

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

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1921, ON 17 FEBRUARY 2017

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

HELD IN DUBLIN CASTLE
ON WEDNESDAY, 16TH MAY 2018 - DAY 76

76

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 WEDNESDAY, 16TH MAY
2 2018 AT 10: 35AM:

3
4 SUPERINTENDENT DAVID TAYLOR WAS CROSS-EXAMINED BY
5 MR. MÍCHEÁL O' HIGGINS, AS FOLLOWS

10:37

6 1 Q. MR. MÍCHEÁL O' HIGGINS: Good morning Superintendent
7 Taylor.

8 A. Good morning Mr. O'Higgins.

9 2 Q. When we finished up yesterday I was asking you some
10 questions about the methodology or the approach you
11 took to what you've given evidence about, namely a
12 smear campaign and the command that was given to you by
13 Martin Callinan you say. Can I ask you, in relation to
14 the sexual abuse allegation that you say you were to
15 whisper about or leave or mention to journalists, that
16 included an idea that -- well, was the purpose of that
17 not to give the journalists to believe that in fact
18 there was something to the allegation?

10:37

10:38

19 A. No, it was to draw their attention to a motivation.

20 3 Q. Well, you see, you might help us with that. Because I
21 had thought part of the smear campaign purpose was to
22 turn whomever you were briefing off Sergeant McCabe,
23 and to that end, part of the scheme involved you giving
24 them to understand that there was something in it, by
25 which I mean in the sexual abuse allegation.

10:39

26 A. No. It was to draw their attention to his motivation
27 as to why he was bringing these matters to the public
28 arena.

29 4 Q. But did you not say in one of your statements that in

1 fact part of the rationale or methodology of the smear
2 was that there was no smoke without fire?

3 A. That's in relation to his motivation as to what brought
4 him forward, that this investigation was the motivation
5 for bringing these matters forward to the public arena. 10:39

6 5 Q. But you see, no smoke without fire -- well, first of
7 all, is it your position that you were to impart the
8 message 'There is no smoke without fire' --

9 A. No.

10 6 Q. -- in relation to the sexual abuse allegation? 10:40

11 A. No, I merely imparted the information as directed by
12 the Commissioner, to say that Sergeant McCabe was
13 driven by revenge, emanating from the investigation.

14 7 Q. And is it your position that you were never instructed
15 and you never did indicate to a journalist 'There's no 10:40
16 smoke without fire' in relation to the sexual abuse
17 allegation --

18 A. No.

19 8 Q. Is that your --

20 A. That's correct. 10:40

21 9 Q. That's your position on that?

22 A. Mm-hmm.

23 10 Q. All right. Now, dealing further then with the smear
24 campaign, when you discussed it with Nóirín O'Sullivan,
25 did you get any impression from her that she felt it 10:41
26 was wrong?

27 A. No.

28 11 Q. You didn't?

29 A. No.

1 12 Q. When you discussed it with Andrew McLindon, did you get
2 any impression from him that he felt it was wrong?
3 A. No.
4 13 Q. He is a civilian obviously.
5 A. Yes. 10:41
6 14 Q. Would you mind turning to page 128 of the materials
7 please, if we could have that up on the screen, which I
8 think is in volume 1. And this is, just to orientate
9 it for you, Superintendent, this is your interview with
10 the Tribunal investigators of 5th May 2017, which is a 10:42
11 reasonably lengthy document, I think some 30 pages.
12 And on page 12 of that, which is at page -- on page 13
13 of that, which is page 128, if we could go down to line
14 200, halfway down the page. Do you see that there?
15 A. Yes. 10:43
16 15 Q. This is what you told the Tribunal investigators:
17
18 "I was to say that Maurice McCabe was driven by
19 agendas, he's motivated by revenge and that revenge is
20 driven by the allegation, the sexual allegation made 10:43
21 against him by another member's daughter a number of
22 years ago. I would say that I did always clarify to
23 the journalist that a file had gone to the DPP and that
24 there was no prosecution. However, this was the
25 narrative." 10:43
26
27 And then you say:
28
29 "It was put in such a way that there was no smoke

1 without fire. I would drop that in when talking to the
2 journalists."

3 So, did you say that to the Tribunal investigator?

4 A. I did.

5 16 Q. And did you not say a few moments ago that in fact you 10:43
6 didn't indicate to the journalists whom you were
7 briefing that there was no smoke without fire?

8 A. Well, I said that, what I've always said to the
9 journalists, that Sergeant McCabe bringing these 10:44
10 matters into the public arena was driven by revenge and
11 this revenge emanated from the investigation into him.

12 CHAIRMAN: No, if you just go back, if you wouldn't
13 mind, Superintendent --

14 A. Yeah.

15 CHAIRMAN: -- to the question you were asked. Counsel 10:44
16 asked you: "But you see, no smoke without fire -- well,
17 first of all, is it your position that you were to
18 impart the message 'There is no smoke out fire'?" The
19 answer was "No". "In relation to the sexual abuse
20 allegation?" "No, I merely imparted the information as 10:44
21 directed by the Commissioner to say that Sergeant
22 McCabe was driven by revenge emanating from the
23 investigation." That's, I think, what counsel is
24 referring to.

25 A. Yes. 10:44

26 17 Q. MR. MÍCHEÁL O' HIGGINS: So what did you mean in telling
27 the Tribunal investigator the methodology involved
28 indicating or imparting "No smoke without fire"; what
29 smoke and what fire?

1 A. Bringing these matters of the penalty points to the
2 public arena was driven by, motivated by revenge.

3 18 Q. Why did you use the expression, in purporting to
4 describe the methodology of the smear campaign, "I
5 would indicate no smoke without fire"? 10:45

6 A. Because that showed his motivation in bringing these
7 matters to the public arena.

8 19 Q. I suggest to you "No smoke without fire" means there's
9 something in the allegation, the allegation is likely
10 to be true. That's what that expression means. 10:45

11 A. I don't accept that.

12 20 Q. I see. And are you in a position to reconcile what you
13 told us a few minutes ago with what I suggest to you is
14 a different account in the statement to the Tribunal
15 investigators? 10:46

16 A. No. As I said, my position, as directed by the
17 Commissioner, was always to bring the journalists'
18 attention to the fact that Sergeant McCabe was
19 motivated by revenge in bringing these matters to the
20 public arena. 10:46

21 21 Q. On your case, the smear campaign stopped in March on
22 Martin Callinan's departure.

23 A. Yes.

24 22 Q. Why did it stop?

25 A. Because of -- I was no longer working for Commissioner 10:46
26 Callinan at the moment, at the time, and there'd been a
27 huge upheaval.

28 23 Q. So are you saying that it continued up until the
29 Commissioner left, but you're clear it lasted up until

1 25th March 2014?

2 A. Yes.

3 24 Q. And it's your position that it stopped and was not
4 continued by Nóirín O'Sullivan?

5 A. That's my -- yes. 10:46

6 25 Q. Or by Andrew McLindon?

7 A. Yes. Well, I can't say what they did, but I didn't.

8 26 Q. Well, that was going to be my question. I mean, here
9 we had what was apparently a four-party agreed or
10 discussed plan, McLindon, O'Sullivan, Commissioner 10:47
11 Callinan and yourself, you're all in on it, on your
12 case. Yes, there's been the departure of Commissioner
13 Callinan, but I suggest to you, on your logic, there's
14 no reason - in fact, if anything, there's an increased
15 logic now to continue besmirching Sergeant McCabe with 10:47
16 this agreed policy that you discussed, you say. Now,
17 was there any discussion with Nóirín O'Sullivan as to
18 stopping the policy?

19 A. No.

20 27 Q. Was there any discussion -- did you have any 10:47
21 conversation with her about it?

22 A. No. I was never in the Commissioner's office again
23 after 25th March.

24 28 Q. We'll come back to that. Was there any conversation
25 with Andrew McLindon, with whom you continued to have 10:48
26 discussions?

27 A. No.

28 29 Q. Well, does that make sense? Would you not have, would
29 you not have asked him 'what's the story? Are we not to

1 continue with the smear campaign?'

2 A. There was a huge shock to the system and to the
3 organisation when Commissioner Callinan left abruptly.

4 30 Q. But surely, particularly in your circumstances, you
5 would've wanted to impress the likely new boss or the 10:48
6 acting, the interim Commissioner?

7 A. I wasn't going to -- that was for her to make whatever
8 decision she wanted to make.

9 31 Q. I beg your pardon?

10 A. That was for her to make whatever decisions she wanted 10:48
11 to make. I wasn't going to influence the new
12 Commissioner.

13 32 Q. But it would've come up with your chats with Andrew
14 McLindon, surely?

15 A. The chats after Commissioner Callinan left were all 10:49
16 about the upheaval in relation to Commissioner Callinan
17 leaving and the sense of shock around the system.

18 33 Q. I grant you that, there would've been upheaval and
19 there would've been discussions around the upheaval for
20 some period of time, but can you explain to the 10:49
21 Tribunal why there was a sudden halting or cessation of
22 the smear campaign, in circumstances where two of the
23 people who were in on it remained in situ?

24 A. When Commissioner Callinan left, it stopped. I can say
25 no more than that. 10:49

26 34 Q. And it never came up in conversation with anybody why
27 had it stopped or was it to stop or 'Should we keep
28 going with it?'

29 A. No.

1 35 Q. No. Now, I think it's the case that you sometimes
2 attended the senior management -- well, I think you
3 referred to them as the round table meetings that were
4 held to prepare for the PAC, Christmas and January of
5 2014, is that right? 10:50

6 A. That's correct, yes.

7 36 Q. And these were held, I think, in the Commissioner's
8 conference room a short period before each PAC hearing?

9 A. Yes.

10 37 Q. Usually 24 hours before each PAC hearing or 10:50
11 thereabouts?

12 A. Yes.

13 38 Q. And who'd attend those?

14 A. The Commissioner, Deputy Commissioner, Andrew McLindon,
15 myself, various other senior officers from relevant 10:50
16 departments.

17 39 Q. Yes. Nóirín O'Sullivan, Andrew McLindon?

18 A. Commissioner Callinan and various other senior
19 officers, legal officers and that would attend,
20 depending on their -- 10:51

21 40 Q. Yes.

22 A. -- expertise or who the Commissioner would invite.

23 41 Q. After any of those meetings were you ever asked or
24 instructed -- well, first of all, deal with the
25 meetings; at the meetings were you ever asked or 10:51
26 instructed to negatively brief the media at such
27 meetings?

28 A. No.

29 42 Q. Was the smear campaign ever discussed at these

1 meetings?

2 A. No, it wasn't.

3 43 Q. But you see, here we have Martin Callinan, Nóirín
4 O'Sullivan, Andrew McLindon at these meetings and yet
5 there's no mention of how the smear campaign is coming 10:51
6 along, progress on the smear campaign.

7 A. The meetings in preparation for PAC were strategy
8 meetings based on how to be prepared and have all the
9 information available to the Commissioner to answer
10 whatever questions the deputies would put to him. 10:52

11 44 Q. Yes. And in the aftermath of any of these meetings did
12 none of the trio that you say were involved or had
13 discussed it, did none of them ask for an update on how
14 the smear was coming along?

15 A. No. 10:52

16 45 Q. Did you have any discussion with any of the three about
17 what would be the most effective way of implementing
18 the smear campaign?

19 A. No, in the sense that the direction had been given to
20 me by Commissioner Callinan previous to the PAC and I 10:52
21 was taking the opportunity, when availed, to carry out
22 his direction.

23 46 Q. You've told us, haven't you, that from your perspective
24 there was nothing wrong, you saw nothing wrong with the
25 command you'd been given? 10:52

26 A. No.

27 47 Q. That being so, in order to make it more effective,
28 would it not have been a sensible plan to avail of the
29 legitimate facility of the Press Office and the

1 colleagues in the Press Office to propagate the smear
2 campaign?

3 A. No. Because it's high level conversations, it wasn't a
4 matter for the desk sergeants to deal with.

5 48 Q. But would it not have been more effective to enlist the 10:53
6 assistance of others in the Press Office to get the
7 message out?

8 A. The Commissioner gave me a direction at that level and
9 I maintained it at that level.

10 49 Q. But he gave you that direction in your role as Press 10:53
11 Officer, isn't that so, isn't that what you've told us?

12 A. Yes.

13 50 Q. So wouldn't it follow then, isn't it logical that you
14 would, having been instructed as Press Officer, use the
15 Press Office to get the message out? 10:53

16 A. No.

17 51 Q. Pardon?

18 A. No.

19 52 Q. It would not have been logical? It would not have made
20 sense to you? Did you think about it or -- 10:54

21 A. No.

22 53 Q. -- did you decide --

23 A. It wasn't appropriate.

24 54 Q. And why was it not appropriate, in your opinion?

25 A. The Press Office deal with run of the mill press 10:54
26 queries from journalists and its time is consumed
27 dealing with press queries and responding to press, as
28 I say press queries, press questions in relation to a
29 whole range of Garda matters.

1 55 Q. But you see, I thought the scheme was to be dropping
2 the information into conversations on an opportunistic
3 basis with journalists. Surely that's something your
4 colleagues in the Press Office could do as effectively?
5 A. It was a direction given by the Commissioner at that 10:54
6 level and that's the level it was kept at.
7 56 Q. Yes. The persons to whom you imparted this unpleasant
8 information, can I ask you about their reaction? In
9 relation to, for instance -- well, let's take any one
10 of the list you care to nominate. Paul Reynolds, you 10:55
11 briefed him. What was his reaction?
12 A. He just heard what I was saying and took it on board.
13 57 Q. Mr. Williams?
14 A. Same.
15 58 Q. Juno McEnroe? 10:55
16 A. Same.
17 59 Q. No reaction from any of these people?
18 A. As I said before, journalists don't react when you give
19 them information, they take information, it's their job
20 to take and collate information and how they process it 10:56
21 is their business afterwards.
22 60 Q. Well, presumably this seismic information prompted a
23 request for some corroborative information from you or
24 corroborative document or file from you?
25 A. No. 10:56
26 61 Q. Conor Lally, what was his reaction?
27 A. The same.
28 62 Q. Was he surprised?
29 A. He didn't express any surprise to me.

1 63 Q. John Mooney?
2 A. No.
3 64 Q. Michael O'Toole?
4 A. No.
5 65 Q. No what? 10:56
6 A. No reaction, just it was part of the conversation
7 piece.
8 66 Q. Cormac O'Keefe?
9 A. Same.
10 67 Q. John Burke? 10:56
11 A. Same.
12 68 Q. Daniel McConnell?
13 A. Same.
14 69 Q. Eavan Murray?
15 A. Same. 10:56
16 70 Q. Have I left anybody out?
17 A. Debbie McCann.
18 71 Q. Her reaction?
19 A. Same.
20 72 Q. And what does "same" mean? Does it mean the absence of 10:57
21 a reaction?
22 A. Well, they just hear what I was saying to them and they
23 just heard what I was saying. And how they process it
24 after that is, was their prerogative.
25 73 Q. Surely somebody on the list asked for further 10:57
26 information or 'Can you get me something on that,
27 Dave?'
28 A. No, I just parted them the information that Sergeant
29 McCabe, in bringing these matters to the public arena,

1 was driven by revenge and this revenge was rooted in
2 this investigation.

3 74 Q. And not one of them asked you further questions about
4 it?

5 A. No. In the sense it was, the opportunity was to drop 10:57
6 it into the conversation. They had a lot more sources
7 and they could make their own inquiries.

8 75 Q. But you see, the comprehensive investigation carried
9 out by Chief Superintendent Frank Clerkin appeared to
10 indicate - and I had understood you not to take issue 10:58
11 with it - that from time to time you were complying
12 with journalists' requests for information, documents,
13 background, details across a range of subjects. That's
14 what journalists do, isn't that right, legitimately?

15 A. Yes. Yeah. 10:58

16 76 Q. Right. So why would journalists, when they hear from
17 you interesting information, salacious information,
18 smearing information, why would they not at least
19 inquire from you 'Give me further detail if you can' or
20 'Give me a document', why would they not do that? 10:58

21 A. I don't know why they -- you'd have to ask them that.
22 But all I can say is I passed on that information on to
23 them and it was a matter for themselves how they
24 progressed it.

25 CHAIRMAN: I think what counsel is asking you is this, 10:59
26 that journalists tend to ask questions and clearly in
27 relation to some of the events, like the burglary at
28 the home of a well known person, they had to come to
29 you to ask for particular details in relation to that.

1 You supplied them. You shouldn't have, but that's
2 neither here nor there. And so, what counsel is
3 saying, is, look, if you give a bit of information
4 about Maurice McCabe, the question that might trip off
5 their tongue is 'well, what's in this David?', or some 10:59
6 question to that effect. Is it fair to summarise your
7 question in that way, Mr. O'Higgins?
8 MR. MÍCHEÁL O' HIGGINS: Yes, Chairman.
9 CHAIRMAN: Yes. So that, I think, is the question.
10 A. Well, the whole idea was to give them the information, 10:59
11 was to frame the message to them and they would go and
12 make their own inquiries then.
13 77 Q. MR. MÍCHEÁL O' HIGGINS: The Chairman's summary of my
14 question was, look, journalists doing their job --
15 A. Mm-hmm. 11:00
16 78 Q. -- as all of these journalists would've done, would
17 come back with further requests for information or
18 materials. That's what journalists do, acting
19 legitimately. All right? Do you agree about that?
20 A. Yes. 11:00
21 79 Q. Right. You say, peculiarly, in this instance not a
22 single one of the journalists on the list did that.
23 They remained mute, they did not react one way or the
24 other and, most peculiarly, did not come back and ask a
25 further question surrounding the issue. Now, are you 11:00
26 seriously suggesting that happened every single time?
27 A. Every time I had the opportunity, I dropped in the
28 information in relation to the motivation of Sergeant
29 McCabe. That was the methodology of the way I

1 operated. I gave the information to the journalist,
2 they would go off and do, I assume, their own
3 inquiries, as they would do with any issue, and contact
4 a number of other sources.

5 80 Q. You, I think, Superintendent, if we take into account 11:01
6 your PD, your protected disclosure, you made a
7 statement -- you made that on, I think, 30th September
8 2016, isn't that right?

9 A. That's right.

10 81 Q. You made your next statement on 13th March 2017 to this 11:01
11 Tribunal, isn't that right?

12 A. That's correct.

13 82 Q. 5th May 2017 to this Tribunal, is that right?

14 A. That's right.

15 83 Q. And another one on 27th September 2017? 11:01
16 A. That's right, yes.

17 84 Q. Right. And you're aware, aren't you, that
18 notwithstanding it being an important detail in your
19 allegations that Andrew McLindon was involved and you
20 discussed it with him - I think more than once, is that 11:02
21 right, the smear campaign?

22 A. Yes.

23 85 Q. How many times?

24 A. I can't put an exact number of times on it,
25 Mr. O'Higgins. 11:02

26 86 Q. Two or three? Four or five?

27 A. I can't. But I would've spoken to him about it.

28 87 Q. Double figures?

29 A. I can't put numbers on it.

1 88 Q. All right --
2 A. Our offices were adjacent to each other, so we had
3 daily interaction between each other.
4 89 Q. All right. So on your case, he was all over this, was
5 he? He was fully on board with the whole thing, you 11:02
6 openly discussed it with him a number of times?
7 A. Yes.
8 90 Q. Right. Did he show enthusiasm for the project?
9 A. He's not a person that shows much emotions. He's a
10 professional and that's the way he operates. 11:02
11 91 Q. Is he like the journalists to whom you spoke when
12 giving the negative briefing; no reaction?
13 A. Well, he has the same access to everything I have in
14 his position as a senior civilian employee of An Garda
15 Síochána. 11:03
16 92 Q. No, my question was did he have a reaction?
17 A. No.
18 93 Q. Of any sort?
19 A. He's not that type of person to display emotions or --
20 94 Q. Why is there no mention in your protected disclosure of 11:03
21 your allegation against Andrew McLindon?
22 A. As I said, the protected disclosure was the protected
23 disclosure. In my statements, like with all other
24 matters, it's fleshed out more and more information is
25 provided. 11:03
26 95 Q. In fact, Superintendent, if we look at your next
27 statement to the Tribunal, 13th March 2017, for the
28 first time in that statement you make the allegation
29 attributing to Martin Callinan "kiddie fiddler". All

1 right? But in that statement, which is your second go,
2 so to speak, there's no mention of Andrew McLindon.
3 That's the case, isn't it?

4 A. Em, if you tell me so, Mr. O'Higgins, I --

5 96 Q. Well, do we need to go through it? 11:04

6 A. No, I accept what you're saying. I'm not disputing it.

7 97 Q. So it's not until your statement of 5th May, offering
8 number three, 5th May 2017, that you make this
9 allegation that Andrew McLindon was a person with whom
10 you discussed the smear campaign. 11:04

11 A. Yes, mm-hmm.

12 98 Q. And you don't appear to have told Maurice McCabe of the
13 allegation against Andrew McLindon, am I correct about
14 that?

15 A. No. 11:05

16 99 Q. So, you didn't tell Maurice McCabe, is that right?

17 A. No.

18 100 Q. Is that not something, in your discussions with
19 Maurice, you would've covered? This was a civilian
20 who, on your case, was now contaminated by this Garda 11:05
21 culture you've described, a civilian was now doing
22 down, participating in a plot to discredit Maurice
23 McCabe by besmirching his reputation, perhaps one of
24 the most senior civilians in the force. Why would you
25 not impart that to Maurice McCabe in your cathartic 11:05
26 meetings with him?

27 A. It wasn't part of the conversation.

28 101 Q. But were you not unburdening yourself of everything to
29 do with the smear campaign?

1 A. which I told Sergeant McCabe about.

2 102 Q. Pardon?

3 A. which I told Sergeant McCabe about.

4 103 Q. But not about Andrew McLindon.

5 A. As I said, it, as a conversation, it didn't come up in 11:06

6 the conversation.

7 104 Q. Or in your first two statements?

8 A. Yes.

9 105 Q. Can I ask you about your changed position in relation

10 to, you become aware that the smear campaign was wrong? 11:06

11 when did it dawn on you?

12 A. It dawned on me, I can't give the exact date, but as I

13 said, I made my protected disclosure in 2016.

14 106 Q. Well, can you not put an approximate date on when you

15 had your epiphany? 11:07

16 A. As I said to you, you evolve to that situation. And as

17 I said, I made my protected disclosure in 2016.

18 107 Q. Well, that was September 2016, isn't that so?

19 A. That's right.

20 108 Q. Right. Was it soon before you made the protected 11:07

21 disclosure or is it something that you'd come to

22 realise at an earlier point?

23 A. As I said, my thought process had evolved and I decided

24 it was the right thing to do.

25 109 Q. But can you not connect it with an event or a personal 11:07

26 experience or a period of your life? Because I mean,

27 we're looking at a fairly broad picture; Martin

28 Callinan departed and you say the smear campaign

29 suddenly stopped -- well, let's leave out "suddenly";

1 it ceased 25th March 2014. There's two years, two and
2 a half years approximately up until you make your
3 protected disclosure.

4 A. Yes.

5 110 Q. So when did you have your epiphany? 11:08

6 A. As I said, my thought process evolved. I made my
7 protected disclosure in 2016.

8 111 Q. I have that point. But when did you have your -- when
9 did the light bulb come on that this whole smear
10 campaign was morally wrong? 11:08

11 A. As I said, it was an evolution. I can't give you the
12 exact date, all I can say is I made my protected
13 disclosure in September 2016.

14 112 Q. All right. well, tell us about the evolution. when
15 did it evolve? 11:09

16 A. It evolved in my mind as to what was -- I had done and
17 was part of was wrong.

18 113 Q. And what was to prevent you -- you've told us you were
19 unable, I think, to see it was wrong at the time
20 because, and I think you used the expression a few 11:09
21 times, "the hothouse of Garda culture", is that right?

22 A. That's right.

23 114 Q. Right. But you were suspended on 28th May 2016 -- '15,
24 from duty, isn't that right?

25 A. That's right. 11:09

26 115 Q. So would that not have triggered, if not then, shortly
27 afterwards, your change of mind or your epiphany?

28 A. No.

29 116 Q. Why not?

1 A. As I said, it was an evolution. I came to realise what
2 I'd done was wrong and I wanted to do the right thing.

3 117 Q. All right. Well, presumably you confided in somebody
4 when you came to this realisation?

5 A. I spoke with my wife, yes. 11:10

6 118 Q. Your wife, Michelle?

7 A. Yes.

8 119 Q. When was this?

9 A. As I said, I can't give you exact dates. But I mean,
10 as I said, it's -- I consulted with my wife. 11:10

11 120 Q. Well, was it in the summer of 2016?

12 A. As I said, Mr. O'Higgins, it was an evolution in my
13 mind. And I can't give you exact dates of when these
14 things happened, but all I can say is I made up my mind
15 that I had to do the right thing. 11:11

16 121 Q. Well, prior to telling your wife, had you told your
17 wife that you had been directed to carry out a smear
18 campaign?

19 A. Yes, my wife was aware of that.

20 122 Q. So this is prior to your realisation it was wrong you
21 had told Michelle, is that right? 11:11

22 A. I told that I realised what I had been directed to do
23 was wrong.

24 123 Q. No, no. No, no, just please focus on the question for
25 a moment. You told us, did you, that you told Michelle 11:11
26 at some point that you'd been given a command by the
27 Commissioner to carry out a smear campaign, is that
28 right?

29 A. Yes.

1 124 Q. Right. This was at some time prior to you realising it
2 was wrong, is that right?

3 A. Yes.

4 125 Q. Right. So, when was it that you told Michelle you'd
5 been told to do it? 11:12

6 A. I can't give the exact dates in relation to that.

7 126 Q. Well, on your case, you were told to do it some time in
8 2013.

9 A. Yes.

10 127 Q. So would it have been in 2013? 11:12

11 A. I can't give an exact date, Mr. O'Higgins.

12 128 Q. Well, was it at the beginning, the middle or the end of
13 the road?

14 A. I can't, I can't state that with any definity.

15 129 Q. Well, it was some appreciable length of time before you 11:12
16 realised it was wrong, is that right?

17 A. Some appreciable time when?

18 130 Q. Was it an appreciable period of time before the date or
19 period when you actually realised it was wrong?

20 A. As I said, it was an evolution of I realised it was 11:13
21 wrong.

22 131 Q. No, no, just focus on this for a second. I'm making a
23 distinction - and you've agreed there is a distinction
24 - between the time when you told Michelle of the smear
25 campaign and the time, the later time when you realised 11:13
26 it was wrong. Okay? Do you understand the distinction
27 I'm seeking to draw?

28 A. Not really.

29 132 Q. All right. Well, you've told us, I think, that you

1 confided in Michelle --

2 A. Mm-hmm.

3 133 Q. -- that you had been commanded to carry out a smear
4 campaign?

5 A. Yes. 11:13

6 134 Q. Later in time, on a date you're not in a position to
7 identify, you came to the realisation that the command
8 that was given to you by the Commissioner, you say,
9 that that was wrong, a wrong thing to do. All right?

10 A. Yeah. 11:13

11 135 Q. My question to you is: Approximately, without holding
12 you to any specific date, what was the approximate
13 period of time between you confiding in Michelle that
14 you'd been told to do this and the approximate period
15 when you realised it was wrong? what was the interval 11:14
16 of time?

17 A. I can't help you with that. Because I just can't give
18 any definity. All I know is in 2016 I made a protected
19 disclosure.

20 136 Q. well, are we talking weeks or months, or years? 11:14

21 A. As I said, it was an evolution in my thought process.
22 It was what I'd been asked to do was wrong and I wanted
23 to do the right thing.

24 137 Q. well, when you told Michelle of the command, of the
25 existence of the smear campaign, was it still ongoing 11:14
26 at that point?

27 A. I would imagine -- yes.

28 138 Q. It was. So that helps us a little bit. That means, on
29 your case, it's prior to March 2014, is that right?

1 A. Yes.

2 139 Q. All right. So, what was your wife's reaction when you
3 told her of the smear campaign and the command you'd
4 been given?

5 A. I can't tell you what my wife's reaction is. 11:15

6 140 Q. Why not?

7 A. Because -- like, I mean, it's a conversation. Like, I
8 mean, that was it, there was no --

9 141 Q. Well, first of all, where were you when you told her?

10 A. I'd imagine I was at home. 11:15

11 142 Q. Right. And was it something that you had been putting
12 off doing and you suddenly felt you needed to get it
13 behind you, or did it suddenly come out spontaneously?

14 A. Myself and my wife speak on a multiplicity of issues.

15 143 Q. Right. As you'd expect. So you brought up the subject 11:15
16 of the smear campaign. And what did you tell her?

17 A. I told her that Sergeant McCabe, in bringing these
18 allegations to the public arena, was driven by revenge
19 and this revenge was motivated in an allegation that
20 had been investigated by him in 2006. 11:16

21 144 Q. And did you relate to her you were to slip into the
22 conversations with the journalists "No smoke without
23 fire" in relation to the sexual allegation?

24 A. No.

25 145 Q. Did you relay to her that you were to slip into the 11:16
26 conversation with journalists the existence of the
27 Garda investigation --

28 A. No.

29 146 Q. -- into the sexual allegation?

1 A. No.

2 147 Q. But I had understood you to indicate you had told her
3 about the smear campaign?

4 A. Yes.

5 148 Q. Were they not the core of it? 11:17

6 A. That Sergeant McCabe was driven by revenge and revenge
7 was motivated in the investigation that had been
8 conducted into him.

9 149 Q. And you withheld from her the detail about the sexual
10 allegation, did you? 11:17

11 A. I didn't know the intimate details of the sexual
12 allegation.

13 150 Q. No, no, not the intimate details, the fact that he had
14 been investigated?

15 A. Yes, that they investigated him in 2006. 11:17

16 151 Q. In relation to a sexual, an alleged sexual offence on a
17 child; did you mention that to Michelle?

18 A. Well, I would probably have mentioned it was a member's
19 daughter. I don't know if I said a child, but
20 definitely a member's daughter. 11:17

21 152 Q. Right. A member's daughter?

22 A. Yeah.

23 153 Q. And what was her reaction?

24 A. I can't state what her reaction was.

25 154 Q. Was she not taken aback by this? 11:18

26 A. No.

27 155 Q. Was she not surprised that you were spreading this
28 information?

29 A. Just an order of the Garda Commissioner.

1 156 Q. But did she not pass some comment on whether that was
2 an appropriate or fair thing to do?
3 A. As I said, my wife is not a member of An Garda
4 Síochána, so, em, she wouldn't be making any comments.
5 157 Q. I'm sorry, I didn't quite -- 11:18
6 A. She wouldn't be making any comments in relation to
7 that.
8 158 Q. But you were telling her quite startling information,
9 were you not, important information, salacious
10 information perhaps, you were telling her of a plan to 11:19
11 discredit a serving member by reference to a sexual
12 allegation involving a child; did she not express
13 concern?
14 A. No.
15 159 Q. Other than Michelle, did you ever tell a Garda 11:19
16 colleague or anyone in Garda management?
17 A. I spoke to, as I say, Commissioner Callinan, O'Sullivan
18 and Andrew McLindon.
19 160 Q. Other than those three?
20 A. Hmm. 11:19
21 161 Q. Did you tell anyone else?
22 A. No.
23 162 Q. Any retired Garda?
24 A. No.
25 163 Q. Any friend or acquaintance not in the Guards? 11:19
26 A. No.
27 164 Q. When did you first approach Mick Clifford of the Irish
28 Examiner?
29 A. I think it could be June 16, or May '16 I can't --

1 165 Q. May 2016?
2 A. Yeah.
3 166 Q. What was your purpose?
4 A. He had written an article in which he had mentioned me
5 favourably and I just thanked him for it. 11:20
6 167 Q. He had written an article concerning what, sorry?
7 A. Concerning me.
8 168 Q. And what did it say?
9 A. I can't recall the article, but I understand it was,
10 you know, that I'd been out of work over a year or 11:20
11 something at that stage and it was going on a long
12 time, do you know, something like that. I can't
13 remember the exact, at this stage.
14 169 Q. But what was your purpose in contacting him?
15 A. Just to thank him for such an article, do you know. 11:20
16 170 Q. Was he not, I think did you use the expression "persona
17 non grata", did I see that in some material somewhere?
18 A. Yes.
19 171 Q. So he wasn't in the friendly camp in terms of you --
20 A. Well, that was -- 11:21
21 172 Q. -- your side?
22 A. That's when I was part of, when I was serving.
23 173 Q. That's when?
24 A. That's when I was serving, when I was part of the Press
25 Office. 11:21
26 174 Q. No, no, in May 2016 you're on suspension, but you're
27 still a serving member of An Garda Síochána?
28 A. Yes, but I'm not an active member of An Garda Síochána.
29 175 Q. So you rang up a journalist who was previously off

1 limits to you, is that right?

2 A. Yes.

3 176 Q. And did you ring him up?

4 A. Yes.

5 177 Q. And your purpose in ringing him up was to thank him for 11:21
6 an article that he had written about you?

7 A. Yes.

8 178 Q. Did you discuss anything in relation to the negative
9 briefing campaign?

10 A. No. 11:22

11 179 Q. Did you meet Mick Clifford at this point?

12 A. No.

13 180 Q. what's your understanding as to when you, your
14 recollection as to when you first met him?

15 A. It could be a few months later, I don't know the exact 11:22
16 date.

17 181 Q. well, this contact in May of 2016, are you telling us,
18 was that wholly unrelated -- well, sorry, in May 2016
19 when you contacted Mick Clifford, at this point in time
20 had you, I've used the expression, "had your epiphany"; 11:22
21 had you come to the realisation that the smear campaign
22 was wrong?

23 A. As I said, my mindset was evolving, as I said, and I
24 decided to make a protected disclosure in September
25 2016. 11:23

26 182 Q. No, no, you're doing something unusual here now; you
27 phoned up Mick Clifford, who was previously off limits
28 - he's the other side. All right? we're agreed about
29 that, isn't that right, on your case?

1 A. Well, we didn't -- I didn't, I'd no engagement with
2 Mr. Clifford when I was in the Press Office.

3 183 Q. No, but he was so off limits to you that he didn't
4 appear on your list of nine or even on the supplemented
5 list. You never even attempted to debrief him 11:23
6 negatively about Maurice McCabe, isn't that so?

7 A. That's right.

8 184 Q. Right. You're now doing something, you're breaking
9 from that, you're contacting him, it's May 2016 and I'm
10 wondering is it connected with your epiphany? 11:23

11 A. I can't say it is.

12 185 Q. Did you make any arrangement to meet him in that phone
13 call --

14 A. No.

15 186 Q. -- at a later date? 11:24

16 A. No.

17 187 Q. So how did it come to pass that you did meet him in the
18 summer that followed? who contacted who?

19 A. I can't remember whether he contacted me or I contacted
20 him. 11:24

21 188 Q. And can I ask you this: where were you meet and for
22 what purpose?

23 A. I think he called to my house.

24 189 Q. Out of the blue?

25 A. Well, as I said, I can't remember if I rang him or he 11:24
26 rang me, but an arrangement was made to meet.

27 190 Q. Did you know the purpose of it?

28 A. Em, I understand he was writing a book at the time.

29 191 Q. Was the book not much later?

1 A. I think -- it was much later, but I think I understand
2 he was writing a book or in the process of writing a
3 book in relation --

4 192 Q. And was it not in your -- did you not know why he was
5 calling round? 11:25

6 A. As I say, we'd arranged to meet and when he came around
7 I think he was telling me he was writing a book.

8 193 Q. And was it at his prompting that this meeting happened?

9 A. As I said to you, I don't know whether I rang him or he
10 rang me. I just, I can't give you that clarity. 11:25

11 194 Q. All right. Well, I'm going to come back to that, if
12 you don't mind. Deputy John McGuinness.

13 A. Yes.

14 195 Q. When did you first approach or contact him?

15 A. I didn't approach him. He contacted my wife. 11:25

16 196 Q. He contacted your wife?

17 A. Yes.

18 197 Q. And can you recall when was that approximately?

