imparted, you relayed to Andrew
25 McLindon -- 16:22

26 A. Yes.

27 953 Q. -- your boss.

28 A. Yes.

29 954 Q. Your next line manager up.

1 A. Yes.

2 955 Q. You discussed with him this smear campaign?

3 A. Yes.

4 956 Q. You did so because he was your line manager?

5 A. Yes. 16:22

6 957 Q. Right. Because he was your line manager?

7 A. Yes.

8 958 Q. Right. Does it not follow from that it would have been

9 logical and natural for you, the Commissioner not

10 having directed you not to, it would have been natural 16:22

11 for you to discuss with your line manager down

12 Inspector Ferris?

13 A. No.

14 959 Q. Why not?

15 A. Again I go back to, there's a rank structure, there's 16:22

16 -- conversations with the Commissioner are kept at a

17 certain level and those levels are within the rank

18 structure.

19 960 Q. You're not saying, are you, that Commissioner Callinan

20 directed you not to tell it to Inspector Ferris? 16:23

21 A. But I'm going from being a member of the Garda

22 Síochána, I'd know from the protocol, I'd know from out

23 of respect and courtesy to the Commissioner that I

24 wouldn't leave his office and discuss matters that he

25 had told to me with people not within the appropriate 16:23

26 level to know.

27 961 Q. Well, I wonder are we at cross purposes. You see, I

28 had understood you to indicate that you didn't see

29 anything wrong when you got this alleged command to

1 conduct a smear campaign, you saw nothing wrong in
2 that?

3 A. No.

4 962 Q. Right. Does it also follow you didn't pick up from
5 Commissioner Callinan any sense that he saw something 16:23
6 wrong in what he was asking you to do?

7 A. I can't say what he knew, I can only just say that he
8 gave me an order to carry out an order and I did that.

9 963 Q. Well, can you not deal with that; did you pick up from
10 him any sense at all that what he was asking you to do 16:24
11 was wrong?

12 A. No.

13 964 Q. Or sinister?

14 A. No.

15 965 Q. Or dark or secret? 16:24

16 A. No, he was giving me an order to do what I was to do
17 and I executed that order.

18 966 Q. But on your evidence, you left the office having been
19 given that command, not burdened down with the sinister
20 secret, because as far as you were concerned, you had 16:24
21 not been -- you saw nothing wrong in what you say you
22 were asked to do. Are we agreed about that?

23 A. Yes.

24 967 Q. Right. Did you pick up from the Commissioner any sense
25 or impression that he thought there was something wrong 16:25
26 with what --

27 A. No.

28 968 Q. -- he was at? No, you didn't?

29 A. No.

1 969 Q. So that being the case, there would have been no
2 necessity for secrecy, are we agreed with that? There
3 was nothing wrong here?
4 A. It's a case of the appropriate people to know.
5 970 Q. But why was it restricted to just a few people? There 16:25
6 was nothing improper with what you had been asked to
7 do, as you saw it?
8 A. This was an instruction from the Garda Commissioner, it
9 wasn't -- it is not practice and not protocol to
10 discuss orders by the Commissioner with lower ranks. 16:25
11 971 Q. You see, I'm just a little bit unclear and perhaps you
12 can assist the Tribunal with just actually what your
13 position is. You've heard of that expression the
14 Nuremberg Defence - I knew it was wrong, but I was
15 following orders; that's not your position, is it? 16:26
16 A. No.
17 972 Q. You didn't know it was wrong?
18 A. No.
19 973 Q. Right. But you claim, don't you, that you didn't see
20 anything wrong with smearing another Garda member, 16:26
21 isn't that right?
22 A. I was bringing information, which was told to me by the
23 Garda Commissioner and I wasn't the one person to go
24 and question the Garda Commissioner's order to me.
25 974 Q. You did -- sorry. 16:26
26 A. Here was the head of the police service.
27 975 Q. Right. Excuse me, I did not mean to interrupt, go
28 ahead there.
29 A. I beg your forgiveness there.

