

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

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

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

HELD IN DUBLIN CASTLE  
ON TUESDAY, 22ND MAY 2018 - DAY 80

80

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

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1 THE HEARING RESUMED, AS FOLLOWS, ON TUESDAY, 22ND MAY  
2 2018:

3  
4 MR. MARTIN CALLINAN CONTINUED TO BE CROSS-EXAMINED BY  
5 MR. McDOWELL:

10:00

6 1 Q. MR. McDOWELL: Mr. Callinan, good morning.

7 A. Morning, Chairman.

8 2 Q. Are you -- did you follow the evidence that was given  
9 here by Mr. Noel Brett on day 64?

10 A. Yes, I have read the evidence, yes.

10:01

11 3 Q. And there are a number of issues that I want to ask you  
12 in relation to that, but one of them is that in the  
13 month of -- in the summer of 2013, he and Minister  
14 Varadkar met with Minister Shatter and other officials  
15 from the Department of Justice in relation to the  
16 penalty points issue. And he has told the Chairman  
17 that Minister Shatter assured him that Sergeant McCabe  
18 had not cooperated with the O'Mahony investigation, the  
19 preparation of the O'Mahony report, and first of all,  
20 would that have been on the basis of information  
21 supplied by you?

10:01

10:02

22 A. Well, I was always careful, Chairman, when I was  
23 speaking about this issue and what I had indicated was  
24 that on the 14th December '12 when I issued the  
25 direction, first direction to Sergeant McCabe and  
26 former Garda John Wilson, that the direction also  
27 contained an invitation that if they had any further  
28 concerns, they could raise those concerns with the  
29 Assistant Commissioner John O'Mahony, who was

10:02

1 investigating these matters. That was the language  
2 that I used, and it is the case that Sergeant McCabe  
3 did not engage with that process.

4 4 Q. Now, we will come back to that in a moment, but you do  
5 recall that Mr. Brett informed this Tribunal that he 10:03  
6 was very much of the view that, having spoken to  
7 Sergeant McCabe, that the Minister was misinformed and  
8 that he took the trouble to check out the facts again  
9 with Sergeant McCabe and contacted the Secretary  
10 General of the Department of Justice, Mr. Brian 10:03  
11 Purcell, to ask him to inform the Commissioner that he  
12 was mistaken in this respect. You saw that?

13 A. That he -- the last piece, sorry? That he was asked?

14 5 Q. That he telephoned Brian Purcell, who was the Secretary  
15 General of Justice, to ask him to -- to tell him that 10:04  
16 the Minister was mistaken in this respect and that  
17 Sergeant McCabe had never been approached by the  
18 O'Mahony Commission?

19 A. That may well be the position. I wouldn't have any  
20 issue with that. 10:04

21 6 Q. Now, could I ask you to look at volume 27, page 7356,  
22 if you would, please.

23 A. I think, just in relation to your last question,  
24 Mr. McDowell, was it not the case that the former  
25 Minister dealt with this in his evidence also, in 10:04  
26 relation to whether or not he heard that from me? I  
27 may be mistaken but I thought he did.

28 7 Q. When I say that it was from you, that information came  
29 from An Garda Síochána, isn't that right?

1 A. No, no, it did not.

2 8 Q. That he hadn't cooperated?

3 A. No, no. No, no. I have just indicated that I was  
4 always very, very careful in relation to what I'd said  
5 about that position. But I do accept, you know, I do 10:04  
6 accept that, looking back now at what had happened, it  
7 would be a very reasonable position, I think, to take.  
8 The reality was, Sergeant McCabe did not engage with  
9 the Assistant Commissioner and his inquiry. I mean,  
10 you know, we may be splitting hairs here but that is 10:05  
11 the situation.

12 9 Q. Well, we will come back to that in a moment.

13 A. Thank you.

14 10 Q. Could I ask you to look at a letter that was sent to  
15 Sergeant McCabe by Mr. Flahive in the Department of 10:05  
16 Justice on the 20th September 2013.

17 A. Have you a page reference?

18 11 Q. Yes, it's volume 27, page 7356.

19 A. Thank you.

20 12 Q. And it's addressed to Sergeant McCabe at his home and 10:05  
21 it reads:  
22  
23 "Dear Mr. McCabe  
24 I refer to your email to the 1st of July to the office  
25 of Taoiseach regarding the report of the examination 10:06  
26 into the allegations on the operation of the fixed  
27 charge processing system which has been copied to this  
28 Department. As you are aware the Minister forwarded  
29 the allegations in respect of the cancellation of fixed



1 charge notices to the Garda Commissioner in October  
2 last. The Commissioner appointed Assistant  
3 Commissioner John O'Mahony to conduct an examination  
4 and to report on the allegations. A team of 28 Garda  
5 staff was engaged in the investigation, including five 10:06  
6 chief superintendents and six superintendents. The  
7 final report was submitted to the Minister by the  
8 Commissioner on 28th March 2013. The Minister is  
9 satisfied that all the allegations have been fully  
10 reviewed and analysed in the report prepared by 10:06  
11 Assistant Commissioner John O'Mahony. That report has  
12 been published and has also been referred to the Joint  
13 Oireachtas Committee on Justice, Defence and Equality  
14 for consideration.

15 10:07  
16 With regard to your claim that you have evidence which  
17 contradicts the findings of Assistant Commissioner  
18 O'Mahony's report, the Minister has advised that you  
19 were offered the opportunity by the Garda authorities  
20 to submit any evidence or other relevant information 10:07  
21 you had in support of your allegations to Assistant  
22 Commissioner O'Mahony but did not do so. Indeed, this  
23 Department in its correspondence to you last December  
24 also advised that should you have further information  
25 in your possession which would be helpful to the 10:07  
26 investigation the proper approach would be to provide  
27 this to your authorities within the force but again it  
28 is understood that you did not do so.  
29

1 Your comments in your email relating to the Assistant  
2 Commissioner O'Mahony's reports are therefore of grave  
3 concern. Firstly, as you have not provided Assistant  
4 Commissioner O'Mahony's investigation with whatever  
5 evidence you say you have, and secondly, as the person 10:07  
6 you are referring to in such serious terms, including  
7 allegations of criminal offences, have not been given  
8 an opportunity to respond. If you have evidence  
9 contradicting the finding of Assistant Commissioner  
10 O'Mahony's report, it is your duty as a member of An 10:07  
11 Garda Síochána to make this evidence available. It is  
12 not acceptable that a member of the Garda Síochána  
13 should repeatedly make such allegations, including in  
14 particular allegations that lives have been unavoidably  
15 lost without providing the evidence which he says he 10:08  
16 has. By doing so you are without any apparent basis in  
17 fact undermining the confidence in the fixed charge  
18 penalty system and in the impartiality of the  
19 enforcement of law.

20  
21 You should accordingly immediately make available any  
22 evidence you may have which contradicts the findings of  
23 Assistant Commissioner O'Mahony's report to the Garda  
24 Commissioner, the confidential recipient or the Joint  
25 Oireachtas Committee on Justice, Defence and Equality 10:08  
26 which has been considering the report. Alternatively,  
27 you should acknowledge that you have no such evidence."  
28

29 Now, here he was being told that he could go to a Dáil

1 committee with his evidence. Were you aware that  
2 Mr. Flahive had stated that to him?

3 A. No, I was not, Chairman, no.

4 13 Q. And would you have considered that compatible with your  
5 view of the discipline within the force? 10:09

6 A. Well, I was very clear in my position, Chairman, in  
7 relation to the documents being handed over to the  
8 Public Accounts Committee or any other third party, and  
9 that was the advice that I was following and indeed it  
10 was my affirmation as well. 10:09

11 14 Q. So I think the answer to my question is that you would  
12 not have regarded that as appropriate for a member of  
13 An Garda Síochána to do that?

14 A. My view is that if Sergeant McCabe had issues, that the  
15 rightful place to bring those issues was to his 10:09  
16 authorities in An Garda Síochána in the first instance.

17 15 Q. Yes. And am I right in saying that you regard it as it  
18 would have been improper for him to give evidence to a  
19 Dáil committee, is that what you are saying?

20 A. That was my position, Chairman, yes. 10:09

21 16 Q. But nonetheless, he was invited by the Department of  
22 Justice, and presumably this was written with  
23 ministerial authority, to make his evidence available  
24 to an Oireachtas Committee?

25 A. Well, I can't answer that question, Chairman, because I 10:10  
26 wasn't aware of the document and I certainly wasn't  
27 consulted before it was written.

28 17 Q. And then the letter goes on:  
29

1 "There is a clear and compelling public interest in a  
2 definitive determination of the truth of your  
3 allegations, whether by an examination of the evidence  
4 which you say you have contradicts the findings of the  
5 report by Assistant Commissioner O' Mahony, or in the 10:10  
6 alternative, by an acknowledgement that you have no  
7 such evidence. You will also understand failure by you  
8 to make such evidence available will inevitably invite  
9 the conclusion that there is in fact no such evidence."

10  
11 So this was a direct challenge, was it not, to Sergeant  
12 McCabe to use the colloquialism, to put up or shut up  
13 on this issue?

14 A. Well, I think what it is, and what it appears to  
15 clearly demonstrate, Chairman, is that if the sergeant 10:10  
16 was challenging the report of the assistant  
17 commissioner, these were the forums to bring those  
18 challenges to.

19 18 Q. And then it goes on:

20  
21 "Could I also ask you to note that there is no basis on  
22 which correspondence of this nature from a member of An  
23 Garda Síochána containing serious allegations relating  
24 to the enforcement of law and the conduct of named  
25 individuals and which is not being made to the 10:11  
26 confidential recipient can or should be kept  
27 confidential and this Department must reserve the right  
28 to transmit such correspondence to other persons or  
29 bodies where this is appropriate. A copy of this reply

1 is being sent to the office of An Taoiseach."

2

3 were you notified that that letter had been sent in

4 September?

5 A. I don't recall seeing this document before, no. 10:11

6 19 Q. Does it surprise you that he was invited to communicate

7 with an Oireachtas Committee?

8 A. It does. But it seems to be in the context of

9 challenging the report of the assistant commissioner,

10 that's the point. 10:11

11 20 Q. You do know, don't you, that the Garda Inspectorate was

12 carrying out a parallel investigation, isn't that

13 right?

14 A. Yes, Chairman.

15 21 Q. And that Sergeant McCabe was met with and was 10:12

16 interviewed by the Garda Inspectorate, isn't that

17 right?

18 A. Yes, Chairman.

19 22 Q. And that he cooperated with that investigation and was

20 publicly acknowledged as being a credible witness and 10:12

21 thanked for his cooperation by Robert Olson, the head

22 of the Garda Inspectorate?

23 A. Correct, Chairman, yes.

24 23 Q. Now, could I ask you to -- I think -- I mentioned 10:12

25 earlier the evidence of Noel Brett to this Tribunal,

26 which is dealt with on day 64. And could I just bring

27 you very briefly to page 166 of that, when it's made

28 available to you.

29 A. Thank you, Chairman.

1 24 Q. Sorry, it may be at the bottom of page 165. There is a  
2 reference to -- well, on page 165 he said he met with  
3 Sergeant McCabe for the first time, and that he took  
4 him through the penalty point allegations and that he  
5 was satisfied from speaking with him -- this is on page 10:13  
6 165:

7  
8 "-- that there were very many, very serious issues and  
9 that he had all the back-up. And I went home that  
10 night and the very next morning I referred the matter 10:13  
11 formally by registered post including the dossier, I  
12 sent it to the Comptroller & Auditor General because of  
13 the alleged loss of revenue to the State and I sent it  
14 to GSOC because I believed that GSOC had the statutory  
15 power to formally investigate it." 10:14

16  
17 And Ms. Leader said:

18  
19 "So matters went on from there in relation to the fixed  
20 charge penalty system. I want to bring you to the 10:14  
21 following year, July 2013, you had a meeting with the  
22 Department of Justice with regard to the fixed charge  
23 penalty notice system, is that correct?"

24  
25 And he said: 10:14

26  
27 "Yes. That was held in late July 2013. I was asked by  
28 my then Minister, Minister Varadkar, who was Minister  
29 for Transport to accompany him to a meeting with the

1 Minister for Justice to discuss the penalty points  
2 issues.

3 Q. Who was at that meeting?

4 A. The meeting was attended by Mr. Shatter, who was  
5 then Minister for Justice, Mr. Varadkar, Brian Murphy, 10:14  
6 who was the Minister's special adviser, Maurice Tracy,  
7 who was the principal officer at that point in the  
8 Department of Transport, by Brian Purcell, who was  
9 Secretary General of justice and by myself.

10 Q. I think you, immediately after that meeting you 10:15  
11 telephoned Sergeant McCabe and was that as a result of  
12 something you had heard in the meeting?

13 A. Yes, that's correct. During the meeting Minister  
14 Shatter was having an exchange with myself and Minister  
15 Varadkar about whether or not Sergeant McCabe had 10:15  
16 cooperated with the O'Mahony investigation. I knew  
17 from speaking to Sergeant McCabe that he hadn't been  
18 contacted and he hadn't been asked to participate. I  
19 explained that to Minister Shatter at the meeting and  
20 he was adamant that he hadn't. I was concerned, so 10:15  
21 much so that straight after the meeting I parted  
22 company with Minister Varadkar, I immediately rang  
23 Sergeant McCabe and asked him and he reassured me that  
24 he had not been contacted and what he told me  
25 originally stood. I believe that at that point it was 10:15  
26 important to immediately ring the Secretary General  
27 Brian Purcell and alert him to this because Minister  
28 Shatter seemed to believe the direct opposite. "  
29

1 Now, that's the point where Minister Shatter seems to  
2 have been under the impression that Sergeant McCabe had  
3 not cooperated with the O'Mahony process.

4 A. Yes, I would accept that, Chairman, but I think he  
5 dealt with this matter in his evidence. 10:16

6 25 Q. Now, I don't want to waste too much time about it, but  
7 I think it is the case that Mr. Brett also gave  
8 evidence here of an exchange between himself and  
9 yourself which became heated in respect of a different  
10 matter, which was the tachograph material and Gay Byrne 10:16  
11 was that and that they left the meeting as a result of  
12 the heated exchanges, do you recall that?