19 A. I think it was in late 2016.

20 198 Q. And did you become aware as to why he contacted your
21 wife? 11:25

22 A. Maurice McCabe had told my wife that John McGuinness
23 was anxious to meet us.

24 199 Q. Did your wife have any connection with Deputy
25 McGuinness? 11:26

26 A. No.

27 200 Q. Is your wife in Fianna Fáil?

28 A. I think it's unfair on me to ask what my wife's
29 political persuasion is.

1 CHAIRMAN: well, I'm tending to agree with you. But I
2 suppose was there a connection --

3 MR. MÍCHEÁL O' HIGGINS: Yes.

4 CHAIRMAN: -- in terms of party membership or anything
5 of a similar kind -- anything of a similar kind makes 11:26
6 it broader. was there any kind of connection in terms
7 of membership of any organisation, just let's say any
8 organisation?

9 MR. MÍCHEÁL O' HIGGINS: Yes, I don't mean to inquire
10 into prurient detail. 11:26

11 CHAIRMAN: No, and I appreciate that. And I appreciate
12 there's nothing wrong with being in Fianna Fáil,
13 there's nothing wrong with being a deputy. All of that
14 kind of stuff, we take that as a given. But was there
15 a connection of any kind, if you wouldn't mind just 11:27
16 answering?

17 A. My wife is a member of a political organisation.

18 201 Q. MR. MÍCHEÁL O' HIGGINS: Right. Just it's relevant to
19 how they had a connection or if they had a connection.

20 A. They had no connection personally. But they shared a 11:27
21 similar membership.

22 202 Q. Right. And your understanding of matters is that
23 Deputy McGuinness rang your wife, indicating that
24 Maurice McCabe wished that they'd meet, was that it?

25 A. Yes. 11:27

26 203 Q. Right. When did you first approach or contact Maurice
27 McCabe?

28 A. Maurice McCabe rang me, I never approached him.

29 204 Q. All right. And when was that?

1 A. I would imagine he rang me out of the blue some time in
2 July '16.

3 205 Q. And how are you able to put a time period on that?

4 A. Well, I just, I recall receiving a phone call from him.

5 206 Q. Right. And I don't want to know about any advices you 11:28
6 were given, but when did you first consult a solicitor
7 in relation to these matters?

8 A. In August/September I think.

9 207 Q. August/September, right. Superintendent, I'm going to 11:28
10 ask you to deal with a chronology and I'm going to ask
11 you some questions by reference to a chronology that
12 I've done out for myself actually just to help my own
13 understanding of matters.

14 CHAIRMAN: Mr. O'Higgins, I'm sure you're not going to
15 trespass on privilege, but I imagine, I would assume, 11:28
16 Superintendent, that from 28th May 2015 when you were
17 arrested, suspended and a discipline process began,
18 that had you immediately thereafter started to consult
19 a solicitor, perhaps --

20 A. Oh, yeah, that was ongoing -- 11:29

21 CHAIRMAN: -- perhaps through your association with
22 your Superintendents Association or --

23 A. That's correct. Even prior to my --

24 CHAIRMAN: Even prior to that time. Yes, all right.

25 208 Q. MR. MÍCHEÁL O' HIGGINS: All right. But the date that 11:29
26 you offered initially there as to a solicitor, was that
27 in relation to --

28 CHAIRMAN: I thought we were speaking about the
29 specific matter, so that's why I -- but it's a fair

1 question, Mr. O'Higgins. Were we talking about the
2 conscience matter, the campaign or were we talking
3 about matters which had occurred previously, your
4 suspension, being off duty for a year and more there?
5 A. Yeah, it was an ongoing consultation I had with my 11:29
6 solicitor. It was a number of years at that stage.
7 209 Q. MR. MÍCHEÁL O' HIGGINS: A number of years?
8 A. Yes. It started in December '14 is my first
9 consultation with my solicitor and I remained in
10 regular contact all the way through. 11:30
11 210 Q. Right. But can I just ask you this: Did you attend
12 your solicitor in relation to the smear campaign issue,
13 and if so, when?
14 A. I made the protected disclosure with consultation with
15 my solicitor. 11:30
16 211 Q. No, but --
17 CHAIRMAN: well, you'd first had a phone seized on 8th
18 September -- sorry 18th December 2014.
19 A. Yes.
20 CHAIRMAN: So that must've given you an idea that there 11:30
21 was a problem.
22 A. Yes.
23 CHAIRMAN: There was a train coming down the tracks.
24 A. Yes.
25 CHAIRMAN: So would it be fair to place it in around 11:30
26 that time?
27 A. When I first consulted with my --
28 CHAIRMAN: Yes.
29 A. Yes.

1 CHAIRMAN: About any of this stuff?

2 A. Yes.

3 CHAIRMAN: Yes, all right.

4 212 Q. MR. MÍCHEÁL O' HIGGINS: well then, dealing with the 11:30
5 chronology that I'm going to try and frame my questions
6 around, October 2013 was the initial incident involving
7 the Roma children being taken into Garda custody, isn't
8 that so?

9 A. Yes.

10 213 Q. The journalist's article that was, if I may say, 11:31
11 suspiciously well informed appeared the next day, 22nd
12 October 2013, online, isn't that right?

13 A. Yes.

14 214 Q. And in the period after Martin Callinan's departure on 11:31
15 25th March 2014, am I right in my understanding from
16 the materials that you felt isolated and excluded from
17 that time onwards?

18 A. Well, I was never in the Commissioner's office again
19 after that, after the night that Mr. Callinan left.

20 215 Q. So does that mean yes, you felt isolated and excluded 11:31
21 by Nóirín O'Sullivan?

22 A. Well, as I said, I was no longer a lead role in the
23 Press Office.

24 216 Q. And in June '14, 10th June '14, your role, your duty in 11:32
25 the Press Office came to an end and you started in the
26 Traffic section in Dublin Castle?

27 A. That's correct.

28 217 Q. And nothing particular may turn on it, but am I right
29 in my understanding that in fact you were in the

1 Commissioner's office discussing an issue about your
2 transfer on one occasion subsequent to 25th March?

3 A. No. I was never in the Commissioner's office.

4 218 Q. All right. Nóirín O'Sullivan informed you, didn't she,
5 prior to June '14, she informed you in fact in May of 11:32
6 her proposal to move you out?

7 A. Yeah, she rang me up by phone and informed me over the
8 phone I was moving out.

9 219 Q. Right. You weren't at all happy, were you, about being
10 moved out of the Press Office? 11:32

11 A. I was disappointed to move on.

12 220 Q. Well, does it go no further than that? Were you not
13 angry?

14 A. I was disappointed to move on. I'd given a lot of work
15 to the Press Office, I felt I'd done a good job, and I 11:33
16 was in the middle of my Master's studies at that stage
17 in relation to media and that. So I was disappointed
18 to move on.

19 221 Q. And your Master's was in communications?

20 A. In political communications. 11:33

21 222 Q. Political communications. And that was in DCU?

22 A. That's correct.

23 223 Q. And you were putting a good lot of effort into that?

24 A. I was.

25 224 Q. Was that a Master's by thesis or Master's by exam or 11:33
26 what was it?

27 A. A Master's by thesis.

28 225 Q. By thesis, right. And you were doing it whilst
29 continuing, obviously, to be a serving member of An

1 Garda Síochána?

2 A. Yes, I was doing it on a part-time basis over two

3 years.

4 226 Q. Right. And you received this news in May, formalised

5 in June then with your departure from the Press Office? 11:33

6 A. That's right.

7 227 Q. Would it be fair to say you'd enjoyed the prestige that

8 went with being Press Officer?

9 A. I enjoyed, I enjoyed the work of the Press Office. It

10 was new work to me and I enjoyed it. 11:34

11 228 Q. One of your colleagues made reference to you perhaps

12 enjoying being on the television at scenes of crime?

13 A. Not particularly going on television, but I enjoyed the

14 work. It was a new challenge to me, I'd never did this

15 type of work before, so I enjoyed it. 11:34

16 229 Q. In fact you enjoyed the work so much that you didn't

17 stop acting as Press Officer even after your departure

18 from the Press Office, isn't that right?

19 A. Yeah, well, I'd built up very good relationships with

20 the media and I kept in touch with them afterwards. 11:34

21 230 Q. You're not suggesting it was on a purely acquaintance

22 or friendly basis? You were providing them with

23 disclosures and material, isn't that right?

24 A. Well, that matter was dealt with as part of a

25 comprehensive investigation. And as I said. I 11:34

26 remained in touch with the media after I left the Press

27 Office because I had built up good relationships with

28 them.

29 231 Q. But isn't this proof positive you were not at all

1 pleased to be put out of the role of Press Officer, so
2 much so that you continued to conduct a class of
3 private Press Office yourself from Dublin Castle?
4 A. That's not true. As I said, I had the availability to
5 me to challenge my transfer if I wished, and I didn't 11:35
6 take that availability, which is within in our
7 regulations, I took my transfer and I left.
8 232 Q. Do you ever recall indicating to a colleague, in a text
9 or otherwise, 'I'm currently in the dungeon in Dublin
10 Castle awaiting parole'? 11:35
11 A. I can't recall such a text, but I'm sure you --
12 233 Q. Well, was that your view, broadly speaking? You were in
13 the dungeon?
14 A. As I said, I was moved from the Press Office to DMR
15 Traffic in Dublin Castle. It's not a move I had 11:36
16 sought, but I took the move that was ordered to me.
17 234 Q. You see, I'm suggesting to you that you took this very
18 hard indeed and you took it personally and you regard
19 it as a significant and dramatic fall from grace,
20 particularly when the criminal investigation started 11:36
21 up.
22 A. As I said, I didn't seek the transfer, the transfer was
23 ordered to me. I took it, I didn't appeal it and I got
24 on with my business down here in DMR Traffic.
25 235 Q. Did one of your colleagues indicate you weren't 11:36
26 sleeping? Did you see any of that? You weren't here
27 for the evidence, but did you see on transcript a
28 reference to you not sleeping, you weren't taking well
29 the move?

1 A. Em, you'll have to refresh me with that, Mr. O'Higgins,
2 I --

3 236 Q. Was it Chrissie Fitzpatrick?

4 A. As I said --

5 237 Q. We'll, get up the reference if needs be, but -- 11:37
6 A. Yeah, I --

7 238 Q. Were you sleeping at this time? Were you having
8 difficulty sleeping?

9 A. As I said, the departure and the events surrounding the
10 departure of Commissioner Callinan were very traumatic. 11:37

11 239 Q. Well, are you being fair in limiting it to that? You
12 see, just if we broaden it out to the wider chronology,
13 just looking at it for a moment, that affected you
14 personally, the Commissioner is gone in March '14,
15 isn't that right? 11:37

16 A. That's right.

17 240 Q. Chief superintendent Frank Clerkin's investigation
18 commences in August 2014 and he compiles his six-man
19 team, or six-person team, isn't that right?

20 A. That's right. 11:37

21 241 Q. If we move it on from there, you were called upon to
22 give a statement to Frank Clerkin's investigation on
23 the 21st November 2014, isn't that so?

24 A. That's right.

25 242 Q. I wonder if we could have page 2351 put up on screen 11:38
26 please? It's volume 9, Superintendent, for your
27 benefit there. And this is the statement of yourself
28 taken on 21st November 2014. Just if we scroll down
29 slightly: "At Dublin Castle by inspector David

1 Gallagher of Santry Garda station ." Do you remember
2 giving this statement?

3 A. Yes.

4 243 Q. And if we could turn over then to the next page, page
5 2352, page two of the statement, if we could scroll
6 down to where there's a blacked out spot and J24 is
7 within -- that's it there, yeah. So just underneath
8 that deletion mark, halfway along the line the
9 following is stated in your statement:

11:38

10

11:39

11 "The first knowledge that I had of this incident at
12 Tallaght on 22nd October 2013" -- that's the taking
13 into care of the Roma children, isn't that right?

14 A. That's right.

15 244 Q. "Was when it was brought to my attention that it was
16 becoming a news item that was attracting media
17 attention. I can't recall the time I became aware of
18 this. I immediately contacted the Commissioner and
19 spoke with him with regard to this incident becoming a
20 media event."

11:39

11:39

21

22 Just pause there. That's a false statement, isn't it?

23 A. No.

24 245 Q. I beg your pardon?

25 A. No.

11:39

26 246 Q. So it's not false for you to have told the Clerkin
27 investigation that the first knowledge you had of the
28 incident in Tallaght on 22nd October was when it was
29 brought to your attention that it was becoming a news

1 item that was attracting media attention, that's not
2 false?

3 A. No.

4 247 Q. You see, Chief Superintendent Clerkin, when giving his
5 evidence, was brought through this statement. 11:40

6 A. Yeah.

7 248 Q. And he confirmed from his analysis of the phone records
8 and his knowledge of the investigation that in fact
9 this was incorrect, it was false, because you had seen
10 the patrol officer's report at an earlier time. 11:40

11 A. No, I did not.

12 249 Q. And you see, the reason I mention this is that he was
13 not challenged in giving that evidence by your counsel.

14 A. I did not see that report. And there's no evidence in
15 the report to suggest that I got that report. 11:40

16 250 Q. All right. You see, I'd understood you to indicate,
17 and perhaps it's my error, but I'd understood you to
18 indicate that in point of fact you were accepting you
19 had made all the disclosures as set out in the Clerkin
20 investigation report. 11:41

21 A. And that's correct in that situation. I have made my
22 position clear on Monday and Tuesday, Mr. Chairman.
23 But in relation to that, I did not get the, for
24 clarification, the patrol officer's report.

25 CHAIRMAN: well, it may be simpler to cut to the chase, 11:41
26 and forgive me if I'm doing so wrongly, Mr. O'Higgins,
27 I don't mean to intervene unnecessarily. But there was
28 an article in the newspaper about the seizure of this
29 child who happened to have blonde hair, it's just one

1 of these genetic quirks that come along, but it caused
2 a lot of controversy when it did come out because
3 people thought - that's before anyone doing any DNA
4 tests or anything - that this could be a kidnapped
5 child. But I mean, that was a big brouhaha about 11:42
6 nothing and the unfortunate Roma suffered over the
7 brouhaha in the press, presumably the child suffered as
8 well. It was all going to be sorted out and the right
9 thing done. And were you, at least in part, the author
10 of that coming into the newspapers? 11:42

11 A. No, not that part.

12 CHAIRMAN: what part?

13 A. I wasn't of that part, of any part of that.

14 CHAIRMAN: So you didn't give any information --

15 A. No. 11:42

16 CHAIRMAN: -- on the Roma child --

17 A. No.

18 CHAIRMAN: -- or the Tallaght incident to any
19 newspaper?

20 A. No. 11:42

21 CHAIRMAN: And when Superintendent Clerkin told me that
22 he ascertained who had got reports from that, you were
23 one of the people who got reports he told me and that
24 something very similar to the report that you had then
25 appeared in the newspaper the next day. 11:42

26 A. There was two statements taken from Superintendent Duff
27 in which he -- the first statement he never said he
28 sent me an e-mail, in the second he said he did, but an
29 examination found there was no connection of e-mails

1 between me and Superintendent Duff. So that report
2 came the day after.

3 CHAIRMAN: Anyway, you'd nothing to do with --

4 A. No, not --

5 CHAIRMAN: -- with the blonde Roma child thing
6 appearing in the newspaper?

7 A. No.

8 CHAIRMAN: All right.

9 251 Q. MR. MÍCHEÁL O' HIGGINS: You were aware, were you not --
10 well, have you any explanation as to why you didn't
11 organise it for your legal team to challenge this
12 evidence when it was given by Frank Clerkin?

13 A. I think any discussion I have with my legal team is
14 privileged.

15 252 Q. All right. We'll move matters on then; 18th December
16 2014, your phone is seized. And I suggest to you the
17 evidence has been, uncontested, that your first move
18 after this happens is to contact a journalist.

19 A. I contacted my association President and General
20 Secretary and then I contacted my solicitor.

21 253 Q. And you contacted the journalist who had written the
22 initial story that caused all the brouhaha?

23 A. Yes.

24 CHAIRMAN: Well, what are we talking about here? What's
25 the brouhaha?

26 MR. MÍCHEÁL O' HIGGINS: The October, the disclosure of
27 the Roma child --

28 CHAIRMAN: The Roma child incident. Yes, all right.
29 So I'm sorry, I interrupted, would you just -- so you

1 contacted your solicitor, the President of your
2 Superintendents Association and did you also contact
3 the journalist who --

4 A. Yes.

5 CHAIRMAN: -- broke the Roma child story? You did. 11:44

6 A. Yes.

7 254 Q. MR. MÍCHEÁL O' HIGGINS: And at this point in time -
8 this was a difficult thing for you, I take it - your
9 phone was seized?

10 A. Yes, my phone was seized by Chief Superintendent 11:44
11 Clerkin. I was very concerned about it. The next day
12 I sent an e-mail to him just querying the basis for
13 taking it. And he sent me back an e-mail to say he was
14 investigating the Roma and Athlone situation, and he
15 assured me in his e-mail that I was not under criminal 11:44
16 investigation.

17 255 Q. Well, are you suggesting that at the time of the phone
18 being taken -- well, first of all, I think, in fairness
19 to the chief superintendent, he indicated you gave it
20 up -- 11:45

21 A. Yes.

22 256 Q. -- you voluntarily gave it up --

23 A. Yes.

24 257 Q. -- when asked?

25 A. Yes. 11:45

26 258 Q. Right. And are you suggesting you were left in the
27 dark as to Chief Superintendent Clerkin's purpose in
28 asking you for your phone?

29 A. Well, he told me it was in relation to the Roma and

1 Athlone, those two cases were simultaneous --

2 259 Q. Yes?

3 A. And he said to me explicitly in the e-mail that I was
4 not the subject of criminal investigation into matters,
5 he would progress matters as quick as possible. 11:45

6 260 Q. Yes. But isn't it the case - and you're aware of this,
7 aren't you - that this investigation did not start out
8 as an investigation into Superintendent David Taylor,
9 this investigation broadened once the records were
10 obtained and you became a person of interest; you're 11:46
11 aware of that?

12 A. Yes, it started with, the Roma children was the centre,
13 was the start and then yes.

14 261 Q. And it was later the focus came on you?

15 A. Yes. 11:46

16 262 Q. So are we agreed about that; at the time of the setting
17 up of the team, the commencement of the investigation,
18 it was not an investigation into you?

19 A. It was an investigation into the Roma children,
20 that's -- 11:46

21 263 Q. Yes.

22 A. Yes.

23 264 Q. And any suggestion to the contrary that there was a
24 targeting of you by dint of this investigation is
25 wrong? 11:46

26 A. Well, I was the person -- I think I'm the only Garda
27 whose phone was seized or taken I think.

28 265 Q. Was it not the case that your colleague in Tallaght
29 also had his phone examined?

1 A. Em, I've seen that now from the file. But as I said, I
2 was -- outside of that I think --

3 266 Q. Right. If we move the chronology on, 18th February
4 2015, the evidence has been that a search warrant was
5 obtained to search your office and your phone was again 11:47
6 seized, isn't that right?

7 A. That's right, yes.

8 267 Q. Chief Superintendent Clerkin gave evidence that your
9 phone was examined and it showed that during the period
10 18th December 2014 to 19th February 2015 you were in 11:47
11 daily contact with journalists. Do you dispute that?

12 A. No, I don't dispute that.

13 268 Q. And then I'm suggesting to you, Superintendent, that
14 matters got a lot worse for you as we moved into the
15 spring and early summer of 2015, because on 28th May 11:48
16 2015 you were arrested and detained under section 4 of
17 the Criminal Justice Act.

18 A. That's correct.

19 269 Q. That would have been, I'm suggesting to you, a
20 personally difficult time. 11:48

21 A. I'm not disputing that.

22 270 Q. Right. It would not have been easy?

23 A. No.

24 271 Q. A superintendent in An Garda Síochána under criminal
25 investigation making no comment to all questions, all 11:48
26 substantive questions asked of him. And that was the
27 advice you were given?

28 A. I took legal advice, Mr. Chairman.

29 CHAIRMAN: I know you -- people take legal advice, but

1 you're not actually obliged to follow advice you're
2 given.

3 A. Yeah. well, that's --

4 CHAIRMAN: I mean, someone could advise me to have my
5 heart changed tomorrow; I'm not obliged to do that. 11:49
6 You get legal advice, but you can do whatever you want
7 in consequence of it.

8 A. I took legal advice and I accepted that legal advice.

9 272 Q. MR. MÍCHEÁL O' HIGGINS: You were aware, weren't you, of
10 the process that was going to follow from that? 11:49

11 A. Yes.

12 273 Q. Namely that a file would be prepared and would go to
13 the DPP, isn't that right?

14 A. That's right.

15 274 Q. And that that process could -- might take some time? 11:49

16 A. Yes.

17 275 Q. You were also aware, I take it, of the possibility of
18 disciplinary, Garda disciplinary proceedings also
19 following down the tracks at some point?

20 A. Yes. 11:49

21 276 Q. Moving the timeline on, I think on 19th December --
22 well, actually, before that didn't something
23 significant happen in your life on 25th November 2014,
24 ahead of that now - sorry, I'm going back in time a
25 little bit. 25th November 2014, Nóirín O'Sullivan was 11:50
26 confirmed as Commissioner, isn't that right?

27 A. That's right.

28 277 Q. How did you receive that news?

29 A. How do you mean how did I receive it.

1 278 Q. Did you greet it with -- did you welcome it or were
2 you -- did you not welcome it?

3 A. I sent her a text congratulating her on her promotion.

4 279 Q. Did that -- and was it a warm text?

5 A. It was, I just congratulated her on her promotion to 11:50
6 Commissioner and she acknowledged it, yes.

7 280 Q. Did that reflect your true view as to the news she was
8 to be the Commissioner?

9 A. I had, as I said, views in relation to the
10 Commissioner. 11:51

11 281 Q. What were they?

12 A. As I say, she was appointed Commissioner, I accepted
13 that and that was it.

14 282 Q. No, what were the views that you held?

15 A. Well, the views that she was appointed Commissioner. 11:51
16 And, as I said, that was a decision by government and
17 that was it.

18 283 Q. No, I've asked you did your congratulatory text reflect
19 your view or views on the Commissioner getting the job?
20 Did you welcome her appointment? 11:51

21 A. I sent her a text congratulating her on her
22 appointment.

23 CHAIRMAN: well, I think the question you're being
24 asked is a bit different. Let's suppose so and so is
25 appointed to the Supreme Court, take it me, and you 11:51
26 think I'm the biggest muppet on earth and you think
27 it's a really, really stupid decision and I've got
28 there by soaping people's backs; that's what you're
29 being asked about, how did you feel about it?

1 A. How I felt about it is they wouldn't be my number one
2 choice. But that's just me.

3 284 Q. MR. MÍCHEÁL O' HIGGINS: And does it go further than
4 that?

5 A. Well, as I said, it wouldn't have been my number choice 11:52
6 to be appointed Commissioner, and that's my personal
7 position.

8 285 Q. Did you not tell a colleague you were gutted?

9 A. I can't recall saying that. But if you're telling
10 me -- 11:52

11 286 Q. Well, does that reflect how you felt; you were gutted?

12 A. Well, as I said to you, she wouldn't have been my
13 number one choice to be Garda Commissioner.

14 287 Q. I think it's capable of a straightforward answer; does
15 that reflect, broadly speaking, how you -- 11:52

16 A. I can't say whether I was gutted or not. I'm just
17 saying to you, Mr. O'Higgins, that she wouldn't have
18 been my number one choice to be Garda Commissioner.

19 288 Q. It wasn't good news for you, was it, in terms of your
20 career? And you knew that? 11:53

21 A. Well, as I said, my career is in the lap of other
22 people.

23 289 Q. Yes, that's the point of my question. As you perceived
24 it, this wasn't a good development for your career, was
25 it, Nóirín O'Sullivan getting the top job? 11:53

26 A. Well, as I said, the promotion and advancement of
27 people is a matter for other people.

28 290 Q. All right. Moving the timeline on, we were in 2015 and
29 we were at the point in time when you were arrested in

1 May 2015. 19th December 2015, Chief Superintendent
2 Clerkin enters your office and, the evidence was,
3 seized your laptop and another phone?
4 A. Mm-hmm.
5 291 Q. Is that right? 11:53
6 A. Yes. Sorry, what date was that again?
7 CHAIRMAN: You're varying between 18th and 19th now. I
8 think it is in fact the phone was analysed up to 19th,
9 I thought maybe it was the following day. But it
10 doesn't matter, it's certainly there or thereabouts. 11:54
11 292 Q. MR. MÍCHEÁL O' HIGGINS: It's just prior to Christmas of
12 2015 we're talking about.
13 A. 18th December 2014 my phone was taken.
14 293 Q. But was there not, in December '15, a laptop and, I
15 thought, another phone seized? 11:54
16 A. No. No.
17 294 Q. Was your laptop seized?
18 A. In February '15.
19 295 Q. In February '15?
20 A. Yes. 11:54
21 296 Q. All right. I stand corrected, excuse me.
22 A. Okay.
23 297 Q. You've a good timeline in these events, have you?
24 A. Well, you just asked me to clarify something and I
25 clarified it. 11:54
26 298 Q. I'm not challenging you on it --
27 A. Yeah.
28 299 Q. -- I'm just commenting, you seem to have a good memory
29 for these dates?

1 A. Well, I just know the dates that matters, that phones
2 were taken off me, I just seem to know that.

3 300 Q. Yes. Perhaps it's in contrast to your ability to
4 remember other dates?

5 A. Well, they're significant dates in anybody's career. 11:55

6 301 Q. In February 2016 your wife makes a complaint to GSOC
7 about an alleged interference with your phone.

8 A. Yes.

9 302 Q. And separately, you decide to bring a judicial review,
10 isn't that so, to stop the criminal investigation and a 11:55
11 disciplinary investigation?

12 A. That's correct.

13 303 Q. And I think the papers for that are in the materials
14 that have been distributed, isn't that so?

15 A. That's right. 11:55

16 304 Q. Would you mind looking at those for a moment please?
17 It's in volume 1, Superintendent, beside you there.

18 CHAIRMAN: I just want to be clear about this if you
19 wouldn't mind, Mr. O'Higgins, before we move on.

20 MR. MÍCHEÁL O' HIGGINS: Yes. 11:56

21 CHAIRMAN: The complaint that your wife made about your
22 phone is in fact the phone that I never got, that Garda
23 Headquarters never got, but which you kept in your
24 possession --

25 A. No, no, no -- 11:56

26 CHAIRMAN: -- after changing your phone and which was
27 then given to your daughter.

28 A. No.

29 CHAIRMAN: Is that right or wrong --

1 A. No.

2 CHAIRMAN: -- maybe you'd just help me on it?

3 A. I'll just help you. In November 2015, Chairman, a
4 neighbour came around to our house --

5 CHAIRMAN: No, I know that story -- 11:56

6 A. Yeah.

7 CHAIRMAN: -- but what I'm interested in is what phone
8 we're talking about.

9 A. It would've been the phones I did -- that were seized
10 from me. 11:56

11 CHAIRMAN: Not the one you kept?

12 A. No. No.

13 CHAIRMAN: And you're sure about that?

14 A. Well, we were trying to get the technical expertise on
15 it. 11:56

16 CHAIRMAN: I'm just wondering how you could be sure
17 about that, that it was not the phone that you kept,
18 but one of --

19 A. No.

20 CHAIRMAN: -- the ones that the Gardaí had? 11:56

21 A. These were phones, the last three phones that I did
22 have, that were seized.

23 CHAIRMAN: well, could you be sure it wasn't the one
24 that you kept?

25 A. Well, without the technical -- 11:56

26 CHAIRMAN: Yeah. well, if it's of any consolidation -
27 you seem to think this is significant - I actually get
28 weird messages from people every day -- well, not quite
29 every day, but most days, from lay litigants etcetera.

1 A. But this was a phone that I didn't have in my
2 possession.
3 CHAIRMAN: All right. And sometimes I get messages
4 from people who were former professors of mine in
5 college who never sent the message. 11:57
6 A. Well, this is a phone I -- the last time I had a Garda
7 phone was 28th/29th May 2015. So I'd no possession or
8 control of that phone. And in November '15 my
9 neighbour came to me --
10 CHAIRMAN: No, I know all about that. 11:57
11 A. Yeah.
12 CHAIRMAN: I know all about that. But these things
13 happen, you know? So it's not SM0 --
14 A. Yes.
15 CHAIRMAN: -- which is what I am calling the phone from 11:57
16 October 2013 --
17 A. No.
18 CHAIRMAN: -- when you were in the Garda Press Office,
19 which you kept?
20 A. Yes. 11:57
21 CHAIRMAN: which was never handed to Garda
22 Headquarters, which I never got --
23 A. Yes.
24 CHAIRMAN: -- which has somehow disappeared. It is not
25 SM3, which is the phone you had up until 18th December 11:57
26 2014 which you surrendered. It is not SM2, which is
27 the phone you had up to 15th February 2015, which was
28 seized in your office --
29 A. Yes.

1 CHAIRMAN: -- pursuant to a search warrant?

2 A. Yes.

3 CHAIRMAN: You don't know which phone it was?

4 A. I don't know which one of those three.

5 CHAIRMAN: But you made a -- your wife made a complaint 11:58
6 nonetheless?

7 A. Yes.

8 CHAIRMAN: why your wife?

9 A. I can't make a complaint. Because as I said, it caused
10 distress to our neighbours in relation to -- they were 11:58
11 quite distressed over this message request that
12 suddenly came from my own to their phone.

13 CHAIRMAN: Saying what?

14 A. They wanted to join a Viber group that was in relation
15 to their elderly father. 11:58

16 CHAIRMAN: Okay.

17 A. Which was rather strange.

18 CHAIRMAN: Yes, all right. So we go back to that then.
19 So we were at the point where Michelle Taylor, February
20 2016, makes a complaint about your phone to the Garda 11:58
21 Síochána Ombudsman's Commission.

22 A. Yes.

23 305 Q. MR. MÍCHEÁL O' HIGGINS: And I think, just as a detail,
24 Superintendent, you're aware that that was
25 discontinued, the investigation by GSOC, in 11:59
26 circumstances where the people nominated by your wife
27 declined to provide a statement, is that right?

28 A. They provided a statement, but they wouldn't sign it
29 because GSOC wouldn't give them a copy of the

1 statement.

2 306 Q. And it was discontinued by GSOC?

3 A. It was, yes.

4 307 Q. Yes. I mentioned the judicial review; could I ask you
5 to look at page 24 of volume 1 please, which gives the 11:59
6 index of the Book of Pleadings for your judicial review
7 proceedings?

8 CHAIRMAN: And maybe in going there, as we've been so
9 particular about dates, Mr. O'Higgins, you'll just tell
10 me, I know there was never leave granted for judicial 11:59
11 review --

12 MR. MÍCHEÁL O' HIGGINS: Yes.

13 CHAIRMAN: -- but there was an occasion when it first
14 appeared in court.

15 MR. MÍCHEÁL O' HIGGINS: That's right. Well, Chairman, 12:00
16 I suppose the first document then would be page 87.

17 CHAIRMAN: Yes. And what date do you say that is?

18 MR. MÍCHEÁL O' HIGGINS: And so there's an order of 29th
19 February 2016.

20 CHAIRMAN: Yes, okay. So that's it. 12:00

21 MR. MÍCHEÁL O' HIGGINS: Is Judge Noonan's order at the
22 time of, as I understand it, of the ex parte
23 application for leave to issue judicial review
24 proceedings.

25 CHAIRMAN: And he was saying 'I'm not going to give 12:00
26 leave unless I hear both sides'?

27 MR. MÍCHEÁL O' HIGGINS: Exactly.

28 CHAIRMAN: Yes, all right.

29 308 Q. MR. MÍCHEÁL O' HIGGINS: So, Superintendent, there was

1 an application moved on 29th February 2016 for leave,
2 or for permission to issue the judicial review
3 proceedings and Judge Noonan, who took the list,
4 directed that the application should be brought on
5 notice to the Commissioner of An Garda Síochána and the 12:00
6 DPP.

7 A. I'll take your word for it. I'm not an expert in these
8 type of things, I would be operating on my legal
9 advice, so I can't --

10 309 Q. Right. well, can I ask you this - we're talking now 12:00
11 about February 2016.

12 A. Yeah.

13 310 Q. At this point in time you're bringing judicial review
14 proceedings against the Guards?

15 A. Mm-hmm. 12:01

16 311 Q. Had you had your realisation, your sort of epiphany
17 moment that the smear campaign was wrong, had that
18 occurred at that point?

19 A. As I said earlier on, the evolution in my thought
20 process that led me to make a protected disclosure in 12:01
21 February -- or in September '16.

22 312 Q. well, does it not assist you, you've taken a fairly
23 solemn step, a step that one doesn't take every day,
24 you've gone to the trouble, and undoubtedly expense, of
25 instructing lawyers to bring a High Court proceeding on 12:01
26 your behalf, it's against An Garda Síochána and the
27 Director of Public Prosecutions, and I'm suggesting to
28 you that you should be in a position to tell us if at
29 that point in time you have or you haven't formed a

1 view that the smear campaign was wrong. So can you
2 tell us has the issue tumbled for you at this point?

3 A. As I said, it was an evolution in my mind, in my
4 process that led me to make a protected disclosure in
5 September '16. 12:02

6 CHAIRMAN: No, but what Mr. O'Higgins is asking you
7 about is this: There's a lot of significant things
8 happening; your wife has decided to make a complaint to
9 GSOC; you've commenced a judicial review proceeding,
10 which is very difficult, because you've got to give 12:02
11 your solicitor instructions, there has to be an
12 affidavit written out, you have to check that
13 affidavit, you have to swear it on the bible or you
14 have to affirm, and then you have to go into court and
15 then you're awaiting the outcome. So what he's asking 12:02
16 you about is - those are very significant things - by
17 that stage had you come to the conclusion 'Look, what I
18 was involved', as you say, at the behest of
19 Commissioner Callinan, 'in was actually a really
20 terrible thing, a really wrong thing'? 12:03

21 A. Well, as I said, I can't give a definitive date and
22 time, Mr. O'Higgins.

23 313 Q. MR. MÍCHEÁL O' HIGGINS: But this doesn't help you with
24 locating whether by this point in time you had come to
25 your realisation? 12:03

26 A. No.

27 314 Q. Right. well, if we'd look at a point there raised by
28 the Chairman; you did complete an Affidavit of
29 verification, didn't you? We see it there referred to

1 on page 24. You provided an affidavit confirming the
2 factual matters set out in your statement of grounds,
3 isn't that so?

4 A. Yes.

5 315 Q. Do you recall doing that?

12:03

6 A. Yes.

7 316 Q. And I think if we turn to page 43 of the papers please
8 for a moment. And I think that is the first page of
9 your verifying affidavit for these proceedings, isn't
10 that right?

12:04

11 A. That's right.

12 317 Q. And if we can just scroll down there a little bit. Do
13 you see there it says, you say in the first paragraph
14 that you're a member of An Garda Síochána holding the
15 rank of superintendent and then the applicant, and:

12:04

16
17 "I make this affidavit from facts within my own
18 knowledge, save where otherwise appears and where so
19 otherwise appearing I believe those facts to be true."