1 976 Q. So as I understand it then, superintendent, you saw
2 nothing wrong with being told to drop into
3 conversations with journalists the fact that Maurice
4 McCabe was -- had been prosecuted for alleged child
5 abuse and that this was the real source of all his 16:27
6 grievances and allegations, isn't that so?
7 A. I never said the world child abuse, I said for a sexual
8 offence.
9 977 Q. All right.
10 A. And that it would be investigated in 2006 and this was 16:27
11 the motivation for bringing all these matters in
12 relation to penalty points and it was basically his
13 revenge.
14 978 Q. And the root cause of his agenda of complaints, isn't
15 that right -- 16:27
16 A. Yes.
17 979 Q. -- was revenge against the Garda force that had
18 investigated the sexual investigation?
19 A. Yes.
20 980 Q. And implicit in that, isn't it, is that the man isn't 16:27
21 to be trusted, because he has improper reasons for
22 making his complaints?
23 A. In essence, yes.
24 981 Q. Yes. And you claim, do you, that it never occurred to
25 you that embarking upon such a demand -- a campaign was 16:28
26 in any way wrong? That never occurred to you?
27 A. No.
28 982 Q. Are you serious?
29 A. Yes. I was given an order, a direct order by the Garda

1 Commissioner. I wasn't there to question his orders.
2 983 Q. No, no, but that's a different thing as to whether you
3 were compelled by rank to comply with a command.
4 Forget about the compulsion to do so, I'm simply
5 talking about whether it's right or wrong. Is it your 16:28
6 evidence that in 2013, for all of 2013 and a good chunk
7 of 2014, and possibly longer, you saw absolutely
8 nothing wrong with such a campaign?
9 A. No.
10 984 Q. No? what do you mean no? 16:28
11 A. I saw nothing -- I was executing an order of the Garda
12 Commissioner.
13 985 Q. You saw nothing wrong with it?
14 A. No.
15 CHAIRMAN: I think what he means is morally wrong or 16:29
16 questionable or something that would make you pause and
17 think about things
18 A. I didn't pause, Mr. Chairman.
19 CHAIRMAN: You didn't see anything morally wrong about
20 it? 16:29
21 A. No.
22 CHAIRMAN: Can I ask you to stop there, Mr. O'Higgins?
23 You might like to sit down, superintendent, and we will
24 see what we are doing tomorrow. It's been a long day,
25 thank you. Mr. O'Higgins, we'll take it up in the 16:29
26 morning. If I can't be here at half past ten, I'll
27 send a text to Mr. Barnes, so at least you can get a
28 cup of coffee or whatever, maybe the third cup of
29 coffee or whatever it is. I was wondering an

1 indicative time vis-à-vis trying to get, organise other
2 witnesses for tomorrow. What do you think the
3 situation is? I'm not trying to rush you now and I
4 appreciate it's important.

5 MR. MÍCHEÁL O' HIGGINS: Yes, I understand, Chairman. 16:29
6 Certainly go to lunch hour, but I imagine after lunch.

7 CHAIRMAN: Ms. Burns, do you think you will have much
8 in way of mop up?

9 MS. BURNS: Very short.

10 CHAIRMAN: So maybe it is possible we should be 16:30
11 finished Superintendent Taylor by, say, half two-ish,
12 if it's the normal hour.

13 MR. MÍCHEÁL O' HIGGINS: Could I say this, Chairman, he
14 will certainly finish tomorrow. I just don't want to
15 give you a false estimate. I would be hopeful it would 16:30
16 be not too long after lunch, but --

17 CHAIRMAN: All right. We will organise --
18 Mr. McGuinness, is that okay with you?

19 MR. MCGUINNESS: Yes.

20 CHAIRMAN: Can we organise things accordingly, we can? 16:30
21 MR. MCGUINNESS: Yes, Chairman.

22 CHAIRMAN: But certainly not before lunch.

23 MR. MCGUINNESS: No.

24 CHAIRMAN: All right. Well, it's good to know that, I
25 think. Thank you very much. 16:30
26

27 THE HEARING WAS THEN ADJOURNED UNTIL WEDNESDAY, 16TH
28 MAY 2018 AT 10:30AM
29

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