13 A. Yes, I do recall we had a fairly healthy discussion in  
14 relation to -- the issue, Mr. McDowell, related to the  
15 enforcement of the tachograph laws and there was 10:17  
16 discussion around, generally around the amount of  
17 commitment An Garda Síochána could give to the  
18 enforcement of road traffic in the context of reducing  
19 resources, particularly so in relation to the Garda  
20 traffic unit, who essentially would deal with matters 10:17  
21 of tachograph.

22 26 Q. Yes. You see, what I want to put to you is that at the  
23 time -- after that, you rang Mr. Brett and apologised  
24 to him and said that you were under pressure and that  
25 you regretted the tone that the meeting had adopted, do 10:17  
26 you recall that?

27 A. Well, I recall the evidence of Mr. Brett and I  
28 certainly did ring him because, I was hearing all sorts  
29 of rumours back that there was a big dust up, I don't



1 think it was as bad as it was expressed but nonetheless  
2 we did have a fairly robust exchange, Chairman, that is  
3 absolutely true. And I think I was speaking about  
4 pressures on policing generally with all of the  
5 competing interests and the various disciplines An 10:18  
6 Garda Síochána has to deal with on a daily basis, that  
7 was -- I wasn't speaking about myself being personally  
8 under pressure.

9 27 Q. Well, Mr. Brett also informed the Chairman here in his  
10 evidence at page 176 that it was a short number of 10:18  
11 weeks or maybe a few months after he'd formally made  
12 the referrals to GSOC and the Comptroller & Auditor  
13 General and he said that he felt that there was a  
14 hostility towards him because he had done that. What  
15 do you say about that? 10:18

16 A. Well, certainly not on my behalf, Chairman, and I  
17 believe he took the correct course of action.  
18 Mr. Brett is a very committed -- was a very committed  
19 member of the Road Safety Authority and we were  
20 certainly both on the same side. There was no issues 10:19  
21 there.

22 28 Q. Now, could I bring you to the statement that Sergeant  
23 McCabe made in February of 2014. I will come back to  
24 that in a moment. You have given evidence here,  
25 Mr. Callinan, that when you spoke to Philip 10:20  
26 Boucher-Hayes in RTÉ in December of 2013, that you  
27 never mentioned anything to him about Sergeant McCabe  
28 having psychological or psychiatric issues or that  
29 there were other things you could tell him about

1 Sergeant McCabe, horrific things, that you never said  
2 any of that at all?

3 A. That is correct, Chairman, yes.

4 29 Q. And you went on to advance the possibility that these  
5 remarks about Sergeant McCabe may not have been made by 10:21  
6 you but could have been made by Superintendent Taylor  
7 on the same day, is that your view?

8 A. Well, that is a possibility, Chairman, yes.

9 30 Q. You see --

10 CHAIRMAN: Just to make sure that I know where we stand 10:21  
11 here, Mr. McDowell, if you don't mind the intervention.  
12 As I understand it Superintendent Taylor says he never  
13 heard the exchange with Philip Boucher-Hayes.

14 MR. McDOWELL: Exactly.

15 CHAIRMAN: Furthermore, he says he never weighed in at 10:21  
16 the end and said now don't you know what the problem is  
17 with Sergeant McCabe and the penalty points.

18 MR. McDOWELL: Exactly.

19 CHAIRMAN: So, he said he never overheard it all. And  
20 as I understand your evidence, Commissioner, you don't 10:21  
21 say that Superintendent Taylor actually said anything  
22 to Philip Boucher-Hayes, certainly that you overheard?

23 A. I can't say that, Chairman, absolutely not, no, no.

24 MR. McDOWELL: No, but I think it's a slightly  
25 different point. Chairman. 10:22

26 31 Q. I think you advance the possibility that if those words  
27 were said by anybody to Mr. Boucher-Hayes, that they  
28 may have been addressed either earlier in the day or  
29 some time that evening to Mr. Boucher-Hayes by

1 Superintendent Taylor?

2 A. I cannot say that, but I did make the point, I think,  
3 yesterday, that the phraseology of Mr. Boucher-Hayes  
4 was somewhat opaque in the context of him saying there  
5 are other things I could tell you about, the worst kind 10:22  
6 of things, horrific things, or whatever formula of  
7 words, and I did make the point, Chairman, that I  
8 couldn't see how an experienced journalist would let me  
9 off the hook with saying something like that without  
10 asking me to qualify it. So basically, what I'm trying 10:23  
11 to say is, I had the sense that he had prior knowledge  
12 of some sort of information, and that was in his head.

13 32 Q. Well the point -- there are two points I want to put to  
14 you in relation to that possibility which you raised in  
15 evidence here. One is that Superintendent Taylor was 10:23  
16 cross-examined for more than five hours by counsel  
17 representing your interests, amongst others, and it was  
18 never suggested to him that he might have stated this  
19 to Mr. Boucher-Hayes or imparted that information to  
20 him. That is the first point. In fact, the exact 10:23  
21 opposite was put to him, he was accused of inventing  
22 the negative briefing charge completely?

23 A. Just to be clear, Chairman, I'm not accusing  
24 Superintendent Taylor of informing Philip Boucher-Hayes  
25 about any element of an allegation of a sexual nature 10:24  
26 against Sergeant Maurice McCabe. I just don't know if  
27 that is the case. And I couldn't know, and if I did  
28 know, I certainly would have mentioned it in my  
29 statement.

1 33 Q. Yes. But the point I'm making is this: That great  
2 efforts were made to suggest to Superintendent Taylor  
3 that he had never, ever briefed any journalist  
4 negatively against Sergeant McCabe and never raised the  
5 issue of the sexual assault allegation in respect of 10:24  
6 him.

7 CHAIRMAN: But your point, Mr. McDowell, in that  
8 respect is?

9 34 Q. MR. McDOWELL: I am suggesting to you when we come --  
10 I'm putting this to you, that the notion that 10:25  
11 Superintendent Taylor could have given this information  
12 to Mr. Boucher-Hayes, either on that day or earlier on  
13 that day or whatever, flies in the face of the case  
14 that you have made so far, or has been made on your  
15 behalf, and that is that he never negatively briefed 10:25  
16 any journalist about Sergeant McCabe.

17 A. Well, I think there is a distinction to be made here; I  
18 say, Mr. McDowell, and I am very clear, that I never  
19 gave any direction or any instruction to Superintendent  
20 Taylor to brief any journalist or any person in the 10:25  
21 media negatively about Sergeant McCabe. That's my  
22 position, that was my position from the start and it's  
23 my position now, today, and will be in the future.  
24 There was no campaign, as far as I'm concerned,  
25 Chairman, absolutely not. And I certainly didn't 10:26  
26 direct any campaign, and I certainly have no knowledge  
27 of any such campaign in An Garda Síochána to brief  
28 negatively against Sergeant McCabe. That's my  
29 position, I think it's very clear, I think I have made

1           it very clear.

2   35   Q.    You see, the point I'm making to you is that either  
3           Mr. Boucher-Hayes imagined that conversation or  
4           somebody gave him that information. It can't be that  
5           he just, out of his own -- that, somehow -- I take it   10:26  
6           you are not suggesting he has invented a conversation?  
7           A.    I'm not suggesting anything. I can only tell you,  
8           Chairman, that that wasn't said. those words were not  
9           said by me. I cannot be any clearer on the matter.  
10          They are not my words, I didn't say them.                   10:27

11   36   Q.    I see.

12          A.    How Mr. Philip Boucher-Hayes came to be in possession  
13          of those comments, those words, I do not know. I  
14          cannot -- I cannot indicate to the Tribunal how that is  
15          so.   10:27

16   37   Q.    Well, I think you yourself have said that he is a  
17          respected journalist?

18          A.    Absolutely.

19   38   Q.    And I'm putting to you that unless this was a malicious  
20          invention on the part of Mr. Boucher-Hayes, somebody   10:27  
21          must have spoken those words to him?

22          A.    I think that is a very realistic possibility, Chairman,  
23          yes, but it certainly wasn't me.

24   39   Q.    And are you -- because this is a direct conflict of  
25          testimony between yourself and Mr. Boucher-Hayes, are   10:28  
26          you advancing as a possibility that it was  
27          Superintendent Taylor who gave him the information  
28          about Sergeant McCabe having psychological and  
29          psychiatric difficulties and there being horrific

1 things that could be said about him?

2 A. No, I'm not, Chairman.

3 40 Q. You are not advancing that as a possibility?

4 A. I don't know if it is a possibility, but I'm not  
5 advancing it. 10:28

6 41 Q. I see. Well, can we take it in respect of that  
7 particular evidence, proposed evidence by  
8 Mr. Boucher-Hayes, that you know of no reason, malice,  
9 grudge, ill-will towards you, that could possibly just  
10 explain Mr. Boucher-Hayes either fabricating that or 10:29  
11 misattributing information he got elsewhere to you?

12 A. I cannot account for what Mr. Boucher-Hayes has said,  
13 Chairman. I can only account for myself, and what I  
14 know transpired in the corridor of RTÉ on that evening,  
15 the evening of the 17th December 2013. 10:29

16 42 Q. Could I ask you to look at page 7256 in Volume 26.

17 A. Thank you, Chairman.

18 43 Q. This is a statement which Maurice McCabe issued to RTÉ  
19 on the Monday the 24th February 2014. And on that day,  
20 it appears that Mr. Paul Reynolds had, in a number of 10:30  
21 news bulletins, stated that Sergeant McCabe had failed  
22 to cooperate with the O'Mahony --

23 MR. GILLANE: I am very loath to interrupt, Chairman,  
24 just in relation to this aspect, it's something that  
25 has been repeated even though I did ask Sergeant McCabe 10:31  
26 questions on this topic. The fact that it keeps  
27 getting repeated doesn't make it true. The story  
28 published doesn't contain the words refused to  
29 cooperate, and I think that should just be made clear.

1 Everyone seems to be proceeding on the premise that it  
2 does, it doesn't and Sergeant McCabe accepted that.  
3 MR. McDOWELL: Sorry. That he was directed to  
4 cooperate in writing by -- with the O'Mahony inquiry.  
5 CHAIRMAN: Is that okay with you? Is that a better 10:31  
6 wording, Mr. Gillane?  
7 MR. GILLANE: Yes. The wording is there for everyone  
8 to see, as long as it's the wording --  
9 CHAIRMAN: I think as well that this was -- wasn't this  
10 a report by RTÉ as opposed to emanating from the 10:31  
11 Commissioner's office?  
12 MR. McDOWELL: well, that is what I was going to come  
13 to.  
14 44 Q. I was going to suggest to you that this story that  
15 Mr. Reynolds was putting out at the time came from An 10:31  
16 Garda Síochána; it didn't come from any other source.  
17 A. well, I have looked for that report, that statement,  
18 Chairman, and I cannot find it anywhere. So I don't  
19 know where it came from. You know, I don't know  
20 whether it's useful or not to put up the actual 10:32  
21 direction that I gave on the 14th December, but I think  
22 it's very clear that it was a clear invitation to the  
23 sergeant to bring any concerns he had to the attention  
24 of the assistant commissioner who was dealing with  
25 these matters and the whole country were aware of his 10:32  
26 investigation. That was the terms of the direction.  
27 But I have looked for this particular broadcast or  
28 statement or whatever is being referred here, and I  
29 cannot find it anywhere.

1 45 Q. well, I don't know whether RTÉ has discovered the text  
2 of the broadcast?

3 A. And I don't know either, Mr. McDowell, but I haven't  
4 seen it.

5 MR. GILLANE: Chairman, just I don't want this hanging 10:33  
6 in the air. This broadcast is, was and remains  
7 publicly available.

8 CHAIRMAN: well, it is. I mean, there is no need for  
9 you to discover something that went out over the  
10 airwaves. 10:33

11 MR. McDOWELL: No, no, I am not suggesting there has  
12 been a failure to discover. I am just trying to pin  
13 down the text.

14 CHAIRMAN: At the end of the day, Mr. McDowell, it's  
15 not within my terms of reference, but it could impact 10:33  
16 in relation to what you may say is evidence of malice  
17 towards Sergeant McCabe. I mean, in other words, if  
18 they get a fact completely wrong and then promulgate  
19 that fact, that may be evidence to support the case of  
20 negative briefing in some way. I can see that. But I 10:33  
21 could well just make a decision not to mention this at  
22 all.

23 MR. McDOWELL: I appreciate that, Judge.

24 CHAIRMAN: Yes.

25 46 Q. MR. McDOWELL: The text, and I think that there is no 10:33  
26 doubt about what the text is, of the broadcast, was:  
27  
28 "The Garda Commissioner wrote to the whistleblower  
29 Sergeant McCabe, Maurice McCabe, 14 months ago and told



1 him to cooperate with the investigation into  
2 allegations that penalty points had been cancelled.  
3 Martin Callinan issued a direction to the sergeant on  
4 the 14th December 2012 to cooperate with the  
5 investigation being carried out by the Assistant 10:34  
6 Commissioner John O'Mahony and directing him to bring  
7 any information or concerns he had to the inquiry  
8 team."

9  
10 Now, those propositions are false, aren't they? 10:34

11 A. Well, I think the direction speaks for itself,  
12 Mr. McDowell. It's very clear what I had invited the  
13 sergeant to do, and that was that if he had any  
14 concerns -- any further concerns, I think is the  
15 phraseology I used, and I know the Tribunal have the 10:34  
16 document and if you want to peruse it, but I think the  
17 wording is very, very clear.

18 47 Q. I see. Yes. The next sentence is:

19  
20 "The Garda Síochána is a disciplined force and members 10:35  
21 are required to comply with directions issued by the  
22 Commissioner."

23 CHAIRMAN: what is this thing, by the way that, that we  
24 are all reading from now as if it is holy text?

25 MR. McDOWELL: This is the text of the news item read 10:35  
26 out by Mr. Reynolds on the day.

27 48 Q. And I have got to suggest to you that this was prompted  
28 by An Garda Síochána?

29 MR. GILLANE: Chairman, what is in your hand is the

1 script. It's the publicly available script.