20 12:04

21 That's something you swore to, isn't that right?

22 A. Yes.

23 318 Q. And in the next paragraph you aver that:

24
25 "I have read and I have carefully considered the
26 statement required to ground application for judicial
27 review. Insofar as the statement refers to my own acts
28 and deeds, I believe those acts and deeds to be true
29 and accurate and insofar as they relate to the acts and

12:04

1 deeds of any other person, I believe those acts to be
2 true."
3 And presumably it was explained to you the significance
4 of averring as to that, was it?
5 A. Yes. 12:05
6 319 Q. And then in the third paragraph you proceed to verify
7 the Statement of Grounds and you exhibit the relevant
8 materials, isn't that right?
9 A. That's right.
10 320 Q. And you refer to a booklet of the relevant materials 12:05
11 that is in your possession. And they are exhibited,
12 isn't that right?
13 A. Yes.
14 321 Q. And then if we turn to the Statement of Grounds itself, 12:05
15 Superintendent, I think that's to be found initially on
16 page 28 I think it is -- page 29, excuse me. We won't
17 go through it too extensively, but in fact I suppose we
18 might take it up from page 35 of the materials, which
19 is paragraph E21 of your Statement of Grounds. So page
20 35 please, if we could have that on screen. And you 12:06
21 see there about halfway down there's paragraph 21 --
22 CHAIRMAN: It possibly would help you if you took out
23 volume 1 there Superintendent.
24 A. I can see it.
25 CHAIRMAN: And I know it's on the screen. 12:06
26 A. Oh, yes.
27 CHAIRMAN: If you wouldn't mind just taking out Volume
28 1. If you turn to page 35 of it it's better, because
29 we're only getting half a page and you can see the

1 whole thing.

2 A. Yes.

3 CHAIRMAN: If you want to make any contradiction or
4 qualification, you can see the whole text there.

5 322 Q. MR. MÍCHEÁL O' HIGGINS: So just to assist you, 12:06
6 superintendent, if you turn in the booklet to page 35.

7 A. Yes.

8 323 Q. And there's paragraphs 19 down to 22 on this page,
9 isn't that right?

10 A. That's right. 12:06

11 324 Q. And do you see paragraph 21 there?

12 A. Yeah.

13 325 Q. You're saying the following:

14

15 "Having regard to the applicant's position as a member 12:06
16 of An Garda Síochána, his rank, his record of service
17 to the State, his age and family circumstances, the
18 arrest or, any suggestion of it, was made exclusively
19 for the purpose of exerting further and additional
20 pressure and/or was for the purpose of causing 12:07
21 embarrassment to the applicant and/or was for the
22 purpose of inflicting emotional pain and suffering upon
23 the applicant and/or was for the purpose of holding the
24 applicant up to public ridicule and contempt. "

25 12:07

26 Can we take it, you gave your lawyers instructions to
27 make that case on your behalf?

28 A. Yes, I consulted my lawyers.

29 326 Q. And you verified the correctness and accuracy of that

1 averment, isn't that right, in your affidavit?

2 A. That's right.

3 327 Q. So is it your position that your arrest in May of 2015
4 and any suggestion of it, was made exclusively for the
5 purpose of exerting further and additional pressure 12:07
6 upon you?

7 A. Well, as I say, it was a very significant moment in my
8 career, very public moment in my career.

9 CHAIRMAN: Superintendent, you have to try and answer
10 the question if you don't mind. 12:08

11 A. Yeah.

12 CHAIRMAN: I appreciate it is a difficult thing to be
13 giving evidence, but what Mr. O'Higgins is asking you
14 about is this. You were indeed arrested and suspended
15 on the 28th May 2015. 12:08

16 A. That's correct.

17 CHAIRMAN: And in your affidavit to the High Court on
18 the 29th May 2016, made under oath, you're saying I
19 wasn't arrested for any genuine reason by my colleagues
20 in the Garda Síochána, I was arrested because they 12:08
21 wanted to humiliate and ridicule me, in other words
22 it's an abuse of public office. That is what you are
23 saying. So that is what he is actually asking you
24 about.

25 A. Yeah. I'm not disputing, as I said, the arrest. AS I 12:08
26 said, it was a traumatic event.

27 328 Q. MR. MÍCHEÁL O' HIGGINS: Can I take it from that answer
28 that you're abandoning the claims made in paragraph 21
29 there?

1 A. I'm just saying it was a huge embarrassment to me, it
2 was -- it inflicted a lot of emotional pain and
3 suffering upon me, as a serving superintendent with an
4 unblemished service to now find myself in Garda
5 custody.

12:09

6 329 Q. Are you abandoning the claim that your arrest by the
7 arresting Gardaí was for the purpose of causing you
8 embarrassment?

9 A. Well, I'm saying it did cause me a lot of
10 embarrassment.

12:09

11 330 Q. That's not what the paragraph says.

12 A. What I'm just saying is that in my --

13 CHAIRMAN: Let me give you an example. And sorry, for
14 intervening, Mr. O'Higgins, but it may help.

15 A. Yeah.

12:09

16 CHAIRMAN: Let's suppose, and there's a great deal of
17 talk about it, you are a policeman and you don't like,
18 for instance, Chinese people and so, you just go out
19 and you arrest a Chinese person or someone who looks
20 like a Chinese person, they may indeed be Irish people,
21 just for the purpose of annoying them.

12:10

22 A. Yes.

23 CHAIRMAN: That'd be a wrong thing to do.

24 A. Yes.

25 CHAIRMAN: On the other hand, if you have information
26 that a particular person, perhaps of Chinese origin,
27 may have been involved in some crime, which is
28 arrestable, let us say drug dealing, or whatever, and
29 you go and arrest them, well then, you're doing the

12:10

1 right thing. So that is what Mr. O'Higgins is asking
2 you about.

3 A. I'm not disputing the right of the Garda Síochána in
4 this matter.

5 331 Q. MR. MÍCHEÁL O' HIGGINS: No, but this paragraph and 12:10
6 elsewhere, as we will look at in a moment, there is a
7 suggestion that the investigation team, Chief
8 Superintendent Frank Clerkin's team were doing
9 something improper; namely, in this case, they were
10 arresting you for the purpose of exerting further and 12:11
11 additional pressure upon you and for the purpose of
12 causing you embarrassment.

13 A. I'm not suggesting they did anything improper. I'm
14 just suggesting it caused me a lot of embarrassment and
15 inflicted a lot of pain and suffering upon me. I'm not 12:11
16 impugning their integrity.

17 332 Q. So, insofar as that paragraph would suggest that you
18 were making an allegation against the guards concerned,
19 are you withdrawing that allegation?

20 A. I'm just merely saying that I'm not impugning their 12:11
21 integrity, I'm not impugning their rights, I'm just
22 saying that event caused me a lot of embarrassment,
23 pain and suffering.

24 333 Q. would you mind turning over to paragraph 24, page 37 of
25 the materials. In paragraph 24 you state, or it is 12:11
26 stated on your behalf:

27
28 "During the course of the applicant's detention the
29 investigators were tactless, they were unnecessarily

1 autocratic and oppressive and they failed to afford to
2 the applicant a reasonable level of courtesy and
3 respect."

4
5 If we could just pause there. That's very clear, isn't 12:12
6 it? It's an allegation that the investigators were
7 disrespectful towards you, acted in an autocratic
8 fashion and acted in an oppressive fashion. Those are
9 allegations against interviewers and Gardaí involved in
10 the investigation, isn't that so? 12:12

11 A. Yes.

12 334 Q. You've an opportunity now, if you'd like to avail of
13 it, do you wish to withdraw that allegation or do you
14 wish to stand over that allegation?

15 A. Well, as I say, you've read the full file, I take it, 12:12
16 Mr. O'Higgins, it was very robust questioning. I was
17 placed in a cell, which I think was pretty oppressive.

18 335 Q. So, can I take it from that, that you're standing over
19 what is in paragraph 24?

20 A. I'm just saying how I felt in the sense of, I had 12:13
21 turned up at Balbriggan Garda Station by appointment, I
22 wasn't a flight risk, I wasn't any other risk. I had
23 been a station house officer myself when I had cause to
24 detain people and saw it wasn't always necessary to put
25 people in police cells. 12:13

26 336 Q. Are you saying that the guards were heavy handed with
27 you and treated you in a disrespectful fashion?

28 A. I'm just saying the way -- as I said, it's not always
29 necessary to place people in police cells.

1 337 Q. Were they heavy handed with you?
2 A. I'm just reiterating -- heavy handed would suggest
3 there was some sort of physicality. No, there wasn't.
4 338 Q. So you wouldn't allege that they were heavy handed?
5 A. As I said, it was a very robust -- as I said, I was 12:14
6 stripped of my shoes, my belt, my epaulets and I was
7 placed in a cell.
8 339 Q. Would you mind reading on the balance of the paragraph
9 where it says:
10
11 "Throughout the course of these events, including the 12:14
12 decision to arrest and detain the applicant, the
13 investigators were heavy handed. During a period of
14 time between the decision to arrest, the making of the
15 arrest and the detention of the applicant information 12:14
16 was once again leaked whereupon television cameras and
17 crews arrived at Balbriggan Garda Station. Thereafter
18 the arrest and detention received very significant
19 media coverage."
20 A. Yes. 12:14
21 340 Q. So can I ask you, are you standing over the allegation
22 that the Gardaí with whom you had dealings on this
23 occasion were heavy handed towards you, the
24 investigators?
25 A. All I'm saying is that I turned up by appointment, I 12:15
26 was stripped of my shoes, belt, placed in a cell, as I
27 said information about my arrest appeared in the paper
28 the night before I was due to turn up.
29 341 Q. I'd understood there to have been evidence from -- not

1 contradicted again, by Gardaí involved in your
2 questioning, that you made a point of thanking them for
3 the professional manner in which they had conducted
4 their task?

5 A. As I said, I always conduct myself and I treat people 12:15
6 with civility and courtesy at all times in my life.

7 342 Q. Well, do you regard making allegations against fellow
8 officers of heavy handedness and acting in an
9 oppressive and autocratic fashion, do you regard that
10 as civility if you are not willing to stand over those 12:16
11 allegations?

12 A. As I explained to you, Mr. O'Higgins, I have been a
13 station house officer, it is not always necessary to
14 place people in cells, they turn up by appointment. I
15 always deal with people with civility. Even the worst 12:16
16 of criminals that I have dealt with down through my
17 life, when they are released from custody I'd shake
18 hands with them. It's the way I do my business.

19 343 Q. Would you mind turning over to paragraph 29,
20 superintendent, you make a separate allegation, page 38 12:16
21 of the materials. And paragraph 29 is a short two-line
22 paragraph, do you have that there?

23 A. I do, indeed.

24 344 Q. And it says:

25 12:16
26 "On a date unknown evidence obtained in the course of
27 the aforementioned investigation was tampered with or
28 interfered with."
29

1 And you've sworn that as a fact before the High Court.
2 Now, I've the same question for you: Are you standing
3 over that or are you withdrawing that?
4 A. That relates to the viber requests that was sent to my
5 neighbour's phone to which, to this day, I've never got 12:17
6 any satisfactory explanation as to why it happened.
7 345 Q. Well, you see, at paragraph 31 you deal with your
8 allegation concerning the viber platform?
9 A. Yes.
10 346 Q. Isn't that right? 12:17
11 A. That's right.
12 347 Q. Two paragraphs down?
13 A. Mm-hmm.
14 348 Q. And you say in paragraph 31, on the same page:
15 12:17
16 "On a date unknown, possibly on or about 14th November
17 2015, the devices, and in particular the SIM card,
18 became live, the number --"
19
20 And we needn't call it out. 12:18
21
22 "-- attempted to enter private chat on the Viber
23 platform. Viber is a mobile application which allows
24 users to make phone calls to send text messages to
25 other Viber users, using wi fi or 4G. The Viber app 12:18
26 provides and supports conversation galleries that
27 permit or facilitate public and private chat."
28
29 And you go on to say in paragraph 32 you have been

1 informed "the Garda mobile number tied to the SIM card
2 seized in the course of the investigation became live
3 and attempted to enter and/or communicate with the
4 private chat group of which one of the applicant's
5 neighbour was a member. This is a closed group. In 12:18
6 the circumstances, evidence has been interfered with or
7 has been tampered with or has otherwise become
8 insecure. It has been accessed by third parties and it
9 has been used as aforementioned."

10
11 Now, you were not present but on your behalf I had
12 understood there to have been a concession made by your
13 counsel during the course of last week, I think it was,
14 that you were no longer pursuing this business about
15 the viber being interfered with. That is my 12:19
16 recollection.

17 A. I don't --

18 349 Q. And that instruction was obtained with an opportunity
19 afforded by the Chairman for counsel, I think it was
20 Mr. Ferry at the time, to take instructions expressly 12:19
21 from you.

22 A. Well, as I said, I've never got an explanation as to
23 why the viber requests came live.

24 350 Q. Well, do you recall getting a phone call from Dublin
25 Castle, from your lawyers, for instructions on this 12:19
26 issue as to whether you were maintaining this
27 allegation concerning interference with the viber?

28 A. Yes.

29 351 Q. And did you instruct that it was to be indicated on

1 your behalf you weren't pursuing that?

2 A. I think, if I am correct, the Chairman was seeking some
3 clarity on the matter and I was providing clarity via
4 my counsel back. That's the reason I think there was
5 confusion as to was it WhatsApp or Viber, so that was 12:20
6 the --

7 352 Q. All right. I'm suggesting to you the following
8 exchange took place. Mr. Ferry said:
9

10 "Mr. Chairman, I just have clarified those 12:20
11 instructions. So, Superintendent Taylor's instructions
12 is that he has never said the phones were tampered with
13 by Superintendent Flynn. "

14

15 And the Chairman asked you: 12:20

16

17 "Well, by Superintendent Flynn or by anyone?"

18

19 And Mr. Ferry said:

20 12:20

21 "Well --"

22

23 And then the Chairman pressed him:

24

25 "Anybody?" 12:20

26

27 And Mr. Ferry responded:

28

29 "Anybody in that department. His concern arose in

1 relation to --"

2

3 And Then the Chairman intervened:

4

5 "Can we just say by anybody or is he still saying the 12:20
6 Garda tampered with his phone, somebody in the Garda
7 tampered with his phone?"

8

9 Then Mr. Ferry responded on your behalf:

10

12:20

11

12

13

14

15

16

17

18

And that was day 69, page 83 of 101.

19

A. I think that situation arose, was I making an 12:21
20 allegation against Superintendent Flynn, which I
21 wasn't.

22

CHAIRMAN: No, but I suppose we can clarify it now --

23

A. Yeah.

24

25

26

27

28

29

CHAIRMAN: -- if we couldn't clarify it then. which 12:21
is, do you think, are you actually saying that someone
in the Garda Síochána technical department or the Garda
Síochána generally having possession of three of your
phones actually tampered with them with a view to
framing you or simply tampered with them at all?

1 A. I'm merely saying, Mr. Chairman, that that phone sent
2 out a request that was not in my possession in
3 November.

4 CHAIRMAN: Sure I know that.

5 A. I don't know. 12:22

6 CHAIRMAN: I mean, I know that. And, you know, I live
7 in the real world and I know how phones and emails and
8 all the rest of it operate. I mean, I have spoken
9 about people who haven't sent me messages, getting
10 messages from them or saying there's a photograph that 12:22
11 may interest you and such and such a site, I get this
12 message and it apparently comes from somebody who is a
13 cousin of mine in Canada, and of course they never sent
14 it at all. That happens to everybody. I'm asking you
15 a straight question: Are you saying that the Garda 12:22
16 Síochána tampered with your phone with a view to
17 manipulating evidence or tampered with your phone at
18 all? Any of your phones.

19 A. As I say, I can only just say that what happened to the
20 phone and I have never found out what happened to it, 12:22
21 how -- maybe there is a legitimate reason why it came
22 alive and sent out a request. I don't know.

23 CHAIRMAN: Do you want to answer the question or do you
24 not want to answer the question, superintendent?

25 A. Well, I can't answer -- 12:22

26 CHAIRMAN: Because I will read the question out to you
27 again. Just listen to it, if you wouldn't mind,
28 please. So, are you saying the Garda Síochána tampered
29 with your phone, any of your phones, with a view to

1 manipulating evidence or tampered with any of your
2 phones at all?

3 A. Well, I am just saying I can't answer that question, I
4 don't know whether it is. I just brought my concerns
5 in relation to the phone, that the phone sent out a 12:23
6 whats -- or a Viber request and I don't know and we
7 tried to establish how that happened. I had concerns
8 in relation to that.

9 353 Q. MR. MÍCHEÁL O' HIGGINS: well, superintendent --

10 CHAIRMAN: The concerns could be, you know, some chap 12:23
11 in Moldova who is sending out messages generally and
12 manipulating the internet, etcetera, you know it
13 happens, or is your concern -- do you believe, do you
14 believe that the Garda actually interfered with any of
15 your phones? Do you actually believe that? And if the 12:23
16 answer is yes what is the basis for your belief?

17 A. I haven't the evidence -- we requested permission by
18 Garda Síochána to get permission to go to Viber in
19 order to establish it. We were never given that
20 permission. That we would pay the expense of obtaining 12:24
21 the information. Maybe there could be a legitimate
22 reason.

23 CHAIRMAN: I mean, look, are you accusing anyone in the
24 Gardaí of actually doing anything to your phone?

25 A. I can't accuse any single person. I am just bringing 12:24
26 the concern.

27 CHAIRMAN: You're not answering any of my questions,
28 superintendent.

29 A. Yeah.

1 CHAIRMAN: Literally none of them. You're avoiding
2 every single one. If you don't want to answer the
3 question, that's fine.

4 A. Well, I'm only trying to give the rationale why I
5 raised the concern. 12:24

6 CHAIRMAN: No, I appreciate that.

7 A. Yeah.

8 CHAIRMAN: And I appreciate that is why you raised the
9 concern, but I suppose from the point of view of
10 Mr. O'Higgins it may be a wider thing as to whether 12:24
11 people in the Gardaí are manipulating your phone in the
12 context of you being arrested and investigated and
13 you're entitled to think, yes, they were.

14 A. But, as I said, Mr. Chairman, I had deep concern when
15 my neighbour brought this to my attention and the only 12:25
16 people that had my phone was Garda Síochána, so I was
17 going to establish was that a possibility.

18 CHAIRMAN: That is fine.

19 354 Q. MR. MÍCHEÁL O' HIGGINS: You're aware, aren't you, that
20 there was a replying affidavit provided by Chief 12:25
21 Superintendent Clerkin --

22 A. Yes.

23 355 Q. -- where he set out his position in relation to that
24 allegation and explained that Viber can be accessed
25 from, not just from one particular phone, it's a 12:25
26 platform that can be accessed from a range of portals,
27 isn't that right, or devices?

28 A. Yes. I take your -- I hear what you're saying.

29 356 Q. In other words, he explained the position and ought to

1 have put your mind at rest?

2 A. Eh, as I said, I still had the concerns and through my
3 solicitors we wrote asking for independent access to
4 the platform.

5 CHAIRMAN: Have we spent long enough on this phone now, 12:26
6 Mr. O'Higgins?

7 MR. MÍCHEÁL O' HIGGINS: Yes.

8 357 Q. Just before we move off that finally, superintendent,
9 can I ask you to turn to the allegations that were
10 particularised on your behalf on page 39 of the papers 12:26
11 and these are the legal grounds upon which you were
12 seeking judicial review reliefs from the High Court.

13 A. Yeah.

14 358 Q. And do you see there on page 39, it's divided down into
15 roman numerals, do you see i, about half way down page 12:26
16 39:

17
18 "The investigation into the alleged breaches of
19 discipline and into the alleged breach of the
20 provisions of section 62 of the Garda Síochána Act 2005 12:26
21 have now been tainted beyond redemption. "

22
23 That was said on your behalf, isn't that right?

24 A. Yes.

25 359 Q. And if we move down the page towards the bottom, iv, v 12:26
26 and vi, it is stated:

27
28 "There now exists a significant breach of trust and
29 confidence.

1 v. The investigation is lacking into credibility."
2
3 Over the page then to page 40, vii:
4
5 "The actions and activities as they have so far been 12:27
6 conducted amount to an interference with the
7 administration of justice."
8
9 And in viii:
10 12:27
11 "The actions or activities are manifestly irregular."
12
13 So you were saying there, were you not, that the
14 Clerkin investigation amounted to an interference with
15 the administration of justice, isn't that right? 12:27
16 A. I was saying I had concerns in relation to, as I said,
17 the phone that raised my concerns.
18 360 Q. All right. Can we move matters on then and move on to
19 the spring of 2016 and I think it's the case,
20 superintendent, that, am I correct about this, your 12:27
21 wife, Michelle, has indicated in a statement that her
22 contacts with Maurice McCabe commenced some time in
23 April or May of 2016, isn't that right?
24 A. I think it could be later than that. I think. Is it?
25 361 Q. We're going to hear from her -- 12:28
26 A. Yeah.
27 362 Q. -- but my understanding of matters is that that is her
28 position?
29 A. It's definitely later. I think I'm certain it's later

1 than that.

2 363 Q. We might come back to that. What prompted your wife to
3 make contact with Maurice McCabe?

4 A. Maurice McCabe had rang me out of the blue. I said
5 I'll ring him back. I wasn't going to ring him back. 12:28
6 And my wife decided to ring him.

7 364 Q. Well, can you just help us, in terms of -- and I'm not
8 asking for precise dates, but was that before or after
9 you had had contact with Michael Clifford?

10 A. After. 12:29

11 365 Q. After that?

12 A. Yeah.

13 366 Q. And did you know then or later why Maurice McCabe or
14 how Maurice McCabe came to contact you?

15 A. No. 12:29

16 367 Q. Well, do you have any views on that as to how it might
17 have happened or who prompted it?

18 A. I can't, I can't speak for anybody else.

19 368 Q. He didn't discuss with you, did he, when you did get to
20 speak to him, you didn't discuss with him -- 12:29

21 A. Does?

22 369 Q. -- what prompted him to ring you?

23 A. No. He decided to ring me unsolicited. I didn't ring
24 him. He rang me.

25 370 Q. What I am suggesting to you, that your wife has 12:29
26 indicated in her statement that her contacts with
27 Maurice McCabe commenced some time in April/May of
28 2016, you think that's a little bit later?

29 A. Oh it's later than that, yeah.

1 371 Q. Okay. And I'm suggesting to you that the contact
2 resumed after the summer, ultimately resulting in the
3 meeting of the 20th September 2016?
4 A. That's correct.

5 372 Q. And can you tell us who attended that meeting? 12:30
6 A. On the 20th?

7 373 Q. Yes.
8 A. Myself, Maurice McCabe and my wife.

9 374 Q. Right. At this point in time have you had your
10 realisation moment that the smear campaign is wrong? 12:30
11 A. Yes.

12 375 Q. So for how long have you been of that view? How long
13 before the 20th September had the point occurred to
14 you?
15 A. I can't give you the exact period of time. As I said, 12:30
16 it evolved and come to that point.

17 376 Q. But I mean, did it suddenly all crystallise for you on
18 the 20th September or was it weeks or months before
19 that?
20 A. I decided to meet Maurice McCabe on the 20th September. 12:31

21 377 Q. Well other than your wife, Michelle, had you told
22 anybody about the smear campaign prior to the 20th
23 September?
24 A. I had spoken to a priest.

25 378 Q. You'd spoken to priest? 12:31
26 A. Yes.

27 379 Q. And apart from the priest?
28 A. Nobody else.

29 380 Q. Had you told Michael Clifford for, instance?

1 A. No.

2 381 Q. Had you told Deputy McGuinness?

3 A. I had never met Deputy McGuinness at that stage.

4 382 Q. At this point you had no contact with John McGuinness?

5 A. No. 12:31

6 383 Q. All right. So is it your recollection you had told
7 nobody but your wife and a priest?

8 A. Yes.

9 384 Q. When did you tell your wife that you realised it was
10 wrong? 12:32

11 A. As I said, I can't give you an exact date.

12 385 Q. Well, do you recall telling her?

13 A. I would have told her, yeah.

14 386 Q. This is now when you realised this is morally wrong and
15 not an appropriate thing to do at all? 12:32

16 A. Yes.

17 387 Q. What was her reaction?

18 A. As I said, my wife is fully supportive of the actions
19 of me making a protected disclosure.

20 388 Q. No, that is not remotely my question. What was her 12:32
21 reaction when you told her of the smear campaign and
22 you told her in the context of you indicating it was
23 wrong, very wrong?

24 A. You're asking me to give an opinion of somebody else's
25 reaction. I can't do that. 12:32

26 CHAIRMAN: I suppose, the kind of question you're being
27 asked, forgive me for making it humorous, she didn't
28 throw the frying pan at you or anything like that?

29 A. No.

1 CHAIRMAN: I mean, there was no dramatic explosion?
2 A. No.
3 CHAIRMAN: And you didn't explode or anything like
4 that?
5 A. No. 12:33
6 CHAIRMAN: So, it was a question of kind of
7 conversations evolving --
8 A. Conversation, yeah.
9 CHAIRMAN: -- over time and perhaps a bit of --
10 A. Normal discussions between husband and wife. 12:33
11 CHAIRMAN: Yes. So it was a bit of this, a bit of
12 that.
13 A. Yeah.
14 CHAIRMAN: And the thing came out over time.
15 A. Yeah. 12:33
16 CHAIRMAN: Is what you are saying to me.
17 389 Q. MR. MÍCHEÁL O' HIGGINS: well, was Michelle not critical
18 of you for not only participating in this but being the
19 engine room of it?
20 A. No. 12:33
21 390 Q. She wasn't? She didn't indicate anything to indicate
22 her disfavour or unhappiness that you had done this?
23 A. Mr. O'Higgins myself and my wife have long discussions
24 about long matters that you're asking me to go into,
25 which I can't. 12:33
26 391 Q. well, she makes the point, around this time, September
27 '16, she makes the point that you were in a bad place,
28 your mood was low at this time?
29 A. Yeah.

1 392 Q. Do you agree with that?
2 A. I do.
3 393 Q. All right. And at this point in time, am I correct,
4 you still faced the very real prospect of a criminal
5 prosecution? 12:34
6 A. Yes.
7 394 Q. And you also faced the prospect of a civil disciplinary
8 proceeding?
9 A. Yes.
10 395 Q. Which could possibly result in a penalty or demotion, 12:34
11 for instance?
12 A. Yes.
13 396 Q. Or worse?
14 A. Yes.
15 397 Q. So the pressure was very much on you, isn't that right? 12:34
16 A. But I made my disclosure notwithstanding those factors.
17 398 Q. And at some point in time in the summer of 2016, is
18 that right, you reached out to Mick Clifford?
19 A. Yes.
20 399 Q. Did you tell him about the smear campaign? 12:34
21 A. No.
22 400 Q. Well then, in what sense did you reach out to him?
23 A. As I said earlier, he had written an article that was
24 complimentary or supportive and that's why I reached
25 out to him. 12:35
26 401 Q. So was the purpose of that reaching out, was it to open
27 up a bridge to him so that there'd be further
28 discussions?
29 A. No.

1 402 Q. So in what sense was there a reaching out to Mick
2 Clifford at this point?

3 A. I just rang him up and it was as simple and
4 straightforward as that.

5 403 Q. You rang him up? 12:35

6 A. Yes.

7 404 Q. And in reaching out to him what was your purpose?

8 A. As I said previously, it was to thank him for an
9 article that he had written.

10 405 Q. Did you tell Mick Clifford you were disappointed the 12:35
11 move from the Press Office wasn't accompanied by the
12 requisite promotion?

13 A. No.

14 406 Q. Did you tell Mick Clifford that Nóirín O'Sullivan 12:36
15 appointed your husband to head up the investigation
16 into your -- sorry, appointed her husband to head up
17 the investigation into your activities?

18 A. That was a matter of record at that stage.

19 407 Q. Did you tell that to Mick Clifford?

20 A. I don't recall. It was well known that Nóirín 12:36
21 O'Sullivan's husband was part of the investigation into
22 me.

23 408 Q. Did you offer information or tell Mick Clifford
24 anything relating to the fact that Nóirín O'Sullivan's
25 husband headed up the investigation into your 12:36
26 activities?

27 A. I don't -- I don't recall saying that specifically.

28 409 Q. Well, do you not recall imparting to him your
29 unhappiness with that matter; that Superintendent

1 McGowan was involved with the investigation?

2 A. I don't recall saying that.

3 410 Q. Did you tell Mick Clifford that you denied being the
4 party that leaked the patrol officer's report to the
5 journalist Mick McCaffrey? 12:37

6 A. I had never anything to do with the Roma leak.

7 411 Q. Again, that's not my question, if you don't mind me
8 saying. Did you tell to Mick Clifford that you denied
9 being the party that leaked the patrol officer's
10 report? 12:37

11 A. I think I would have said I had nothing to do with the
12 Roma leak.

13 412 Q. Did you convey to him that you had become something of
14 an outcast once the criminal investigation began?

15 A. I didn't say I was an outcast. I was -- as I said, it 12:37
16 was a matter -- I was away from An Garda Síochána,
17 what, over a year, I think, at that stage.

18 413 Q. Did you in any way indicate to him that an acquaintance
19 of Sergeant McCabe was in contact with you in early
20 June 2016? 12:37

21 A. No.

22 414 Q. Right. I wonder if we could have page 6618 up on
23 screen, which is an extract from Mr. Clifford's book.
24 Superintendent, for your benefit I think it's volume
25 25. Actually Mr. McGuinness has already brought you 12:38
26 over some or possibly it was another counsel brought
27 you over, it may have been Mr. Quinn for the Examiner
28 publications. We might actually, sorry, have page
29 6617, the page before it, up on screen. This is an

1 email from the journalist Mick Clifford to you, as I
2 understand it?

3 A. That's correct.

4 415 Q. It's actually an email of Mick Clifford to Carl Ryan,
5 the investigator for the Tribunal, forwarding to him 12:39
6 documents that Mick Clifford had found and was
7 providing by way of assistance to the Tribunal, isn't
8 that right?

9 A. That's right.

10 416 Q. That's the context of it. On this document at page 12:39
11 6617 towards the bottom, we have the email that he sent
12 to you, requesting that you'd check his book, a chapter
13 of his book for accuracy, isn't that so?

14 A. That's right.

15 417 Q. And the email reads: 12:39
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 12:40

21 Isn't that right? That was the gist of his request.

22 A. Yes.

23 418 Q. So have a read of this and see what you think of it,
24 particularly in terms of its factual accuracy. And did
25 you understand that request, which is fairly clear from 12:40
26 that email?

27 A. I understand the email, yes.

28 419 Q. Right. And then if we go over the page then, we have
29 the extract from Mr. Clifford's book, and there's very

1 positive things said about you there, the second
2 paragraph down, on page 6618, it gives a quick profile
3 of yourself, you'd agree with me it's in positive
4 terms, isn't that right?

5 A. Yes. 12:40

6 420 Q. Do you recall at the time reading it and you were
7 pleased enough about it, understandably, if may say?

8 A. As I say, I didn't forensically read it as I said
9 yesterday, but --

10 421 Q. And it indicates towards, halfway down that page: 12:40

11

12 "With a varied and well regarded career he --"

13

14 Being yourself.

15

12:41

16 "-- was an obvious choice for promotion to
17 superintendent in 2012 assigned to head up the Garda
18 Press Office."

19

20 And it makes reference to the fact that:

12:41

21

22 "All of the most recent occupants of the office did
23 their few years and left with promotion to chief
24 super."

25

12:41

26 Do you see that there?

27 A. Yes.

28 422 Q. And if we go over the page to page 6619, halfway down,
29 the following narrative is set out:

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"On the evening Callinan retired --"

well actually, we can take it up a few lines down,
because it cuts to the chase of it. It says:

12:41

"Worse was to come. Within weeks Taylor was moved out
of the Press Office. He wasn't totally surprised but
he was disappointed that the move wasn't accompanied
with what he had regarded as the requisite promotion."

12:41

If we pause there. Is that something you relayed to
Mick Clifford?

A. No.

423 Q. well --

12:42

A. As I say, promotion is not within my gift. Promotion
is, as I said, a matter for other people assessing your
ability.

424 Q. Ah, superintendent! Maybe I haven't been clear in the
way I have asked it. Did you relay to him your
disappointment at not being promoted?

12:42

A. No. I relayed my disappointment at being moved from
the Press Office.

425 Q. And you didn't convey to him any disappointment that
you hadn't been promoted once moved?

12:42

A. No.

426 Q. All right. It goes on:

"Instead he was shifted to Traffic Management."

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Then it says:

"Meanwhile in the background another controversy was brewing. The previous year there had been an erroneous but near hysterical reaction to a story involving children being allegedly kidnapped by Roma families." 12:42

And if we turn over the page to 6620, about a third of the way down -- well sorry, I take it up from the bottom of page 6619. So the bottom of page 6619 we have the last two lines read as follows: 12:42

"On foot of that, the Commissioner launched an investigation to determine whether somebody in the force was responsible for the leak." 12:43

Do you see that there?

A. Yes.

427 Q. "She appointed her husband, Detective Superintendent Jim McGowan, to head up the investigation." 12:43

Now, there has been sworn evidence before this Tribunal that that is not correct. Do you stand over that sentence in the book that I'm suggesting to you you proofread - "She appointed her husband, Detective Superintendent Jim McGowan, to head up the investigation"? 12:43

A. A detective superintendent investigating another

1 superintendent would not happen without the full
2 knowledge of the Commissioner of the day.

3 CHAIRMAN: I appreciate that is true.

4 A. Yeah.

5 CHAIRMAN: And look, it's understandable that perhaps
6 even in relation to the phone, I have no view on the
7 matter, you may have a particular view that you find
8 very hard to move from. Whether that is accurate or
9 not, I have to think about it. But it was Chief
10 Superintendent Clerkin who was heading up the
11 investigation. It so happened that Detective
12 Superintendent McGowan was also involved.

12:44

12:44

13 A. Yeah.

14 CHAIRMAN: But I suppose the question is put in the
15 context of, look, doesn't it make it look as if Nóirín
16 O'Sullivan was pulling strings, including getting her
17 husband onto an investigation against you, in fact
18 heading it up? I think that is the import of counsel's
19 question.

12:44

20 A. Well, put it this way, it was unprecedented that a
21 Garda Commissioner would have her husband investigating
22 another officer.

12:44

23 CHAIRMAN: Well, I suppose you've got to be married to
24 somebody if you are married at all.

25 A. I understand that.

12:44

26 CHAIRMAN: So it may be that there may be other
27 precedents knocking around places, I have no idea.

28 A. But as I said, it was unique in this situation.

29 CHAIRMAN: Look it may be an appropriate time to break

1 for an hour. Is it quarter to one, is it? So quarter
2 to two. Just an indicative time if you wouldn't mind
3 please, Mr. O'Higgins? Another hour and a half?
4 MR. MÍCHEÁL O' HIGGINS: Chairman, certainly finish
5 today. 12:45
6 CHAIRMAN: All right. I'm thinking about Mrs. Taylor,
7 and I don't necessarily want her hanging around here.
8 I'm sure Mr. Barnes can make arrangements if she wants
9 not to be hear that she would be made comfortable in
10 another room, but if you give us some kind of an 12:45
11 indication it might be of assistance. Do you want to
12 say three o'clock perhaps?
13 MR. MÍCHEÁL O' HIGGINS: I think it may be ambitious to
14 get to her today would be my sense of it. But if she
15 is reached it would be certainly after three. 12:45
16 CHAIRMAN: well, if she does come and it's not long,
17 I'd imagine it wouldn't be long, Ms. Leader, would I be
18 right in thinking?
19 MS. LEADER: Yes.
20 CHAIRMAN: If it was a question of, we could -- I'd 12:45
21 prefer that she wouldn't be kept waiting around.
22 MR. MÍCHEÁL O' HIGGINS: Chairman, I have absolutely no
23 objection to that at all.
24 CHAIRMAN: No, but if you try and finish then by four
25 o'clock we could call her at four o'clock. will you 12:46
26 try and do that?
27 MR. MÍCHEÁL O' HIGGINS: Yes. Or if you prefer that she
28 is interposed, Chairman, that is fine as well.
29 CHAIRMAN: No, No.