2 MR. McDOWELL: Yes.

3 CHAIRMAN: I know, I know. It's like the famous  
4 composer said, we are drowning in a small pool at the  
5 moment. 10:35

6 MR. McDOWELL: Sorry, Judge. Well, Judge, I'm not  
7 trying to waste the Tribunal's time.

8 CHAIRMAN: I know you are not, Mr. McDowell. I know  
9 you are not.

10 MR. McDOWELL: I just want to get on with this. 10:35

11 CHAIRMAN: I appreciate that.

12 MR. McDOWELL: I appreciate that the Tribunal wants me  
13 to be speedy and I am trying to get through this --

14 CHAIRMAN: No, no, Mr. McDowell, I fully appreciate  
15 that, but I mean, the wording is -- well, I'm saying 10:36  
16 nothing.

17 MR. McDOWELL: Yes.

18 CHAIRMAN: We all know the Garda Síochána is supposed  
19 to be a disciplined force. I mean, why does RTÉ have  
20 to tell us that? I don't know. 10:36

21 49 Q. MR. McDOWELL: What I'm suggesting to you is that this  
22 item suddenly appears in the news on that day, the 24th  
23 February 2014, prompted by An Garda Síochána telling  
24 RTÉ about these matters?

25 A. I'm not aware of that, Mr. McDowell. The direction 10:36  
26 that the article speaks to or the broadcast, whatever  
27 this document represents, was certainly something that  
28 I mentioned down at the Public Accounts Committee on  
29 the 23rd January '14 and it therefore was a matter of

1 public record and I think it did get quite a piece of  
2 attendant publicity in the media subsequently. So it  
3 wasn't a fact that this is new material.

4 50 Q. You see, what I'm going to suggest to you is that there  
5 is no sense in which you wrote to Sergeant McCabe at 10:37  
6 all; what actually happened was, he was called into a  
7 room and a document was read out to him and he asked  
8 for a copy of that document and it was refused to him,  
9 isn't that right?

10 A. I've read that evidence, yes, or certainly read 10:37  
11 transcript or something to indicate that is the  
12 situation, yes. And I don't have an argument with it,  
13 no.

14 51 Q. And did you give a direction that he was not to be  
15 given a copy of your direction? 10:37

16 A. I'm not entirely clear on that, but the situation was  
17 that these -- this direction should be brought to his  
18 attention.

19 52 Q. And it was in writing. Was there any reason why he  
20 couldn't be given a copy of it? 10:38

21 A. Not particularly.

22 53 Q. But I think it's not denied that he was refused a copy  
23 of it?

24 A. I accept that, Chairman, yes.

25 54 Q. Yes. And then, I have got to suggest to you that the 10:38  
26 news story that was broadcast that day, the text of  
27 which is in front of you there, was wholly misleading?

28 A. Well, I wouldn't --

29 CHAIRMAN: The most misleading bit, if it is misleading

1 at all, would seem to be the paragraph saying  
2 "Assistant Commissioner told the Public Accounts  
3 Committee that he asked the sergeant if he had any  
4 information, offered to sit down with him and give him  
5 a fair hearing." I mean, as I understand the evidence, 10:38  
6 Assistant Commissioner O'Mahony and Maurice McCabe  
7 never communicated over this issue.  
8 MR. McDOWELL: No, what happened was, I think, Judge,  
9 there was -- Sergeant McCabe contacted the Commissioner  
10 after he heard the report was completed. 10:39  
11 CHAIRMAN: Oh, that was later on. Yes.  
12 MR. McDOWELL: Yes. And it was at that stage that the  
13 Commissioner said well, you can come in and talk to me  
14 about it.  
15 CHAIRMAN: Yes. 10:39  
16 MR. McDOWELL: But it was certainly not during the  
17 process itself.  
18 CHAIRMAN: No, no I appreciate that. And what I think  
19 what tends to fix it in one's mind is that we had this  
20 exchange in relation to the jury panel hearing, for 10:39  
21 instance, the rape allegation and the name and  
22 Commissioner Callinan's evidence was, look, this was a  
23 protected disclosure, so therefore, I wasn't entitled  
24 to communicate with Assistant Commissioner O'Mahony.  
25 MR. McDOWELL: Yes. 10:39  
26 CHAIRMAN: That's what I understand. So any  
27 communication that there was to be, whether Sergeant  
28 McCabe was expecting it, whether anyone wanted to do  
29 it, they couldn't officially do it because the name was

1 a secret even though it was extremely well-known within  
2 the Gardaí. That is what I understood the position. I  
3 mean, that may be silly, but it may be also true.

4 MR. McDOWELL: well, Judge, maybe -- maybe we are at  
5 cross-purposes now. 10:40

6 CHAIRMAN: Maybe, yes.

7 55 Q. MR. McDOWELL: I am suggesting to you that the  
8 statement, Assistant Commissioner O'Mahony told the  
9 Public Accounts Committee that he was contacted on  
10 April 13th after he had forwarded his investigation to 10:40  
11 the Minister for Justice; "The Assistant Commissioner  
12 said he asked the sergeant if he had any information  
13 for him and offered to sit down with him and give him a  
14 fair hearing." That was after he had completed his  
15 report, isn't that right? 10:40

16 A. That's correct, Chairman, yes.

17 56 Q. And therefore, the impression given by that story is  
18 that Sergeant McCabe was a man who failed to cooperate  
19 with the O'Mahony investigation, isn't that right?

20 A. well, he didn't take up the -- he didn't take up the 10:40  
21 invitation to engage with --

22 CHAIRMAN: It's the way the two are put together. If I  
23 was reading that, coming to the whole thing completely  
24 fresh, I'd say oh and look, during the course of the  
25 investigation Assistant Commissioner O'Mahony actually 10:41  
26 rang him up and offered to sit down with him and give  
27 him a fair hearing, but it wasn't, that was later on.  
28 You felt constricted, you said you couldn't communicate  
29 with Assistant Commissioner O'Mahony. Look, it may be

1 a bit on the over-punctilious side but that is the  
2 position you were in. But this seems to give the  
3 impression that Assistant Commissioner O'Mahony was  
4 free to contact him which you say he wasn't and that he  
5 did contact him, which he didn't, during the currency 10:41  
6 of the preparation of the report, and instead, it put  
7 something that happened afterwards when Sergeant McCabe  
8 had, if you like, revealed himself into a context which  
9 doesn't fit. That seems to be what's happening there.

10 A. Yes, I think that is a fair summation, Chairman, yes. 10:41

11 57 Q. MR. McDOWELL: I have got to suggest to you that the  
12 impression that that story creates is that Sergeant  
13 McCabe had, for some reason of his own, withheld  
14 cooperation from the O'Mahony inquiry?

15 A. No, he just didn't engage with it, Chairman. 10:42

16 CHAIRMAN: No, but I think the story does create that  
17 impression, Mr. McDowell. I mean, it may be RTÉ have a  
18 different view and it's only a preliminary view, that  
19 is the view I take just reading the text on its own.

20 A. Well I'm sorry, that was your question. I 10:42  
21 misunderstood.

22 CHAIRMAN: Yes. That was the question.

23 A. Yeah. I misunderstood I am sorry, I am sorry. I would  
24 agree with that, yes.

25 58 Q. MR. McDOWELL: well, fair enough. I mean, this was a 10:42  
26 serious thing to say about Sergeant McCabe, to create  
27 that impression, wasn't it?

28 A. Well, it's a serious business when you are broadcasting  
29 on the airwaves, you like to be factually correct.

1 59 Q. Yes. And I've got to suggest to you that that story  
2 can only have been broadcast on foot of a briefing  
3 given to Mr. Reynolds by An Garda Síochána?

4 MR. GILLANE: Chairman, on what possible evidential  
5 basis can this question be put to this witness? 10:42

6 CHAIRMAN: well, on the basis that no one is ever going  
7 to tell me what the source was. I think that is the  
8 basis. And if people don't tell me the source I can  
9 actually put two and two together maybe, but maybe I  
10 can't because maybe there won't be two and two to make 10:43  
11 four or there won't be anything else.

12 MR. GILLANE: Yes. But I am just concerned that this  
13 particular broadcast, which was something that was not  
14 in fact a matter of any great significance as the  
15 Tribunal opened, indeed to my embarrassment when I 10:43  
16 asked questions about it, Chairman, you interrupted me  
17 to say that you were lost because you thought we should  
18 have been talking about the 9th May, but I don't  
19 remember Mr. McDowell asking Sergeant McCabe a single  
20 question on this. 10:43

21 CHAIRMAN: what was the 9th of May?

22 MR. GILLANE: The 9th May broadcast which is in the  
23 terms of reference.

24 CHAIRMAN: Yes, it is. It is in the terms of  
25 reference, yes. 10:43

26 MR. GILLANE: I am just concerned that an area that  
27 Mr. McDowell asked no questions of Sergeant McCabe is  
28 not being something that he is elevating.

29 CHAIRMAN: what could he ask him? How did you feel

1 about this broadcast? I mean, the broadcast is a fact.  
2 what is the date of it, Mr. Gillane? what is the date  
3 of it?

4 MR. GILLANE: The date of it is February of 2014. The  
5 24th February '14. 10:44

6 CHAIRMAN: And it's radio, is it?

7 MR. GILLANE: It's originally on-line and then  
8 broadcast. But Sergeant McCabe himself accepted, and  
9 this is important because, Mr. Callinan wasn't here for  
10 his evidence, that Mr. Reynolds attempted to contact 10:44  
11 Sergeant McCabe throughout that day and when he did  
12 eventually make contact Sergeant McCabe refused to put  
13 his side of this particular transaction to him. And  
14 ultimately released it later on the --

15 CHAIRMAN: No, I remember you saying that now, 10:44  
16 Mr. Gillane. But look, you are making a fair point.  
17 But where Mr. McDowell is going, it seems to me, is  
18 legitimate. what he is saying is, not I am attacking  
19 RTÉ, but isn't the source of this, because it seems to  
20 be giving the ship a wrong steer, someone who clearly 10:44  
21 has an animus against Sergeant McCabe and he is asking  
22 the Commissioner did it come from Headquarters, did it  
23 come from him. That is the point of the question.

24 Now, it could be, I mean, journalists can be easily  
25 misled, unfortunately, just as I can be as well, and if 10:45  
26 a journalist is misled and publishes something in the  
27 wrong, well there can be very unfortunate consequences  
28 for them in consequence of it, you know. But I'm not  
29 blaming RTÉ; all I'm seeing is whether or not there is



1 a legitimate question. There is a legitimate question:  
2 Did the briefing material for this come from Garda  
3 Headquarters or the Commissioner? That is it. And you  
4 can come back of course, Mr. Gillane later.

5 MR. DIGNAM: Chairman, I wonder could I raise a 10:45  
6 slightly separate point but related to that question  
7 the Chairman put about the source? You will note from  
8 the beginning, the first paragraph, of Sergeant  
9 McCabe's statement that he refers to the source as  
10 being an unheaded Garda press statement or press 10:45  
11 release. Now, I haven't seen that document, and I  
12 don't know whether Sergeant McCabe has a copy of it or  
13 whether he was simply mistaken in describing it as  
14 being a press release, but if he has it --

15 MR. McDOWELL: It's the latter, Judge. Sergeant McCabe 10:46  
16 assumed that this text was actually composed by An  
17 Garda Síochána.

18 CHAIRMAN: well, this is at a time that I am actually  
19 inquiring into, which is 1st July 2012 to 31st May  
20 2014, when Superintendent Taylor was the Garda Press 10:46  
21 Officer. Now as I understand it, Mr. Dignam, you have  
22 given me all the press releases that can be of  
23 potential relevance and there is nothing which, if you  
24 like, fits with this.

25 MR. DIGNAM: Yes. 10:46

26 CHAIRMAN: So therefore, if there was such a  
27 communication from the Garda Press Office or  
28 Headquarters or someone of Commissioner rank, it was  
29 done pursuant to under the cloak of journalistic

1 privilege it would seem. But then again, maybe it  
2 never happened at all.

3 MR. DIGNAM: And I am happy to take Mr. McDowell's  
4 confirmation that that was simply an assumption on  
5 Sergeant McCabe's part and that there is, in fact, no 10:46  
6 document described as an unheaded press release or  
7 press statement, I am happy to take that confirmation.

8 CHAIRMAN: At the moment there doesn't seem to be.

9 MR. DIGNAM: Yes, thank you, Chairman.

10 60 Q. MR. McDOWELL: Could I ask you to go to page 4615 of 10:47  
11 volume 17?

12 A. Thank you, Chairman.

13 CHAIRMAN: Just remind me, if you wouldn't mind,  
14 Mr. Murrinan, what is SM1, or Ms. Leader, please?

15 MR. MURRINAN: This is the Fennelly -- 10:48

16 CHAIRMAN: So that is the Fennelly phone, yes. So that  
17 is the Commissioner's phone.

18 61 Q. MR. McDOWELL: These are fragmentary extracts from your  
19 phone, as I understand it, which the Forensic Service  
20 of Northern Ireland have been able to identify. 10:48

21 CHAIRMAN: Yes, that's correct.

22 62 Q. And could I just bring you to item 18 there, an item on  
23 22nd March 2014. Somebody texts to you, I think:

24  
25 "Yeah. Just thinking so much pressure being exerted 10:48  
26 from Labour riding on Varadkar's opener."

27  
28 And I have got to suggest to you that that is a  
29 reference to the distinguished rather

1 than disgraceful -- or sorry, disgusting words. And  
2 then:

3  
4 "Hope Kenny can control the PAC on Tuesday and you  
5 would need a plan B if needed in a hurry. I mean, what 10:49  
6 you were putting together yesterday. Similarly if you  
7 were door-stepped or at an official function Reynolds  
8 would help out if an interview arose somewhere, just  
9 thoughts and not recommendations."

10  
11 who would have written that to you, do you think? 10:49

12 A. I have no idea, Chairman.

13 63 Q. But you see, the point is that, and I don't want to be  
14 unfair to Mr. Reynolds either, it does suggest that  
15 somebody was in a position to say that your position 10:49  
16 would be assisted, Mr. Reynolds would be willing to  
17 help you out by a helpful interview at that stage when  
18 you were coming under political pressure.

19 A. That may be so, I don't know. I just don't recall who  
20 sent that. I have no idea. But my experience with 10:49  
21 Mr. Reynolds, he is well able to put very, very  
22 difficult questions to you, regardless of how convivial  
23 the setting may appear to be.

24 64 Q. Indeed.

25 CHAIRMAN: This was the day before you resigned, or two 10:50  
26 days.

27 A. A couple of days earlier, three days, Chairman, yes.

28 65 Q. MR. McDOWELL: So what I want to put to you is this: I  
29 mean, you've come to this Tribunal to say that you had

1 no difficulty with Sergeant McCabe and no personal  
2 animus against him, is that right?

3 A. Correct, Chairman, yes.

4 66 Q. And in fact, that you believed that he was somebody who  
5 was performing a valuable service? 10:50

6 A. Correct, Chairman, yes. I have no difficulty with  
7 that.

8 67 Q. Could you -- I have got to suggest to you that you are  
9 retrospectively changing everything; in fact, that you  
10 believed that Sergeant McCabe was behaving very 10:51  
11 improperly at the time?

12 A. Only in the context -- and I have been very clear from  
13 the very beginning on this point, Mr. McDowell. Only  
14 in the context of the manner in which Sergeant McCabe  
15 was reporting what he was reporting. It was the manner 10:51  
16 in which he was doing it. There were other avenues to  
17 go to first, i.e. his authorities. He is a sergeant in  
18 An Garda Síochána, a man of rank. These were very,  
19 very serious allegations that were being made. He had  
20 a duty to report those matters up through his 10:51  
21 authorities in the first instance, wherever that  
22 journey may have taken him, but that was my belief.

23 68 Q. Well, do you stand over a situation in which, for  
24 instance, when the O'Mahony report was established to  
25 look at allegations he had made, they never lifted the 10:52  
26 phone to him?

27 A. Well, you see, if you look at the sequence of documents  
28 that came from the Department of Justice in relation to  
29 that matter, I was asked to inquire urgently into these

1 matters to see if there were any substantial weaknesses  
2 within the system that needed to be addressed.

3 69 Q. Yes.

4 A. And the documentation was unattributed and, as I have  
5 indicated in my statement and here in evidence, there 10:52  
6 was a confidentiality clause around that documentation.  
7 So the assistant commissioner looked at the  
8 documentation and satisfied himself that he was in a  
9 position to deal with all of those allegations through  
10 looking through the Pulse system and through the fixed 10:53  
11 charge penalty system and making whatever other  
12 inquiries he needed to make in relation to the  
13 personnel that were identified in relation to the  
14 allegations that were being made. So he proceeded on  
15 that basis and he proceeded very, very carefully, and 10:53  
16 he did it, in my view, with great clarity in the  
17 context of trying to establish if there was any  
18 criminality or disciplinary issues arising, and of  
19 course he found a number of substantial disciplinary  
20 issues that arose and substantial weaknesses within the 10:53  
21 system, and a series of recommendations that were very  
22 broadly in keeping with what the assistant  
23 commissioner -- or I beg your pardon, the  
24 inspectorate's report came up with subsequently and we  
25 took immediate action on those recommendations and of 10:53  
26 course there were others.

27 70 Q. You can't have it both ways, I suggest to you,  
28 Mr. Callinan. You can't on the one hand say that you  
29 gave him a direction in December 2012 to cooperate with

1 the inquiry and hold it against him that he didn't, on  
2 the one hand, while on the other hand saying that the  
3 inquiry could not lift a phone and ask him to have some  
4 input into the process, you can't have both; you can't  
5 have your cake and eat it on that point, I'm suggesting 10:54  
6 to you?

7 A. And I am suggesting to you, Mr. McDowell, through the  
8 Chair, that is not the position I found myself in. I  
9 found I was in a position where there was a  
10 confidentiality clause, as I have said, I am only 10:54  
11 repeating myself here, and on that basis, the assistant  
12 commissioner conducted his investigation. He didn't  
13 feel constrained in the context of what he was asked to  
14 do, and it is very clearly the case that, in the middle  
15 of that investigation, I had sent a direction to 10:55  
16 Sergeant McCabe that if he had any further concerns,  
17 that without prejudice to the confidential reporting  
18 mechanism he could raise those concerns with the  
19 assistant commissioner, who at that time everybody was  
20 aware was engaged in the process of examining these 10:55  
21 matters. It was crystal clear to me what the  
22 invitation contained.

23 71 Q. I see. I have got to suggest to you that, first of  
24 all, what your direction said was that if he had any  
25 further concerns he could contact Assistant 10:55  
26 Commissioner O'Mahony, but he'd already made his  
27 allegations, isn't that right?

28 A. Correct. But when we got the allegations they were  
29 unattributed. So, we could have all the suspicions in

1 the world we like but we were constrained in what we  
2 were doing at that particular time. But I do think,  
3 Mr. McDowell, and I think it's a very reasonable point,  
4 the Commissioner of An Garda Síochána was inviting the  
5 sergeant who had subsequently indicated he was the 10:56  
6 author of those allegations, was being invited during  
7 the currency of the assistant commissioner's  
8 investigation, to bring any further concerns he had -  
9 it was an open invitation, as far as I was concerned -  
10 and the sergeant just didn't avail of that opportunity. 10:56  
11 That's the position.

12 72 Q. He had made his report, isn't that right?  
13 A. We know that now.

14 73 Q. Sorry, you knew it then as well?  
15 A. We had suspicions that that was the case. 10:56

16 74 Q. And you then put into the public domain, An Garda  
17 Síochána put into the public domain a story that he had  
18 not cooperated with the O'Mahony inquiry, that is what  
19 you did?  
20 A. Well, I certainly didn't do it, Mr. McDowell. 10:57  
21 Absolutely not. RTÉ broadcast -- and I have seen the  
22 text you have given us, and I have read it.

23 75 Q. Yes.  
24 A. But I didn't give those -- that information to anybody.

25 76 Q. I see. 10:57  
26 A. And the directions were a matter of public record, as  
27 I've said already.

28 77 Q. Now, could I -- I am suggesting to you that there was  
29 no reason in February of 2014 for anyone to make the

1 accusation against Sergeant McCabe that he had not  
2 cooperated with the O'Mahony investigation, no reason  
3 whatsoever.

4 A. Well, all I can tell you, Mr. McDowell, is what I did.

5 78 Q. Yes. 10:58

6 A. And I wasn't involved in this matter.

7 79 Q. Now, when you were at the Public Accounts Committee, on  
8 a number of occasions the transcript shows that you  
9 spoke about reserving your position on disciplinary  
10 action? 10:58

11 A. Yes.

12 80 Q. Now, at this stage John Wilson had retired as a member  
13 of the force, isn't that right?

14 A. Correct, Chairman, yes.

15 81 Q. So the only person you were talking about in this 10:58  
16 context was Sergeant McCabe, is that right?

17 A. Yes, that would be fair, Chairman, yes.

18 82 Q. And you were saying you were reserving your position  
19 about taking disciplinary action against him, isn't  
20 that right? 10:58

21 A. Well, it's not as direct as that. It was in the  
22 context of the matters that I was considering at that  
23 time. Chairman, just to try and put it in context,  
24 what I was looking at at that particular time was the  
25 fact that Sergeant Maurice McCabe had made these 10:59  
26 allegations. They were allegations of wrongdoing, and  
27 I took a very fixed position, that it was inappropriate  
28 what was happening, passing on this -- printing off  
29 Pulse records and passing them on to third parties. I



1 took that, and I took a very serious view of it and my  
2 views are well-known and the exchange of correspondence  
3 and the evidence I gave to the Committee is there to  
4 amplify those points. So I was caught between, clearly  
5 it was wrong, as far as I was concerned, and in 10:59  
6 ordinary circumstances there would be disciplinary  
7 action, but I balanced that against the fact that  
8 Sergeant McCabe earnestly believes he was reporting  
9 wrongdoing. So therefore, that wasn't a situation  
10 that -- or a road I could travel down very comfortably 11:00  
11 as far as I was concerned.

12 83 Q. And you didn't know at that at that stage that in the  
13 previous September the Department of Justice had  
14 invited Sergeant McCabe to communicate with an  
15 Oireachtas Committee? 11:00

16 A. Well, I think the document we read earlier,  
17 Mr. McDowell, speaks to objections that the Sergeant  
18 had with the assistant commissioner's investigation.

19 84 Q. Report. Yes.

20 A. I mean, that is what that document appears to me to be 11:00  
21 about and it's the first time I read it.

22 85 Q. Yes. Now, could I ask --

23 A. So it's a different point, with respect.

24 86 Q. Could I ask you to look at volume 5, page 1347.

25 A. Thank you, Chairman. 11:01

26 87 Q. First of all, halfway down the page, Deputy John Deasy  
27 says:

28

29 "What are the Commissioner's views on how this

1 committee is doing its business? Let us say I agree  
2 with the Commissioner and that I have a similar  
3 concern, I'm not questioning anyone's bona fides,  
4 whistleblowers, but I am getting to the nub of the  
5 issue. The Commissioner is saying that in his 11:01  
6 information he cannot make a decision or an analysis  
7 based on a fragment of information."

8  
9 Now, that shows Deputy Deasy being supportive of you,  
10 isn't that right? 11:01

11 A. To that point, yes. I mean, I accept what is here,  
12 yes, absolutely.

13 88 Q. And I've got to suggest to you in passing that that the  
14 other day -- yesterday, you advanced the possibility to  
15 Mr. Marrinan that somehow because Deputy Deasy and 11:02  
16 McGuinness both served on the same committee that this  
17 would explain why Deputy Deasy would have attributed  
18 the remarks he did to you in your meeting before the  
19 PAC meeting, I have got to suggest to that you  
20 throughout the proceedings of the PAC, Deputy Deasy was 11:02  
21 supportive of your position, not pursuing an agenda  
22 against you of any kind?

23 A. Well, he certainly didn't pursue the point with me that  
24 I had indicated just prior to the meeting that I was  
25 saying things about Sergeant Maurice McCabe, about him 11:02  
26 not to be trusted and that he had questions to answer,  
27 he certainly did not put those questions to me.

28 89 Q. No?

29 A. Which I am quite surprised about in the context of what

1 he has come up with several years later.

2 90 Q. And I have got to suggest to you that the most likely  
3 explanation was that he thought that you were warning  
4 him against the creditworthiness of Sergeant McCabe and  
5 that he thought it would be improper to raise these 11:03  
6 matters in public?

7 A. Well, that's certainly not what I said to the deputy at  
8 the time. I certainly did indicate to him that not all  
9 of the allegations made by Sergeant McCabe were  
10 correct, and I cautioned on the need to be aware of the 11:03  
11 accuracy of some of the information, some of them were  
12 questionable. That is what I said to the deputy. And  
13 I was very clear about that.

14 91 Q. Can I bring you to page 1348, where you said in  
15 evidence to that committee: 11:03

16  
17 "I should preface my remarks by indicating that one of  
18 the people who was now engaged in this so-called  
19 whistleblowing exercise is a person who is a serving  
20 member of An Garda Síochána as I understand it. If 11:03  
21 that is the case then he or she is subject to the  
22 disciplinary regulations. It is the case that at any  
23 time, at any place, anywhere, a member of An Garda  
24 Síochána can step outside the ordinary standards  
25 expected of that member. If that is the case, then I 11:04  
26 would have to consider whether I would have access to  
27 the disciplinary regulations to deal with that issue.  
28 I am not for a moment suggesting that I will go down  
29 the road of exercising discipline in this particular

1 case, but it's certainly something on which I would  
2 have to reserve my position."

3  
4 Now, I've got to suggest to you that those words were  
5 spoken about Sergeant McCabe and that you knew full 11:04  
6 well what you meant by them on the occasion.

7 A. There is no question about that, Chairman.

8 92 Q. You were threatening him with disciplinary action as a  
9 possibility?

10 A. No, I certainly was not, Chairman. What I was doing 11:04  
11 there was amplifying the point that, you know, we are a  
12 disciplined organisation. There is an expectation that  
13 people, if they are reporting wrongdoing, don't go off  
14 printing off hundreds and hundreds of documents off the  
15 Pulse computer and pass them on to third parties 11:05  
16 without permission. That's what I was speaking about  
17 there.

18 93 Q. And you were stating that in relation to Sergeant  
19 McCabe?

20 A. Well, clearly he's the only member that's there at that 11:05  
21 particular time, yes.

22 94 Q. And at the bottom of that page you say:

23  
24 "I don't want it to be said that I am considering  
25 disciplinary action with regard to these people, I have 11:05  
26 given it very careful consideration and I will continue  
27 to do so. However, there may come a point at which I  
28 will have to seriously consider this matter for all of  
29 the reasons I have indicated. I cannot allow a

1 situation to continue where information is being  
2 bandied around. I realise people are relying on a  
3 certain section of the law as authority."

4  
5 You were talking about Sergeant McCabe at that stage, 11:05  
6 isn't that right?

7 A. Well, not exclusively about Sergeant McCabe, but  
8 certainly he's included in those remarks because there  
9 may have been others who contributed to the document as  
10 well, I don't know. But the point I'm making here is, 11:05  
11 beyond the documentation that we seem to have, there  
12 was more documentation out there.

13 95 Q. Yes.

14 A. And that's what I was trying to deal with. We were --  
15 it was also the case, I suppose, Mr. McDowell, I should 11:06  
16 mention, Chairman, there was a data protection audit  
17 just a couple of months previous and they were very,  
18 very clear in terms of cautioning the Commissioner and  
19 management about the manner in which people were  
20 trawling the system and looking for information that 11:06  
21 they otherwise ought not to be engaged in looking at  
22 that information. Now, I know it's Sergeant McCabe's  
23 case that he was looking for material that he felt was  
24 suspect because there were wrongdoing or there could be  
25 a suggestion that there was wrongdoing, which probably 11:06  
26 is a slightly different point. But nonetheless, my  
27 concern was that these matters were being given to  
28 third parties and wrongfully, in my view.

29 96 Q. I have to suggest to you that Sergeant McCabe at no

1 time engaged in behaviour designed to have people  
2 identified in public as the recipient of favours under  
3 the fixed charge penalty system?

4 A. I don't know if that is the position or not.

5 97 Q. And I've got to suggest to you, for instance, in 11:07  
6 relation to the visit to your own house, that, I mean,  
7 the record of An Garda Síochána's computer system will  
8 clearly show that Sergeant McCabe had nothing to do  
9 with that incident?