1 MR. McENROY: I would be very grateful, Chairman.
2 CHAIRMAN: I don't accept thanks or blame but I think
3 that is the right thing to do.
4 MR. PHELAN: Chairman, David Phelan from Hayes
5 solicitors representing Irish Times and Conor Lally. 12:46
6 There is one very brief matter I would like to put to
7 Superintendent Taylor at the appropriate time. I would
8 like to mention it now.
9 CHAIRMAN: You will certainly be given that
10 opportunity, that's no difficulty whatsoever. 12:46
11 MR. PHELAN: I just thought I should mention it now.
12 CHAIRMAN: All right. It's quarter to two and that
13 gives two and a quarter hours, and I really think that
14 should be enough, Mr. O'Higgins, not to try and
15 interrupt but if it can't be done please tell me closer 12:46
16 to that time, just in terms of arrangements. Thanks.
17
18 THE HEARING THEN ADJOURNED FOR LUNCH
19
20 13:31
21 THE HEARING RESUMED AS FOLLOWS AFTER THE LUNCHEON
22 ADJOURNMENT
23
24 CHAIRMAN: Could I just say, Mr. O'Higgins, I'm not
25 going to rush you. I mean, I appreciate it's important 13:49
26 and this is the centre of things. I'm sorry,
27 superintendent, you may have to spend some time
28 tomorrow. But I intend to call Michelle Taylor at half
29 past three and we'll just intervene. All right?

1 MR. MÍCHEÁL O' HIGGINS: Certainly, Chairman, yes.

2 CHAIRMAN: Because that would mean we show appropriate

3 courtesy and secondly that you won't be rushed.

4 MR. BERRY: Chairman, before the witness resumed if I

5 could say that I -- 13:49

6 CHAIRMAN: You could. If you sit down we'll get the

7 microphone on you, thank you, Mr. Geraghty.

8 MR. BERRY: Thank you, Chairman. My name is John

9 Berry. I am instructed by Mr. Darragh Mackin, KRW Law,

10 and I am here to represent Ms. Gemma O'Doherty. 13:50

11 CHAIRMAN: All right. well, that's fine. I'm sure you

12 will have a few questions at the end. So, that's

13 grand.

14 428 Q. MR. MÍCHEÁL O' HIGGINS: Superintendent, we were looking

15 at page 6620 of the materials, which are the extract 13:50

16 from Mick Clifford's book on Sergeant McCabe. And

17 perhaps if we turn over then to page 6621, the next

18 page, Mr. Clifford deals with the period from June 2016

19 onwards. So do you have that there in front of you,

20 superintendent? 13:50

21 A. No, I haven't got it.

22 429 Q. well, just to help you, in terms of the hard copy, it's

23 the same volume, volume 25 and it's page 6621.

24 A. Yes.

25 430 Q. And we'll just wait for it to come up on screen there. 13:51

26 So it says there:

27

28 "By June 2016 Taylor's life had been completely

29 transformed. He was on reduced pay and his family's

1 standard of living suffered as a result, at a time when
2 his two daughters were going through second and third
3 level education."

4
5 If I can just pause there. Superintendent, I'm not 13:51
6 going to ask you any questions, needless to say, about
7 your children, but the situation in relation to your
8 pay, that was a difficult circumstance, wasn't it? You
9 were not just on reduced pay, as I understand it, but
10 in point of fact, because you weren't on duty as you 13:51
11 continued under suspension you weren't earning any
12 increased allowances or expenses, which can comprise a
13 significant part of a member's income, isn't that so?

14 A. That's correct.

15 431 Q. And again I do not want to in any sense pry into your 13:52
16 financial arrangements, but just in terms of giving the
17 Tribunal an idea of how difficult it was for you, as I
18 understand the position, it was your practice to
19 attend, for instance, a lot of crime scenes, quite
20 properly in your role as Press Officer, and that would 13:52
21 have involved mileage, for instance, mileage allowances
22 and because you were under suspension, all of those
23 would have been lost to you, isn't that so?

24 A. That's correct.

25 432 Q. And you were also on reduced actual pay, apart 13:52
26 altogether from not getting any allowances or expenses?

27 A. That's correct.

28 433 Q. And I think broadly speaking had it gone down to 70%
29 but then subsequently was brought back up to 90% of

1 your salary?

2 A. 75% initially and then brought back to 90%.

3 434 Q. 75, excuse me. And presumably this is something
4 that -- well, I think we have already heard evidence
5 from other witnesses, I'm thinking of Deputy McGuinness 13:53
6 and possibly others, who indicated that your earnings
7 situation was an area of considerable concern for you
8 and indeed for Michelle your wife?

9 A. That's correct.

10 435 Q. You were telling people this at the time? 13:53

11 A. Yes.

12 436 Q. In any event, the book continues by June 2016 your life
13 had been completely transformed, reduced pay, family's
14 standard of living suffered. Then it goes on:
15 13:53

16 "Since he had entered the force he had enjoyed an
17 extremely busy working life. The clock crawled as he
18 spent endless hours at home. He enrolled in education
19 courses but all the time he battled against the spectre
20 of what had become of his life. 13:53

21

22 One minute a well regarded senior Garda working in
23 close proximity to commissioners and presidents, the
24 next something of an outcast to whom even former
25 colleagues were wary of associating with. " 13:54

26

27 Is that a reasonably accurate description?

28 A. I was suspended from duty, so I wasn't in the company
29 of my former colleagues, so that is a simple fact.

1 437 Q. And did you tell Mick Clifford or did you give Mick
2 Clifford to understand that you felt something as an
3 outcast?
4 A. Well, I was suspended from my employment, so I wasn't
5 within my employment. 13:54
6 438 Q. It goes on:
7
8 "Those colleagues who were investigating him with what
9 Taylor considered excessive zeal were, as he had once
10 been himself, only following orders. That was Dave 13:54
11 Taylor's station when he came into contact with Maurice
12 McCabe. In early June an acquaintance of McCabe's had
13 been in contact with David Taylor on a separate
14 matter."
15 13:54
16 who is that?
17 A. I don't know.
18 439 Q. But you -- at the request of the journalist, you had
19 read over this chapter, did it not --
20 A. No. 13:55
21 440 Q. Did you not want to ensure everything was correct and
22 query with the man what's that about?
23 A. I said I did not give it a forensic perusal.
24 441 Q. It was just a couple of pages you were sent. I mean,
25 it wasn't whole swathes of the book. 13:55
26 A. As I said, I did not go through it line-by-line.
27 442 Q. It goes on:
28
29 "In the course of a conversation Taylor expressed

1 regret for what had been visited on McCabe by senior
2 management over the years."
3
4 well, forget about the proofreading aspect, did you
5 have a conversation with somebody other than Maurice 13:55
6 McCabe in which you expressed regret for what had been
7 caused, what had been visited on McCabe by senior
8 management over the years?
9 A. As I said in this morning's evidence, I spoke to a
10 priest. 13:56
11 443 Q. So the acquaintance here is a priest, is it?
12 A. I'm not saying that. You asked me did I speak to
13 somebody else and I did, I spoke to a priest.
14 444 Q. "Some weeks later --"
15 13:56
16 The book indicates.
17
18 "-- this was conveyed to McCabe in a casual manner."
19
20 well, that's hardly the priest now, is it? 13:56
21 A. Well, I'm only saying Maurice McCabe rang me and I did
22 not seek Maurice McCabe and then subsequently I met him
23 on 20th September. That is the first time I ever met
24 him.
25 445 Q. Well, I mean, who might this person be? 13:56
26 A. I can't say who that person is. I can only tell you
27 who I know.
28 446 Q. The book continues:
29

1 "Some weeks later this was conveyed to McCabe in a
2 casual manner but the latter found it interesting.
3 Where was this guy coming from? McCabe had known
4 Taylor only by reputation and by sight from TV pictures
5 on the numerous occasions he was seen at the shoulder 13:57
6 of Martin Callinan. Now this guy was sounding as if he
7 was on McCabe's side."

8
9 Then it goes on, we needn't read out all of the
10 extract, if we go on to page 6622 it narrates that, at 13:57
11 the top of page 6622 it relates to your wife's contact
12 with Maurice McCabe, and it says:

13
14 "The call took David Taylor by surprise."
15

16 This is the call to you now from Maurice McCabe, isn't
17 that right? 13:57

18 A. That's right.

19 447 Q. "He felt agitated when the call ended. What did this
20 fella want? Unprepared as he was, Taylor couldn't face 13:57
21 into a conversation with McCabe. He didn't ring the
22 following morning, but his wife did. Michelle told
23 McCabe that Dave was in a bad place and not really up
24 to meeting."

25
26 Is all of that correct? 13:58

27 A. Yes.

28 448 Q. "It was true that he was feeling emotionally fragile
29 but also the case that he had great trepidation about

1 facing McCabe. Instead Michelle suggested that she
2 meet him. A few days later they met in the Skylon
3 Hotel on the Swords Road, near the Taylors' home.
4 Michelle reiterated that Dave was in a bad place and
5 sent his apologies. She poured out to McCabe all that 13:58
6 her family had to endure since Dave's ejection from the
7 inner sanctum and subsequent suspension. It soon
8 became obvious to Maurice McCabe that she was sussing
9 him out, checking whether he might harbour any
10 animosity towards her husband. Through it all she 13:58
11 displayed a burning sense of grievance at what had
12 befallen her husband."

13
14 Did you feel yourself a burning sense of grievance at
15 what had befallen you? 13:58

16 A. I felt for my family, who had, do you know, as a result
17 of my wage being cut, had made it very difficult for
18 us.

19 449 Q. But you were aggrieved, were you?

20 A. I was very concerned for my wife and my two children. 13:59
21 My income had been severely cut.

22 450 Q. But you had a grievance. What was your grievance?

23 A. As I said, I was very concerned for my wife and my two
24 children. As I said, my wages were cut, which was
25 putting, as I said, difficulties with paying bills. 13:59

26 451 Q. But this is going further than that. A grievance, I
27 suggest to you, is a feeling that you're being unjustly
28 dealt with or unjustly treated.

29 A. No, I'm suggesting -- you're asking me what I felt, I'm

1 telling you what I felt. I felt I was deeply concerned
2 for my wife and children.

3 452 Q. But if your wife said this to Sergeant McCabe, was she
4 correct to say it, that you -- sorry, that she had a
5 burning sense of grievance at what had befallen you? 14:00

6 A. But you are asking me to comment, Mr. O'Higgins, on
7 something that somebody else has written. This is a
8 third party.

9 453 Q. That's right, I am.

10 A. I can't comment on that. 14:00

11 454 Q. Well, just more straightforwardly, did you at this time
12 harbour a sense of grievance at the treatment of An
13 Garda Síochána of you?

14 A. As I said, I was deeply upset and concerned for my
15 family at the loss of our income and the pressure of 14:00
16 paying, of keeping the day-to-day life of my family
17 going.

18 CHAIRMAN: It may be appropriate to kind of summarise
19 it by putting it this way, by saying, did you feel you
20 were a victim in the sense that someone who has 14:00
21 something done to them which is unfair and is wrong and
22 is unwarranted?

23 A. I didn't feel a victim, Chairman. I felt, I was
24 concerned for my family, I had genuine concern for the
25 plight my family was now in. 14:01

26 CHAIRMAN: Yes. Insofar as some people have described
27 you ringing the Garda Press Office and being bitter
28 about what you saw as your demotion or what they said
29 was your demotion, would that be accurate or not?

1 A. I wouldn't accept those comments, Chairman. As I said,
2 I was concerned for my family. I had taken a
3 substantial and very substantial drop in my income.
4 CHAIRMAN: No, appreciating the financial issue, you
5 weren't thinking of yourself as a victim of this? 14:01

6 A. No, I was thinking for my family. It's --
7 CHAIRMAN: No, but I mean, you weren't thinking of
8 yourself as a victim?

9 A. No.
10 CHAIRMAN: All right. 14:01

11 455 Q. MR. MÍCHEÁL O' HIGGINS: Moving matters on,
12 superintendent, the balance of the page treats of your
13 conversation with Sergeant McCabe on 20th September,
14 isn't that so?

15 A. Yes. 14:01

16 456 Q. Of 2016. And the second paragraph down, it attributes
17 to you words in quotations:
18
19 "We want to destroy you, Taylor told him. Over the
20 course of three and a half hours, as the sun went down 14:02
21 and the night drew in, David Taylor unburdened himself
22 to Maurice McCabe in the Taylors' front room. He went
23 into detail of how he had been involved in a campaign
24 of black propaganda against McCabe in his role as head
25 of the Garda Press Office. The objective was to 14:02
26 destroy McCabe's credibility by any means available and
27 in particular to spread false and scurrilous rumours
28 about his character. It should be noted that the
29 senior officers whom Taylor claimed were either privy

1 or directing such an operation deny any knowledge
2 whatsoever of its existence. Yet Taylor is adamant he
3 is speaking the truth."
4

5 Then the next portion deals with the strands of the 14:02
6 smear campaign, as you relayed it:

7
8 "There were a number of strands to the campaign, he
9 told the incredulous McCabe. The most basic was the
10 conveyance of hundreds, if not thousands, of text 14:02
11 messages to media and Garda personnel casting McCabe in
12 a dark light."

13
14 I think you have told the Chairman that you reject that
15 you said that to Sergeant McCabe? 14:03

16 A. That's correct.

17 457 Q. It goes on:

18
19 "Journalists were briefed that McCabe was a person who
20 had a record of sexually abusing children, excuses were 14:03
21 invented as to why there was no official record --"

22
23 Did that form part of the strands?

24 A. No.

25 458 Q. It didn't? 14:03

26
27 "-- of these crimes or allegations."

28
29 well, do you mind me asking you, why did you not

1 correct that? why did you not make sure Mick Clifford
2 took that line out?

3 A. As I said to you, I did not forensically examine it.

4 459 Q. But you did read it?

5 A. I scanned through it very quickly, I did not 14:03
6 forensically go line-by-line, word-for-word.

7 460 Q. I understand his position is that you rang him back a
8 week later.

9 A. Yeah, I accept that.

10 461 Q. And obviously you were careful to make a change which 14:04
11 he -- dealing with the correction that you weren't
12 interviewed by the Logan inquiry, isn't that right?

13 A. That's correct.

14 462 Q. You brought that correction to the attention of Mick
15 Clifford, isn't that so? 14:04

16 A. That's correct.

17 463 Q. And you gave him to understand that was the only
18 correction that needed to be made.

19 A. I corrected that part. I did not, as I said today or
20 yesterday as well, I did not go through this chapter 14:04
21 word-for-word or line-for-line. I scanned it very
22 quickly.

23 464 Q. But you corrected that detail. I'm not suggesting
24 that's insignificant or is something you shouldn't have
25 corrected, but you read it sufficiently well to ensure 14:04
26 -- to pick that up and ensure that that was corrected.

27 A. As I said, I did not forensically go through it
28 line-for-line.

29 465 Q. So the two details that are wrong here is of course the

1 texts as a method, as a primary aspect of the smear
2 campaign and also this line that "excuses were invented
3 as to why there was no official record" with respect to
4 the briefing journalists; you didn't correct that
5 either, we're agreed about that? 14:05

6 A. As I said, I did not forensically go through this
7 chapter line-for-line.

8 466 Q. All right. Over the page then at page 6623 there's
9 again matters attributed to you in this draft extract.
10 Top of page 6623: 14:05

11
12 "He told McCabe that an intelligence file had been
13 created on McCabe in Garda HQ. The file was kept under
14 a Christian name which coincided with the name of the
15 offspring of a senior officer. An intelligence file is 14:06
16 only created if the subject is suspected of serious
17 crime, usually involving violence. Yet HQ, according
18 to Taylor, saw fit to place McCabe in such company."

19
20 Did you give that detail? 14:06

21 A. No. I said there may be a file in Garda Headquarters.
22 I now know from direct evidence that has been given
23 there isn't.

24 467 Q. "Twice as he poured out his confession Taylor broke
25 down. He was in a highly emotional state confronting 14:06
26 his past, when he was doing his job following orders as
27 he saw it. McCabe was simply regarded as the enemy."

28
29 Is that accurate, that twice during the 20th September

1 conversation with Sergeant McCabe you broke down?
2 A. It was a highly -- it was an emotional couple of hours,
3 yes.
4 468 Q. Were you unburdening yourself of this?
5 A. Well, I was telling Sergeant McCabe the knowledge that 14:07
6 I have.
7 469 Q. And this was, aside from the priest that you've
8 mentioned this was the first time you were unburdening
9 yourself of the smear campaign?
10 A. This is the first time I have ever met Sergeant McCabe 14:07
11 person-to-person.
12 470 Q. But this was the first time you'd unburdened yourself
13 of the smear campaign to anybody other than your wife?
14 A. Yes.
15 471 Q. You're clear on that? 14:07
16 A. Yes.
17 472 Q. And it was a cathartic experience where you were
18 letting go of the dark matter that you needed to get
19 off your chest?
20 A. Well, as I said, I'd come to the decision to do the 14:07
21 right thing.
22 473 Q. And did that pretty well happen, do you think, on 20th
23 September?
24 A. Yes.
25 474 Q. It was on 20th September 2016 that you realised this 14:07
26 was wrong, what I have been commanded to do, what I had
27 done, and you were now unburdening yourself and coming
28 clean for the first time?
29 A. Well, I was in -- I met Sergeant McCabe and told him

1 and then subsequently followed up with a protected
2 disclosure.

3 475 Q. But am I right, this was the first time you were coming
4 clean to anybody other than your wife and you say the
5 priest? 14:08

6 A. Yes.

7 476 Q. Now, on the next page, page 6624 -- well, perhaps at
8 the bottom of page 6623:

9

10 "The following day McCabe rang Taylor and arranged to 14:08
11 meet him again. There were a couple of things he
12 wanted to clarify."

13

14 And on page 6624:

15 14:09

16 "They met at Taylor's home the day after that. McCabe
17 asked him again about some of the detail related to the
18 text messages. Then he informed Taylor that he was
19 obliged to make a protected disclosure on the matter."

20 14:09

21 Is that correct?

22 A. We never spoke about -- it was a very quick meeting, a
23 very short meeting, we never spoke about the texts. He
24 just came to inform me that he was going to make a
25 protected disclosure. 14:09

26 477 Q. Then there's a quotation:

27

28 "You've told me this stuff and if I don't pass it on I
29 could be accused of being complicity."

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Sergeant McCabe told you, according to the book.

A. No.

478 Q. A little bit further down it's recorded that:

"The two disclosures were handed into Department of Justice on 29th September. The story broke in the Irish Examiner the following Tuesday, October 4th, although the identities of the Gardaí involved was not made known in the initial report."

14:09

14:09

That is correct, is it?

A. My solicitor handed the protected disclosure to the appointed person outside Garda Headquarters. That's the route my protected disclosure took.

14:10

479 Q. All right. You see, Superintendent Taylor, one difficulty I have with your account that you've given us before lunch and just now since lunch, concerns this idea that the 20th September meeting with Sergeant McCabe was indeed a truly cathartic moment and that you were unburdening yourself for the first time of the dark secret concerning the smear campaign. Because I wish to suggest to you that in fact you have said elsewhere that you disclosed the smear campaign to Mick Clifford on an earlier occasion.

14:10

14:10

A. No.

480 Q. Well, would you mind turning to page 3278 of the materials please?

A. Is that still volume?

1 481 Q. volume 13.
2 A. Is it volume 30?
3 482 Q. Sorry, volume 13. One three.
4 A. Oh, sorry.
5 483 Q. Page 3278. So this now is your statement provided, 14:11
6 your interview that you provided to the Tribunal
7 investigators on 8th March 2018. It's the most recent
8 statement --
9 A. Yes.
10 484 Q. -- as I understand it. And it commences at page 3251. 14:12
11 And the relevant portion is on page 3278. And we might
12 just go straight to that.
13 A. Yes.
14 485 Q. Question at line 447:
15
16 "In respect of the above, I have been asked whether the 14:12
17 content of the above extract --"
18
19 And that's from the book.
20
21 "-- as attributed to me by Mick Clifford is accurate 14:12
22 and if not I have been asked to detail what is
23 inaccurate."
24
25 Then you are recorded as saying: 14:12
26
27 "I had a conversation with Michael Clifford before I
28 met Maurice McCabe. This was late summer 2016. I told
29 Michael Clifford about the campaign to negatively brief

1 journalists about Maurice McCabe. I told him I was to
2 brief journalists negatively about Sergeant McCabe in
3 respect to the Ms. D 2006 allegation on the instruction
4 of Martin Callinan and that this was always done
5 verbally. "

14:12

6
7 Do you see that there?

8 A. I see that, yeah.

9 486 Q. Is that capable of being reconciled with what you've
10 told the Tribunal a few minutes ago?

14:13

11 A. Well, I didn't go into the exact terminology of what I
12 said of the instruction that I was given, of what I was
13 saying to the journalist, that I would tell the
14 journalists about the motivation and the revenge. I
15 did not go into the actual word of what I was saying.

14:13

16 487 Q. So do you want to just read it there just so you --

17 A. I've read it, yes.

18 488 Q. Take a moment to consider your position there. It says
19 in your statement:

14:13

20
21 "I had a conversation with Michael Clifford before I
22 met Maurice McCabe. This was late summer 2016. I told
23 Mr. Michael Clifford about the campaign to negatively
24 brief journalists about Maurice McCabe. I told him I
25 was to brief journalists negatively about Sergeant
26 McCabe in respect to the Ms. D 2006 allegation on the
27 instruction of Martin Callinan, and this was always
28 done verbally. "

14:14

29 A. Well, I didn't go into the exact terminology of what I

1 was saying, the exact wording that I was using.

2 489 Q. But you see you told us, not only after lunch but
3 before lunch, you told nobody about the smear campaign
4 except Michelle and the priest?

5 A. Yeah, but I didn't tell them about the exact 14:14
6 methodology or the exact wording that I was saying.

7 490 Q. And it has suited your purposes to have people believe
8 that the 20th September 2016 was a cathartic experience
9 where you were unburdening yourself of the dark sin,
10 the smear campaign, and you broke down. 14:14

11 A. No, I said that it was an evolution, I got to the point
12 and 20th September was the first time I told -- the
13 first time I met Sergeant McCabe and told him about
14 what had gone on.

15 491 Q. You see, superintendent, I'll just read out to you the 14:15
16 answers you gave on page 74 of today's transcript
17 before lunch. All right? And the question was:
18
19 "So, for how long before 20th September had the point
20 occurred to you?" 14:15

21
22 The point being, it was wrong, the smear campaign was
23 wrong. The answer you gave was:
24
25 "I can't give you the exact period of time. As I said, 14:15
26 it evolved and had to that point."
27
28 Then I asked you:
29

1 "But I mean, did it suddenly all crystallise for you on
2 20th September or was it weeks or months before that?"

3

4

And you decided -- you answered:

5

14:16

6

"I decided to meet Maurice McCabe on 20th September.

7

Q. Well, other than your wife, Michelle, had you told
8 anybody about the smear campaign prior to 20th

9

September?

10

A. I had spoken to a priest.

14:16

11

Q. You'd spoken to a priest?

12

A. Yes.

13

Q. And apart from the priest?

14

A. Nobody else.

15

Q. Had you told Michael Clifford, for instance?

14:16

16

A. No."

17

A. I hadn't told Michael Clifford the exact detailed
18 information that I told the priest and told Michael --
19 or told Sergeant McCabe.

20

492 Q. Is there a reason as to why you were or you are anxious
21 to withhold the fact that you made your disclosure,
22 apparently, apparently, to Michael Clifford weeks or
23 months before 20th September 2016?

24

A. No.

25

493 Q. Well, is it possible that that slipped your mind?

14:17

26

A. No. As I said, I told the full information to the
27 priest and to Sergeant McCabe.

28

494 Q. Well, perhaps we might just look at Michael Clifford's
29 position on this. We might go to page 4881 of the

1 materials. Or perhaps take it up from 4880, please.
2 So in this part, just to orient yourself,
3 superintendent, this is the statement of Michael
4 Clifford which commences at page 4878 and it is dated
5 3rd April 2017. So it's as recent as last month. And 14:18
6 the Tribunal investigators are putting to him the
7 passage from your statement that I've just read out?

8 A. Yes.

9 495 Q. All right? And line 32, we'll just read out from there
10 on page 4880, the extract is read out: 14:18

11
12 "I, Superintendent Taylor, had a conversation with
13 Michael Clifford when I met Maurice McCabe. This was
14 late summer 2016 --"

15
16 Sorry. 14:18

17
18 "I had a conversation with Michael Clifford before I
19 met Maurice McCabe. This was late summer 2016. I told
20 Michael Clifford about the campaign to negatively brief 14:18
21 journalists about Maurice McCabe. I told him I was to
22 brief journalists negatively about Sergeant McCabe in
23 respect of the Ms. D 2006 allegation on the instruction
24 of Martin Callinan and this was always done verbally.
25 In relation to the reference to texts in the above 14:19
26 extract, I would have told him that there would have
27 been texts in respect to updates or briefings as per my
28 protected disclosure. I have subsequently discussed my
29 meetings with Maurice McCabe on 20th September 2016 and

1 21st September 2016 with Michael Clifford. I am not
2 the source, as referred to in the above extract."

3
4 And then -- sorry, I misread that.

5
6 "I never subsequently discussed my meetings with
7 Maurice McCabe on those dates. I am not the source, as
8 referred to in the above extract."

9
10 So that's the quotation from your statement, and he
11 says the following:

12
13 "In respect of the foregoing extract, I have been asked
14 whether I agree with Superintendent Taylor's account of
15 his discussion with me and the date he says this
16 occurred, late summer 2016. If not, I have been asked
17 to provide details and all attendant circumstances of
18 what I recall of my meetings with Superintendent
19 Taylor."

20
21 Then his answer is the following, on page 4881:

22
23 "I had a notion it was earlier, but I do not have an
24 issue with Superintendent Taylor saying it was around
25 the time late summer 2016. My first contact with
26 Superintendent Taylor was in late May 2016. It was
27 certainly later in the summer when I met him. In
28 relation to the meeting, my recollection is that
29 Superintendent Taylor placed a lot of emphasis on text

1 messages being part of the issues around Sergeant
2 McCabe particularly, in relation to communication
3 within the senior management of the Gardaí and in
4 contacting journalists. One issue I certainly recall
5 is that at one point he certainly mentioned to me, 14:20
6 Reilly, that I had featured myself in a number of texts
7 and elaborated. He said, for instance, if I was
8 talking about the McCabe story on the radio he would
9 have circulated that among senior management with a
10 comment. I did not take notes. I don't recall 14:20
11 specifically what he said but he was placing a lot of
12 emphasis on text messages. That was the impression
13 that I got. I have a recollection of Superintendent
14 Taylor saying that he would reference the sexual abuse
15 allegations in communications by text with journalists. 14:20
16 I have no specific recollection of Superintendent
17 Taylor saying that former Commissioner Martin Callinan
18 scripted specific texts and that he passed them on but
19 I do recall him saying that often former Commissioner
20 Martin Callinan would contact him and then he would 14:21
21 contact journalists to brief negatively about Sergeant
22 McCabe in relation to the allegation being made by
23 Ms. D. I don't recall whether Superintendent Taylor
24 used Ms. D's name when speaking about this, but I do
25 recall him saying that we, Superintendent Taylor and 14:21
26 his wife, Michelle Taylor, believed the allegation. I
27 can confirm that Michelle Taylor was present when I met
28 Superintendent Taylor. I met Superintendent Taylor on
29 a second occasion in very early October 2016. Again he

1 was with his wife, Michelle.

2

3 On a second occasion I met him I do recall asking him
4 about text messages being part of the campaign against
5 Sergeant McCabe because it was one of three or four 14:21
6 specific things I wanted to ask him about. He
7 confirmed that text messages were part of the campaign
8 against Sergeant McCabe. My overall impression, and my
9 first meeting in particular being the crucial one,
10 Superintendent Taylor did put an emphasis on text 14:22
11 messages. "

12

13 So that would suggest -- not just suggest, that would
14 indicate it's his position, he agrees he met with you
15 prior to your meeting with Sergeant McCabe on 20th 14:22
16 September 2016 and you gave him considerable detail
17 about the smear campaign. That appears to be his
18 position.

19 A. Well, that's his position, it's not my position.

20 496 Q. And are you saying that that's just wrong? 14:22

21 A. I agree I spoke to him, but in relation to text
22 messages and a lot of that issues that he's -- that is
23 not correct.

24 497 Q. Well, what was your purpose in meeting him?

25 A. Which date now, Mr. O'Higgins? 14:22

26 498 Q. In this. First of all, in ringing him at this time.

27 A. As I said to you earlier on, he had written an article
28 that was complimentary -- or not complimentary, but was
29 favourable and I just rang him to thank him.

1 499 Q. Superintendent, I think you know I'm talking about the
2 phone call and meeting you had with him where you
3 discussed the smear campaign, on your evidence.
4 A. I agree I rang him. I rang him first.
5 500 Q. When was that phone call? 14:23
6 A. When was that phone call? I think it's summer '16, I
7 can't give the exact date, but May I think.
8 501 Q. You wouldn't differ with May, Mr. Clifford's --
9 A. I wouldn't. As I said, I wouldn't differ.
10 CHAIRMAN: Mr. Clifford says late May, so it is kind of 14:23
11 two weeks hence.
12 A. Yeah, around that time.
13 502 Q. MR. MÍCHEÁL O' HIGGINS: Right. So what was your
14 purpose in placing that phone call to Michael Clifford?
15 A. As I said earlier on, he had written an article, he had 14:23
16 mentioned me and I rang to thank him.
17 503 Q. In that phone call did you discuss the smear campaign
18 at all?
19 A. No, I didn't discuss the substance of the smear
20 campaign and what I was directed to do. 14:24
21 504 Q. Did you ring him subsequently?
22 A. I said I could have rang him subsequently to meet. I
23 don't know whether he rang me or I rang him, I can't --
24 505 Q. Right.
25 A. Yeah. 14:24
26 506 Q. So did you ring him, do you think, to set up a meeting
27 with him?
28 A. A meeting happened, yes. That was later on, a number
29 of months later on.

1 507 Q. And your purpose was -- well, first of all, did you
2 ring him?
3 A. As I said, I can't recall whether I rang him or he rang
4 me. I just can't, I can't give a definitive answer to
5 that. 14:24

6 508 Q. But your purpose was to meet with him to discuss the
7 smear campaign?
8 A. No, the purpose was to talk about the book, I think,
9 the upcoming book, he was writing a book.

10 509 Q. But -- 14:24
11 A. And the disclosure had come out at that stage.

12 510 Q. Pardon me? The what?
13 A. I think it was October I think I met him. I think.

14 511 Q. No, no, no, no, I'm talking about --
15 CHAIRMAN: It's very easy to get mixed up, I 14:25
16 appreciate, with the chronology, but as I understand
17 it, Mr. Clifford had written some kind of an article in
18 the Examiner saying look, here's another person who is
19 suffering in consequence of Garda mismanagement or
20 whistleblowing or whatever and he mentioned you. 14:25
21 A. Yes.
22 CHAIRMAN: And that was supportive of you as you
23 felt --
24 A. Yes.
25 CHAIRMAN: -- at the time or as you wished to have 14:25
26 people understand. You rang him and thanked him. That
27 initiated a line of communication and you're not sure
28 how the next thing happened, but he certainly called to
29 your house --

1 A. That's right, yes.

2 CHAIRMAN: -- in the late summer, as you said, of 2016,
3 which puts it prior to the autumn, which is when you
4 met with Maurice McCabe on 20th September 2016.

5 A. Yes. 14:25

6 CHAIRMAN: So that is as I understand the sequence.

7 A. Yes.

8 CHAIRMAN: Are we all getting it right?

9 A. I think we're getting it right, yeah.

10 512 Q. MR. MÍCHEÁL O' HIGGINS: All right. So then, using that 14:26
11 temporal timeline, the meeting of the summer where
12 you're discussing the smear campaign with Mr. Clifford,
13 what did you tell him? First of all, what was your
14 purpose in meeting him?

15 A. As I said, the purpose of meeting him was to discuss my 14:26
16 own situation, the situation that I had found myself
17 in, that I had been out of work nearly what, 16, 17, 18
18 months at that stage.

19 513 Q. And he was very obviously in the -- well, obviously he
20 is an independent journalist, but he had written 14:26
21 articles in support of Sergeant McCabe?

22 A. I'm aware of that, yeah.

23 514 Q. And what were you hoping he would do on your behalf?

24 A. I wasn't hoping he would do anything. I never asked
25 him to do anything for me. 14:26

26 515 Q. Well, I mean, did you use the language reaching out or
27 maybe you agreed with my language reaching out, I can't
28 remember which, but were you reaching out to him?

29 A. I was talking to him, yes, and, as I said, it was

1 mostly in relation to my own story that I was in. I
2 said I had been out of work 17, 18 months at that
3 stage.

4 516 Q. What was your thinking or hope in making contact with
5 him at this time? 14:27

6 A. I hadn't any expectation or thinking or hope. Do you
7 know, I wasn't asking for anything, I wasn't expecting
8 anything from him.

9 517 Q. Well, is there a reason you're being coy about this?
10 A. No, no, I'm just being honest with you. As I said, I 14:27
11 wasn't ringing him up to ask him to do something for
12 me. As I said, it was as simple as that. It was, I
13 just met him and I asked him for nothing. I think he
14 will confirm that. I didn't request anything from him.

15 518 Q. Well, did the conversation come onto the smear 14:27
16 campaign?

17 A. I don't recall talking about it. But obviously we
18 would have talked about Sergeant McCabe because he was
19 heavily involved in the Sergeant McCabe situation.

20 519 Q. Yes. And did it come onto the smear campaign? 14:27

21 A. I have no recollection of it coming onto the smear
22 campaign, because I wouldn't -- I never gave any detail
23 in relation to exactly what I said to journalists in my
24 briefing to journalists, that was said to the priest
25 and to Sergeant McCabe and subsequently in my protected 14:28
26 disclosure.

27 520 Q. Your statement says you had a conversation with Michael
28 Clifford before you met Maurice McCabe, this was late
29 summer 2016. "I told Michael Clifford about the

1 campaign." That's what it says.

2 A. We spoke about Sergeant McCabe, but I didn't go into
3 the detail of campaign, because I never gave that
4 detail to anybody until I actually gave it to Sergeant
5 McCabe in person. 14:28

6 521 Q. Your statement continues:

7
8 "Told Michael Clifford about the campaign to negatively
9 brief journalists about Maurice McCabe. I told him I
10 was to brief journalists negatively about Sergeant 14:28
11 McCabe in respect of the Ms. D 2006 allegation on the
12 instructions of Martin Callinan."

13 A. I said I never went into the detail and I said that
14 detail was not done until subsequently I met Sergeant
15 McCabe and the protected disclosure. 14:28

16 522 Q. So just, can we just try and have clear your position?
17 Do you accept that you discussed -- forget about to
18 what extent, but you discussed the smear campaign and,
19 as it were, you discussed your role in the smear
20 campaign to Michael Clifford in this conversation? 14:29

21 A. No. We discussed Sergeant McCabe. Because obviously
22 he was heavily involved in Sergeant McCabe and I think
23 it was coming out of --

24 CHAIRMAN: You will perhaps excuse me for intervening.
25 Just from the point of clarification. As I understood 14:29
26 the way things had happened, it was as this: You would
27 not have bothered to brief Michael Clifford negatively
28 against Sergeant McCabe?

29 A. No, I wouldn't have, no.

1 CHAIRMAN: Because he and Katie Hannon had nailed their
2 colours to the mast --

3 A. Yes, yeah.

4 CHAIRMAN: -- effectively. And I am not saying
5 anything against them or in favour of them, I am sure 14:29
6 they are great people and they are independent. But
7 that was the view taken --

8 A. Yeah.

9 CHAIRMAN: -- in Garda Headquarters. But I had
10 understood that Maurice McCabe had wondered about this 14:30
11 campaign and had spoken to Michael Clifford and Michael
12 Clifford had indicated to him that maybe you would know
13 something about it, hence he made contact with your
14 house and spoke to your wife and in due course a
15 meeting was set up. 14:30

16 A. Yes.

17 CHAIRMAN: Now that is what I understood it to mean. I
18 also understood from Michael Clifford that you had
19 indicated that in the meeting that took place prior to
20 you meeting with Maurice McCabe, that you had told 14:30
21 Mr. Clifford that you had -- negative briefing was
22 going on from Headquarters and that you were involved
23 in that. Now, that's what I had understood.