10 A. I don't know that and I don't know who printed off that 11:07  
11 document, because I never followed that up and, you  
12 know, it could be the case it was passed on to him, I  
13 don't know.

14 98 Q. No, I have got to suggest to you that he had nothing  
15 whatever to do with that and that the Pulse records, if 11:08  
16 consulted, would show that he had no connection, hand,  
17 act or part with that series of events?

18 A. That may be so. That may be so.

19 99 Q. And I have also got to suggest to you that you made it  
20 clear to the Committee that you knew exactly who you 11:08  
21 were dealing with because on page 1349 of that volume,  
22 you say:

23

24 "Wrongdoing by any member of An Garda Síochána will not  
25 be tolerated by me or by any member of my office or 11:08  
26 corps. The committee can take that as a given. There  
27 is a difference between reporting wrongdoing and  
28 consistently putting about large volumes of material.  
29 These are parameters I must consider. When I became

1 aware of it I issued a very clear direction to the two  
2 members involved. We had a discussion with Deputy  
3 McDonald on the last occasion I was before the  
4 Committee when I became aware of the identities of  
5 these people and what they were saying. I have 11:09  
6 carefully checked my records since then. In December,  
7 following on from the information that the retired  
8 member of the force and a serving member were working  
9 together to provide information and materials for an  
10 elected representative, I took advice and was advised 11:09  
11 that this was wrong."

12  
13 Now, you were talking about Sergeant McCabe there,  
14 isn't that right?

15 A. I was. I was. And Garda -- former Garda John Wilson. 11:09  
16 Both.

17 100 Q. And you knew who you were talking about?

18 A. At that time, I knew there was material leaked in the  
19 public domain, Chairman, and I tried my best to put a  
20 stop to it. I took legal advice. And the advice I got 11:09  
21 was to take action the way I did. I deal with the  
22 directions.

23 101 Q. Yes.

24 A. And, you know, that happened again during a period when  
25 the assistant commissioner was dealing with the actual 11:10  
26 investigation.

27 102 Q. I have got to suggest to you that the direction that  
28 was read out to Sergeant McCabe on the 14th December  
29 2012 was in the following terms:

1  
2 "The Commissioner understands that you have been  
3 searching and printing out from Pulse documents that  
4 contain sensitive personal data regarding the  
5 cancellation of a fixed charge notices. The 11:10  
6 Commissioner further understands that it is your  
7 intention to provide a third party with that  
8 documentation. It is noted that sensitive personal  
9 data in relation to fixed charge cancellations have  
10 already appeared in the public domain. The 11:10  
11 Commissioner has sought the advice of the Attorney  
12 General and has consulted with the Data Protection  
13 Commissioner in respect of this matter. You are aware  
14 that there is powers as set out in the Garda Policy  
15 Procedure and Guidelines for cancelling these fixed 11:10  
16 charge notices in certain instances in such  
17 circumstances. Having consulted with the above  
18 mentioned authority, the Commissioner is satisfied that  
19 your continued access to Pulse data and disclosure of  
20 it and personal data to a third party is likely to be 11:11  
21 in breach of the Data Protection Act and other  
22 legislation as well as being prejudicial to the current  
23 investigation being undertaken by Assistant  
24 Commissioner John O'Mahony. "

25 11:11

26 Now I stop there --

27 CHAIRMAN: You should maybe have given a page number  
28 for that, Mr. McDowell, if you wouldn't mind, please.

29 MR. McDOWELL: I don't know whether it has been given a



1 page number.

2 CHAIRMAN: I think it has.

3 MR. GILLANE: I think 3033 is the --

4 MR. McDOWELL: 3033, thanks, Judge. I have been  
5 hunting it for it in the index furiously for the last 11:11  
6 while, Judge. I am grateful to my friends. What  
7 volume is that?

8 MR. MARRINAN: volume 11.

9 CHAIRMAN: We can have it on the screen, anyway.  
10 That's it. Yes. But in any event, that is the 11:12  
11 direction, Mr. McDowell, and you wanted to ask a  
12 question.

13 MR. McDOWELL: Yes.

14 103 Q. This is in fact the tape-recording that Sergeant McCabe  
15 made of this occasion, because after the words "being 11:12  
16 undertaken by Assistant Commissioner John O' Mahony"  
17 Sergeant McCabe says "okay, so that is --" Sorry --  
18 CHAIRMAN: Can you scroll down, please, Mr. Kavanagh?

19 104 Q. MR. McDOWELL: "Okay, that is the instructions to you  
20 in his direction." 11:12  
21

22 And then it continues:

23

24 "The direction is as follows: The Commissioner is now  
25 directing you to desist from the practice of accessing 11:12  
26 Pulse and/or disclosing to third parties sensitive  
27 personal data regarding the cancellation of fixed  
28 charge notices by members of An Garda Síochána. If you  
29 have any further concerns and without prejudice to your

1 rights under the Confidential Reporting Mechanism, such  
2 matters can be brought to the attention of Assistant  
3 Commissioner John O'Mahony, Crime and Security, who  
4 will fully investigate those matters."

11:13

6 Now, I have got to suggest to that you this could not  
7 under any circumstance be construed as a direction to  
8 cooperate.

9 A. I think the direction speaks for itself, Chairman. I  
10 mean, if you look at the final sentence - "If you've  
11 any concerns and without prejudice to your rights under  
12 the Confidential Reporting Mechanism --" - I had to  
13 provide that option; I couldn't not.

11:13

14 105 Q. Yes.

15 A. "-- such matters can be brought to the attention of the  
16 Assistant Commissioner John O'Mahony, Crime and  
17 Security, who will fully investigate these matters."  
18 Chairman, I don't think I could be any clearer in terms  
19 of what I was asking the sergeant to do on that  
20 occasion. I think it's perfectly clear.

11:14

21 106 Q. Well, I've got to suggest to you now, Mr. Callinan,  
22 that in those circumstances, it was completely  
23 unreasonable for Assistant Commissioner O'Mahony's team  
24 not to contact Sergeant McCabe during the compilation  
25 of the report, and secondly, during a period of time  
26 when they did find it possible to go and speak to  
27 Bernard McCabe about his unfounded charges against  
28 Sergeant McCabe, I have got to suggest to you that it  
29 is utterly unreasonable to charge Sergeant McCabe with

11:14

1 non-cooperation based on that document?

2 A. Well, I certainly didn't charge Sergeant McCabe with  
3 anything.

4 107 Q. No, to make the charge against him.

5 A. No, no, it's not unreasonable. It's certainly not 11:14  
6 unreasonable. It's a simple invitation based on the  
7 facts as I knew them at that point, that if they had  
8 any further concerns or if he had any further concerns,  
9 that he could take those concerns to the assistant  
10 commissioner. Chairman, I don't think I could have 11:15  
11 been any clearer, you know; there was a confidentiality  
12 clause in existence at the time and the assistant  
13 commissioner was dealing with matters that he felt he  
14 could deal with quite competently in the context of  
15 what he was asked to do. 11:15

16 108 Q. And the note continues on the next page, the transcript  
17 of what happened. Maurice McCabe says:  
18  
19 "But I didn't do any of that.  
20 Chief superintendent: Well, I'm only telling you that 11:15  
21 that is the direction from the Commissioner.  
22 Maurice McCabe: And what happens under the Garda  
23 Síochána Act when you are allowed hand over stuff under  
24 section 62 and the whistleblower charter, what about  
25 that? 11:15  
26 Chief superintendent: I think you need to raise that  
27 with Assistant Commissioner O'Mahony. Honestly that  
28 might be the way you pursue it.  
29 Maurice McCabe: That he is a serious accusation.

1 Chief superintendent: The directions on it -- and just  
2 to make sure that we are both clear, I will read it out  
3 to you again.

4 Maurice McCabe: No, I am very clear. He is accusing  
5 me of handing stuff over." 11:16

6  
7 The chief then reads out from the first paragraph,  
8 again to explain what the Commissioner is accusing  
9 Maurice McCabe of, and then reads out the whole lot  
10 again. 11:16

11  
12 "So he is saying I did that."

13  
14 Says Maurice McCabe.

15 11:16  
16 "The Commissioner has facts on which he is basing these  
17 comments. I will read it out one more time so that you  
18 understand it."

19  
20 He reads it all out again. 11:16

21  
22 "Maurice McCabe: He is basically saying that I gave  
23 information to somebody else so the whistleblower  
24 charter is gone, finished, because he is saying there  
25 is -- if the Data Protection Commissioner asked me for 11:16  
26 stuff what do I do? Do I say no to him? He has asked  
27 for stuff."

28  
29 And the chief says:

1  
2  
3  
4  
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29

"No, no. Don't. If you want authority to do anything or you have an issue in relation to these matters you can talk to Assistant Commissioner John O'Mahony or you can send your concerns here in relation to that.

11:17

Maurice McCabe: So I can't go near the whistleblower charter anymore, obviously.

Chief superintendent: You cannot.

Maurice McCabe: I can. He reads out the report to me again. He is after accusing me of stuff there that I didn't do and that is shocking. The only person I forward it to was An Taoiseach and so I will have to take it up with him because he must be the third party. Shocking stuff."

11:17

And the chief says:

"I know, but that is his legal advice."

11:17

And he goes on:

"But even the Data Protection Commissioner, he asked me for stuff so what do I say to him? No?"

11:17

And the chief says:

"No. Well, that is the instruction and you will be in breach of discipline and any other possible acts if you ignore it.

11:17

1 Maurice McCabe: So I am allowed email Enda Kenny about  
2 that?

3 Chief superintendent: I can give you an answer, in my  
4 own personal answer I think you should address it with  
5 John O'Mahony. The direction is down there and he will 11:18  
6 deal with your concerns.

7 Maurice McCabe: Shocking stuff. So basically I can do  
8 nothing?

9 Chief superintendent: What you need to do is what you  
10 are meant to do, your day-to-day duty. 11:18

11 Maurice McCabe: Oh, and not report anything which is  
12 wrong, which --

13 Chief superintendent: This is a direction from the  
14 Commissioner. You are searching Pulse for a particular  
15 reason. 11:18

16 Maurice McCabe: I got a complaint in relation to that  
17 from a Garda, I carried out my duty.

18 Chief superintendent: Did you report that?

19 Maurice McCabe: I carried out my duty.

20 Chief superintendent: Did you report it here? 11:18

21 Maurice McCabe: I carried out my duty. I carried out  
22 my duties in relation to that.

23 Chief superintendent: Did you report it through the  
24 channels?

25 Maurice McCabe: I carried out my duties in relation to 11:18  
26 it.

27 Chief superintendent: Okay.

28 Maurice McCabe: I used the whistleblowing charter.  
29 Let's not argue as regards the last paragraph. You

1 will have no issues with me any more.  
2 Chief superintendent: That is all I want to know.  
3 Maurice McCabe: You won't, chief, you won't, no. But  
4 it's just amazing, I did not think it was that, I  
5 thought it was -- it was something. 11:18  
6 Chief superintendent: No, you should follow that, it  
7 is a direction.  
8 Maurice McCabe: Yes, it is, and I will follow that. I  
9 won't disobey any direction and you make note of that,  
10 Paddy. I won't disobey any directions in relation to 11:19  
11 that. You have my full compliance and I am just  
12 amazed. But sure..."  
13  
14 And he says there is small talk. And at the end he  
15 says: 11:19  
16  
17 "Do I get a copy of that?  
18 Chief superintendent: No.  
19 Maurice McCabe: Well, okay, it won't happen anyway. I  
20 will give you my word. It's not your problem anyway, 11:19  
21 you were sent to read it out to me."  
22  
23 Now, I have got to suggest to you that Sergeant McCabe  
24 was making it very clear that he had not misbehaved or  
25 broken the law. 11:19  
26 A. You've read out the document to me and I have listened  
27 very carefully to it, but I wasn't involved in that.  
28 All I was involved in was providing the direction and  
29 asking for that knowledge to be imparted to Sergeant

1 McCabe. That was the extent of my involvement in the  
2 matter.

3 109 Q. And you see, I'm suggesting to you that to portray him  
4 as somebody who was uncooperative with the O'Mahony  
5 inquiry, in the face of all of that, is just wholly 11:20  
6 misleading to the public, and again, deeply insulting  
7 to Sergeant McCabe.

8 A. Well, you see, the reality is, I had sent a direction  
9 and I had invited him to engage if he wished and he  
10 didn't. It's as simple as that from my perspective. 11:20

11 110 Q. You didn't ask him. You said if you have any further  
12 concerns you can express them?

13 A. Correct.

14 111 Q. Further concerns?

15 A. And I think that's a clear invitation, Chairman, with 11:20  
16 respect. I think that is a very clear invitation. I  
17 mean, consider what is happening here: Sergeant McCabe  
18 has produced two lists, list A and list B, came under  
19 confidential cover to the Department or however they  
20 got it, it was sent to me and I was told there was this 11:20  
21 confidentiality clause was in it, it contained list of  
22 189 allegations which, when they were analysed, broke  
23 down to something in the region 1,189 if I'm correct,  
24 very, very serious allegations, very, very serious  
25 allegations, and the assistant commissioner went about 11:21  
26 his business then investigating those matters and  
27 reporting back. Now, if that is attributed, as we now  
28 know, to Sergeant McCabe and there doesn't seem to be  
29 any dispute about it, why in the name of God did he not



1           come to his authorities, Chairman? I mean, from where  
2 I'm sitting, it flies -- it flew in the face of logic  
3 that he wouldn't do that in the first instance. If he  
4 had difficulties thereafter and didn't agree, and we  
5 have seen the report that you read out, Mr. McDowell, 11:21  
6 and Mr. Flahive writing back, challenging him basically  
7 that if he didn't agree with the assistant  
8 commissioner's report he should bring those matters to  
9 the various third parties. But the first step is, your  
10 own authorities. You are told as a young guard if you 11:22  
11 see or observe wrongdoing, you deal with it if you can,  
12 and if you can't you report it.

13 112 Q. That would be all very well, Mr. Callinan, if you  
14 personally had not directed the deputy commissioner of  
15 An Garda Síochána, Nacie Rice, to write defending the 11:22  
16 Rooney letter to Sergeant McCabe's solicitors. You  
17 personally directed that your Deputy Commissioner  
18 should defend what was done in that letter.