24 A. Yeah.

25 CHAIRMAN: Now, if it's different from that you should 14:30
26 perhaps clarify.

27 A. I said I didn't go into the detail of the campaign. I
28 sympathised with the plight that Sergeant McCabe was
29 in, I said that to Michael Clifford and, you know,

1 obviously he had been dealing with Sergeant McCabe, I
2 had never spoken to Sergeant McCabe and he would have
3 taken his impression that I was sympathetic to Sergeant
4 McCabe.

5 CHAIRMAN: But I mean, what you're saying is you didn't 14:31
6 on that occasion tell him that --

7 A. No.

8 CHAIRMAN: -- there was any kind of a campaign at all?

9 A. No, I didn't go into any detail of a campaign.

10 CHAIRMAN: No, but I mean, did you tell him there was 14:31
11 some kind of a campaign?

12 A. No, I didn't.

13 CHAIRMAN: You know, what people call a whispering
14 campaign, that kind of thing?

15 A. No, I didn't. I didn't mention any words like that. 14:31

16 CHAIRMAN: No, forget about the words whispering
17 campaign.

18 A. No, I didn't go into any detail. I said I was
19 sympathetic to Sergeant McCabe. I certainly made that
20 clear. I sympathised with the situation that Sergeant 14:31
21 McCabe was going through.

22 CHAIRMAN: So to be definitive about it, you didn't say
23 look, there is a this campaign --

24 A. No.

25 CHAIRMAN: -- or I'm involved -- 14:31

26 A. No.

27 CHAIRMAN: -- or Commissioner Callinan or Deputy
28 Commissioner O'Sullivan is involved?

29 A. No.

1 CHAIRMAN: All right.

2 523 Q. MR. MÍCHEÁL O' HIGGINS: Mr. Clifford appears to be
3 clear, judging by his statement, which continues on
4 page 4881 of the materials, that you discussed the
5 campaign with him in this conversation during the 14:32
6 summer of 2016 and you were placing a lot of emphasis
7 on the methodology concerning texts - he didn't use the
8 word methodology, that's my word - but you emphasised
9 the role that texts played in what was a smear
10 campaign, that's his position, and you say that's 14:32
11 wrong, do you?

12 A. Yeah. Because in all the statements I've made and my
13 protected disclosure I've never said that. I've always
14 said that I followed up, I sent texts to Commissioner
15 Callinan and Deputy Commissioner O'Sullivan as updates 14:32
16 about Sergeant McCabe all the time. I've always said
17 that.

18 524 Q. Well, you see, he -- but did texts come up in your
19 conversation?

20 A. They could have come up, but, as I said, anything I 14:33
21 said in relation to texts it was always about texts to
22 the Commissioner and Deputy Commissioner.

23 525 Q. Well, how did texts come up if you weren't discussing
24 the smear campaign?

25 A. Well, I said I didn't go into the detail of it, you 14:33
26 know. I was always updating. Because in relation to
27 him, I mentioned to him that he would be in the texts
28 that I would send to the Commissioner and Deputy
29 Commissioner.

1 526 Q. Superintendent, did you tell him the fact there was a
2 smear campaign?
3 A. No, I didn't.

4 527 Q. He indicates that, at the bottom of page 4881, that
5 Michelle Taylor was present -- 14:33
6 A. Yeah.

7 528 Q. -- when he met you and he says, at the top of page
8 4882, that he met you on a second occasion in early, in
9 very early October 2016.
10 A. Yes. 14:33

11 529 Q. And again you were with your wife?
12 A. Yes.

13 530 Q. So does that help?
14 A. That happened, yes.

15 531 Q. And on the second occasion he indicates he met you and 14:34
16 he recalls asking you "about text messages being part
17 of the campaign against Sergeant McCabe, because it was
18 one of three or four specific things I wanted to ask
19 him about".
20 A. That was after the protected disclosure had gone in and 14:34
21 I had always -- I've always said texts, I would
22 never -- were never part of the campaign. Texts went
23 to the Commissioner and Deputy Commissioner as part of
24 updates.

25 532 Q. Well, he says otherwise. 14:34
26
27 "He says he confirmed --"
28
29 Being you.

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-- that text messages were part of the campaign against Sergeant McCabe."

A. Well, I can only give you my evidence, what I've always given.

14:34

533 Q. And that's line 62 on page 4882.

A. Yeah.

534 Q. And he can give his own evidence in due course.

A. Hmm.

535 Q. Now, that would be significant, wouldn't it, if in fact that's not correct on your part that there was an unburdening or what I've been terming a cathartic experience of 20th September, that would be significant, you'd accept, if in fact the true position was you'd already told a journalist about the smear campaign several weeks earlier?

14:34

14:35

A. As I said, I told -- I met Sergeant McCabe on 20th September and I told him all the knowledge I had and subsequently followed up that with a protected disclosure.

14:35

536 Q. Would you agree with me that you embarked or there commenced something of a media and political campaign at this point in time with the making of the protected disclosure and this involved an objective of bringing down N6ir6n O'Sullivan as Garda Commissioner?

14:35

A. Absolutely not.

537 Q. But weren't you anxious to bring her down? You were bitter about what you perceived she was doing, directing a targeting of you by dint of the criminal

1 prosecution?

2 A. I was a suspended Garda superintendent. I didn't -- I
3 could not have any ability to do such a thing.

4 538 Q. well, let's look at what transpired after these.
5 Firstly, before we move to October, can I ask you in 14:36
6 relation to the protected disclosure, did you share
7 that, did you coordinate that with Sergeant McCabe --

8 A. No.

9 539 Q. -- or with his legal advisors?

10 A. No. 14:36

11 540 Q. Or, did your legal advisors coordinate it with Sergeant
12 McCabe --

13 A. No.

14 541 Q. -- or his legal advisors?

15 A. No. 14:36

16 542 Q. So the timeline coincidence is nothing more than that,
17 it's simply a coincidence, in terms of there being
18 handed in to Mr. Mulligan, the protected disclosure
19 manager, for onward transmission to the Tánaiste?

20 A. They are complete separate processes. 14:37

21 543 Q. All right.

22 CHAIRMAN: They are a few days apart in fact,
23 Mr. O'Higgins.

24 MR. MÍCHEÁL O' HIGGINS: Yes. we might just move to
25 that. 14:37

26 544 Q. I'm right in that, aren't I? Mr. Mulligan is the
27 protected disclosure manager, isn't that right?

28 A. Yeah, Mr. Alan Mulligan of HRM.

29 545 Q. we might turn to his statement for a moment, it's on

1 page 1, I think, of volume 1 in the booklet, if that
2 could be put up on screen. And this is a letter from
3 Alan Mulligan, we see from page 2, HR Director, dated
4 3rd October 2016. And it's a letter addressed to
5 Frances Fitzgerald, then Tánaiste and Minister for 14:38
6 Justice and Equality. And it's headed: "Two protected
7 disclosures under the Protected Disclosures Act." And
8 he indicates that:

9
10 "I am one of two protected disclosure managers employed 14:38
11 by An Garda Síochána. In my role as a PDM I was
12 contacted last week by separate legal advisors for two
13 current serving members of An Garda Síochána. The
14 details are as follows.

15 14:38
16 A legal advisor for Sergeant Maurice McCabe contacted
17 me to state that his client wished to make a protected
18 disclosure to the Tánaiste and Minister for Justice and
19 Equality which alleges wrongdoing by, amongst others,
20 the Garda Commissioner. While aware that the 14:38
21 legislation provides that the PD can be sent directly
22 to the Tánaiste, Sergeant McCabe wishes me, as his
23 employer's PDM, to ensure the PD is received by
24 Tánaiste.

25 14:38
26 On the evening of Wednesday, 28th September I was
27 handed his PD. I was requested to deliver the PD to
28 the Tánaiste and Minister for Justice and to nobody
29 else and not to divulge his identity to any other

1 person. Sergeant McCabe and his legal advisors have
2 requested that all communication and correspondence
3 from your office in this matter should be to his
4 solicitor, Sean Costello, Sean Costello & Company. "

14:39

5
6
7 And the address it given in Dublin.

8
9 "On Friday, 13th September I was contacted by the
10 solicitor for Superintendent David Taylor and was
11 advised that he wished to make a PD to the Tánaiste and
12 Minister for Justice and Equality. The PD is alleging
13 wrongdoing against, amongst others, the Garda
14 Commissioner. Superintendent Taylor's solicitor.

14:39

15 Mr. Carthage Conlon, Hanahoe Solicitors, handed me the
16 PD and stated that the PD was for the Tánaiste and I
17 was not to give the PD to anyone else nor was I to
18 divulge Superintendent Taylor's identity to anyone
19 else. Mr. Conlon instructed that all correspondence
20 and communications by you in this matter are to be
21 conducted through this office. "

14:39

14:39

22
23 And obviously, superintendent, known nobody is making
24 any allegations against the legal advisors concerned.

14:40

25
26 It continues:

27
28 "I can confirm that Sergeant Maurice McCabe and
29 Superintendent David Taylor are both serving members of

1 An Garda Síochána. I attach Sergeant McCabe's PD and
2 Superintendent Taylor's PD for your attention. As both
3 officers and their legal representatives have advised
4 that all communication and correspondence in this
5 matter from your office is to be sent directly to their
6 respective solicitors, I will not be keeping a copy of
7 either PD. I wish to state that I will not divulge the
8 identity of either officer or any details of either PD
9 to any other person. However, after delivering the PDs
10 to your office I will advise the Commissioner's office
11 that I have received two PDs addressed to Tánai ste
12 which I have passed onto your office. Both officers
13 and their solicitors have been advised of my intentions
14 in this regard."

14:40

14:40

15
16 I think that was dated 3rd October 2016, isn't that so?

14:40

17 A. Yes.

18 546 Q. So it would seem that the PDs, we needn't look at them,
19 but it seems they were dated the Wednesday and the
20 Friday of the previous week and then sent on on 3rd
21 October, being the Monday, is that right?

14:40

22 A. I accept what's on the correspondence.

23 547 Q. Well, what I'm wondering is: what were you doing on
24 Monday, 3rd October as your next step?

25 A. How do you mean what was I doing?

14:41

26 548 Q. Didn't you meet two parliamentarians, two deputies of
27 Dáil Éireann, to further propagate your story?

28 A. They rang my wife and asked to call to my house.

29 549 Q. I beg your pardon?

1 A. They rang my wife's number and asked to call to my
2 house.

3 550 Q. Well, aren't I correct that on 3rd October 2016 you and
4 your wife met Deputy Clare Daly and Deputy Mick Wallace
5 in the Italian Quarter -- sorry -- 14:41

6 A. No.

7 551 Q. -- I beg your pardon, Maurice McCabe met them earlier
8 on 3rd October and that evening you met the two
9 deputies in your home?

10 A. They rang to call to my house. 14:42

11 552 Q. Right. So well, yes, we should view it from your
12 perspective. You got a call from --

13 A. No, I didn't get a call. My wife got a call.

14 553 Q. Your wife got a call?

15 A. Yes. 14:42

16 554 Q. From who?

17 A. It could be Deputy Daly I think, or Wallace.

18 555 Q. Right. And on foot of that, you and your wife met the
19 two TDs?

20 A. Yes. 14:42

21 556 Q. In your home?

22 A. Yes.

23 557 Q. On the evening of 3rd October?

24 A. Yes.

25 558 Q. Which I think was a Monday, is that right? 14:42

26 A. Yes.

27 559 Q. And as part of that, didn't you -- weren't you seeking
28 to publicise your position concerning you being a
29 victim?

1 A. No.

2 560 Q. Are you clear on that?

3 A. Yes.

4 561 Q. well, did you know that Deputy wallace and Deputy
5 Daly -- and no criticism is made whatever of them in 14:43
6 this regard, but did you know that they would raise
7 whatever allegations you were bringing to them on the
8 floor of the Dáil?

9 A. I didn't know what they were going to bring to the
10 floor of the Dáil. 14:43

11 562 Q. well, what was the plan in meeting them?

12 A. There was -- they asked to meet and I met them. There
13 was no plan.

14 563 Q. well, did you say, for instance, to Deputy wallace that
15 it was wrong that Nóirín O'Sullivan's husband would be 14:43
16 appointed to investigate you and your mobile phones?

17 A. I thought it was very unusual, yes, that a Garda
18 Commissioner would appoint her own husband to
19 investigate another officer.

20 564 Q. So you did say that to Deputy wallace? 14:43

21 A. Yes, yeah.

22 565 Q. Did you make derogatory remarks about Nóirín O'Sullivan
23 saying words to the effect that she was a liar?

24 A. No.

25 566 Q. And that you can tell when she's lying by the way she's 14:44
26 sitting and moves from her seated position?

27 A. No.

28 567 Q. Did you say the allegations being investigated by the
29 Clerkin team were trumped up charges?

1 A. No, I didn't.

2 CHAIRMAN: Is there a particular page you're referring
3 to here? It may be that you are referring to a page,
4 Mr. O'Higgins, are you?

5 MR. MÍCHEÁL O' HIGGINS: Yes, Chairman. Well, I suppose 14:44
6 if we could get page 6854 up on screen.

7 CHAIRMAN: Yes.

8 MR. MÍCHEÁL O' HIGGINS: And this is Deputy Wallace TD's
9 statement or interview to the Tribunal investigators,
10 which commences at page 6848 and it was made on 4th 14:45
11 April 2018. So again, last month. And if we might go
12 to page 6854 -- sorry, we might start at page 6852.

13 I'll just give you a chance to read that,
14 superintendent, so you know where I'm coming from. You
15 see, I'll be suggesting that you portrayed yourself as 14:45
16 somebody who was being unjustly treated and in fact was
17 a victim. Contrary to what you've indicated earlier,
18 you portrayed to the deputies that you were the victim
19 in this piece and that it was unfair what was
20 happening. All right? Amongst other things. 14:46

21 A. I don't accept that.

22 568 Q. Right. On page 6852, line 62, Deputy Wallace says:

23
24 "I have been asked to detail all contacts/meetings I
25 had with Superintendent Taylor following his protected 14:46
26 disclosure which was made on 30th September 2016. I
27 have been asked to detail how such contacts/meetings
28 came about, when such contacts/meetings occurred, who
29 attended any such meetings and what was discussed."

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And he gives as his answer on line 66:

"Clare Daly TD and I went to the arranged meeting at eight o'clock in the evening and met Superintendent David Taylor and his wife Michelle at their home. There was a bit of small talk. Initially Michelle was doing a bit more of the talking than David. We were obviously looking to listen to David more. He confirmed that he had been part of a campaign to destroy Maurice and that he was very sorry for having done that. He said he had apologised to Maurice for this. He said it had been eating him and his family up for a long time and that they were struggling to deal with it. He said the tipping point came a few weeks previous when they had a family trauma which was related to the stress of the situation."

We needn't go into that.

-- surrounding the role in the effort to destroy Maurice McCabe. After he explained to us that he was the Garda Press Officer and that he would have been feeding the media, and he told us that he would have been working hand-in-hand with the Commissioner Martin Callinan and then Deputy Commissioner O'Sullivan. He told us about the allegations of sexual abuse that Maurice was investigated for years before that and he said that he actually believed that Maurice was not a

1 good piece of work. He also told us that senior
2 management in An Garda Síochána were convinced that
3 Maurice's motives weren't good and that his efforts to
4 expose things going on in An Garda Síochána were linked
5 to his own grievances with the force. " 14:47

6
7 Just pause at that there. Is that something you said
8 to Deputy Taylor -- Deputy Wallace, that last piece?

9 A. Well, I said -- that's not exactly in the same words.
10 But yes, that I was briefing against Sergeant McCabe on 14:48
11 the direction of Commissioner Callinan with the
12 knowledge of Deputy Commissioner O'Sullivan.

13 569 Q. Yes. What I am asking you about specifically,
14 superintendent, is that last piece where he says "he
15 also told us senior management of An Garda Síochána 14:48
16 were convinced that Maurice's motives weren't good and
17 that his efforts to expose things going on in An Garda
18 Síochána was linked to his own grievances with the
19 force. "

20 A. Yes. That Sergeant McCabe's motivation for bringing 14:48
21 these matters forward were borne in the investigation
22 in 2006.

23 570 Q. So that's not a reference to you, that is a reference
24 to Sergeant McCabe, is it?

25 A. Oh, yeah. 14:48

26 571 Q. As to the grievances?

27 A. Yes.

28 572 Q. I see. It goes on:

29

1 "David spoke about sending derogatory texts about
2 Maurice to the Commissioner who would share them with
3 Nóirín and that she would often reply to David Taylor
4 with one word "perfect". He didn't say that it was the
5 reply every time, but that it was the regular reply 14:49
6 from Nóirín O'Sullivan he received. We didn't query
7 him on exactly what was in the derogatory texts sent to
8 Callinan. Clare and I are sorry that we didn't. He
9 told us only that they were derogatory texts about
10 Maurice and did not go into detail. As we had met 14:49
11 Maurice McCabe earlier on in the day, we were making
12 the assumption that Taylor, Callinan and O'Sullivan
13 were fabricating texts about Maurice of a derogatory
14 nature."

15
16 So in fairness to your position, he is offering the
17 possibility he assumed that I think? 14:49

18 A. Yes, as I said, I've always said consistently,
19 Mr. O'Higgins, that the texts to Commissioner Callinan
20 and Deputy Commissioner O'Sullivan were always by way 14:49
21 of updates.

22 573 Q. Yes. Nonetheless then, and I don't want to airbrush
23 out bits, I want to be fair, so he does allow of the
24 possibility that he made an assumption and he comes
25 back to it at line 89, he says: 14:49

26
27 "But I understood from him that he fed to the media
28 derogatory commentary about Maurice but I cannot say
29 that it was being done by text. He may have done it

1 otherwise. But he said he was feeding the media this
2 derogatory commentary about Maurice McCabe."

3
4 Then if we go over the page, he says on line 94 on page
5 6854, third line down from the top: 14:50

6
7 "David Taylor would have appreciated that Clare and I
8 were raising the matter on the floor of the Dáil and I
9 do not recall him ever contradicting what I would have
10 said in relation to him in the Dáil chamber." 14:50

11
12 Is that correct; you would have realised he was going
13 to raise these matters in the Dáil?

14 A. No, I didn't know he was going to raise the matters in
15 the Dáil. It was never the purpose, asking him to
16 raise any matter in the Dáil. 14:50

17 574 Q. It goes on:

18
19 "It is my understanding that he watched everything that
20 Clare and I said in the Dáil in relation to the matter 14:50
21 and we said a lot. Much of the rest the meeting David
22 Taylor concentrated a lot then on what they, the
23 Gardaí, were doing to him and the lengths they were
24 going to. He said they were out to shaft him now in a
25 manner he regarded not dissimilar to what they had done 14:51
26 to Maurice McCabe."

27
28 Is that correct?

29 A. No. I would never for a second put myself in the same

1 position as Sergeant McCabe. I was talking about my
2 own financial situation as you will see there, that my
3 wages had been cut, I'd be in severe difficulties.

4 575 Q. well, that's not what's being said here. It's being
5 said that you were -- you said the guards were out to 14:51
6 shaft you in a manner that you regarded as being not
7 dissimilar to what they had done to Maurice.

8 A. This is what Deputy Wallace says, not what I said.

9 576 Q. Oh, I know that.

10 A. Yes. 14:51

11 577 Q. But he is saying what you said.

12 A. I know, but I'm not -- but I didn't say that. You're
13 asking me to comment on something that somebody
14 allegedly said about me. I'm just saying what I know.

15 578 Q. Right. So he has this wrong, you didn't say these 14:52
16 things?

17 A. Well, as I said, that's not my recollection, so that's
18 his words, not my words.

19 579 Q. And then if we move it on to page 6855, on line 112,
20 four lines down: 14:52
21
22 "After the meeting --"
23
24 He says.
25 14:52
26 "-- I spoke regularly with David Taylor and I met him
27 on a number of occasions but I don't recall discussing
28 whether he actually sent the derogatory texts regarding
29 Maurice directly to the media or not, except when I

1 phoned him, as outlined below, when the matter was
2 coming into the public domain."

3 A. Hmm.

4 580 Q. Then at the bottom of the page he provides the
5 investigator with his handwritten notes. Do you see 14:52
6 that in line 121?

7 A. I see that, yeah.

8 581 Q. And he says:
9
10 "I have provided a copy of my handwritten notes, three 14:52
11 pages in total, to the investigators today and they
12 have exhibited these. The notes were as follows:
13 Protected disclosure to Minister."
14
15 That's fine. Actually we might turn to page 6872, 14:53
16 where the actual notes themselves are to be found. And
17 as I understand it, these are Mick Wallace's notes, not
18 Clare Daly's, but I am open to correction on that. Do
19 you see there in the right-hand side, superintendent --
20 well, on the left-hand side, second line down "Thelma 14:53
21 Waters - sidekick of Jim McGowan"?

22 A. Yeah.

23 582 Q. And then about a third of the way down there's a date,
24 "14/11/15 Viber join request". And then again Jim
25 McGowan's name. "Jim McGowan had his phone." Is that 14:53
26 what you told to Mick Wallace?"

27 A. Yeah, Jim McGowan had seized my phone from my office in
28 February '15.

29 583 Q. Then at the bottom of the page do you see "Appointed

1 her husband to take three phones"?

2 A. well, he was in charge of the investigation, he would
3 have had the phones.

4 584 Q. so that would be Nóirín O'Sullivan appointed her
5 husband to take three phones, is that the suggestion? 14:54

6 A. well, that's his notes. I'm just saying that it's a
7 matter of fact that Superintendent McGowan was involved
8 in my operation -- involved in my investigation and I
9 know he came to my office in February '15 with Chief
10 Superintendent Clerkin and took my phone. 14:54

11 CHAIRMAN: It's a bit of an irrelevancy really, at the
12 end of the day. You know, there had to be somebody
13 there and he is a well known investigator.

14 A. Yeah.

15 CHAIRMAN: Did you think at the time that this was part 14:54
16 of a campaign to discommode you, undermine you --

17 A. It was --

18 CHAIRMAN: -- personalise the thing by having the
19 Commissioner's husband involved in the --

20 A. It was certainly unusual, it was certainly -- 14:54

21 CHAIRMAN: Forget about it being unusual and all the
22 rest of it. It's always going to be unusual. Someone
23 is going to be picked after all. So, do you think it
24 was part of a campaign to annoy you or personalise
25 matters -- 14:55

26 A. well, it --

27 CHAIRMAN: -- through the Commissioner?

28 A. It was certainly, as I said, a close connection, the
29 Commissioner had --

1 CHAIRMAN: well, of course it was. She was married to
2 the man.

3 A. But, as I said --

4 CHAIRMAN: I am saying, did you think it was done out
5 of a sense of some kind of purpose or some kind of 14:55
6 deliberate vendetta that she had against you?

7 A. I can't say that for certainty. But as I said --

8 CHAIRMAN: Can you say it as a probability?

9 A. It's probability, yes, that --

10 CHAIRMAN: All right. well, that's fine. we've got 14:55
11 the answer.

12 585 Q. MR. MÍCHEÁL O' HIGGINS: Staying with the note then for
13 a few more minutes if we may, superintendent. Over the
14 page on page 6873, the handwriting says "When she moves
15 she's lying". I think Mr. McDowell brought you through 14:55
16 this in his cross-examination. Is that a notation
17 taken of something arising from something you said to
18 Mick Wallace about Nóirín O'Sullivan?

19 A. No.

20 586 Q. Because you see, that's what Mick Wallace says in his 14:56
21 statement, if we go back to it. Do you want to go back
22 to it?

23 A. Well, as I said, that's his words, not my words.

24 587 Q. So do you deny speaking pejoratively about the Garda
25 Commissioner at this time and saying that she is a liar 14:56
26 and that when she moves she's lying?

27 A. I don't recall saying those things. As I said to you
28 earlier on, she would not have been my number one
29 choice to be Commissioner, that's --

1 CHAIRMAN: I know, but that's neither here nor there.

2 A. No, I didn't say that -- yeah.

3 CHAIRMAN: I mean, there could be a dozen people

4 running --

5 A. Yeah. 14:56

6 CHAIRMAN: -- all of them wonderful people and the one

7 you don't like gets the job.

8 A. Yeah.

9 CHAIRMAN: I mean, that happens in life.

10 A. Yes, exactly. 14:56

11 CHAIRMAN: I mean, did you tell Deputy wallace that you

12 thought that she was a liar and --

13 A. No, I didn't say she was a liar.

14 CHAIRMAN: -- that she had agendas and in a particular

15 an agenda against you? 14:56

16 A. No, I didn't.

17 CHAIRMAN: That is the question really being asked.

18 A. No, I didn't, Chairman.

19 588 Q. MR. MÍCHEÁL O' HIGGINS: So that didn't come up at all,

20 did it? 14:57

21 A. Well, Nóirín O'Sullivan and her husband came up, yes.

22 That certainly came up. Her husband being involved in

23 my investigation.

24 589 Q. Weren't you venting about Nóirín O'Sullivan and her

25 husband? 14:57

26 A. Was I, sorry?

27 590 Q. You were venting, you were blowing off?

28 A. I wouldn't say -- I was just pointing out a fact that

29 it was going on, that her husband was involved in my

1 investigation.

2 591 Q. But you were using pejorative language about her,
3 calling her a liar?

4 A. I didn't say I said that. I said these are Deputy
5 Wallace's notes. I am just saying I was just pointing 14:57
6 out the fact that her husband was involved in my
7 investigation.

8 592 Q. Do you see two lines beneath that: "Frank Clerkin and
9 husband took investigation"? That's a reference to
10 Superintendent McGowan, isn't it? 14:57

11 A. Yes.

12 593 Q. Halfway down the page again Jim McGowan's name appears,
13 "Plus disciplinary criminal", do you see that?

14 A. Yes.

15 594 Q. Bottom of the page: "Pulled six people out of Traffic 14:57
16 looking for some bad stories."

17 A. Yeah, on the day that I was in custody in Balbriggan
18 the investigation team arrived to Traffic department
19 here and requested to interview six members of the
20 Traffic department in relation to my engagement with 14:58
21 them.

22 595 Q. So were you telling the two deputies that you were
23 being targeted because the investigators --

24 A. No, I was just telling them what happened on that day.

25 596 Q. But what was the import of that story, of that detail? 14:58
26 A. Just that, as I said, on the day I was in custody an
27 investigation team arrived here to Traffic department
28 and interviewed six of my colleagues.

29 597 Q. Yes, and did you convey the impression to the two Dáil

1 deputies that the investigators were looking for some
2 bad stories against you?

3 A. I didn't say that. I just said that they were, as I
4 said, questioned in relation to their phoning and
5 texting me. 14:58

6 598 Q. You see, because Deputy Wallace is really quite clear,
7 if we need to go back to his statement, it fills in the
8 blanks in these notes.

9 A. Hmm.

10 599 Q. It is clear from his statement his position was you 14:59
11 were giving off about Nóirín O'Sullivan and her husband
12 and giving them to understand that you'd been targeted
13 improperly by dint of this criminal investigation.

14 A. I never said I was targeted improperly. I just said
15 it's a matter of fact that her husband was involved in 14:59
16 my investigation, you've taken my phones, he had -- you
17 know, I'd been brought to Balbriggan, I'd been there
18 for 21 hours, six members of my colleagues had been
19 interviewed on the day of, on the day I was in custody.

20 600 Q. And is it your evidence that you were giving the 14:59
21 deputies these details in a neutral fashion as neutral
22 statements of fact?

23 A. Yes, they were matter of facts. Like, I mean, those
24 things did happen.

25 601 Q. Over the page then, page 6874: "Padraig Lynch, no 14:59
26 evidence to continue holding him." Is that a reference
27 to your detention under section 4 on the day of your
28 arrest?

29 A. There was a sergeant out there that day, there was a

1 second sergeant and I'd heard that the sergeant didn't
2 want to detain me, but the one sergeant was kept on
3 duty, I'd heard that.

4 602 Q. So tell us about that. You feel that somebody in the
5 station was against you being detained, is that right? 15:00

6 A. Well, not necessarily being detained, I think there was
7 a second sergeant came on duty, I was told, and they
8 were questioning whether I should be detained and
9 that's what I'd heard. And they were not made station
10 house officers, so it's the one sergeant stayed on for 15:00
11 all the day as a result of my detention.

12 603 Q. So was that person overruled, is that the point you
13 were making to the deputies?

14 A. I am just saying that I had heard a second sergeant had
15 raised concerns in Balbriggan that day. 15:01

16 CHAIRMAN: All right. Well, that's hearsay. There is
17 a kind of fundamental point here if you don't mind me
18 just raising it with you.

19 A. Yeah.

20 CHAIRMAN: It may save a lot of dialogue. Let's leave 15:01
21 the Roma children out of it. I mean, there was an
22 investigation into your activities after being Press
23 Officer and there is a very detailed report by Chief
24 Superintendent Clerkin and appended to it there's about
25 15 volumes of statements -- 15:01

26 A. Yes.

27 CHAIRMAN: -- and that would appear to show that there
28 were situations which emerged whereby you were not
29 entitled to give out information and whereby indeed you

1 were asked about information, you contacted people who
2 would know and then you didn't send that information on
3 by text - and I know you've explained to me about your
4 manual dexterity - but you immediately rang that person
5 back and that person indeed then published that 15:02
6 information which had not been officially given out in
7 the newspaper.

8 A. Yes.

9 CHAIRMAN: Now, I don't know whether you accept that
10 that happened and whether you accept that you were in 15:02
11 fact at the least in breach of the Garda Press and
12 Public Relations Office Guidelines?

13 A. Yes.

14 CHAIRMAN: You do?

15 A. Yes. 15:02

16 CHAIRMAN: So there was a legitimate expectation.

17 A. Oh, I don't -- I'm not denying that, Mr. Chairman. I'm
18 just stating some facts that I'd heard. I'm not
19 denying, I'm not questioning it.

20 CHAIRMAN: But I mean, there's all these rumours that 15:02
21 float around.

22 A. As I said, I'm just -- you know, I was asked the
23 request was there a rumour and that is the rumour I
24 heard.

25 CHAIRMAN: Yes, I know, but I mean, we can all hear 15:02
26 things.

27 A. Yeah, I know, I accept that.

28 CHAIRMAN: Yes. It's a bit of Garda talk, it seems to
29 me.

1 A. well, possibly, yeah.

2 CHAIRMAN: Like talk in the Law Library, you discount
3 it immediately.

4 A. well, as I say, it was --

5 CHAIRMAN: Anyway, there it is, you accept there was a 15:02
6 legitimate investigation --

7 A. I do, yeah.

8 CHAIRMAN: -- for a legitimate purpose?

9 A. Yes, I do, yeah.

10 CHAIRMAN: That is fine. 15:03

11 604 Q. MR. MÍCHEÁL O' HIGGINS: And just finally, before we
12 finish off the notes, do you see there on page 6874,
13 halfway down, there is again a reference to Nóirín
14 O'Sullivan?

15 A. Yes. 15:03

16 605 Q. where it says: "N O'Sullivan [arrow] the most
17 unaccountable Commissioner." That is what Deputy
18 Wallace has taken down arising from your conversation.

19 A. well, that's a fact I would never state. That's not my
20 words. 15:03

21 606 Q. Those weren't your words?

22 A. No.

23 607 Q. Then on the right-hand side: "McGowan hand picked
24 them. No advertisement." And on the left-hand side at
25 the bottom of the page I think a reference to Nóirín 15:03
26 O'Sullivan as I understand it: "Bleach everything,
27 destroy what she likes." That's an allegation, or
28 certainly it was picked up by Deputy Wallace that you
29 were making an allegation that she bleached phones.

1 A. I never said that. I wouldn't know how -- as I said,
2 that's a fact I couldn't know and didn't know.

3 608 Q. You see, I must suggest to you, superintendent, that
4 anybody reading this notation and perhaps more
5 particularly anybody reading Deputy Wallace's 15:04
6 statement, which doubtless you've read, would form the
7 impression that you're making a number of allegations
8 against the Commissioner O'Sullivan that are rather
9 wild, unrestrained and quite extreme. Do you
10 understand the point I'm making? 15:04

11 A. I understand what you're saying, but I do not accept
12 that.

13 609 Q. At this point in time, in your particular personal
14 circumstances - and I do not in any sense belittle
15 pressures you're under - but in your circumstances, the 15:04
16 poor financial straits in which you found yourself as a
17 result of your difficulties, the walls were closing in
18 around you and you were, I suggest to you, you were
19 fixated on Nóirín O'Sullivan and her husband's role in
20 this investigation. 15:05

21 A. I do not accept that.

22 610 Q. And you were lashing out.

23 A. (Shakes head).

24 611 Q. And you're keen to paint yourself not as a wrongdoer,
25 but as a victim and to draw parallels with your own 15:05
26 situation and that of Sergeant McCabe.

27 A. I don't accept that.

28 612 Q. And I'm suggesting to you, you were intent, because you
29 were bitter towards her, you were intent on undermining

1 her situation, hence not just the legal front that
2 you'd opened up with your protected disclosure, but the
3 political front that you'd opened up with your contacts
4 with journalists and media.

5 A. I don't accept that. 15:05

6 613 Q. Mick Clifford, it seems, had the detail of the
7 protected disclosure for an article on 4th October.

8 A. Yes.

9 614 Q. Did you provide your PD to Mick Clifford?

10 A. Absolutely not. 15:05

11 615 Q. Did you provide its contents in summary form or
12 otherwise to Mick Clifford?

13 A. Absolutely not.

14 616 Q. But didn't you meet him in early October?

15 A. But I did not supply him any copy of my protected 15:06
16 disclosure.

17 617 Q. But did you not give him the gist of what was in it?

18 A. As I said, I did not provide him the details of my
19 protected disclosure.

20 618 Q. Did you discuss with him that you had made a PD? 15:06

21 A. It was a known fact at that stage I had. It had broken
22 out in the media at that stage I had made a PD.

23 619 Q. But you see, as I understand it, Mick Clifford broke
24 the story in the media that there had been --

25 A. Hmm. 15:06

26 620 Q. -- protected disclosures made?

27 A. Yes.

28 621 Q. You weren't named.

29 A. Yes.

1 622 Q. But another Garda other than Sergeant McCabe had made
2 one.

3 A. Yes.

4 623 Q. Right. He had that story.

5 A. Yes. 15:06

6 624 Q. As I understand it, he had some detail on it as well,
7 because he gave a radio interview in which he outlined,
8 broadly speaking, what was being contended by this new
9 entrant into the situation.

10 A. Well, all I can say to you is I did not supply him with 15:07
11 a copy of my protected disclosure.

12 625 Q. Well, whatever about supplying him with a copy of it, I
13 just want to have clear, did you at all give him any
14 idea as to what you had said in your PD?

15 A. No, I did not. 15:07

16 626 Q. Why not?

17 A. Because the protected disclosure was a protected
18 disclosure. I did not disclose it.

19 627 Q. Well, what was the purpose in going to politicians and
20 to media but for the purpose of publicising your 15:07
21 situation?

22 A. I didn't go to politicians, they came to me. I wasn't
23 publicising -- I made a protected disclosure.

24 628 Q. But you didn't send them from the door.

25 A. I know, but I didn't seek their -- I didn't go and 15:08
26 purposely seek their calling me. They rang my wife.

27 629 Q. You see, I'm suggesting to you, superintendent, that
28 you are opening up more than one front now, not just
29 the legal, media and political, but you had a

1 difficulty, because you were anxious, I'm suggesting to
2 you, to do down Nóirín O'Sullivan, but you also had to
3 involve Martin Callinan in the matter because he was
4 the Commissioner when you were Press Officer; isn't
5 that right? 15:08

6 A. Yes.

7 630 Q. And I'm suggesting to you, you came up with the
8 retrospective allegation to cover a period 2013/2014.
9 which was the period you were the Press Officer. And
10 Martin Callinan, as we know, was the Commissioner of An 15:09
11 Garda Síochána?