19 A. Are you opening a document to me? I don't know whether  
20 you are. 11:22

21 113 Q. We went through all of the correspondence in the  
22 document the other day.

23 A. No --

24 114 Q. Are you for one minute saying that you didn't depute to  
25 Deputy Commissioner Rice dealing with the Rooney 11:22  
26 letter?

27 A. I haven't seen the documentation, if you want to open  
28 it to me I will look at it.

29 CHAIRMAN: Are we talking about the letter of the 4th

1 July 2011? Is that what we are talking about?  
2 MR. McDOWELL: Yes.  
3 CHAIRMAN: There's no systemic failures, Byrne/McGinn  
4 has identified, just minor errors, Chief Superintendent  
5 Colm Rooney, that letter? 11:23  
6 A. Oh, yes. And I have already agreed, Chairman, that  
7 that was an inappropriate letter to send.  
8 115 Q. MR. McDOWELL: well, that was an inappropriate letter  
9 to send. You were made aware of it as Commissioner,  
10 and you deputed to Deputy Commissioner Nacie Rice the 11:23  
11 job of defending the sending of that letter and  
12 indicating that any proceedings arising out of it would  
13 be defended, that is what you did?  
14 A. well, perhaps we could look at the documentation,  
15 because I don't know -- I don't really know what you 11:23  
16 are talking about.  
17 116 Q. well, I can get you the documentation if you like.  
18 A. I think that would be --  
19 117 Q. But can I ask you --  
20 CHAIRMAN: I think it may be on another computer system 11:24  
21 because it may be not on the documents distributed here  
22 but it is -- what we are talking about is that letter  
23 of the 4th July 2011: No systemic failures as  
24 identified in Byrne/McGinn, just minor errors and then  
25 that was sent by Chief Superintendent Rooney to 11:24  
26 Bailieboro.  
27 A. Yes.  
28 CHAIRMAN: And I suppose the idea was, what I had it in  
29 my head was, it was pinned up everywhere, like you are

1 vindicated, guys, you didn't make any mistakes at all,  
2 which is completely off the wall.

3 A. I agree 100 percent, Chairman, absolutely 100 percent  
4 with you, that was a complete nonsense as far as I'm  
5 concerned. 11:24

6 118 Q. MR. McDOWELL: Could I ask you, I did draw to your  
7 attention yesterday --

8 A. You did, that letter.

9 119 Q. Yes, I did. And if I go to page 7237 in volume 26. If  
10 you go to the bottom of the page, you will see the 11:25  
11 materials which were summarised for you in that  
12 document about Sergeant McCabe, the file about Sergeant  
13 McCabe that was compiled sometime in 2013.

14 A. Yes.

15 CHAIRMAN: This is the PAC file we are talking about, 11:25  
16 the one the FSNI found on the Garda system. Do we go  
17 to the relevant date, is that what we do?

18 MR. McDOWELL: We are on page 7237, Judge.

19 CHAIRMAN: Yes. And it's "supplementary issue.  
20 Chief Superintendent Rooney, letter of complaint of 11:25  
21 Clare Daly TD." And it mentions just "4 July 2011,  
22 Chief Superintendent Rooney letter" and then 29 July, a  
23 Deputy Daly complains to -- I presume that is Colm  
24 Rooney.

25 A. Commissioner, I'd say, Chairman. 11:26

26 CHAIRMAN: Oh yes, maybe. "Commissioner re the Colm  
27 Rooney letter."

28 120 Q. MR. McDOWELL: And you will see there is a series of  
29 letters in August, November and December of 2011, and

1 it records, for instance, that on the 25th November  
2 2011, there was a message from your office to Deputy  
3 Commissioner Rice for attention, "reply to Costello and  
4 report developments". That's, your office is doing  
5 that.

11:26

6 A. But sure, I don't know what that correspondence relates  
7 to, Mr. McDowell. Nor do you, with respect.

8 121 Q. Well, I do know what it relates to. It relates to  
9 correspondence which Mr. Costello sent to the  
10 Commissioner of An Garda Síochána arguing that this  
11 letter was defamatory and asking for it to be withdrawn  
12 and indicating that there would be legal action if it  
13 wasn't withdrawn.

11:27

14 CHAIRMAN: well, there is a defamation action arising  
15 out of that.

11:27

16 A. That may well be what the correspondence is about as  
17 opposed -- yes, I would accept -- just to peddle  
18 backwards for a moment, if I may, Chairman. It does  
19 appear from looking at this summary document and, as I  
20 say, I don't recognise that document and I accept it  
21 was, the forensic people indicated that it was compiled  
22 sometime in '13, but on the "4th July '11, Chief  
23 Superintendent Rooney letter", and then "29th July,  
24 Clare Daly to Commissioner", and then "5th August,  
25 Acting Commissioner" and then "8th August, Acting  
26 Commissioner" again, it does appear that I was away at  
27 that period.

11:27

11:27

28 122 Q. MR. McDOWELL: Yes.

29 A. And the Acting Commissioner would have dealt with the

1 correspondence, just to make that point. Because all  
2 of the correspondence would be addressed to the  
3 Commissioner naturally enough.

4 123 Q. Yes. I appreciate that. But if we go to the 25th  
5 November, there is your office writing to the deputy  
6 commissioner for the attention "to reply to Costello  
7 and report developments".

11:28

8 A. Yes. But I really would like to see that  
9 correspondence, because I'm not entirely clear is it a  
10 response to litigation as the --

11:28

11 CHAIRMAN: well no, I think there is a big point here  
12 and again it may be that the danger is to get bogged  
13 down in detail. The big point here is that the first  
14 draft of Byrne/McGinn came to the attention of Chief  
15 Superintendent Colm Rooney, so on the 4th July 2011,  
16 having seen that, he decides to write to those  
17 involved - who, by the way, we know certainly from the  
18 O'Higgins Commission report, had made an absolute mess  
19 of several investigations --

11:28

20 A. Yes.

11:29

21 CHAIRMAN: -- that they were completely vindicated and  
22 that all that was uncovered was a few minor errors, and  
23 there was no evidence of corruption, there was no  
24 evidence of serious malpractice. Now, the big point  
25 being made here is that that upset Sergeant McCabe  
26 because he was saying, look, the policing system in  
27 Bailieboro is a complete mess. He was, therefore,  
28 isolated effectively, bullied through this  
29 correspondence by it being circulated. So effectively

11:29

1 everyone was laughing about him behind his back. That  
2 is probably what was happening on the ground. What  
3 Mr. McDowell is asking you about is, given that that  
4 was the case and given that Chief Superintendent Rooney  
5 has said, look, I was wrong to send the letter and I 11:29  
6 apologise, given that you take the view that the letter  
7 was a foolish letter --

8 A. I agree.

9 CHAIRMAN: Yes -- wasn't it the case that the  
10 Commissioner's office and specifically you were backing 11:30  
11 up Chief Superintendent Rooney in making these rather  
12 foolish points? That I think is the point that is  
13 being made to you.

14 A. I see. If that is --

15 124 Q. MR. McDOWELL: Exactly. To use the phrase the Chairman 11:30  
16 used yesterday, this wasn't Chief Superintendent Rooney  
17 simply on a frolic of his own; complaint was made about  
18 it to the highest level of An Garda Síochána, including  
19 your own office, and nothing was done about it, it was  
20 left there uncorrected and Sergeant McCabe was left 11:30  
21 vilified in this way as a crank who was causing trouble  
22 to, unnecessarily to An Garda Síochána.

23 A. But it does appear that there was a sequence of  
24 documentation over and back and there seems to be a  
25 chronological log there in that paragraph. 11:30

26 125 Q. Yes.

27 A. So it was being attended to in some shape or form.

28 126 Q. Yes. But it was never withdrawn until this Tribunal  
29 was established and Chief Superintendent Rooney had the

1           decency, belated decency to come and say he should  
2           never have sent that letter?

3           A.    And I would agree, that was absolutely correct.

4 127 Q.    But it's not as if he just did it quietly because it  
5           was brought to your office's attention that this had  
6           happened? 11:31

7           A.    When do you say --

8 128 Q.    And you gave the function of handling the  
9           correspondence from the solicitor to Deputy  
10          Commissioner Nacie Rice. So it's not a question of you 11:31  
11          being unaware of the Rooney letter.

12          A.    When you say I gave the direction to The Deputy  
13          Commissioner Rice to deal with this matter, I don't  
14          know when that was. I am assuming that I was away from  
15          the office and the Deputy Commissioner was acting as 11:31  
16          the Commissioner at the time. But I certainly don't  
17          recall giving any direction of that nature at all to  
18          the Deputy Commissioner. And I don't know what those  
19          letters contain.

20 129 Q.    I see. Well okay, I am putting to you the proposition 11:32  
21          that to say to somebody in Sergeant McCabe's position,  
22          make your reports through the usual channels up through  
23          the system and they will be fairly dealt with, in the  
24          light of how he was treated, in respect of the  
25          Byrne/McGinn report and the Rooney letter, was asking 11:32  
26          him to be humiliated a second time around?

27          A.    I don't agree with that, Chairman. Certainly not. I  
28          know that Mr. O'Higgins, in his report, did make  
29          certain criticisms of the Byrne/McGinn investigation,

1 but all of the substantial matters that Sergeant McCabe  
2 complained about were upheld --

3 130 Q. Yes.

4 A. -- to my recollection. I think that was the position.

5 131 Q. You see, the letter says that the Garda Commissioner, 11:33  
6 and that was yourself at the time, had approved the  
7 findings of the Byrne/McGinn investigation.

8 A. Well, you see, it went beyond just the Byrne/McGinn  
9 report. As you are aware, there was a sequel. The  
10 sergeant made a complaint of assault and false 11:33  
11 imprisonment against the Assistant Commissioner, you  
12 are aware of that.

13 132 Q. I know about the fracas in the hotel. I know that,  
14 yes.

15 A. Correct. So that was investigated quite speedily, 11:33  
16 running in parallel with the review that was carried  
17 out by The Deputy Commissioner and his team. So it was  
18 a combination of all of those things, coupled with the  
19 fact there was several disciplinary measures taken,  
20 people were transferred, all of those things, further 11:33  
21 corrections in relation to the system. That was my  
22 note on approval. It wasn't that I was agreeing  
23 precisely with every single aspect of the Byrne/McGinn  
24 report, that wasn't the case.

25 133 Q. I see. 11:34

26 A. I had the full picture in front of me at that time.

27 134 Q. So you are distancing yourself now from the  
28 Byrne/McGinn report, is that right?

29 A. Of course I'm not. Why would I be doing that?



1 135 Q. Well, fair enough. Can I conclude by putting the  
2 following propositions to you: That you have come here  
3 to portray your relationship with Sergeant McCabe as  
4 one which was one of great respect for Sergeant McCabe  
5 and that you had no problems with him. 11:34

6 A. I had no problems with Sergeant McCabe making any  
7 complaints that he wished to make, Chairman. That is  
8 his entitlement, as the same as any other member of An  
9 Garda Síochána.

10 136 Q. And I have got to suggest to you that the reality is 11:34  
11 quite different; that Sergeant McCabe spent a number of  
12 years in circumstances where, following the Rooney  
13 letter, he was regarded as an outcast in An Garda  
14 Síochána.

15 A. Well, I don't accept that is the case. And, you know, 11:35  
16 we have to be open, honest and reasonable here.

17 137 Q. Yes.

18 A. The reality, Chairman, is, this man was making  
19 complaints against his colleagues, so of course there  
20 would be tensions there and of course there would be 11:35  
21 bad feelings.

22 138 Q. Yes. But if there were bad feelings between  
23 colleagues, the duty of people like Chief  
24 Superintendent Rooney was to be fair and to -- and to  
25 uphold Sergeant McCabe's right to make complaints 11:35  
26 instead of ridiculing them, isn't that right?

27 A. I agree, Chairman, yes.

28 139 Q. And I have got to suggest to you that far from being  
29 somebody who was respected by you, you never once made

1           it your business to talk to him about his issues, never  
2           once?

3           A.    That's correct, Chairman, no. I didn't, no.

4 140 Q.    why did you never once, as Deputy McGuinness asked you  
5           on one occasion, just lift the phone to the man? 11:36

6           A.    well, you see, there were many people interacting with  
7           Sergeant McCabe.

8 141 Q.    Yes.

9           A.    I mean, we are a structured service, there is no doubt  
10          at all about it. 11:36

11 142 Q.   I am suggesting to you that you put a huge value on  
12          maintaining your distance from Sergeant McCabe, even to  
13          the point of drafting a letter suggesting that, instead  
14          of agreeing with Deputy McGuinness that you should just  
15          speak to the man, you wanted to interpose a chief 11:36  
16          superintendent between you and him, you didn't want to  
17          speak to him.

18          A.    well, if at any stage -- as I have already said to the  
19          Tribunal, Chairman, if at any stage either Sergeant  
20          McCabe or through his solicitors wished to have an 11:36  
21          audience with me, my door would be open and you would  
22          find that I would be very receptive.

23 143 Q.   You see, you could pick up the phone and talk to Gerald  
24          Kean, the senior Gardaí could talk to Bernard McCabe,  
25          but you weren't willing to speak to Maurice McCabe 11:37  
26          because you believed the structure would be somehow  
27          offended if you spoke directly to him.

28          A.    well, that is not quite true. First of all, in  
29          relation to Bernard McCabe, he came forward making an

1 approach. In relation to Mr. Gerald Kean, he did  
2 something similar. As I said, Sergeant McCabe or  
3 indeed his solicitors, none of those entities made that  
4 request of me, to go and see him, or for him to come  
5 and see me, whichever. If that was the case I would 11:37  
6 have dealt with the matter, of course I would.

7 144 Q. And I'm putting it to you that Sergeant McCabe -- I am  
8 putting it to you that the general reaction within An  
9 Garda Síochána was to close ranks against him?

10 A. Well, as far as I'm concerned, that wasn't the case, 11:38  
11 no.

12 145 Q. I see. And I have got to suggest to you that based on  
13 what Sergeant Molloy told the Tribunal, that that was  
14 the attitude that Superintendent Taylor conveyed to the  
15 Press Office; that this man was effectively the enemy 11:38  
16 and those who supported him in the political process or  
17 in the media were to be shunned by the Press Office?