12 A. I reject that.

13 631 Q. And nobody would have believed an allegation purely
14 against Nóirín O'Sullivan, she was deputy at the time,
15 it would seem you had a closer relationship with 15:09
16 Commissioner Callinan, you had to involve him in the
17 whole story. Do you see the point I'm making?

18 A. I do not accept the point you're making.

19 632 Q. Can we look at your PD for a moment? And we can do
20 this very quickly, because it's been gone over in 15:09
21 reasonably exhaustive detail already, but I just want
22 to ask you one or two questions about it. And it's in
23 volume 13, possibly also in other volumes, but volume
24 13, the one I've marked up, page 3375. And do you see
25 there on page 3377, if that could be put up please for 15:10
26 a moment, you treat of, in your PD, the press
27 conference in Dundalk?

28 A. Yes.

29 633 Q. This now is on 23rd -- sorry, 24th January 2014, the

1 day after the PAC meeting in Dáil Éireann, isn't that
2 right?

3 A. Yes.

4 634 Q. And we'll come to, in a few moments we're going to come
5 to the dispute that's between yourself and Martin
6 Callinan concerning the remark that you attribute to
7 him on 23rd. But if we're dealing, if we stay with
8 your PD for a moment, you say at the bottom of the
9 page:

15:11

10

15:11

11 "I had to detail the press conference as the
12 Commissioner decided to leave Dundalk and to
13 immediately travel to meet Mr. McGuinness."

14 A. Hmm.

15 635 Q. "The Commissioner returned later that day, perhaps
16 about 4:00pm or after, and the press conference was
17 held then."

15:11

18

19 Perhaps it's just a matter of detail, but that's
20 actually wrong, isn't it?

15:11

21 A. Well, my recollection is that the Commissioner left
22 Dundalk and went to Bewley's Hotel to meet Deputy
23 McGuinness and then came back and conducted and
24 conducted the interview.

25 636 Q. You see, there's been evidence that the press
26 conference was broadcast on the radio, a clip from it,
27 and the evidence, including from Andrew McLindon and
28 others, was that the press conference took place prior
29 to Martin Callinan departing for Dublin.

15:12

1 A. Well, my recollection, it happened after he came back.
2 Because I met Commissioner Callinan when he arrived
3 back in Dundalk at the front of the station and
4 escorted him to the interview area.

5 637 Q. Well, I just want to simply give you an opportunity, do 15:12
6 -- maybe you don't, do you accept now that you're wrong
7 about that?

8 A. I do not accept I was wrong, because --
9 CHAIRMAN: I'm not sure the details of it actually
10 really matter, Mr. O'Higgins. I mean, there's a lot of 15:12
11 detail in this case, but that particular one about the
12 press conference, the service, the lot.

13 MR. MÍCHEÁL O' HIGGINS: All right.

14 CHAIRMAN: The definite thing is he went up and down
15 and presumably Superintendent Taylor had some knowledge 15:13
16 of the comings and goings. But it's easily gotten
17 wrong.

18 638 Q. MR. MÍCHEÁL O' HIGGINS: Yes. No, no, I suppose,
19 superintendent, I should really indicate why I'm
20 bringing it up at all. Presumably your protected 15:13
21 disclosure went through a number of drafts and you were
22 anxious to ensure everything was correct in it?

23 A. Yes.

24 639 Q. And I think you've told us you got help, as you'd
25 expect, from your solicitor? 15:13

26 A. Yes.

27 640 Q. Were you working from notes when you prepared it?

28 A. I was working from primarily memory and recollection.

29 641 Q. Well, did you go back to diaries or --

1 A. I would have consulted diaries, yeah.

2 642 Q. -- Garda notebooks, whatever?

3 A. A diary, yes.

4 643 Q. Just there appears to be, apart from the core issues
5 that the Chairman would be rightly more concerned with, 15:13
6 there appears to be a number of details that are just
7 simply factually wrong. would you agree or disagree
8 with that?

9 A. In what sense?

10 644 Q. Well, this detail, you are differing with this detail 15:14
11 being wrong, that's one point. If we move perhaps to
12 page 3379, you claim in the final paragraph, for
13 instance:

14

15 "I am aware that Crime and Security have a separate 15:14
16 stand alone computer system isolated from Pulse and not
17 accessible to any other part of An Garda Síochána
18 except Crime and Security. This computer system is
19 called Oisín. This holds national intelligence
20 including phone taps, phone records and material on 15:14
21 subversive organisations. I am aware that there are
22 also files kept in Crime and Security on members under
23 investigation. These files are colloquially known as
24 the corruption file. I would be certain there are
25 files in there on me and also on Sergeant McCabe." 15:14
26

27 And this is something you were aware is going to the
28 Tánaiste and presumably to the Taoiseach, to the
29 government of the land.

1 A. Yes.

2 645 Q. And you're expressing yourself to be certain about a
3 pretty serious allegation: There's a file on you in
4 Crime and Security and there's a file on Sergeant
5 McCabe. 15:15

6 A. I believe that.

7 646 Q. Right. You've been here, or at least you're aware,
8 aren't you, of the comprehensive evidence given by
9 Chief Superintendent Kirwan?

10 A. Yes. 15:15

11 647 Q. And you're also aware of the evidence given by the FSNI
12 representatives, Mr. McConnell and Ms. Strachan?

13 A. Yes.

14 648 Q. And that appears to suggest, that last paragraph,
15 particularly Chief Superintendent Kirwan's evidence, 15:15
16 which again went unchallenged, that last paragraph is
17 plainly wrong, isn't it?

18 A. I accept that there isn't a file. I accepted that
19 yesterday or whatever day it was, I accepted that.

20 649 Q. All right. Now, I want to just put a few details to 15:15
21 you before we move towards wrapping up, superintendent.
22 Martin Callinan --

23 A. Yes?

24 650 Q. -- am I right in my understanding that you called to 15:16
25 Martin Callinan's home around the end of June 2014 and
26 again around October 2014?

27 A. Yes.

28 651 Q. Is that about right?

29 A. Yes.

1 652 Q. And in those visits -- and it was unusual, because I do
2 not think you'd been at his home before, before June
3 '14?
4 A. I had.
5 653 Q. You had, had you? 15:16
6 A. Yes.
7 654 Q. On one occasion, more than one occasion?
8 A. He doesn't live too far away from me. So, in my
9 capacity as Press Officer sometimes at the weekends I'd
10 have to go to his house with documentation and seek 15:16
11 consultation.
12 655 Q. All right. Did that happen a lot? My understanding is
13 that that's not correct --
14 A. It is correct.
15 656 Q. -- but you are clear on that? 15:16
16 A. Oh, I am clear, yes.
17 657 Q. All right. In any event, in your visit, certainly
18 across the two visits of June 2014 and October 2014,
19 you were critical of Commissioner O'Sullivan and you
20 were giving out about you having been transferred out 15:16
21 of the Press Office for no reason effectively.
22 A. No, I didn't say that to him.
23 658 Q. Well, were you critical of -- in case there was a
24 misimpression or a misunderstanding between the two of
25 you -- 15:17
26 A. I was disappointed, it's well known I was disappointed
27 to leave the Press Office.
28 659 Q. Did you indicate you felt you were doing a good job and
29 that the only reason you were being transferred was

1 because Nóirín O'Sullivan wanted you out and she wanted
2 to put in her own person?

3 A. I felt I was doing a good job, I think it was well
4 recognised I was doing a good job and that Nóirín
5 O'Sullivan had moved me out. 15:17

6 660 Q. Did you indicate to the Commissioner, to the former
7 Commissioner that you were concerned it would be viewed
8 by colleagues in a bad light from your point of view,
9 as it would be regarded as a sideways move given the
10 high profile of the role of Garda Press Officer -- 15:17

11 A. well --

12 661 Q. -- and you resented this?

13 A. I wouldn't say I resented it. I would say it was
14 certainly viewed as a sideways move to go from the
15 Press Office to Traffic department, yes. 15:17

16 662 Q. Commission Callinan instructs me that he advised you to
17 get on with your job and to go out and do your best to
18 make an impression and there were plenty of
19 opportunities for success in the role you had in
20 traffic management, which was an important job for An 15:18
21 Garda Síochána.

22 A. And which I did and you can seek any inquiry from my
23 Chief Superintendent Traffic that I have got on with my
24 business and conducted my business to the highest
25 standard since. 15:18

26 663 Q. All right. I am not suggesting otherwise. But I want
27 to just ask you, you are confirming that's what the
28 Commissioner said to you?

29 A. Just say that again to me, Mr. O'Higgins.

1 664 Q. That former Commissioner Callinan advised you to get on
2 with your job, do your best to make an impression and
3 there were lots of opportunities in Traffic where you
4 were?
5 A. Yeah, he -- as I said to you earlier on, I didn't 15:18
6 appeal my transfer, I got on with my transfer and I got
7 into my new job, which I thoroughly enjoy.
8 665 Q. And did he give you, did he indicate to you that he
9 believed you had the ability to make a success of your
10 new role? 15:19
11 A. I can't recall him saying that. He just said to get on
12 with your job and I did.
13 666 Q. Am I correct in my understanding and my instructions
14 that after your suspension and arrest in May of 2015
15 you called to former Commissioner Callinan's home a 15:19
16 further time?
17 A. I did.
18 667 Q. And you described -- and you were more agitated on this
19 occasion. You described how badly you'd been treated
20 when you were arrested and you were giving out about 15:19
21 having been put in a cell and your shoes and belt
22 removed.
23 A. I've said that already. I found it a very unpleasant
24 experience.
25 668 Q. You were giving out about cameras, and your position, 15:19
26 waiting for you when you arrived at Balbriggan Garda
27 station and Commissioner Callinan discussed with you
28 why you'd been arrested and you said you were accused
29 of leaking to the media --

1 A. Yes.

2 669 Q. -- when all you were doing was doing your job?

3 A. Well, I said I was arrested for, in the sense of
4 leaking to the media and I think that's a matter of
5 fact. 15:20

6 CHAIRMAN: Okay. I'm just going to rise now for five
7 minutes and then we'll interpose Mrs. Taylor.

8 A. Okay, thank you.

9

10 AFTER A SHORT ADJOURNMENT THE HEARING RESUMED AS 15:20
11 FOLLOWS

12 CHAIRMAN: Right, so five minutes is five minutes.

13

14 MRS. MICHELLE TAYLOR, HAVING BEEN SWORN, WAS DIRECTLY
15 EXAMINED BY MS. LEADER 15:27

16 MS. LEADER: Mrs. Taylor's interview with the
17 investigators is at volume 13 at page 3386 of the
18 materials.

19 A. Thank you.

20 670 Q. Now, Mrs. Taylor you're obviously married to 15:27
21 Superintendent David Taylor?

22 A. That's correct, yes.

23 671 Q. Isn't that right? And you have a grown-up family at
24 this stage, isn't that right?

25 A. A 20-year old and a 14-year-old. 15:28

26 672 Q. Now, I want to start with your knowledge of the
27 campaign Superintendent Taylor said that he was running
28 in relation to disseminating information in relation to
29 Sergeant McCabe. When did you first find out about

1 that campaign?

2 A. I think it was after my husband was suspended that I
3 realised there was a campaign.

4 673 Q. All right. And how did you find out about it?

5 A. I think Dave said to me, he said there was a campaign 15:28
6 to smear Maurice McCabe.

7 674 Q. Okay. Now, I think your husband was suspended in or
8 around may 2015?

9 A. That's correct, yes.

10 675 Q. Do you think you had any knowledge or inkling of the 15:28
11 campaign before then? Because you seem to have
12 indicated to our investigators --

13 A. Yeah.

14 676 Q. -- that you might have.

15 A. Yeah, I knew that there was negative feelings towards 15:29
16 Sergeant McCabe, because my husband had said that, you
17 know, the penalty points was an issue. So I would have
18 been aware that there was, you know, feelings over the
19 penalty points, that they kept coming up all the time.

20 677 Q. All right. When you say you knew there were negative 15:29
21 feelings towards Sergeant McCabe, did you think that it
22 was your husband had the negative feelings or anybody
23 else had negative feelings?

24 A. I got the impression it was coming from Garda
25 Headquarters. 15:29

26 678 Q. All right.

27 A. And that he obviously was believing that there was
28 negative feelings towards Sergeant McCabe, because the
29 penalty points kept coming up and coming up and coming

1 up.

2 679 Q. All right. And Garda Headquarters who you are talking
3 about there who it was coming from?

4 A. Well, it would be, yeah, the Garda Commissioner would
5 have instructed him. 15:29

6 680 Q. Would have instructed him about what?

7 A. Well, that Sergeant McCabe had -- he was on revenge
8 because of an incident that had happened and that the
9 penalty points, he was using the penalty points to get
10 back at the guards. 15:30

11 681 Q. Okay. And you think you knew about that --
12 Superintendent Taylor was appointed to the Press Office
13 in 2012?

14 A. Mm-hmm.

15 682 Q. And he was there from mid-2012 until 2014. So that 15:30
16 obviously change his working day?

17 A. Yes.

18 683 Q. Insofar as it impacted on you?

19 A. Yes, very much so.

20 684 Q. So if we could time it that way, in relation to your 15:30
21 knowledge of negative feelings towards Sergeant McCabe
22 and your knowledge of any campaign, when do you think
23 those two things came about?

24 A. Well, I can't say a specific day or a time, I just
25 think it was ongoing. Because they were constantly on 15:30
26 about penalty points, penalty points. I just would
27 have heard him saying oh, the penalty points issue
28 again. And I suppose from that perspective there was
29 no specific date I would have become aware of it, but I

1 would have known it was an issue for him.

2 685 Q. All right. So if we put it this way, and I understand
3 that you have no particular knowledge of penalty points
4 and matters like that, but we know the penalty points
5 became an issue in mid-2013, so does that help you at 15:31
6 all in timing things?

7 A. I don't understand.

8 686 Q. Does that help you in timing your knowledge of?
9 A. Well, it would have -- yeah, well, it was ongoing.
10 When he went to the Press Office it was just constantly 15:31
11 there about the penalty points.

12 687 Q. Okay. And in relation to a negative campaign, did your
13 husband ever tell you about it?

14 A. Well, he said to me that I've been instructed to brief
15 journalists that there's a backstory here, that McCabe 15:31
16 is -- you know, is going on malicious and revenge
17 because of an incident that happened and that I've to
18 brief the media negatively that there's a backstory
19 here.

20 688 Q. Okay. 15:32
21 A. So I would have been aware of that.

22 689 Q. Yeah. And you say that what your husband said to you
23 was I have to brief the media negatively here.

24 A. Mm-hmm.

25 690 Q. So do you think that was when he was in the Press 15:32
26 Office?

27 A. That was when he was in the Press Office, yes.

28 691 Q. Okay, all right. So we can take it that your husband
29 told you sometime when he was in the Press Office that

1 he had a job to do and that was to brief the media
2 negatively in relation to Sergeant McCabe?

3 A. It wasn't just all about though that, there was so much
4 else going on.

5 692 Q. Yes? 15:32

6 A. It wasn't kind of the pinnacle of my life, to be
7 honest.

8 693 Q. Yes?

9 A. It was just, I knew it was part of his job.

10 694 Q. Okay. So what I want to ask you about is: Did you ask 15:32
11 him about what he was meant to say to the media?

12 A. No, I didn't ask him. To be honest with you, I didn't
13 really pay an awful lot of attention to it, because it
14 was just, it was there all the time, so it was just
15 rolling on. 15:33

16 695 Q. Okay. Did you ask him why Sergeant McCabe was full of
17 revenge and malicious?

18 A. Well, it was just to do with penalty points and that
19 there was an accusation that had gone to the DPP and
20 that the sergeant had been cleared and that he had been 15:33
21 investigated by the guards and that his motivation then
22 was revenge to get back.

23 696 Q. Okay. So do you think you asked your husband what was
24 the negative briefing, what exactly was he to be
25 briefing the press about? 15:33

26 A. That there was a backstory.

27 697 Q. Yes.

28 A. That, you know, there was a reason for this, there was
29 a backstory, there was more to this than just penalty

1 points.

2 698 Q. And did you ask him what the backstory was?

3 A. I didn't actually. I wasn't really paying an awful lot
4 I have attention to it. It was just constantly there
5 and I was aware of it if I saw it on the television or 15:34
6 anything.

7 699 Q. But you didn't see on the television the Ms. D story?

8 A. No.

9 700 Q. No?

10 A. No. 15:34

11 701 Q. So you must have found it out somehow?

12 A. I found it out later on. I never went into detail. I
13 found it out later on.

14 702 Q. Okay. when do you think later on was?

15 A. I can't specifically say when I became aware of it. 15:34

16 703 Q. Okay. well, was it before his meeting with Sergeant
17 McCabe in September?

18 A. Oh, definitely before his meeting with Sergeant McCabe,
19 yes.

20 704 Q. Long before that? 15:34

21 A. Yes.

22 705 Q. Was it before his suspension?

23 A. That I found out about it? Yeah, it would have been
24 before his suspension.

25 706 Q. Before his suspension? 15:34

26 A. Yeah, before his suspension.

27 707 Q. Do you think it was before he left the Press Office?

28 A. Definitely before he left the Press Office, yeah.

29 708 Q. Okay. And do you think the only place you could have

1 found out the Ms. D story was from your husband?

2 A. Yes, I think so at the time, yes.

3 709 Q. You think so?

4 A. Yeah.

5 710 Q. Okay. well, for instance -- 15:34

6 A. well, I would have, because I didn't hear it anywhere

7 else.

8 711 Q. You didn't hear --

9 A. No.

10 712 Q. You're happy about that? 15:35

11 A. Yes, yeah.

12 713 Q. Okay. Now, did you ask him what journalist he was

13 briefing?

14 A. I didn't actually ask him what journalist he was

15 briefing. 15:35

16 714 Q. All right.

17 A. Because he was always speaking to some journalist.

18 715 Q. Okay. Did you ask him how he was to conduct this

19 campaign?

20 A. I didn't really go into details with him about it, 15:35

21 about how he was to conduct it, it was just there was a

22 backstory here.

23 716 Q. Okay. were you a bit shocked about the whole thing?

24 A. I was shocked, yeah. I was shocked. I didn't know how

25 to -- I was numb. 15:35

26 717 Q. With the?

27 A. With what was going on, that there was, you know, a

28 campaign or, you know.

29 718 Q. Okay.

1 A. And that this was going on.

2 719 Q. All right. And you never thought to -- and I'm not
3 being critical of you, Mrs. Taylor, but did you ever
4 think to tease it out with him as to --

5 A. I didn't, because to be honest with you, I believed 15:35
6 him, what he was doing, I believed what he was doing
7 and I think he believed what he was doing was the right
8 thing.

9 720 Q. So you believed what he was doing?

10 A. I believed my husband, yeah. 15:36

11 721 Q. But --

12 A. He said he'd to brief the media negatively on it
13 because there was a backstory.

14 722 Q. But you still thought it was wrong to do so?

15 A. I didn't really think about it to be honest with you at 15:36
16 that stage, I didn't give it an awful lot of thought.

17 723 Q. Okay. Because leaving aside -- we're not members of An
18 Garda Síochána, so possibly lots of people might think
19 it is shocking for somebody to, on purpose, brief the
20 media about something that may or may not have happened 15:36
21 many years ago but nothing came of it. Do you
22 understand?

23 A. Mm-hmm.

24 724 Q. So that's why I was interested in asking you did you
25 tease that out or -- 15:36

26 A. I didn't, to be honest with you. I didn't tease it
27 out. I just didn't tease it out. I didn't give it a
28 huge amount of thought.

29 725 Q. All right.

1 A. Because my husband was just constantly working.

2 726 Q. Yes. And did you at any time ask him, how are the
3 journalists reacting to that or how are the media
4 reacting to the backstory?

5 A. I didn't ask him that story, I didn't ask him that. 15:37

6 727 Q. No?

7 A. No.

8 728 Q. All right. Now, did you ever hear him brief the
9 media --

10 A. No. 15:37

11 729 Q. -- in relation to Sergeant McCabe?

12 A. No.

13 730 Q. All right. Well, I think you, and I understand it may
14 be hard to give evidence, but I think you may have
15 suggested the opposite to our investigators. You'll 15:37
16 see, maybe it could be brought up in front of you, at
17 page 3406 of the materials at the very bottom.

18 A. Is it on this screen here?

19 731 Q. Yes. Or you can get the hard copy. It's in volume 13
20 at page 3406. 15:37

21 A. Yes.

22 732 Q. Do you see the question at line 342:
23
24 "I have been asked whether I ever overheard my husband,
25 Superintendent David Taylor, during his tenure in the 15:38
26 Press Office negatively briefing any journalist or any
27 other person about Sergeant Maurice McCabe. If so, I
28 have been asked to provide details, including all
29 attendant circumstances, from my knowledge."

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You see that question? And if you turn over the page:

"Answer: I wouldn't have known who he was talking to in this respect, as he was talking to so many and due to the nature of his role he was on the phone all of the time. However, I would have heard him brief negatively against Maurice McCabe to the effect I have described above --"

15:38

A. I have.

15:39

733 Q. Yes. You see that? Yes. And "described above" is the Ms. D allegation.

A. Okay, yeah.

734 Q. "-- as he would have taken and made calls in our home and he was always on the phone. I cannot be specific as to names or dates, it was when he was Garda Press Officer."

15:39

Do you see that?

A. Yes. Yeah.

15:39

735 Q. So I was just wondering about that. Did you actually hear Superintendent Taylor on the phone to journalists?

A. As I said earlier, he would say there was a backstory.

736 Q. Yes.

A. There was a backstory. So in briefing negatively that way, yeah, that there was a backstory to McCabe.

15:39

737 Q. Okay. And did you actually hear him on the phone to journalists?

A. I've heard -- yeah, but I can't be specific with what

1 journalists, but he said, yeah, that there was --

2 738 Q. All right.

3 A. -- a backstory.

4 739 Q. All right. Just in the preceding paragraph, we
5 understand you're not used to giving evidence, but you 15:40
6 do seem to say that, and just if you turn back to page
7 3406, at line 334 onwards:

8
9 "My perception of it was that he was carrying out an
10 instruction that he believed in. As far as he was 15:40
11 concerned, he felt he was doing the right thing. I
12 would have known that Dave was briefing negatively to
13 the media against Maurice McCabe in relation to the
14 2006 Ms. D allegation and that he was motivated by
15 revenge due to the investigation against him. Dave did 15:40
16 not know it was untrue. From my knowledge, the
17 negative briefing entailed that Maurice McCabe was
18 driven by revenge because of the sexual allegation made
19 by Ms. D against him and the Garda investigation into
20 him in that respect. I understood that this had 15:41
21 resulted in Maurice trying to get back at the Garda
22 Síochána by making complaints in relation to the
23 penalty points. This is what I was aware that Dave was
24 sent to brief the media about in respect of Maurice
25 McCabe." 15:41

26

27 Then you're asked did you ever hear him briefing any
28 media about it and you say yes?

29 A. Yeah, because there was always a backstory.

1 740 Q. Is it the case that you actually heard --
2 A. Yes, yes.
3 741 Q. -- him on the phone?
4 A. Yes. That there was a backstory to the penalty points.
5 742 Q. All right. And when he was on the phone did he say 15:41
6 backstory or did he refer to the Ms. D allegation?
7 A. Backstory.
8 743 Q. Okay. Was it as general as that?
9 A. Pardon?
10 744 Q. Was it as general as that? 15:41
11 A. Well, I think it would be as general as that, yes.
12 745 Q. Yes. Because I could imagine if one was on the phone
13 to a journalist and one said there was a backstory in
14 relation to the penalty points, the very next question
15 would be, what is the backstory, if you understand me? 15:42
16 A. I wouldn't have asked him. I wouldn't have paid --
17 746 Q. I know you wouldn't have asked, but you would have been
18 on the phone overhearing this, do you understand what
19 I'm saying?
20 A. Yeah. 15:42
21 747 Q. Yeah. So do you think there was, you heard something
22 about the Ms. D allegation, overheard?
23 A. I could have overheard it, but I can't be specific on a
24 certain day or a certain time. But I would have been
25 aware that's what it was over, the Ms. D allegation. 15:42
26 748 Q. All right.
27 A. That's what the backstory was to the media. There was
28 a backstory because of the incident with the Ms. D
29 allegation.

1 749 Q. All right. And I don't know if you're able to help the
2 Tribunal any further as to any specific telephone
3 calls?

4 A. No, I wouldn't be aware of specific telephone calls.

5 750 Q. Because one could imagine, it's a fairly dramatic 15:43
6 statement to hear somebody on the phone in an official
7 capacity dispensing information to a journalist which
8 is uncomplimentary, to say the least, about somebody
9 else who's in the media, do you understand? It's
10 fairly dramatic. So you might remember the first time 15:43
11 you heard it on the phone.

12 A. It was just ongoing, so I can't specifically say I
13 remember a certain time. It was just ongoing because
14 he was always on the phone.

15 751 Q. All right. And you may not know this, but a number of 15:43
16 people here have given evidence from the Press Office
17 to the Tribunal and no member of the Press Office ever
18 heard Superintendent Taylor on the phone or even was
19 aware that he was conducting a campaign in relation to
20 Sergeant McCabe in relation to disseminating negative 15:44
21 information about him. So you would seem to be the
22 only witness to the negative briefing, do you
23 understand what I'm saying?

24 A. Well, I just heard that there would have been a
25 backstory. 15:44

26 752 Q. Okay.

27 A. And that's what I would have been aware of.

28 753 Q. All right. And you were aware that backstory was --

29 A. Well, in relation to Ms. D.

1 754 Q. Ms. D.
2 A. Yes, and the investigation.
3 755 Q. All right. And did he ever talk to you about
4 Commissioner Callinan's attitude in relation to what he
5 was doing or in relation to Sergeant McCabe? 15:44
6 A. Well, I think basically, I think it was driving
7 Mr. Callinan mad because it was constantly, constantly
8 going on.
9 756 Q. Okay.
10 A. And Dave would say, you know, it just won't go away, it 15:44
11 just keeps coming back up all the time, the penalty
12 points.
13 757 Q. Okay. And it was specific to the penalty points --
14 A. Yeah.
15 758 Q. -- and not policing in Cavan-Monaghan? 15:45
16 A. No, to the penalty points.
17 759 Q. To the penalty points?
18 A. To my recollection, what I just remember is the penalty
19 points.
20 760 Q. Okay. Now, in relation to your meeting with Sergeant 15:45
21 McCabe which happened on 20th September 2016, could you
22 tell the Tribunal in your own words how that meeting
23 came about?
24 A. Sergeant McCabe had contacted, had rang Dave before
25 that and we had visitors in the house and Dave came out 15:45
26 when they had gone and he said Maurice McCabe is after
27 ringing me. And I went, wow. It was kind of a bit of
28 a shock. And I said, what did you say? And he said, I
29 told him that I'd call him back. I said, okay, are you

1 going to call him back? He said, I don't know. So the
2 next day I said, are you going to call Maurice McCabe
3 back? And he said, I don't think so. And I said, I
4 think it would be kind of rude if you didn't. I said,
5 I believe he's out sick and you're suspended, I said, 15:46
6 he obviously wants to ring you, I said, so maybe you
7 should return the call. And he said no, I do not want
8 to. And I said look, I'll return the call. So I rang
9 him back.

10 761 Q. Okay. And I think you put this around April or May? 15:46
11 A. I think roughly, yeah.

12 762 Q. Around April or May?
13 A. Yeah.

14 763 Q. And what happened then?
15 A. Well, I rang him back and he said he'd love to meet 15:46
16 Dave or to meet up and I said I don't know if Dave is
17 in that space at the moment, he's not in a very good
18 place, and I said, but I'd be happy to meet you for a
19 coffee if you're in Dublin. And he said yeah, that'd
20 be fine. 15:46

21 764 Q. And were you a bit worried about it considering what
22 your husband had been up to when he was in the Press
23 Office?
24 A. Well, I suppose I was wondering if he was going to ask
25 any questions or if he was looking for something, so I 15:46
26 suppose I would have been a bit apprehensive.

27 765 Q. All right.
28 A. But I didn't not want to meet the man, because he had
29 rang. And I suppose because Dave was suspended as well

1 and he rang, I thought it was maybe a nice call. But I
2 wasn't sure. I was unsure.

3 766 Q. All right. And I think that led to a meeting with
4 Sergeant McCabe?

5 A. Yes. Yeah. I think the meeting on 20th wasn't the 15:47
6 first time to meet him. That was the day he came to
7 our house.

8 767 Q. Yes, yes.

9 A. I think I met him for a coffee before that.

10 768 Q. Yes. 15:47

11 A. I can't remember the date offhand.

12 769 Q. Okay. So you'd met him on your own?

13 A. I met him on my own for a coffee in the Skylon Hotel.

14 770 Q. Yes. And were any matters in relation to the campaign
15 discussed at that? 15:47

16 A. Nothing at all. It was just, it was very polite, he
17 was asking me how Dave was and I was telling him, I
18 said I'm very, very worried about him and he asked him
19 how he was and I asked him how his wife and his
20 children were and I said, it's an awful time for 15:47
21 everybody. He was very pleasant, he was very nice. He
22 had to take a phone call then and then he came back and
23 he had to head off to a meeting.

24 771 Q. All right. And I think you had another phone call with
25 him and another meeting -- 15:48

26 A. Yes.

27 772 Q. -- in the same place?

28 A. Yes, yes. I went home and I said to Dave, God, he's
29 very pleasant man, he's a very nice man.

1 773 Q. Okay. And did you encourage Superintendent Taylor --
2 A. I said to Dave I think he really wants to meet you,
3 would you be willing to meet him and Dave said no.
4 774 Q. All right. And the second meeting with Sergeant McCabe
5 was in the nature of a chat as well? 15:48
6 A. Yes, it was much briefer.
7 775 Q. All right.
8 A. Because I suppose I couldn't give any more that Dave
9 would meet him.
10 776 Q. Okay. All right. And I think ultimately it was 15:48
11 arranged that Sergeant McCabe, yourself and
12 Superintendent Taylor would meet on 20th September?
13 A. That's correct, yes.
14 777 Q. And that meeting was slightly delayed?
15 A. Yes. 15:48
16 778 Q. But ultimately it happened --
17 A. Yes.
18 779 Q. -- in your house?
19 A. But I had told him I wasn't sure if Dave was going to
20 be there, because Dave had not really decided if he was 15:48
21 going to meet him.
22 780 Q. Okay.
23 A. So I had said that to Sergeant McCabe; I'm not sure if
24 Dave will be there, but you're welcome for a coffee
25 anyhow and if he's there. 15:49
26 781 Q. Okay. So was it a matter of you persuading your
27 husband to meet Sergeant McCabe? Was it a little bit
28 like that?
29 A. No, not really know. It was just, I knew Maurice

1 McCabe was anxious to meet Dave and I said maybe you
2 should meet him to see what -- you know, to have a chat
3 or whatever.

4 782 Q. Okay. So you were putting him on that path, is that
5 right? There's nothing wrong with that, I don't think. 15:49

6 A. Well, I wasn't really putting him on any path. I just
7 said Maurice has made contact with us and, you know,
8 he's rang us back and he's rang us back, I said I don't
9 want to be rude if he's asked to meet you, I don't see
10 any problem with meeting him. 15:49

11 783 Q. All right. And if you could tell us what happened
12 during that meeting?

13 A. Sure, yes. I'll just take a drink of water.

14 784 Q. Yes, take your time.

15 A. Maurice arrived to the house that day. I had to change 15:49
16 the time. And he came to the house. I was
17 apprehensive and Dave was apprehensive. Dave had
18 decided he would meet him. And he came to the house
19 and I answered the door and brought him in and shook
20 his hand and said you're very welcome. And then Dave 15:50
21 came and shook his hand and we sat down and they
22 started to chat. And Dave said to him -- I knew
23 Maurice at that stage. You know, the two of them were
24 there together, it was the elephant in the room. And
25 Dave said to him look, Maurice, I have to be honest 15:50
26 with you, there was a campaign against you and I was
27 part of it.

28 785 Q. All right. And how long did the meeting last?

29 A. Roughly maybe two and a half, three hours to the best

1 of my recollection.

2 786 Q. And I think in your statement you describe an
3 immediate, more or less immediate admission from your
4 husband --

5 A. Yes. 15:50

6 787 Q. -- in relation to a campaign?

7 A. Yes.

8 788 Q. Then?

9 A. It was quite emotional actually. I was actually
10 shocked, I didn't think he was going to -- 15:51

11 789 Q. Jump into it --

12 A. Yeah.

13 790 Q. -- like that? And were the details of that campaign
14 discussed?

15 A. Well, basically Maurice understandably was curious to 15:51
16 know what had happened or what went on. Dave was very
17 emotional, because I think the fact that he'd been away
18 from the job for so long, maybe he had clarity in his
19 head and he had even said it to me at that stage, when
20 he was suspended, he said I can't believe, you know, 15:51
21 there was a campaign and I was part of it. And he said
22 I can't believe it. And then I said -- because I
23 believed initially it wasn't a campaign as such, that
24 they were trying to do whatever, that I felt for him, I
25 felt, you know, this is awful. 15:51

26 791 Q. Okay.

27 A. So then Maurice asked the question, what was done? And
28 that's when Dave told him.

29 792 Q. Okay. And what did Superintendent Taylor -- in your

1 memory of what happened, tell me?

2 A. My memory, Maurice said what actually happened and Dave
3 said basically if I was speaking to any media at a
4 crime scene or if I had any contact with media I was to
5 brief them negatively about you and tell them that 15:52
6 there was a backstory to you, that basically because of
7 the Ms. D allegation, investigation, that you were
8 motivated by revenge. And I could see he was probably
9 a bit upset and Dave was upset. It wasn't pleasant.
10 And Dave said that any time there was anything negative 15:52
11 or anything about you on the TV or the radio or Prime
12 Time, that I would text the Garda Commissioners and
13 inform them there was something negative or there was a
14 programme on tonight featuring Maurice McCabe and the
15 penalty points debacle again. So he said I would 15:52
16 inform them everything that was going on in the media
17 in relation to you.

18 793 Q. All right. And was there any suggestion of texting
19 journalists?

20 A. He never texted journalists negatively about him. 15:53

21 794 Q. Okay. And how are you so sure about that? If you
22 could just explain that.

23 A. Well, I don't think he'd put anything in a text, to be
24 honest with you.

25 795 Q. Yes. 15:53

26 A. Basically, it was that he would text the commissioners
27 texts in relation to whatever was coming up in the
28 media re Maurice McCabe.

29 796 Q. All right. I just want to go through Sergeant McCabes'

1 protected disclosure with you.

2 A. Mm-hmm.

3 797 Q. And there are a number of areas I know you don't agree
4 with. So if we could go to page 3421 of the materials,
5 it will come up on screen. He says:

15:53

6

7 "Our meeting -- "

8

9 Have you got it? Sorry.

10 A. Yes, I have it.

15:53

11 798 Q. "Our meeting --" that's the meeting in your house on
12 20th September "-- Iasted over three hours.

13 Superintendent Taylor spoke at great length of how when
14 he was the Garda Press Officer he had a sustained
15 campaign to destroy my character and reputation by
16 disseminating false, scurrilous and damaging
17 allegations about me to persons of influence and
18 persons in the media, acting on orders and instructions
19 from Garda management."

15:54

20

21 That more or less accords with what you're saying.

22 Now, in Garda management, was it restricted to the two
23 commissioners, do you think?

24 A. To the best of my knowledge, yes. But I couldn't be
25 100%. But that's to the best of my knowledge.

15:54

26 799 Q. All right.

27

28 "He stated that he was now being targeted because he
29 knew too much."