18 A. Well, that's the evidence that the sergeant gave in the  
19 context of the image that Superintendent Taylor was  
20 portraying to him. But he wasn't acting on my 11:38  
21 directions.

22 146 Q. I see. And I have got to suggest to you again that you  
23 and Superintendent Taylor were in daily contact and  
24 that it's not true that such hostility could have been  
25 kept secret from you? 11:38

26 A. That is not true. He may not have been in daily  
27 contact, he was certainly in very frequent contact with  
28 me. Of course he was, that was his job; to keep me  
29 informed of matters. But no, I don't agree with you.

1 147 Q. And I'm suggesting to you as well that on one day, the  
2 24th January of 2014, that you personally spoke to  
3 three people, Deputy Deasy, Deputy McGuinness and the  
4 Comptroller & Auditor General, and that you very  
5 seriously disparaged Sergeant McCabe to their faces. 11:39

6 A. That is not correct, Chairman. I've already indicated  
7 the interactions I had with each of those three people,  
8 and I've already indicated to this Tribunal what I said  
9 to them, and I'm here to tell the truth and as far as  
10 I'm concerned, I have told the truth. And I think 11:39  
11 certain issues have been misinterpreted by some of  
12 those parties.

13 148 Q. Well, I want to make -- I want to put the following  
14 propositions to you: In respect of the evidence you  
15 have given about Deputy John McGuinness, the Chairman 11:40  
16 of the PAC, it's not a question of misunderstanding;  
17 you are inviting this Tribunal to reject his evidence  
18 as a complete malicious invention, isn't that right?

19 A. Well certainly in relation to the conversation that he  
20 alleges we had in the car park of Bewley's Hotel on 11:40  
21 24th January '14, which is the day after I had the  
22 conversations with the other parties, certainly in the  
23 context of the crazy and very, very serious allegations  
24 that had been made against me. I absolutely refute  
25 them. They did not happen. I did not say those 11:40  
26 things, either about Sergeant McCabe or any other  
27 persons.

28 149 Q. And it follows from that that his evidence isn't a  
29 matter of mistake, that the note in his diary and all

1 of that is a deliberate systematic piece of falsehood  
2 and with the intent of lying about you in public, is  
3 that right?

4 A. Well, it is very clear that Mr. McGuinness has a much  
5 different version of the conversation that I had in the 11:41  
6 car park with him.

7 150 Q. It's not just different versions; his version, on your  
8 evidence, is a malicious invention against him?

9 A. You may say that if you wish.

10 151 Q. I am suggesting to you -- are you saying that it's not 11:41  
11 a malicious invention?

12 A. I'm suggesting to you that the evidence that I have  
13 given here to the Tribunal has been open and honest in  
14 every single detail, and I certainly didn't meet with  
15 any of the other important witnesses who have given 11:42  
16 evidence here at this Tribunal prior to making my  
17 statement. I made my statement of my own volition.

18 152 Q. And the evidence that he has given about the note he  
19 made in the lay-by that is a total fabrication,  
20 according to you, because he couldn't have made that 11:42  
21 note if what you are saying is correct?

22 A. Well, it certainly didn't reflect the conversation I  
23 had, Chairman.

24 153 Q. I see. And --

25 A. I wonder, Chairman, is it possible to see that note? I 11:42  
26 don't know if it is available.

27 CHAIRMAN: Yes, I am sure it is, absolutely no --

28 154 Q. MR. McDOWELL: You have had access to it, haven't you?

29 A. I have had access to a photocopy, if I could, if it's

1 possible.

2 CHAIRMAN: we kept the original diary, Mr. McDowell, so  
3 if you want to have a look at it. And you will bear in  
4 mind there's lots of stuff about dogs and constituents  
5 and that kind of stuff. 11:42

6 A. I saw that, Chairman. Thank you very much, Chairman.

7 155 Q. MR. McDOWELL: And I have got to suggest to you that  
8 your suggestion that, somehow, he and Deputy Deasy are  
9 not independent because they both serve on the same  
10 committee, is contrived, they aren't political allies, 11:43  
11 and you have no reason to suggest that they have got  
12 together to blacken your name?

13 A. I don't know -- I don't know what they have or haven't  
14 done, Chairman. All I can do is give my evidence  
15 openly and honestly and that's what I have done. 11:43

16 156 Q. And I have got to suggest to you as well that the  
17 Comptroller & Auditor General had no motive to come in  
18 response to the Chairman's appeal with his evidence --

19 A. I agree, Chairman.

20 157 Q. -- other than a motive to assist the Tribunal in every 11:44  
21 way he could.

22 A. Well, I would hope that's every witness's intention  
23 coming in here, to speak openly and honestly and  
24 truthfully about what they know and believe is the  
25 case. But you know, it is the case that Mr. McGuinness 11:44  
26 has met with one or two of the key witnesses at this  
27 Tribunal and I don't know what, if any, influence they  
28 had, but that is something that I was somewhat  
29 concerned about and had in the back of my mind.

1 158 Q. You are not suggesting that --  
2 A. No, I am not suggesting --  
3 159 Q. You are not suggesting that Sergeant McCabe put him up  
4 to inventing evidence against you, are you?  
5 A. I don't know what the position is, Chairman, and I'm 11:44  
6 not making any allegations; I am merely saying that  
7 there was interaction between Mr. McGuinness and  
8 Mr. McCabe and there's also interaction between  
9 Mr. McGuinness --  
10 160 Q. I just want you to reflect on that. Are you seriously 11:45  
11 suggesting that somehow Sergeant McCabe put John  
12 McGuinness up to telling lies about you?  
13 A. No, I'm not suggesting that. I am just merely stating  
14 the fact. I mean, we have the evidence in front of us,  
15 Mr. McDowell -- 11:45  
16 161 Q. Yes.  
17 A. -- of those interactions, and it is very clear that  
18 those interactions took place at a time prior to the  
19 statements forwarded to this Tribunal. They are the  
20 facts, so I don't know, and I cannot make any 11:45  
21 allegations, of course I can't. But I do find it a  
22 little bit disconcerting that that happened and matters  
23 were discussed between Superintendent Taylor and  
24 Sergeant McCabe, for instance, and also in relation to  
25 Deputy McGuinness and Superintendent Taylor. 11:46  
26 162 Q. Do you not think it would be perfectly natural for  
27 somebody in Deputy McGuinness's position to speak to  
28 the people involved?  
29 A. I don't know. That is not my call, Mr. McDowell.

1 163 Q. I see. I am putting it to you as well that the  
2 criticisms that were made about Deputy McGuinness not  
3 coming out publicly with the nature of the allegations  
4 he said you had made, is easily explained, and I am  
5 putting this to you now, by the fact that he did not 11:46  
6 want to damage the McCabe family in public by referring  
7 to the detail of the allegations that you had made  
8 about them?

9 A. Well, I think it's an extraordinary position to adopt,  
10 Chairman. I mean, if Mr. McGuinness had the type of 11:46  
11 very serious allegations that are being made now, if  
12 that is his position, this man is a public  
13 representative, surely he had a duty, surely he had a  
14 duty to report those matters at least to the O'Higgins  
15 Commission and perhaps even before that. 11:47

16 164 Q. Well, I'm not going to get into a legal argument with  
17 you but I am going to suggest to you that that was  
18 completely outside the terms of reference of the  
19 O'Higgins Commission?

20 A. How could it be? What Mr. O'Higgins was charged -- 11:47

21 165 Q. Can we agree to leave it to the Chairman to decide that  
22 point because I am not going to have a legal argument.

23 A. You have asked a very legitimate question and I'm  
24 trying to give you an answer. Part of what  
25 Mr. O'Higgins was dealing with, and I think he did an 11:47  
26 expert job, was to discuss how An Garda Síochána and  
27 the Department of Justice handled the complaints of  
28 Sergeant McCabe and --

29 166 Q. How would it have been relevant to that?



1 A. Sure it's --

2 167 Q. That you had accused Sergeant McCabe of sexually  
3 assaulting his own children?

4 A. Sure, would it not speak directly to attitude and to a  
5 level of vindictiveness against Sergeant McCabe? Of 11:48  
6 course it would have been relevant.

7 168 Q. On the part of whom? You?

8 A. On the part of the Commission of Investigation, who was  
9 charged with dealing with these matters.

10 169 Q. Well, I will leave it to the Chairman to decide, but 11:48  
11 Mr. Justice O'Higgins point-blank refused to go back to  
12 the 2006 allegations, point-blank refused to travel  
13 there.

14 A. And I think rightly so, but if you look at --

15 CHAIRMAN: No, but I don't believe he was ever invited 11:48  
16 to go there by anybody.

17 MR. McDOWELL: No. Well, whenever it arose, whenever  
18 it arose he said --

19 CHAIRMAN: I mean, it's hard to know how you could  
20 refuse to do something point-blank, Mr. McDowell, if 11:48  
21 you are not asked to.

22 MR. McDOWELL: Sorry, Chairman, point-blank he stopped,  
23 closed down all discussion of that matter every time it  
24 arose, even tangentially.

25 CHAIRMAN: He closed down all discussion of any issue 11:49  
26 of a grudge and said I want to deal with the facts.

27 MR. McDOWELL: That's right.

28 CHAIRMAN: He said that could potentially be relevant,  
29 but I have as much evidence now as I want or need. I

1 wish I could do that. Maybe I don't have the guts.

2 170 Q. MR. McDOWELL: The one last thing I want to suggest to  
3 you is --

4 A. Sorry, before you leave the point, and this is an  
5 important point, I feel, Chairman: What Mr. McGuinness 11:49  
6 is alleging against me goes way beyond the 2006  
7 allegations.

8 171 Q. Of course it does.

9 A. You see, that is the point.

10 172 Q. Yes, of course. of course it does. 11:49

11 A. So why didn't he bring that information, why didn't he  
12 bring that information to the attention of the  
13 O'Higgins Commission and beyond that or even to the  
14 Government? The Commissioner of An Garda Síochána  
15 making these type of very serious complaints and he 11:49  
16 decides to sit on his hands? It's certainly beyond my  
17 comprehension.

18 173 Q. I see. And I have got to suggest to you finally, that  
19 the Comptroller & Auditor General in this matter had no  
20 connection whatsoever with Sergeant McCabe? 11:50

21 A. Well, I do think, Chairman, and I have given this  
22 evidence yesterday, I do think there was a  
23 misunderstanding of sorts in the context of what  
24 Mr. McCarthy alleges that I have said and, you know, I  
25 agree with you, and I have the height of respect for 11:50  
26 the Comptroller & Auditor General, you know -- that is  
27 what he heard if that is what he heard.

28 174 Q. How come that within one calendar month, four people  
29 who couldn't possibly have colluded, have evidence to

1 give to this trial -- to this Tribunal that you, very  
2 seriously, attacked the character, reputation of  
3 Sergeant McCabe? How come four people who couldn't  
4 have colluded have come up with that?

5 A. Well, you see, it is the case, on the 26th May '16, 11:51  
6 Chairman, that Mr. McGuinness in the Dáil, during the  
7 debate, spoke about the meeting in the car park and  
8 vile, vile allegations being made --

9 175 Q. Yes.

10 A. -- and that he wasn't to be trusted, and he had 11:51  
11 questions to answer. And that seems to follow a  
12 pattern, but prior to that, you know --

13 176 Q. What are you saying it seems to follow a pattern?

14 A. I'm trying to answer the question --

15 177 Q. What is the pattern? 11:51

16 A. -- if you give me a second. Prior to that, the  
17 conversations took place on the 23rd January '14, in or  
18 around the Public Accounts Committee, I think we are  
19 agreed on that, apart from the December conversation I  
20 had with Mr. Boucher-Hayes. So what happened between 11:51  
21 that date and the 26th May '16 in relation to the other  
22 individuals who have a different version of the  
23 conversations that I had with them a couple of years  
24 earlier, what happened in the intervening period? It  
25 seems strange to me that nobody came out of the traps 11:52  
26 essentially.

27 178 Q. Well, can I just put one final suggestion to you: That  
28 they may have thought that your allegations were so  
29 untrue and unfair and damaging that making them public

1 in any way possible was only adding to the damage that  
2 you had already attempted to bring about for Sergeant  
3 McCabe?

4 A. Well, I couldn't possibly see how that could be the  
5 situation in respect of Mr. McGuinness, when clearly he 11:52  
6 was making very specific allegations that were way  
7 outside of the 2006 allegations. I think very  
8 definitely he had a duty to bring that to the attention  
9 of Government. What this, after all, he is alleging is  
10 allegations being made by the Commissioner of An Garda 11:53  
11 Síochána. In relation to Deputy Deasy, he speaks  
12 about, you know, not to be trusted, etcetera, but he  
13 doesn't seem to back that up with any great facts. And  
14 in relation to Mr. McCarthy, again we are at  
15 loggerheads in terms of what was said, but I do think 11:53  
16 from looking at his statement and his original  
17 conclusion, I do think that he's mistaken in terms of  
18 the conclusion he drew that it was in relation to the  
19 missing computer and that there was a live allegation  
20 against Sergeant McCabe, because to my certain 11:53  
21 knowledge, that was not the case, so how could I  
22 have -- I could have made it up, of course, but to my  
23 certain knowledge, that wasn't the case.

24 179 Q. I'm suggesting you did make it up and you did utter it.

25 A. That is totally untrue, Chairman. 11:54

26 MR. McDOWELL: Thank you.

27 CHAIRMAN: Thanks, Mr. McDowell. Ms. Burns, if you  
28 wouldn't mind explaining again, I am sure the  
29 Commissioner knows but, to the Commissioner who you are

1 appearing for.

2

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

4 180 Q. MS. BURNS: Yes, Chairman. Good morning, Mr. Callinan?

5 A. Good morning, Ms. Burns.

11:54

6 181 Q. As you are aware, I am appearing on behalf of

7 Superintendent Taylor and I just have a few net areas

8 that I wish to go through with you in relation to the

9 evidence that you have given and also some of the

10 documentation before the Tribunal. So firstly, perhaps 11:54

11 if I could focus on what your reaction was to the

12 allegation that had been made against you by

13 Superintendent Taylor. Now, as we are all aware,

14 Superintendent Taylor made his protected disclosure on

15 the 30th September 2016, and we are also aware that 11:54

16 there was some public commentary in relation to that

17 over the airwaves, it would seem the following weekend.