1
2 Do you see that sentence?
3 A. Mm-hmm.
4 800 Q. And do you think that was the gist of some of the
5 things that were discussed; Superintendent Taylor being 15:54
6 targeted?
7 A. No. No.
8 801 Q. All right. Well, maybe I can ask you this way: Do you
9 think it was discussed that Commissioner O'Sullivan at
10 that stage was being unfair to your husband? 15:55
11 A. I don't understand what you mean by being unfair to
12 him.
13 802 Q. In relation to the criminal investigation into him.
14 A. Did I think or did he think?
15 803 Q. Yes. Was it discussed at the meeting? 15:55
16 A. The criminal investigation?
17 804 Q. Yes.
18 A. Oh, yeah, it was discussed. Yeah, it was just that he
19 was under criminal investigation because he had been
20 arrested. 15:55
21 805 Q. All right. And was Commissioner O'Sullivan's role in
22 relation to that criminal investigation spoken about?
23 A. Not really, no. It was just the criminal investigation
24 in general and the pressure it was causing.
25 806 Q. All right. 15:55
26 A. And the worry financially and --
27 807 Q. Okay. Because I think your interview may say something
28 slightly different to that with the investigators. I
29 just want to find the reference to it. If you to turn

1 to page 3393 of the materials. This is your own
2 interview.

3 A. Sorry, I'm trying to find it.

4 808 Q. No, take your time. And it's in or around line 113.

5 A. 3393, is it? 15:56

6 809 Q. 3393, yes.

7 A. Okay.

8 810 Q. You see: "After discussing this --" Have you got that
9 line 113?

10 A. 3392, is it? 15:56

11 811 Q. 3393, just over the page.

12 A. 3393, okay.

13 812 Q. Line 113 at the very top.

14 A. Oh, yes, sorry.

15 813 Q. You have it? "After discussing this we discussed our 15:57
16 own situation --"

17 A. Sorry I see it now, yes.

18 814 Q. "-- about Dave's suspension and the fact that Nóirín
19 O'Sullivan was very anxious to get a charge on Dave and
20 that we found it quite upsetting that she had appointed 15:57
21 her husband to lead the investigation team in Dave's
22 case. We told Maurice how unfair we felt all of this
23 was. He said what chance would you have against the
24 Garda Commissioner and her husband or words to that
25 effect. And we empathised with Maurice about the 15:57
26 negative campaign against him by Commissioner
27 Callinan."
28
29 So, do you think that was discussed now?

1 A. No, it was discussed. I was concerned that the Garda
2 Commissioner's husband was involved in it.

3 815 Q. Yeah.

4 A. And I had said that to Sergeant McCabe, that I was
5 concerned that he would be, you know, primary in the 15:57
6 investigation because she had moved him and then I
7 suppose I probably didn't think it was fair.

8 816 Q. All right.

9 A. Or we would get a fair hearing.

10 817 Q. Okay, in relation to the -- 15:58
11 A. The investigation.

12 818 Q. -- the criminal investigation?

13 A. Yeah. Or to disciplinary, whatever was --

14 819 Q. All right. Now, if we could just go back to the
15 protected disclosure, page 3421. 15:58
16 A. Yes.

17 820 Q. If you go down to, if you go to the first bullet point
18 and there is a reference to the Commissioner being in
19 Dundalk and going to meet Deputy McGuinness in the car
20 park. You see that? And the very last line of that 15:58
21 records - this is Sergeant McCabe's words:
22

23 "Deputy McGuinness was warned against believing any
24 evidence that I would give at the PAC on the basis that
25 I was a serial sex abuser who abused my own children 15:59
26 and nieces."
27

28 Do you see that?

29 A. Yes.

1 821 Q. Do you think that was said?
2 A. Absolutely not.

3 822 Q. Yeah. You're convinced of that?
4 A. Well, I'm actually positive of that.

5 823 Q. Okay. But the fact of the McGuinness/Commissioner 15:59
6 Callinan meeting was discussed?
7 A. That was discussed. Yeah, that was definitely
8 discussed. Because Dave had told Sergeant McCabe that
9 the meeting had to be delayed, the mass had to be
10 delayed -- or the press conference, I beg your pardon, 15:59
11 had to be delayed because Commissioner Callinan had to
12 meet John McGuinness.

13 824 Q. All right. The next bullet point - this is in relation
14 to Commissioner O'Sullivan's knowledge of that
15 meeting - and you see the first line: 15:59
16
17 "Superintendent Taylor stated that Commissioner
18 O'Sullivan would have known about the meeting because
19 Commissioner Callinan always kept her informed of such
20 matters." 16:00
21
22 Do you think that was discussed?"

23 A. I'd say it was, yeah.

24 825 Q. You think it was?
25 A. Yeah. 16:00

26 826 Q. I'm just pointing out the differences as I see them and
27 I just want your memory.
28 A. Okay.

29 827 Q. Then the next bullet point:

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"Superintendent Taylor then informed me of the sustained campaign by ex-Garda Commissioner Callinan, Garda Commissioner O'Sullivan and other senior members to destroy my character."

16:00

Do you think there was a reference to other senior members there?

A. Em, I don't recall.

828 Q. That's all right.

16:00

A. I don't recall that.

829 Q. If you don't remember, that's fine. And it continues on then:

"He admitted that he himself was also involved in this campaign to destroy me and the common intention was to bury McCabe."

16:00

There is another sentence then:

"He continued by stating that Commissioner Nóirín O'Sullivan knew everything and she was the pusher in the campaign to discredit me, not Martin Callinan."

16:01

what's your memory of the reference to that?

16:01

A. Well, we didn't use the word pusher.

830 Q. All right.

A. But I do recall that Dave said that Commissioner O'Sullivan would have been aware of what was going on,

1 because herself and Commissioner Callinan worked
2 closely together.

3 831 Q. All right. And was there any significance in relation
4 to the pusher comment in relation to Nóirín
5 O'Sullivan's role in your husband's criminal
6 investigation? 16:01

7 A. Well, the word pusher wasn't used.

8 832 Q. Yes.

9 A. But I believe that it was a case that we felt that
10 Commissioner O'Sullivan was anxious to get a charge 16:01
11 against Dave, so we would have said that to Sergeant
12 McCabe; that we felt she was very anxious to get a
13 charge against him.

14 833 Q. And that was both yourself and your husband felt that?

15 A. Yes. 16:01

16 834 Q. Okay. Now, the next thing I want to ask you about is
17 the next bullet point:

18
19 "He said that he, David Taylor, was involved in sending
20 hundreds of text messages about me to the then Deputy 16:02
21 Commissioner O'Sullivan and other senior officers and
22 members of the media. He stated that Commissioner
23 Martin Callinan usually provided the text of the vile
24 messages about me and my family and sent them to
25 Superintendent Taylor's mobile. Commissioner 16:02
26 Callinan's orders and instructions were to forward on
27 the messages to the above persons, which he always did.
28 Commissioner O'Sullivan usually replied with one word,
29 "perfect". "

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Now, your memory of that exchange I think is different?

A. It is different, yes.

835 Q. And if you could just tell us about your memory of what was said in relation to text messages.

16:02

A. Okay. Basically Dave told Sergeant McCabe that he would send text messages to the commissioners if there was anything related to him in the media. If there was a programme, as I said earlier, he would inform them. And that Commissioner Callinan would text back "thanks Dave" or "Davy", because he always used to laugh, he'd say Davy, and Commissioner O'Sullivan always replied back "perfect".

16:03

836 Q. All right. Now, you understand that a number of other people understood that what Superintendent Taylor, your husband, was doing was disseminating text messages to members of the media which were negative in their terms towards Sergeant McCabe? Say, for instance -- and this doesn't make you wrong or right, you understand that.

16:03

A. Yeah.

16:03

837 Q. But say, for instance, Deputy McGuinness thinks that was the case and Clare Daly's understanding was that Superintendent Taylor broadly agreed with the terms of the protected disclosure. Okay?

A. Mm-hmm.

16:03

838 Q. And also in relation to Mr. Clifford, that that was his understanding; that text messages were used to deploy the -- in very general terms now, I'm paraphrasing.

A. Yeah.

1 839 Q. And this is something that was certainly put across in
2 his book. And while Mick Wallace, Deputy Wallace
3 wasn't quite so certain. But I was just wondering, do
4 you think it could have been said or could have been
5 understood by anybody to say that text messages were 16:04
6 used to disseminate?

7 A. Text messages weren't used to disseminate.

8 840 Q. Okay.

9 A. Because Dave actually wasn't a great texter. He wasn't
10 a big texter. 16:04

11 841 Q. All right.

12 A. He'd pick up the phone and ring quicker than send a
13 text.

14 842 Q. Okay. But the word "perfect" was used by --

15 A. Yeah, that's correct. 16:04

16 843 Q. -- Commissioner O'Sullivan?

17 A. Yeah.

18 844 Q. Now, I was just wondering about this, because it's a
19 rather strange reply to a text that, on Superintendent
20 Taylor's account, was that there is another media 16:04
21 release in relation to Sergeant McCabe, you understand?

22 A. Mm-hmm.

23 845 Q. On your version and Superintendent Taylor's version of
24 events.

25 A. Mm-hmm. 16:05

26 846 Q. So if this wasn't a welcome thing in Garda Headquarters
27 it would be kind of strange if Commissioner O'Sullivan
28 was replying "perfect" to a message informing of yet
29 another publicity event or --

1 A. Well, it wouldn't necessarily just be about that.
2 Any --

3 847 Q. Yes?
4 A. -- text he would text here, her reply was always
5 "perfect", not just necessarily in relation to Maurice 16:05
6 McCabe. Like, there'd be lots of other texts going
7 back and forward, if there was an incident or a murder,
8 he would always send both of them a text and they would
9 both always reply back. That was always the reply.

10 848 Q. So no matter what text was sent to Commissioner 16:05
11 O'Sullivan, her will reply was --

12 A. Well, to the best of my knowledge it was "perfect".

13 849 Q. That's what you understood?
14 A. That's my understanding, yeah.

15 850 Q. All right. So then in relation to the next bullet 16:05
16 point:
17
18 "He stated that Commissioner O'Sullivan would go to any
19 level to lie. Superintendent Taylor told me that he
20 was so sorry for what he had done to me. He stated he 16:06
21 contacted a spiritual person two weeks ago looking for
22 forgiveness. Superintendent Taylor broke down and he
23 said he absolutely destroyed Sergeant McCabe."
24

25 Now, you have a slightly different understanding about 16:06
26 contacting a spiritual person, is that right?

27 A. That's correct, yes. My husband was in a very bad way,
28 we were financially worried, my children were very
29 traumatised and we didn't know what was going to happen

1 to us. I had nowhere to turn. I couldn't use the
2 welfare because they were guards, so I didn't want to
3 use the Garda welfare. So I was trying to think what I
4 could do. So I thought of Father Joe. I'd never met
5 him, I'd never had any dealings with him, but I was so 16:06
6 desperate but I called him one night because I actually
7 thought Dave was going to die.

8 851 Q. Okay, all right. Do you think -- your husband said
9 that Commissioner O'Sullivan would go to any level to
10 lie? 16:07

11 A. No.

12 852 Q. You don't think that was --

13 A. No.

14 853 Q. Okay. Was there anything like that said?

15 A. No, not about lies. 16:07

16 854 Q. Okay. Now, the next bullet point:
17
18 "He stated that his three phones were seized from him
19 under warrant and that these phones would show all text
20 messages he got from Commissioner Callinan and sent on 16:07
21 to Deputy Commissioner O'Sullivan."
22

23 Do you think that was said?

24 A. He said that three phones were seized, yes.

25 855 Q. All right. And in relation to those phones, I think 16:07
26 you lodged a complaint to GSOC in relation to one of
27 those phones, is that right?

28 A. That's correct, yes.

29 856 Q. And that was, I think, in or around March 2016?

1 A. Well, the incident happened with the phone on November
2 13th.

3 857 Q. So it could have been earlier?

4 A. It was November 17th. My neighbour came to me on
5 November 13th to tell me about it. 16:08

6 858 Q. In 2015, the same year --

7 A. The same year.

8 859 Q. -- perhaps that your husband was suspended?

9 A. Yes. Oh yes, he was on suspension at the time.

10 860 Q. The same calendar year, do you think? 16:08

11 A. Yes.

12 861 Q. And just in relation to that, it was Superintendent
13 Taylor's phone, isn't that right?

14 A. It was, yeah. It was my husband's phone, it was one of
15 the three phones that was seized. 16:08

16 862 Q. All right.

17 A. And my neighbour came to me and she said, just to let
18 you know, Dave tried to get into my group chat last
19 night. So I was a bit embarrassed and I said well
20 actually, he doesn't have that phone. And she was 16:08
21 there, I said to Dave that's not very nice, you don't
22 have the phone. And I don't think he got the
23 seriousness of it, that it was a Viber group that he
24 was trying to become part of with his phone, that he
25 didn't have. So I was embarrassed in front of my 16:08
26 neighbour in case she did think that Dave was trying to
27 get into her group chat. So I had to explain to her
28 that Dave didn't have that phone, he hadn't had it
29 since he was arrested.

1 863 Q. All right. Because you see, one would think that it
2 would be Superintendent Taylor making the complaint to
3 GSOC --

4 A. Mm-hmm.

5 864 Q. -- in relation to his phone. And he was under 16:09
6 investigation.

7 A. Well, I made the complaint because she came to me and
8 she was my neighbour and I was embarrassed and I just
9 wanted to pursue it.

10 865 Q. Okay. And it had nothing to do with him not being able 16:09
11 to make a complaint to GSOC because he was a guard and
12 guards can't complain to GSOC?

13 A. Well, I just said I would go to GSOC about it.

14 866 Q. Okay.

15 A. Because I just felt he had enough going on and, you 16:09
16 know, he was just in a bad place, I didn't want him to
17 have another worry.

18 867 Q. Okay. Now, the next bullet point refers to the Oisín
19 issue and intelligence files on Sergeant McCabe in
20 Garda Headquarters. 16:10

21 A. Mm-hmm.

22 868 Q. Do you think that was said?

23 A. Well, Oisín was discussed, yeah.

24 869 Q. All right. And in what context?

25 A. Well, Dave was saying to him that there's another 16:10
26 system in Garda Headquarters called Oisín which is
27 separate to Pulse.

28 870 Q. And was that all that was said in relation to it?

29 A. Well, Dave said there could be a file on himself on it,

1 the fact that he'd been arrested.

2 871 Q. Okay. Well, do you remember telling the investigators
3 something, maybe not different, but certainly
4 additional to -- if we look at page 3402 at the very
5 top of the page? 16:10

6 A. Mm-hmm.

7 872 Q. You see, you're asked about that particular paragraph
8 in the protected disclosure just over the page and your
9 answer is:
10 16:11

11 "They did discuss Oisín, but not in that context. Dave
12 told Maurice McCabe that his three phones were taken
13 off him in the investigation and that they were
14 probably downloaded on to Oisín, which is a separate
15 computer system to Pulse, and that Dave felt they were 16:11
16 probably files on Dave in that system."

17 A. Well, that's, Dave said there was probably a file on
18 him, something on Oisín, because he'd been arrested.

19 873 Q. Okay. And in relation to the context Oisín was
20 discussed in, was it in relation to downloading phones 16:11
21 onto Oisín?

22 A. Not really. It was just that it was a separate system,
23 it was a separate system to Pulse and that Dave felt
24 there could be a file on him because he was arrested on
25 it. 16:11

26 874 Q. So that answer to the investigators, are you standing
27 over it or -- just take your time.

28 A. What do you mean standing over?

29 875 Q. Do you think that Superintendent Taylor said to

1 Sergeant McCabe that his phones, Superintendent
2 Taylor's three phones, were taken off him in the
3 investigation and they were probably downloaded onto
4 Oisin?

5 A. I don't recall that about the phones being on Oisin. 16:12
6 what I recall is that there would have been a file on
7 Dave on Oisin.

8 876 Q. Well, the reason I'm asking you is that is what you
9 told our investigators. I think this interview was in
10 March of this year. 16:12

11 A. Mm-hmm.

12 877 Q. You're not sure?

13 A. Well, I said they were probably downloaded onto Oisin,
14 but I probably wasn't 100% if they were on Oisin.

15 878 Q. Yes. Well, my interpretation of that sentence is: 16:13

16
17 "Superintendent Taylor told Maurice McCabe that his
18 three phones were taken off him on the investigation
19 and they were probably downloaded onto Oisin."

20 16:13

21 So you're recording your husband as saying that to the
22 meeting, the room on 20th September; that your husband
23 thought they were probably downloaded onto Oisin?

24 A. Well, I'm sure he probably did, yeah. Because if his
25 arrest was on it -- 16:13

26 879 Q. All right.

27 A. -- that it was possibly that they were.

28 880 Q. Okay, we'll pass from that. And in relation to
29 dealings with Superintendent Cunningham, what do you

1 remember of that?

2 A. I remember Dave had got a call to say that
3 Superintendent Cunningham had heard that the file was
4 possibly back from the DPP with no charge, so we were
5 very excited to hear that, because we'd been waiting a 16:14
6 while. And Dave said he'd give him a call to see where
7 he heard it from. And I said oh, please do, because it
8 would be, you know, positive news. So he called him --

9 881 Q. All right.

10 A. -- to see if he'd heard that. 16:14

11 882 Q. Okay. And was there any conversation about being
12 thrown under the bus? Do you remember anything?

13 A. Yeah, do I remember that. I think it was in the
14 context that Superintendent Cunningham heard that I
15 think there was a file sent to the DPP and he heard 16:14
16 about it in the media and that he felt he'd been thrown
17 under the bus.

18 883 Q. Okay. In relation to Chief Superintendent Fergus
19 Healy, do you remember a conversation about -- touching
20 on him? 16:15

21 A. Yeah. Just basically that my husband had been
22 collecting my daughter from school in the Phoenix Park
23 and that he had bumped into him and he came over and he
24 shook hands with him and was very supportive and it
25 meant an awful lot to us at the time. 16:15

26 884 Q. And was that the extent of that?

27 A. Yes, yeah.

28 885 Q. Was there a mention of the O'Higgins Commission at all?

29 A. To the best of my recollection, I can't --

1 886 Q. Your memory of it, yes.
2 A. Yeah.
3 887 Q. Just in relation to the disciplinary charges and
4 possible retirement, what's your memory of a
5 conversation about that? 16:15
6 A. Well, my memory of that is that when Dave came home
7 from his legal people, after having a meeting, that he
8 could retire, you know, if he wanted to. But Dave
9 wasn't at that meeting. And I had said to Dave well,
10 is it something you'd consider? And he said, not at 16:16
11 the moment.
12 888 Q. Yeah. So there was nothing stopping him from retiring
13 was coming out that?
14 A. No.
15 889 Q. He presumably had his requisite time down done in the 16:16
16 guards?
17 A. Yes, yeah.
18 890 Q. And of course a consequence of retirement is that you
19 can't be disciplined because you're not a member of the
20 guards -- 16:16
21 A. Yes.
22 891 Q. -- isn't that right?
23 A. Well, I think Dave wanted to just stay with it,
24 because --
25 892 Q. Yeah. No, no. But it is a consequence of retirement, 16:16
26 that there is no discipline because you're not a
27 member?
28 A. Right, okay.
29 893 Q. You're happy with that?

1 A. Yeah, no, I would be happy with that, yeah. But that
2 was never, it was never --

3 894 Q. Yes. So the reference there to disciplinary charges
4 going away isn't a million miles away from the
5 discussion; there was a reference to retiring, isn't 16:16
6 that right?

7 A. Well, not with Dave. Dave wasn't --

8 895 Q. At the meeting, yes.

9 A. -- at the discussion. It was, his solicitors said back
10 to him, you know, that we have no problem if you want 16:17
11 to retire.

12 896 Q. To retire, yes. But in relation to that, that was
13 mentioned at the meeting to Sergeant McCabe.

14 A. Yeah, that he could retire if he wanted.

15 897 Q. That he could retire if he wanted? 16:17

16 A. Yeah, that wouldn't be -- yeah.

17 898 Q. And he was suspended at that time, wasn't he?

18 A. Yes, he was on suspension. Yeah.

19 899 Q. So even though he was suspended he could retire in the
20 normal way that one does? 16:17

21 A. Yes.

22 900 Q. And obviously he could no longer be suspended because
23 he was retired --

24 A. Yeah.

25 901 Q. -- isn't that right? 16:17

26 A. Yeah.

27 902 Q. And there would be no question of disciplining him as a
28 members of the guards who was retired, because they
29 weren't a member of the guards?

1 A. I assume so, yeah.

2 903 Q. I may be incorrect, but it may be the case that you
3 can't retire when you are under suspension. But you're
4 certainly clear in your head that there was a
5 suggestion that he could retire coming out of that 16:17
6 meeting?

7 CHAIRMAN: I think you have to get consent, isn't that
8 right? There has to be consent from the Commissioner
9 for retirement, isn't that right, Mr. O'Higgins?

10 MS. LEADER: I'm being told it is. 16:18

11 CHAIRMAN: Yes, that was the Morris Tribunal situation
12 anyway, yes. But if you're being offered it, I presume
13 that consent is part of the offer.

14 MS. LEADER: Yes, that consent, it's inferred.

15 904 Q. But you're happy there was a reference to him being 16:18
16 able to retire at a meeting between his solicitors and
17 the guards?

18 A. Yeah, but he wasn't at that meeting.

19 905 Q. He wasn't at that meeting?

20 A. Yeah. 16:18

21 906 Q. Okay. All right. You met with Deputy McGuinness in
22 2017, isn't that right?

23 A. That's correct, yes.

24 907 Q. And at that meeting what was discussed?

25 A. Well, obviously Dave's suspension and the fact that he 16:18
26 was out of work and the difficulties in the family.
27 And also that, discussed Maurice McCabe and Dave said
28 he had been involved in a campaign against Sergeant
29 McCabe.

1 908 Q. Okay. And was there any reference to the meetings that
2 had happened in Dáil Éireann in 2014?

3 A. No. It was actually a very cautious meeting. It was,
4 I was hoping it would be a little bit more friendly,
5 because I wanted to go a different area about our own 16:19
6 situation, but it was quite a cautious meeting.

7 909 Q. Okay. Because it may be a time, if your husband was
8 explaining to Deputy McGuinness - and I'm just
9 exploring this, Mrs. Taylor - that there was a campaign
10 orchestrated against Sergeant McCabe, that it might be 16:19
11 mentioned, well, you might remember, Deputy McGuinness,
12 that the Commissioner said to you that Sergeant McCabe
13 was a kiddie fiddler after the PAC meeting, sure didn't
14 I hear him say it to you, isn't that proof of the
15 campaign; did you hear any reference to that at all? 16:20

16 A. I am 100% positive that didn't come up.

17 910 Q. It wasn't said?

18 A. It wasn't said, yeah.

19 911 Q. By either party?

20 A. By either parties. 16:20

21 MS. LEADER: Thanks very much. If you'd answer any
22 other questions.

23

24 THE WITNESS WAS CROSS-EXAMINED BY MR. McDOWELL

25 912 Q. MR. McDOWELL: Mrs. Taylor, Michael McDowell is my name 16:20
26 and I am one of Maurice McCabe's counsel and subject to
27 a direction from the Chairman, I don't want to get into
28 any adversarial argument with you, but I am obliged to
29 put a few things to you under a ruling of the courts in

1 Brown v. Dunne, a case which says that I have to put my
2 client's case to you.

3 CHAIRMAN: It doesn't have to be very long.

4 913 Q. MR. McDOWELL: It doesn't have to -- I don't want to
5 get into a minute argument with you about anything. 16:20
6 But I am suggesting to you that in relation to the
7 protected disclosure, the bit of that that relates to
8 the meeting, that Sergeant McCabe's account is correct,
9 that's my overall suggestion to you.

10 A. You're asking me if Sergeant McCabe's -- 16:21

11 914 Q. Yeah, that his account of what happened that evening in
12 your house is correct. That's the first thing I'm
13 going to put to you.

14 A. The meeting where he met Dave for the first time?

15 915 Q. Yes. You have the protected disclosure that he made 16:21
16 and Ms. Leader has just put to you.

17 A. Oh yes, I'm thinking of the discrepancies later.

18 916 Q. Yeah. I'm generally just putting to you the general
19 proposition that his account --

20 A. I don't have the disclosure in front of me, but to the 16:21
21 best of my recollection.

22 917 Q. Well, can I ask you a few questions about it? In
23 relation to the car park -- sorry, the meeting in the
24 car park, can I suggest to you that that would hardly
25 have arisen if there had not been some discussion of 16:21
26 what was said to Deputy McGuinness? I mean, a meeting
27 in a car park just by itself without other discussion
28 wouldn't make any sense at all.

29 A. Are you asking me if we had met Deputy McGuinness

1 before that?

2 918 Q. No. Deputy McGuinness apparently in the Dáil said that
3 he had met Commissioner Callinan in the car park. This
4 is in 2016.

5 A. Mm-hmm. 16:22

6 919 Q. And as I understand it, your husband was telling
7 Sergeant McCabe in your house that he remembered the
8 day that this happened.

9 A. I do too, yeah. No, that's correct.

10 920 Q. Yes. And I'm just putting to you the proposition that 16:22
11 you'd hardly just discuss a meeting in a car park
12 unless there was a discussion about what was told to
13 Deputy McGuinness at that time.

14 A. The context of the meeting in the car park, Dave was
15 explaining to him that he had to postpone the press 16:22
16 conference --

17 921 Q. Yeah.

18 A. -- because Deputy McGuinness had requested to see
19 Martin Callinan --

20 922 Q. Yes. 16:22

21 A. -- and he went to the meeting. And then Dave I think
22 went for something to eat up there. And then
23 Mr. Callinan came back and I believe the mass or the
24 press conference took place. But there was no
25 discussion, because Dave didn't actually know what was 16:23
26 discussed at the -- because we didn't discuss that. We
27 discussed there was a meeting, but we didn't know the
28 contents of the meeting.

29 923 Q. Yes. But the point I'm making to you is that earlier

1 that year -- we're talking about September 2016, isn't
2 that right?

3 A. Mm-hmm.

4 924 Q. And earlier that year John McGuinness had said openly
5 in the Dáil that Commissioner Callinan had said very 16:23
6 bad things about Sergeant McCabe to him at that
7 meeting. And I've got to suggest to you that that must
8 have been discussed, because there was otherwise no
9 reason to discuss a meeting in a car park.

10 A. It definitely wasn't discussed. The context it was 16:23
11 discussed was the fact that Dave had to cancel the
12 meeting. And the meeting was put back.

13 925 Q. But why was this meeting important at all? why was
14 David telling Maurice McCabe about a meeting if it
15 wasn't the meeting to which -- 16:24

16 A. Well, I think --

17 926 Q. -- John McGuinness had made a public reference?

18 A. I think it was just a general conversation that, about
19 that. But I know Dave didn't know the context of the
20 meeting. 16:24

21 927 Q. Well, I won't put it any further. But I'm putting to
22 you it wouldn't make sense to discuss that meeting
23 unless the significance of what was said to Deputy
24 McGuinness was being discussed as well.

25 A. Well, I know that when Mr. Callinan -- Dave told me 16:24
26 Mr. Callinan came back, the mass happened and then Dave
27 didn't have any time on his own with him, so he didn't
28 know about that meeting, or the contents of it.

29 928 Q. I see. But I think it was in the public domain that

1 Deputy McGuinness had claimed that Martin Callinan had
2 slandered Sergeant McCabe at that meeting. That had
3 happened a few months before this meeting in your
4 house.

5 A. Mm-hmm.

16:25

6 929 Q. And I'm just saying that it can only have been in that
7 context that there was a reference to the car park
8 meeting. That's what I'm putting to you?

9 A. The only reference to the car park meeting was the fact
10 that it was delayed.

16:25

11 930 Q. But why would that be important at all?

12 A. I think they were just talking about, you know, the
13 whole, everything.

14 931 Q. Okay. I won't put it any further than that in relation
15 to that issue. Could I also put it to you that I fully
16 accept that your husband was upset and that he was
17 emotionally upset during the meeting, but Sergeant
18 McCabe is clear that he was told that your husband was
19 sending hundreds of text messages about him to the
20 then-Deputy Commissioner O'Sullivan and the
21 Commissioner Martin Callinan.

16:25

16:26

22 A. The texts that were being sent were in relation to
23 anything that was coming up in the media or anything
24 that was on TV, he would text them to inform them what
25 was going on. So there would have been texts about
26 that and texts about everything else that was going on
27 in the media.

16:26

28 932 Q. And that their content, the content of messages he gave
29 to the media was decided by Commissioner Callinan.

1 A. No, that's not true.

2 933 Q. I see. And I'll just ask you again, if it was simply
3 news about Sergeant McCabe being on the radio or
4 somebody saying something about Sergeant McCabe on the
5 radio, it would be strange, as Ms. Leader said to you, 16:26
6 that Commissioner O'Sullivan would reply using the word
7 "perfect".

8 A. Well, that was the replies she always sent.

9 934 Q. I see. You are clear that there was a discussion about
10 Superintendent Noel Cunningham along the lines you've 16:27
11 described, is that right?

12 A. Yes, that's correct.

13 935 Q. And you are equally clear that whether or not your
14 husband attended a meeting, there had been discussion
15 involving the possibility of your husband retiring 16:27
16 which would have brought an end to any disciplinary
17 action against him?

18 A. No, Dave wasn't at that meeting.

19 936 Q. No, he wasn't at the meeting. But I mean, there had
20 been discussion between his lawyers and himself, is 16:27
21 that right?

22 A. Well, I don't know what the lawyers discussed at that
23 meeting.

24 937 Q. Well, I think you did say to the investigators that you
25 understood that such a suggestion had been made between 16:28
26 the lawyers?

27 A. I think it was that they wouldn't stop him if he wanted
28 to retire.

29 938 Q. I see. And --

1 A. And require that, because I had discussed it with him
2 and I said, would that be an option to take the
3 pressure off the family to retire?

4 939 Q. Yeah. Because Sergeant McCabe was clear in his -- in
5 the note he took of the meeting that this proposition 16:28
6 had been put up to your husband.

7 A. No. Because my husband wasn't at that meeting.

8 940 Q. Hmm?

9 A. My husband wasn't at that meeting, it was the lawyers.

10 941 Q. Yes. But that he was told that this proposition had 16:28
11 been put up at a meeting attended by Deputy
12 Commissioner Twomey?

13 A. Well, my understanding was that they wouldn't stop him
14 if he wanted to retire.

15 942 Q. I see. And that was, Deputy Commissioner Twomey said 16:28
16 that your husband's lawyers, not to your husband
17 directly, is that it?

18 A. Yes. Yes.

19 943 Q. I see. And there was discussion about Chief
20 Superintendent Healy, was there not? 16:29

21 A. Yes.

22 944 Q. And can you just tell us what that discussion was?

23 A. That he had bumped into superintendent -- my husband
24 had bumped into Superintendent Healy in the Phoenix
25 Park and that he came over and he asked him how he was 16:29
26 and he was very sympathetic to him and asked him how he
27 was getting on. And it meant an awful lot to Dave at
28 the time that there was some very good people there
29 supporting us, who were willing to come over and shake

1 our hand and wish us well.

2 945 Q. I have to put to you too that Sergeant McCabe is
3 correct in saying that your husband said that Nóirín
4 O'Sullivan was the pusher in relation to the campaign
5 to discredit Sergeant McCabe. 16:29

6 A. No.

7 946 Q. And I also want to just put to you as well that he did
8 inform Sergeant McCabe that there was an intelligence
9 file on him on the Oisín computer?

10 A. Well, he wouldn't have known that, because he was 16:30
11 suspended at the time.

12 947 Q. I see. And --

13 A. He didn't even know if there was one on him, we just
14 thought there might be.

15 948 Q. Yes. And that he also mentioned to him that his phone 16:30
16 might have been tapped.

17 A. I don't recall that, a phone tapping, no.

18 949 Q. I see. And I think then to conclude, what I'm
19 suggesting to you is that Sergeant McCabe appeared to
20 be very interested in what was being said to him and 16:30
21 taking a note to remind himself of what happened.

22 A. Yeah, we told him we'd no problem with him taking
23 notes.

24 950 Q. There is one last thing: You say that on the following
25 day when Sergeant McCabe came back, having consulted 16:30
26 with his lawyers, that he advised your husband also to
27 make a protected disclosure and said that one of his
28 lawyers, who he described as Michael, had advised that;
29 Sergeant McCabe says that that is not correct?

1 A. Okay. well, that's my recollection of the day.

2 MR. McDOWELL: I see. Thank you, Mrs. Taylor.

3 A. Thank you.

4

5 THE WITNESS WAS THEN CROSS-EXAMINED BY MS. BURNS

16:31

6 951 Q. MS. BURNS: Good afternoon, Mrs. Taylor. My name is
7 Tara Burns and I am representing your husband. Just a
8 very few short questions. In relation to the day that
9 Sergeant McCabe came to your house, you've referred in
10 your interview with the Tribunal investigators to the
11 fact that there had been a family crisis the evening
12 before. Now, I obviously don't want to go into that,
13 but is that the case, that there had been family
14 trouble the previous evening?

16:31

15 A. Yes.

16:31

16 952 Q. And you also referred to the fact that you had been to
17 hospital that evening and in fact contacted Sergeant
18 McCabe in the early hours of the morning --

19 A. 2:30, yes.

20 953 Q. -- to put the meeting aside?

16:32

21 A. Yes.

22 954 Q. In relation to the family issue, did that have an
23 effect on your husband?

24 A. Yes. It had a profound effect.

25 CHAIRMAN: All right. well, I am sorry for all that
26 happening, Mrs. Taylor, you will appreciate. I think
27 Ms. Burns was approaching it in that kind of way, so
28 that it wouldn't become public knowledge, and I'm
29 actually going to strike it from the record. All

16:32

1 right. And the press aren't entitled to report that.
2 And if they feel I don't have the authority to say that
3 well then they can take a judicial review. But I think
4 I'll win. And I'm sure in any event they will behave
5 responsibly. 16:32

6 MS. BURNS: I am grateful to the Chairman, I didn't
7 mean it --

8 CHAIRMAN: Yes. I think you are really pressing her on
9 the thing there, Ms. Burns.

10 955 Q. MS. BURNS: well, I do have an interest in terms of the 16:32
11 effect that this had on your husband and if I could ask
12 you in relation to that, did it have an effect?

13 CHAIRMAN: well, let's suppose, I mean, you know, I am
14 a human being, I am a father and all the rest of it, I
15 can imagine. My imagination is pretty good. 16:32

16 MS. BURNS: well, once the Tribunal accepts that.

17 CHAIRMAN: No, I do. I'm saying I am sure he was
18 devastated and terribly upset. I'd accept that as a
19 fact. Yes, and as a leading question, I will accept
20 that as a very good leading question and we'll just 16:33
21 leave it at that.

22 MS. BURNS: I see. Thank you very much, Chairman.

23 956 Q. Mrs. Taylor then, in relation to Sergeant McCabe coming
24 to the house, we've already heard evidence from
25 Sergeant McCabe that your husband apologised to him, is 16:33
26 that correct?

27 A. That's correct, yes.

28 957 Q. I see. And what was Sergeant McCabe's attitude to
29 that?

1 A. He said he accepted his apology.

2 958 Q. I see. And you've also referred to the fact that you
3 made contact with Father Kennedy?

4 A. Yes.

5 959 Q. Now, I understand that's the chaplain within An Garda 16:33
6 Síochána --

7 A. Yeah, it is.

8 960 Q. -- is that correct? Can you recollect when that
9 contact was made?

10 A. I can't 100% recollect, but I think, I think it was 16:33
11 before Dave met Maurice McCabe. I think it was.

12 961 Q. I see.

13 A. And it was just things had gone so bad for Dave and --

14 962 Q. And what occurred arising from that contact? Did
15 Father Kennedy do anything? 16:34

16 A. Well, he spent some time with Dave, yeah, he did. I
17 asked him to spend some time just to maybe give him
18 some, you know, support, because there wasn't really
19 any support.

20 963 Q. I see. I take it from that that he met with Dave? 16:34

21 A. Yes. Oh, he came to the house. He came to the house
22 the next day.

23 MS. BURNS: I see. Thank you very much.

24 CHAIRMAN: Thanks, Ms. Burns. Was there any other
25 questions? No. 16:34

26 MR. QUINN: Chair, with a view to asking no questions,
27 I just make the following observation. I know that the
28 witness was at a meeting with Mr. Clifford. She hasn't
29 been asked any questions about that and I have

1 Mr. Clifford's account of it, but if it doesn't come up
2 I am happen to leave it.

3 CHAIRMAN: Yes. But is there any contradiction of
4 Mr. Clifford's account, do you think, Mr. Quinn?

5 MR. QUINN: I suspect there probably would be a slight 16:34
6 difference if we got into it. Now it's not for us to
7 decide what is relevant, it wasn't led in evidence yet,
8 so --

9 CHAIRMAN: No, but it's been referred to tangentially
10 in a few places. 16:35

11 MR. QUINN: Yes. I could do it very quickly.

12 CHAIRMAN: Yes, I think that is the thing do; just put
13 a couple of bullet points if you wish and if there is
14 anything left out in terms of detail I will take you as
15 putting the rest of that, all right, would that be 16:35
16 fair?

17 MR. QUINN: Absolutely, Chair.

18

19 THE WITNESS WAS THEN CROSS-EXAMINED BY MR. QUINN

20 964 Q. MR. QUINN: Mrs. Taylor, Oisin Quinn is my name. I am 16:35
21 for Mr. Mick Clifford, the journalist I have heard
22 mentioned. I think he was a meeting with yourself and
23 your husband on perhaps two occasions during the summer
24 of 2016; can you recall the fact that he was at two
25 meetings? They may have been in your house? 16:35

26 A. That's correct, yes.

27 965 Q. And I just want to put to you broadly speaking what he
28 can recollect from those meetings and obviously you can
29 say if you agree or disagree and explain what you can

1 recall. So he says that at the first meeting your
2 husband effectively laid out a case that he believed
3 that the criminal investigation against him was
4 motivated by the then-Commissioner Nóirín O'Sullivan
5 wanting to get her hands on your husband's mobile 16:36
6 phones.

7 A. You're asking me if that was said, is it?

8 966 Q. Yeah. That's Mr. Clifford's recollection of what your
9 husband was saying to him, and you would have been
10 there. 16:36

11 A. I don't recall my husband saying that the phones, that
12 the Garda Commissioner wanted to get her hands on the
13 phones.

14 967 Q. Okay. And he also, Mr. Clifford recollects your
15 husband pointing out that the Commissioner, 16:36
16 Commissioner O'Sullivan's husband, Mr., or
17 Superintendent Jim McGowan was part of the team
18 investigating him.

19 A. That's correct, yes.

20 968 Q. Yeah. And Mr. Clifford recalls your husband saying 16:36
21 that the reason she wanted to get his phones, i.e. your
22 husband's phones, was because your husband was
23 explaining that on his phones was evidence that would
24 link Commissioner O'Sullivan to the smear campaign.

25 A. Well, on the phones he was saying that he would've 16:37
26 texted to say there was something in the media or there
27 was something on the radio.

28 CHAIRMAN: Yeah, and Mr. Quinn is putting to you that
29 in fact it was somewhat different, which was that the

1 phones would've contained actual evidence of the
2 campaign texts between him and Nóirín O'Sullivan or --
3 A. Probably.
4 CHAIRMAN: -- Commissioner Callinan about the smear
5 campaign, as opposed to about 'Someone said such and 16:37
6 such about Sergeant McCabe on the radio' type thing.
7 A. Yes.
8 CHAIRMAN: So do you think that that was said? Because
9 there's a big gap between the two and it may not be
10 understood. On the one hand, your husband had the duty 16:37
11 to report, keep his eyes and ears open, 'This was said
12 about Maurice McCabe on the radio or the television'
13 and on the other hand what Mr. Clifford is referring
14 to, and that's Mr. Quinn's question to you was, he says
15 that your husband was saying that there were exchanges 16:37
16 of texts about the campaign to discredit Maurice McCabe
17 between him and the Commissioner or the Deputy
18 Commissioner. Do you see the difference?
19 A. Yeah.
20 CHAIRMAN: And what do you think the answer is to that? 16:38
21 A. I actually can't, I can't recollect that. I can't
22 recollect that discussion.
23 969 Q. MR. QUINN: Okay. And that during this meeting your
24 husband put a big emphasis on how, in his view, the
25 texts were key to everything and that he had used texts 16:38
26 to blacken Sergeant McCabe's name and the texts on his
27 phone would show who was in the loop, namely
28 Commissioner O'Sullivan.
29 A. No, he never said that he sent texts to blacken. I

1 know that. He never said that. He said that he sent
2 texts to say there was issues in the media, but not to
3 blacken him.

4 970 Q. Okay. Now, just then to put to you something about the
5 second meeting - and this was, I think, sometime later, 16:38
6 but again perhaps towards the end of the summer of
7 2016. I think again it's yourself and your husband and
8 Mr. Clifford. And Mr. Clifford had essentially three
9 things he was asking your husband for confirmation
10 about - so this was somewhat in the nature of 16:39
11 Mr. Clifford coming back to kind of check things - and
12 those were, firstly, that texts had been used to
13 blacken Sergeant McCabe's name, he wanted to check that
14 with your husband. Can you recall him checking that?

15 A. I don't recall him asking if there was texts. 16:39

16 CHAIRMAN: Are you referring to the e-mail there,
17 Mr. Quinn, is that it?

18 MR. QUINN: No, this is a second meeting.

19 CHAIRMAN: Oh, right, a second meeting, yes. And how
20 long after the first meeting are we talking about? 16:39

21 MR. QUINN: I think it is towards the end of the summer
22 2016, so maybe --

23 CHAIRMAN: A month or so later?

24 MR. QUINN: A month or so, yeah.

25 CHAIRMAN: And you were there for that meeting as well, 16:39
26 were you?

27 A. Yes, I was.

28 CHAIRMAN: All right, okay. So do you think that the
29 texts came up again in that context --

1 A. No.

2 CHAIRMAN: -- texts being used to blacken, as opposed
3 to texts being used to just inform what the media say?

4 A. Yeah, to inform, not to blacken.

5 CHAIRMAN: That's all? Yes, all right. 16:40

6 971 Q. MR. QUINN: So that was the first thing he was checking
7 that he recollects, and that your husband confirmed
8 that to him.

9 A. No. Because it was not --

10 972 Q. Then the second thing he was checking was that 16:40
11 Superintendent Taylor, that your husband had said that
12 there was an intelligence file in HQ on Sergeant
13 McCabe.

14 A. No, we just said there was an Oisin system, which was
15 different to Pulse. 16:40

16 973 Q. Yes. I think that probably is the same thing. But
17 Mr. Clifford recollects he asked your husband, 'I'm
18 checking with you, did you believe that there was an
19 intelligence file on Sergeant McCabe in HQ?' And your
20 husband confirmed that to him at this second meeting. 16:40

21 A. Well, I don't think he did. Because he wouldn't have
22 known, he was suspended.

23 974 Q. Okay. And then the third thing he wanted to check was
24 was your husband saying that he believed a guard had
25 been assigned to monitor Sergeant McCabe on Pulse. 16:41

26 A. No, never heard that. Again, Dave was suspended, so he
27 wouldn't have known that.

28 975 Q. Okay. And his recollection is that your husband
29 confirmed that as well.

1 A. No.

2 MR. QUINN: Thanks very much, Mrs. Taylor.

3 CHAIRMAN: I think those are the highlights certainly,
4 Mr. Quinn. Thank you very much for that. Was there
5 any questions? 16:41

6 MR. LEHANE: Yes, Mrs. Taylor, Chairman.

7 CHAIRMAN: Yes, certainly. Maybe you'd just tell
8 Mrs. Taylor who you appear for please.

9

10 THE WITNESS WAS CROSS-EXAMINED BY MR. LEHANE AS
11 FOLLOWS:

12

13 MR. LEHANE: Yes, Mrs. Taylor, I'm down here at the
14 back on your right. My name is Darren Lehane and I
15 appear on behalf of Deputy John McGuinness and I just 16:41
16 want to ask you a few questions in relation to your
17 meeting with Deputy McGuinness in the Skylon hotel if
18 that's okay? Now, you've given evidence to the Chairman
19 that it was a cautious meeting, that you were anxious
20 to discuss family issues and that Deputy McGuinness 16:42
21 wanted to ascertain exactly what had happened factually
22 to your husband.

23 A. Mm hmm.

24 976 Q. Isn't that right? And among those facts as communicated 16:42
25 by your husband to Deputy McGuinness was the fact that
26 he had been used by Commissioner Callinan and Deputy
27 Commissioner O'Sullivan to brief negatively against
28 Sergeant McCabe, isn't that right?

29 A. You're asking me if my husband said --

1 977 Q. That's what he said at the meeting.
2 CHAIRMAN: No, I think what you're being asked - and
3 it's easy to misunderstand - there's only you and
4 there's only John McGuinness, presumably having a cup
5 of tea or something in the Skylon, and what you're 16:42
6 being asked about is what did you say to him, not what
7 your husband said to you, but just what you said to
8 him.
9 A. Okay.

10 978 Q. MR. LEHANE: Yes. 16:42
11 A. Well, basically I had told him our story and our
12 situation and that, you know, we were in a bad place.

13 979 Q. Okay. Now, you're aware that Deputy McGuinness has
14 given evidence to the Tribunal in relation to his
15 recollection of this meeting? 16:43
16 A. (Witness Nods).

17 980 Q. And you're aware that Deputy McGuinness has given
18 evidence that he was told that texts were used for the
19 purposes of briefing negatively against Sergeant
20 McCabe, you're aware of that? 16:43
21 A. That actually wasn't said though.

22 981 Q. Well, no, you're aware that that's what Deputy
23 McGuinness has told the Tribunal in his evidence?

24 A. Yes.

25 982 Q. Could it - and I appreciate this, it's stressful giving 16:43
26 evidence for you here today and I appreciate it was
27 very stressful for you meeting Deputy McGuinness in the
28 Skylon over a coffee discussing these matters - but
29 could it have been said at that meeting that texts were

1 used as part of this campaign?

2 A. There was no texts used to send negative information
3 out about Sergeant Maurice McCabe.

4 983 Q. No, no, but I'm just asking you could it have been said
5 in the conversation between your husband, yourself and 16:44
6 Deputy McGuinness that texts were used?

7 A. Oh, yeah, texts were used to say if there was something
8 in the media or if, as I had said earlier, he would've
9 said that to John McGuinness that, yes, he would've
10 briefed the commissioners of a programme or a radio 16:44
11 station that was carrying something on --

12 984 Q. I just want to be fair to you, Mrs. Taylor, and I draw
13 the distinction between texts being used for the
14 purpose of your husband communicating to the
15 Commissioners of things he was doing and texts being 16:44
16 used by your husband to communicate with other persons,
17 for example journalists. And it's the latter that I'm
18 interested in.

19 A. No, there was never any negative texts sent to
20 journalists. 16:45

21 985 Q. I know that's your evidence, but could it have been
22 said in the course of the conversation?

23 A. No, because it never happened.

24 986 Q. Okay. Could anything have been said in the course of
25 that conversation which could've suggested that that 16:45
26 was the case?

27 A. I don't believe so, because it's just something that
28 never happened.

29 987 Q. Okay. I have to put to you my instructions, which are

1 that it was said that text messages were used to brief
2 negatively against Sergeant McCabe at that meeting.

3 A. Well, that's not true. That wasn't said.

4 CHAIRMAN: well, I think what you're saying is that you
5 were taken up wrong? 16:45

6 A. Well, I don't know how this is gone in, because there
7 was never any negative texts sent to journalists about
8 Maurice McCabe.

9 CHAIRMAN: All right. No, I understand that. Thank
10 you very much, Mr. Lehane. Mr. Whelan, did you want to 16:45
11 ask anything?

12

13 THE WITNESS WAS CROSS-EXAMINED BY MR. WHELAN AS
14 FOLLOWS:

15 16:45

16 988 Q. MR. WHELAN: Mrs. Taylor, I appear and I have some
17 questions on behalf of former Commissioners Martin
18 Callinan, Nóirín O'Sullivan and, relevantly, the
19 Director of Communications Andrew McLindon of An Garda
20 Siochana. And just a few factual matters you may or 16:45
21 may not be able to assist us with; obviously for the
22 period 2013 and 2014 when the Garda, as a Press
23 Officer, your husband was very busy, being married to
24 Press Officer, in the home of a Press Officer, the
25 media being always on, he was always busy, as it were? 16:46

26 A. Mm hmm.

27 989 Q. And it often intruded in phone calls on his mobile or
28 whatever in the house, is that correct?

29 A. That's correct, yeah.

1 990 Q. And he, in his evidence, has not been able to specify
2 the circumstances of any particular occasion when he
3 gave the journalists what you described as a back story
4 about Maurice McCabe and the sexual allegation. You
5 say you overheard that on one or more occasions, do I 16:46
6 understand?

7 A. Well, it would just be a case, 'Oh, here we go again',
8 you know, 'It's back up again'.

9 991 Q. And can you anchor any of those occasions in terms of
10 the day somebody visited, the day Tipperary were 16:46
11 playing Kilkenny, the time of the family circumstances
12 of any such occasions?

13 A. I can't, to be honest with you, no.

14 992 Q. Can you picture any detail at all of when such a
15 conversation occurred? 16:47

16 A. No.

17 993 Q. Did you meet any of the journalists ever that he worked
18 with?

19 A. No, never met them. They were never at our home or I
20 never met them. 16:47

21 994 Q. And did you know on any given occasion which journalist
22 he was talking to or whether it was a journalist or a
23 work colleague, or did you just overhear the
24 conversation?

25 A. Just overheard the conversations. 16:47

26 995 Q. But you can't put particulars, as it were?

27 A. I'm sorry?

28 996 Q. You can't be specific about any specific occasion where
29 you say you heard Dave talk in this way about Maurice

1 McCabe?

2 A. No, I can't be specific, no.

3 997 Q. Okay. Can I ask you then, you were, and I suppose
4 unhappily for you because it means you're here this
5 afternoon, as it happens you were present for some of 16:47
6 the meetings that are relevant to your husband's
7 involvement or account of what occurred. Did I
8 understand you to say that you had had, was it one or
9 two meetings with Maurice McCabe before your husband --
10 before Sergeant McCabe came to your house on 20th 16:48
11 September 2016?

12 A. That's correct, yes.

13 998 Q. Was that one or two?

14 A. It was two.

15 999 Q. And were they both in the Skylon Hotel? 16:48

16 A. They were, yes.

17 1000 Q. And were they both short meetings?

18 A. The first one was a little bit longer, but if I can
19 recollect, maybe 15 minutes, no more.

20 1001 Q. And what was the purpose or content of each of those 16:48
21 meetings?

22 A. It was very much family, we didn't discuss anything
23 else, it was very much I was asking him about his wife
24 and his children and asking him how they were coping
25 with him being out. So that was what the conversation 16:48
26 was about. And he was, I knew by, he would've liked to
27 meet Dave he told me.

28 1002 Q. Was he at these meetings seeking, as it were - I think
29 he had in the phone call - to meet Dave, is that

1 correct?

2 A. well, I'm sure he didn't really want to meet me.

3 1003 Q. Sorry?

4 A. I'm sure it wasn't really me he wanted to --

5 1004 Q. You're sure he didn't want to meet you. But as I say, 16:48
6 having the meetings with you, you agreed to meet him?

7 A. I agreed to meet him.

8 1005 Q. And from those meetings, you took that he was anxious
9 to meet Dave?

10 A. I did, yes. 16:49

11 1006 Q. And Dave wasn't in a frame of mind to meet Maurice at
12 that stage?

13 A. No, absolutely. He did not want to meet him.

14 1007 Q. And what was your view in that regard as to whether
15 Dave should or should not meet Maurice? 16:49

16 A. well, I wanted him to do what he was happy with.

17 1008 Q. Okay.

18 A. I said 'The fact that he's come into your life and he's
19 rang you', I said, 'It's up to you what you want to do
20 with it'. 16:49

21 1009 Q. Did I understand you to say then that while Dave, your
22 husband, was a Press Officer, you were aware that he
23 was doing this smearing, if we call it that, about
24 Maurice McCabe?

25 A. I wasn't aware it was a smearing at the time, I just 16:49
26 knew it was negative. Because it was the penalty
27 points and it looked like Sergeant McCabe was winning
28 the media --

29 1010 Q. But you were aware that he was telling the back story

1 of Sergeant, as you've described it, of Sergeant
2 McCabe's --

3 A. Well, when I say of "aware of it", it was because 'Oh,
4 there was an incident up there over Ms. D'.

5 1011 Q. No, but I'm saying -- exactly; you were clear that your 16:49
6 husband was telling journalists a back story, as you
7 say, about -- that Sergeant McCabe had faced a sexual
8 assault allegation --

9 A. Mm hmm.

10 1012 Q. -- which the DPP had directed no charges in. And were 16:50
11 you aware that -- he says that he was directed by
12 Martin Callinan, the Commissioner at the time, to do
13 that. And are you saying you were aware of that, that
14 he'd been directed by the Commissioner to do that?

15 A. Well, at that stage he believed what he was doing was 16:50
16 right. I think he believed this was the right
17 procedure he had to follow.

18 1013 Q. And what was your view of it?

19 A. Of? Well, I just --

20 1014 Q. What he was doing at the time. 16:50

21 A. Well, I believed what he was doing was right, because
22 he was doing his job and I didn't kind of pay an awful
23 lot attention to it. I wasn't in it, you know, I just
24 wasn't --

25 1015 Q. Were you shocked or appalled to hear him doing it? 16:50

26 A. I didn't really have any feelings on it, to be honest
27 with you.

28 1016 Q. Your husband's evidence was that it took him a year or
29 so to be out of what he described as the hothouse or a

1 hot atmosphere, the atmosphere of the Gardaí before he
2 came to a realisation that what he was doing in terms
3 of filling journalists in with this back story about
4 Maurice McCabe was wrong. Did you come to any such
5 realisation, and when? 16:51

6 A. I came to a realisation of that personally for me when
7 he was suspended.

8 1017 Q. Oh, obviously you came to a realisation it had an
9 impact, but when did you come to a realisation of what
10 he had done, what he had been doing was wrong? 16:51

11 A. I believed he was doing his job. I never gave too much
12 thought into whether it was right or wrong. He was
13 just acting on a brief from his, you know, from the
14 Commissioner.

15 1018 Q. You now agree at that your husband, that if it 16:51
16 happened, it was wrong presumably?

17 A. That to brief negatively?

18 1019 Q. Yes.

19 A. Yeah, it was, yeah.

20 1020 Q. And when did you come to that view? 16:51

21 A. I suppose when Dave said 'what I did was wrong'.

22 1021 Q. When he came to that view?

23 A. When he said that to me. Not that I have to be led by
24 my husband, but I just wasn't really paying too much
25 attention to it. You know, I knew it was going on, but 16:51
26 there was a lot else going on in my life. Because Dave
27 was just constantly on the phone. I was doing
28 everything on my own.

29 1022 Q. In April, May and across the summer you met Sergeant

1 McCabe a couple of times for coffee, you said that you
2 were concerned for Dave and that's why you, as it were,
3 were engaging with Sergeant McCabe rather than Dave
4 directly, is that correct?

5 A. Yes, yeah.

16:52

6 1023 Q. And Dave was, and he's told the Tribunal about it
7 himself, it was obviously a traumatic event for the
8 family, the circumstances in which, firstly, he'd been
9 moved from the Press Office, but more importantly, when
10 the criminal investigation began, isn't that correct?

16:52

11 A. That's correct, yes.

12 1024 Q. And you've said that -- did I understand you to say
13 that about two weeks before he met Maurice McCabe you
14 first made contact with Father Joe Kennedy?

15 A. I can't be 100% specific with the dates, but to the
16 best of my recollection it was before he met Maurice
17 McCabe. I can't be 100%.

16:52

18 1025 Q. Okay. If it helps, there's no issue on that, your
19 husband told us this morning that he thought it was
20 some weeks before he met Sergeant McCabe.

16:52

21 A. Mm hmm.

22 1026 Q. He did say that he didn't tell anybody else, apart from
23 what we now know to be Father Joe Kennedy, before he
24 told Maurice McCabe - and he told you obviously, he
25 told Father Joe Kennedy and he told Maurice McCabe on
26 20th September 2016. Were you aware, however, that he
27 had also told Michael Clifford, the journalist?

16:53

28 A. Told him?

29 1027 Q. Were you aware that David had told Michael Clifford,

1 the journalist about the smear campaign he says he was
2 required by Martin Callinan to conduct?

3 A. I can't actually recall if --

4 1028 Q. You were present at the meetings with Mr. Clifford in
5 June or July of 2016. 16:53

6 A. No, I think Dave did say that there was a campaign --

7 1029 Q. Sorry?

8 A. I think, you know, Dave did acknowledge there was a
9 campaign, to the best of my recollection.

10 1030 Q. Sorry, I didn't hear that answer. Tell me it again. 16:53

11 A. I think he did say there was a campaign, like that he
12 was part of a campaign.

13 1031 Q. He told Michael Clifford he was part of a campaign?

14 A. Yeah, I think so. To the best of my knowledge, yeah.

15 1032 Q. That was at the meetings in June or July? 16:54

16 A. Well, in our house.

17 1033 Q. In June or July?

18 A. I can't remember which, but --

19 1034 Q. Well, they were before he met Maurice McCabe for the
20 first time? 16:54

21 A. Yeah, they were before Maurice McCabe.

22 1035 Q. Okay. Now, Maurice McCabe, you've dealt with and the
23 other barristers have dealt with the conflict, as it
24 were, of how Maurice McCabe described some aspects of
25 the conversation that he had with you and Dave on the 16:54
26 night of 20th September, and you say that on 21st
27 September you were contacted again by Mr. McCabe by
28 phone, that he wanted to call out again to the house,
29 isn't that correct?

1 A. I think it could've been on 20th when he left, he rang
2 later on.

3 1036 Q. Okay, that's fine.

4 A. If he was in Dublin the next day --

5 1037 Q. But in any case, I think he attended for what you 16:54
6 described as a short meeting --

7 A. Yes.

8 1038 Q. -- in the house again, 10/15 minutes, I think you said
9 you didn't even get time to offer him a cup of tea?

10 A. Yes. 16:54

11 1039 Q. On 21st September?

12 A. Yes.

13 1040 Q. And you tell the Tribunal that you were taken aback
14 when Maurice indicated to you that he was going to make
15 a protected disclosure? 16:55

16 A. (Witness Nods).

17 1041 Q. Isn't that correct?

18 A. That's correct, yes.

19 1042 Q. And that he had been advised by his lawyers --

20 A. Mm hmm. 16:55

21 1043 Q. -- to make a protected disclosure and that his lawyers
22 were of the view that David should make a protected
23 disclosure also.

24 A. No, he didn't say his lawyers were of the view, he said
25 to Dave 'You know, maybe you should make a protected 16:55
26 disclosure'.

27 1044 Q. Okay. I think what you told the Tribunal was:
28
29 "I remember him saying that he and Michael felt it was

1 very important that Dave also made a protected
2 disclosure".

3 A. Yeah.

4 1045 Q. And did you understand who that Michael was? I don't
5 think -- 16:55

6 A. No, I didn't. And I wasn't familiar with a protected
7 disclosure either, to be honest with you.

8 1046 Q. I think you make that point, that in fact this was why
9 you were surprised, because you had no you
10 understanding of what a protected disclosure involved? 16:55

11 A. Yeah.

12 1047 Q. But was there any restriction put on the conversation
13 the night before when Dave was telling Sergeant McCabe
14 the account, as he described it, of a smear campaign
15 that he was, he alleges, instructed to do by 16:55
16 Commissioner Callinan, was there any restriction put on
17 whether this would be kept private or confidential or
18 at this stage or anything like that?

19 A. Well, I think when Sergeant McCabe was taking notes, we
20 knew that obviously the information he was going to 16:56
21 receive, he probably would have to do something with
22 it. That's why I think Dave never wanted to meet him.

23 1048 Q. Okay. And I think we know from previous evidence
24 Sergeant McCabe took a page of notes that evening,
25 isn't that correct? 16:56

26 A. Yes.

27 1049 Q. Okay. And then after you left, you told Sergeant
28 McCabe, as he was leaving, that you would ring him
29 again later, that Dave needed to talk to his solicitor,

1 isn't that correct?

2 A. Mm hmm, yes.

3 1050 Q. And I don't want to get into any conversation you, or
4 indeed David, or you indeed, had with the solicitor,
5 but it seems that over the course of the following few 16:56
6 days the protected disclosure was prepared, isn't that
7 correct?

8 A. To the west of my knowledge, yeah.

9 1051 Q. Okay. And your husband, I think, met with
10 Mr. Clifford, Michael Clifford the journalist about 16:56
11 that time as well, in the early days of October?

12 A. I think so, yes.

13 1052 Q. Were you at that third meeting?

14 A. The third meeting?

15 1053 Q. The story appeared on 4th October, so it might've been 16:57
16 the very first weekend of that October.

17 A. The protected disclosure story?

18 1054 Q. The protected disclosure, I think your husband's
19 protected disclosure went in on Wednesday 28th if I'm
20 correct and the weekend then would be the first weekend 16:57
21 of October.

22 A. Mm hmm.

23 1055 Q. Did you meet Mr. Clifford with your husband that
24 weekend?

25 A. I actually can't, I can't recall that meeting. 16:57

26 1056 Q. Okay. Did your husband tell you, whether you were at
27 the meeting or not, whether or not he was going to
28 share any of the contents of the protected disclosure
29 with any journalist?

1 A. No, definitely not. Because he even said to me 'This
2 has to be kept very tight'.
3 1057 Q. Had to be kept?
4 A. Very tight.
5 1058 Q. Were you shocked then when it appeared in the Cork 16:57
6 Examiner on 4th October, the following Tuesday, was
7 raised in the Dáil that Tuesday afternoon and became a
8 big massive news story on 4th and 5th October?
9 A. Well, yeah, I was shocked. It was upsetting to see it
10 in the papers. 16:57
11 1059 Q. It was upsetting to see the protected disclosure in the
12 papers?
13 A. Mm hmm.
14 1060 Q. Okay. And tell me then, you got a call on the Monday 16:58
15 afternoon, after that weekend, which was 3rd October,
16 it seems from Deputy Mick Wallace.
17 A. Yes.
18 1061 Q. And you were surprised to get that, were you?
19 A. Yes, I was, yes.
20 1062 Q. And I think his account is that he had met Mr. McCabe 16:58
21 for lunch that day and asked Mr. McCabe if he could
22 talk. Mr. McCabe -- Sergeant McCabe, sorry, had told
23 him about his conversation the previous day with David
24 and yourself and Deputy Wallace asked to meet directly
25 and he was provided with your phone number and that's 16:58
26 how Deputy Wallace came to ring you. And did he
27 suggest to you then that himself and Deputy Daly would
28 call out to the house?
29 A. He did, yes.

1 1063 Q. Or he asked to meet you and you said to call out to the
2 house?
3 A. Yes, he asked to meet, yeah.
4 1064 Q. And you had a somewhat lengthy conversation that
5 evening with Deputies Wallace and Daly together? 16:58
6 A. Yeah, my daughter was there and there was kind of --
7 1065 Q. Coming and going a bit?
8 A. Yeah, yeah.
9 1066 Q. But I think you'd accept -- were you conscious or was
10 it obvious to you - and I doubt they would make any 16:59
11 effort to hide it - that both Deputy Daly and Deputy
12 Wallace were taking notes at that meeting?
13 A. I can't recall.
14 1067 Q. Okay. Just to say both of them have provided notes
15 that they took at that meeting in your home with 16:59
16 yourself and David. It was just the four of you apart
17 from the family?
18 A. Yeah, there was my two daughters were being
19 introduced -- but I can't recall notes being taken.
20 I'm not saying there wasn't, but I just don't recall. 16:59
21 1068 Q. But there's no suggestion Sergeant McCabe or anybody
22 was there, it was just yourself and David and the two
23 deputies?
24 A. Yes.
25 1069 Q. And they were taking some kind of notes? 16:59
26 A. I can't recollect whether they were or not.
27 1070 Q. Okay. And again about that meeting on the Monday 3rd,
28 was there any restriction or confinement put that you
29 were sharing in information confidentially at this

1 stage or were you conscious -- I mean, you may or may
2 not be familiar yourself, once you're talking to a
3 Deputy that this could be Dáil content tomorrow or
4 could be published or whatever; do you recall any of
5 that? 17:00

6 A. Yeah, no, I understand --

7 1071 Q. There was no saying to them 'Come back to us before you
8 publish this' or 'Don't say anything about this' or
9 'we're just talking to you one-on-one at the moment'?
10 There was no restriction put on what they could say? 17:00

11 A. I actually don't recall that.

12 1072 Q. You don't recall?

13 A. Yeah.

14 1073 Q. Oh, yes, sorry, correct me if I'm wrong, but did I
15 understand you to accept that your husband had said at 17:00
16 your meeting with Maurice McCabe on 20th September 2016
17 that his view was that Nóirín O'Sullivan was anxious to
18 get a charge on him?

19 A. Yes.

20 1074 Q. And can I ask you, was it your husband's sense and 17:00
21 indeed was it your own sense that the criminal
22 investigation into him was personalised in that way or
23 personally driven by the Commissioner in that way?

24 A. Well, personally speaking, I suppose when I saw her
25 husband involved in it, I just got a bit upset. 17:00
26 Because I just felt it was, it wasn't objective.

27 1075 Q. Yes, I suppose as the first woman Commissioner she'd be
28 the first person to have a husband, as it were, and the
29 first in this case to have a husband --

1 A. But she had moved him from his position.

2 1076 Q. Well, again the Tribunal knows more now about the
3 circumstances in which Superintendent McGowan came to
4 be appointed to the investigation and I don't need to
5 contest that with you. But I just want to understand, 17:01
6 would it be correct to say that David and yourself
7 and/or yourself developed somewhat of a fixation about
8 the involvement of Superintendent McGowan in the
9 investigation?

10 A. I wasn't fixated on anything, I was just fixated on 17:01
11 keeping my children healthy, because we were in a very
12 dire financial situation.

13 1077 Q. And in the notes taken by Deputy Wallace and Deputy
14 Daly and in such conversations, Superintendent McGowan
15 is referred to and the census seems to be communicated 17:01
16 that this was a criminal investigation personalised
17 against David Taylor by the Commissioner personally.

18 A. No, I wouldn't --

19 1078 Q. Was that your sense?

20 A. No, that wasn't my sense. 17:02

21 1079 Q. It wasn't your sense?

22 A. No, it wasn't my sense.

23 1080 Q. You didn't have a sense or communicate a sense to
24 anybody else that Nóirín O'Sullivan had it in for your
25 husband and/or was anxious to get a charge on him? 17:02

26 A. No, I just felt that the fact that her husband was
27 leading it, I was just hoping we could get objectivity
28 on it. So I wouldn't --

29 1081 Q. And did you have a sense that David Taylor, your

1 husband, had a sense that this was personalised against
2 him by the Commissioner personally?

3 A. No, I don't think he thought it was personalised.

4 1082 Q. And whether he was anxious, as it were, to do harm to
5 the Commissioner or her standing as a result of this 17:02
6 sense that she had personally, she was personally
7 driving this criminal investigation against him?

8 A. No, definitely not.

9 1083 Q. Well, what did you mean by indicating that she was
10 anxious to get a charge on him? 17:02

11 A. Because I suppose because her husband was on the team.

12 1084 Q. So because her husband was on the team, she herself
13 personally, you felt, was anxious to get a charge
14 against your husband?

15 A. Well, I personally felt that it was awkward for us if 17:03
16 her husband was leading the investigation.

17 1085 Q. Let me ask you one general question then, and it's one
18 the Chairman put to your husband earlier and I'll put
19 it in different terms perhaps; did you have a sense
20 that your husband was unjustly or unfairly the subject 17:03
21 of a criminal investigation, that he was a victim and
22 being unjustly treated, rather than that the
23 investigation was appropriately commenced?

24 A. I don't really have an opinion on that.

25 1086 Q. Sorry? 17:03

26 A. I don't really have an opinion on that.

27 MR. WHELAN: You don't really have an opinion on that?
28 Thank you very much, Mrs. Taylor.

29 A. Okay.

1 CHAIRMAN: Mr. McEnroy, I think?
2 MR. McENROY: No, I was just anxious the witness would
3 be, at an appropriate juncture, released, Judge.
4 CHAIRMAN: I know, yes. But do you have any questions?
5 MR. McENROY: No. 17:03
6 CHAIRMAN: Okay. All right. Well, that's all I was
7 asking. Ms. Leader, do you have any questions?
8
9 THE WITNESS WAS RE-EXAMINED BY MS. LEADER AS FOLLOWS:
10 17:04
11 1087 Q. MS. LEADER: In relation to the criminal investigation,
12 did your husband explain to you why he was being
13 investigated?
14 A. He did, yes.
15 1088 Q. And what was that for? 17:04
16 A. For the alleged leaking of the information in relation
17 to the Roma children.
18 1089 Q. It was just the Roma children was your understanding?
19 A. Just the Roma children, yeah.
20 1090 Q. Okay. Did he say anything to you about anything else 17:04
21 in relation to information that was released to the
22 media?
23 A. No, it was just in relation to the Roma children.
24 1091 Q. Okay. And in relation to the Roma children, did he
25 ever say to you that he had released the information? 17:04
26 A. No, he was very upset, because he said being a father
27 and children's names were released, that upset him.
28 Because he said, you know, it was children that were
29 involved, that made it more upsetting for him.

1 1092 Q. All right. And in relation to Deputy McGuinness, do
2 you recollect at any stage Deputy McGuinness telling
3 your husband what had happened in the car park on the
4 day he left Dundalk?

5 A. I'm 100% sure that was not discussed. 17:05

6 MS. LEADER: All right. Thanks very much.

7 A. Thank you.

8 CHAIRMAN: There's just one thing. I ask you please
9 not to mention a name, but you said, you know, the
10 Ms. D case was discussed at home; I'm presuming that 17:05
11 the name, the family name at least, if not more, was
12 also mentioned at home?

13 A. Well, I never heard the name.

14 CHAIRMAN: You never heard the name

15 A. I never heard it. 17:05

16 CHAIRMAN: All right, that's grand. Thank you very
17 much. You might like to sit down, because I've a few
18 things to go through then, thank you. All right, the
19 few things to go through.

20 17:06

21 Secondly, I can't sit before 10:30 tomorrow. Again, if
22 I'm going to be very late I'll send a message. I have
23 a meeting again in the Four Courts.

24

25 Then lastly, I know Mr. Phelan is here for the Irish 17:06
26 Times and Mr. Berry is here for Gemma O'Doherty and
27 wish to ask questions, but I am not stopping anyone who
28 has said they feel they don't want to ask questions at
29 this point from asking any questions. I gave the

1 example earlier today, and this is of course not about
2 me, but I do recall, and I said I'm going to repeat it,
3 a situation where a person bound by privilege, as I was
4 at the time, had a list of persons who were constantly
5 in the media - and this is going back decades - in 17:06
6 relation to a supposed scandal and a conversation
7 coming up in my presence about a particular individual
8 and I did not break privilege by saying that person's
9 name is not on the list, because I have the list in my
10 office, but I did say that much. If it was a question 17:07
11 of perhaps there being only potentially four or five
12 people on the list and ruling out a particular person I
13 could have been breaking privilege, but this was just
14 someone who was being generally spoken of, indeed I
15 think door-stepped on the television in relation to 17:07
16 that allegation. And I don't believe that's a breach
17 of privilege, but of course I will look forward to any
18 submissions that there are in relation to press
19 privilege and I'm conscious of my obligations under the
20 European Convention on Human Rights in that regard. 17:07
21 But that may be an example which helps people or maybe
22 it doesn't, maybe there's something else here that I'm
23 not aware of. We'll see. Thank you.

24
25 THE HEARING WAS THEN ADJOURNED UNTIL THURSDAY, 17TH MAY 17:07
26 2018 AT 10:30AM

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