18 In the papers distributed by the Tribunal it seems that

19 there were some newspaper -- or sorry, not newspaper,

20 radio broadcasts on the 4th, 5th and 7th October that 11:55

21 involved Mr. Clifford and Ms. Clare Daly on interview

22 on various radio stations. Were you aware of any of

23 those broadcasts at the time?

24 A. I don't recall them, no.

25 182 Q. I see. So we also know that you were written to by 11:55

26 Mr. Justice Iarfhlaith O'Neill on the 26th October 2016

27 and within that documentation he provided you with

28 certain material, but one of the documents that was

29 provided was the protected disclosure from

1 Superintendent Taylor. Was that the first notice that  
2 you had in relation to the allegations being made by  
3 Superintendent Taylor?

4 A. Correct, Chairman, yes.

5 183 Q. I see. So the earlier broadcasts, you weren't aware 11:56  
6 of, and had heard nothing in relation to those up to  
7 the time that you received the letter from Mr. O'Neill,  
8 is that right?

9 A. Correct, Chairman, yes.

10 184 Q. I see. Now, in relation to that, then, the letter, if 11:56  
11 we put it up on the screen, just for your benefit, that  
12 can be found at page 574 of the documentation, it's in  
13 volume 2. And within that, at the very end of the  
14 page, there is reference at that last paragraph, that  
15 there are two protected disclosures; one is in relation 11:56  
16 to Sergeant Maurice McCabe, but the other then is  
17 obviously Superintendent Taylor's disclosure. And the  
18 reference there is that the two protected disclosures  
19 and the two section 41 reports contain very serious  
20 allegations against you whilst discharging the 11:56  
21 functions of the office of Commissioner of An Garda  
22 Síochána. And then the various legislation that  
23 relates to protected disclosures is set out, but at the  
24 very bottom of the second page, which is page 575, you  
25 are asked: 11:57

26

27 "I must ask you to respond to the allegations against  
28 you in the two protected disclosures."  
29

1 So obviously, what is being set out there is the  
2 various documentation being brought to your attention,  
3 the legislation in relation to it, the fact that there  
4 are very serious allegations made against you, and then  
5 the request from Mr. Justice Iarfhlaith O'Neill that 11:57  
6 you respond to those allegations. And if I then could  
7 have your response to that letter put up on the screen,  
8 and that can be found at page 577, volume 2 of the  
9 papers, and that's your letter dated the 28th October  
10 2016, and you set out the documentation that you have 11:57  
11 received, and then at the very last paragraph of the  
12 first page of your letter, so that is page 577, you  
13 ask:

14  
15 "In these circumstances, you might kindly set out 11:58  
16 precisely the allegations to which you wish me to  
17 respond."

18  
19 So I think it's clear from that letter that you've  
20 acknowledged receipt of the documentation, you 11:58  
21 acknowledged the fact that -- the second-last paragraph  
22 of the letter that there is a reference by Mr. Justice  
23 Iarfhlaith O'Neill of very serious allegations having  
24 been made against you, but you don't in fact set out  
25 your response to those allegations, and instead what 11:58  
26 you request from Mr. Justice Iarfhlaith O'Neill is that  
27 he would set out precisely the allegations to which he  
28 wishes you to respond.

29 A. That's correct, Chairman, yes.

1 185 Q. Now, I understand Mr. Callinan, that you have, in the  
2 course of your evidence and also in the course of the  
3 letters that we will go through, that you've made the  
4 complaint that Superintendent Taylor's allegation is  
5 against you was very vague, and indeed it was, and I'm 11:59  
6 not going to take issue with you in relation to that,  
7 but could I ask you why, at that very early stage,  
8 having received the letter from Mr. Justice Iarfhlaith  
9 O'Neill, having been asked to set out your response,  
10 the response that you give is not to deny the 11:59  
11 allegations of Superintendent Taylor, but, instead, to  
12 ask Mr. Justice O'Neill for him to set out the  
13 allegations to which he wishes you to respond; why did  
14 you take that course of action?

15 A. Because the allegations, Chairman, weren't set out in 11:59  
16 sufficient detail, I felt, for them to be dealt with by  
17 me at that time. They were very general in nature.  
18 There was no specificity with any of the materials. So  
19 it would be difficult for me to deal with the  
20 allegations in any serious way without knowing 12:00  
21 precisely what was there against me.

22 186 Q. I see. But you could have denied the allegations that  
23 had been set out in the protected disclosure?

24 A. Well, you'd be denying something that you didn't have  
25 the detail of, that was the difficulty I had. 12:00

26 187 Q. I see. Well, if we look at the protected disclosure  
27 then and this can be found in volume 1 at page 4 and  
28 page 5. If, firstly, I could ask to look at page 4 and  
29 in the third paragraph down, the paragraph beginning



1 with "I can confirm" and it goes on:

2  
3 "That there was a campaign at the highest level of An  
4 Garda Síochána involving the then-Commissioner Martin  
5 Callinan and the then-Deputy Commissioner, now 12:00  
6 Commissioner, Nóirín O'Sullivan, to discredit Maurice  
7 McCabe."

8  
9 So that is the first allegation that is set out at page  
10 4 of the protected disclosure of Superintendent Taylor. 12:01

11 And then if we turn to page 5 and midway down that  
12 page, the beginning of the paragraph that reads "I  
13 recall", and we then have the allegation set out by  
14 Superintendent Taylor in relation to what he alleges  
15 was the direction received by him from you to 12:01  
16 negatively brief the press in relation to Sergeant  
17 McCabe's motivations. So there is that paragraph, and  
18 it reads:

19  
20 "I recall being instructed or directed to contact the 12:01  
21 media to brief them on the particular line the  
22 Commissioner had instructed; namely, to brief  
23 negatively against Sergeant McCabe. In particular, I  
24 recall that I was to brief the media that Sergeant  
25 McCabe was motivated by maliciousness and revenge. I 12:01  
26 was also to encourage media to write negatively about  
27 Sergeant McCabe, that his complaints had no substance,  
28 and that the Garda had fully investigated his complaint  
29 and found no substance to his allegations. In essence,

1 I was to brief that Sergeant McCabe was driven by  
2 agendas. "

3  
4 And then the next paragraph:

5  
6 "I was also directed to draw journalists' attention to  
7 the complaint of sexual assault made against Sergeant  
8 McCabe and that this was the root cause of his agenda,  
9 revenge against the gardaí. "

10  
11 Now, there, clearly, are the allegations against you,  
12 the first page referring to the fact that there was a  
13 campaign to discredit Maurice McCabe.

14 A. Yes.

15 188 Q. And then on the second page, page 5, the details of how  
16 that direction was to be carried out, and, yes, I  
17 accept that there's no references to dates or times  
18 when these instructions were carried out, but surely,  
19 Mr. Callinan, in that very initial response from you to  
20 Mr. Justice Iarfhlaith O'Neill, you could have set out  
21 that you denied those allegations, but go on to make  
22 the point that the allegations were very vague?

23 A. Accepted. But the issue for me was, I didn't have the  
24 detail to deal with them. You know, they are serious,  
25 very serious allegations, but they are really  
26 statements about those allegations without the level of  
27 detail that would be required, given the seriousness of  
28 them. That was the point I was making back to the --  
29 Mr. Justice O'Neill.

1 189 Q. I see. In any event, you accept that in that letter  
2 from you on the 28th October 2016, you didn't, in fact,  
3 deny the allegations set out by Superintendent Taylor?

4 A. Well, I was hopeful that I would get more detail before  
5 I could respond. 12:03

6 190 Q. I see. So then what occurs is, you having asked  
7 Mr. Justice Iarfhlaith O'Neill if he could set out  
8 precisely the allegations to which he wished you to  
9 respond to, he then writes to you on the 31st October  
10 2016, and that letter can be found at volume 2, page 12:04  
11 579. And in that letter, on the second page of the  
12 letter, which is page 580, he sets out in the second  
13 paragraph down that:

14

15 "These allegations as set out in these four 12:04  
16 documents --"

17

18 Now, obviously the four documents relate to the  
19 protected disclosure of Sergeant McCabe and then the  
20 two Section 41 reports from Mr. John Barrett, but the 12:04  
21 fourth document is Superintendent Taylor's protected  
22 disclosure. He goes on to say:

23

24 "These allegations as set out in these four documents  
25 are, in my opinion, capable of being addressed by you 12:04  
26 and responded to by indicating whether you deny all of  
27 them or whether you do not dispute some of them or  
28 whether you wish to put forward some alternative  
29 explanation of them. This is all that is required at

1 this stage."

2

3 So that's the letter that you then received from  
4 Mr. Justice Iarfhlaith O'Neill.

5 A. Yes.

12:05

6 191 Q. But in response to that letter, which is your response  
7 dated the 6th November 2016 and can be found at page  
8 581, volume 2 of the materials, rather than taking up  
9 that offer from Mr. Justice O'Neill and dealing with  
10 the allegations and setting out your view in relation  
11 to them, as he has requested you to do in his second  
12 letter to you, your letter, instead, at paragraph 3 of  
13 the letter, says:

12:05

14

15 "I am advised that I should not enter into any process  
16 until the very serious allegations to which I am  
17 requested to respond have been set out in appropriate  
18 detail, that the relevant underlying alleged facts have  
19 been set out in similar detail and that I have been  
20 given a reasonable opportunity and facilities to  
21 conduct any necessary investigations and inquiries to  
22 enable me to rebut same."

12:05

12:06

23

24 Now, again, you don't take the opportunity in your  
25 second return letter to Mr. Justice O'Neill to deny the  
26 allegations.

12:06

27 A. That's correct, Chairman, yes.

28 192 Q. I see. So arising from that, then, I think that  
29 Mr. Justice O'Neill again writes to you, and he writes

1 to you on the 10th November 2016, and that letter can  
2 be found at volume 2, page 582. And in this letter, in  
3 his second-last paragraph on that page, he states to  
4 you:

5  
6 "Once again, I ask you to reconsider the stance you  
7 have adopted in response to my request to you in  
8 previous correspondence."

12:06

9  
10 And then at page 583, in the second paragraph of that  
11 letter, he states:

12:07

12  
13 "As stressed by me in earlier correspondence, all that  
14 is required of you at this stage is to state whether  
15 you dispute the allegations contained in these  
16 documents. I'm quite satisfied that the allegations in  
17 these documents against you are stated with sufficient  
18 clarity to enable you to fully understand the content  
19 of these allegations, so as to enable you to respond to  
20 them by stating whether you dispute all of these  
21 allegations or some of them."

12:07

12:07

22  
23 So again, a request by Mr. Justice O'Neill for you to  
24 deal with the allegations and state your position in  
25 relation to them, and obviously an indication by him  
26 that, as far as he's concerned, there is sufficient  
27 clarity within the documentation furnished to you for  
28 you to be able to be in a position to state your  
29 position regarding them.

12:07

1 A. Correct.

2 193 Q. And I think then, and this is your final response to  
3 Mr. Justice O'Neill in relation to this specific issue,  
4 I think you write to him then on the 16th November  
5 2016, which can be found at Volume 2, page 584 of the 12:08  
6 documentation, and in the second-last paragraph of that  
7 letter you state -- well, I will actually, sorry, for  
8 your benefit I will read the third-last paragraph also.  
9 You say:

10

11 "In the second page of your initial letter to me you  
12 have confirmed that I have a constitutional right to  
13 natural justice and fair procedures regarding the  
14 matters arising under your terms of reference. Again,  
15 I am to inform you that I have been further advised 12:08  
16 that as a matter of law in furtherance of the  
17 protection of those rights, I am entitled to have the  
18 allegations clearly set out before I engage in the  
19 process being undertaken by you. Notwithstanding the  
20 foregoing and in light of your clear desire for me to 12:08  
21 take a position on the allegations, I confirm, insofar  
22 as is possible, given the limited detail, that the  
23 allegations are denied."

24

25 So finally, on the 16th November 2016, Mr. Justice 12:09  
26 Iarfhlaith O'Neill having written to you initially on  
27 the 26th October 2016, finally you state that you are  
28 denying the allegations contained in the documentation  
29 furnished.

1 A. That's correct, Chairman, on the Judge's insistence  
2 that I make that call, but again, I did have  
3 reservations that I didn't have any detail. That was  
4 my concern and that was my concern from the very  
5 beginning.

12:09

6 194 Q. Well, Mr. Callinan, would it not have been possible  
7 from the offset, in light of the fact that you deny  
8 these allegations and deny them vehemently, would it  
9 not have been possible for you to set out that denial  
10 from the offset with the caveat that there was very  
11 little detail in terms of the allegations provided?

12:09

12 A. Well, the only point I'll make, Ms. Burns, is that I  
13 was trying very hard to establish what precisely the  
14 allegations were so that I could respond to them,  
15 because, in fairness, Mr. Justice O'Neill was doing a  
16 scoping exercise to see whether or not -- what type of  
17 inquiry, if any, should be conducted. I think that  
18 was the -- as I understood it. So I was trying to  
19 amass as much information as I could to try and be of  
20 assistance, but there was a little bit of over and  
21 back, I accept that, of course I do. But, I mean, it's  
22 quite clear that I did deny it because this was going  
23 to be his final letter, so I did deny them such as they  
24 were, and, I mean, that caveat is there.

12:10

12:10

25 195 Q. You provide a statement to this Tribunal on the 13th  
26 March 2017, and that statement can be found at volume  
27 2, page 640 of the papers. And in your statement to  
28 the Tribunal, in the third paragraph down, you state:

12:10

29

1 "In circumstances where very little by way of specific  
2 detail has been set out in relation to the allegations,  
3 it is difficult to do any more at this stage than  
4 refute them by way of denial. Where possible or  
5 relevant, I provide specific details in relation to 12:11  
6 incidents that seem to me to be of relevance at this  
7 point."

8  
9 Now, would it have been that difficult, Mr. Callinan,  
10 to have set out in your letters to Mr. Justice O'Neill 12:11  
11 from the off, having been asked for your position from  
12 the 26th October 2016, to provide Mr. Justice O'Neill  
13 with that very paragraph that you ultimately provide to  
14 the Tribunal, that you are denying, but you want to  
15 draw attention to the fact that there is very little 12:11  
16 specific detail?

17 A. Okay. Well, Chairman, clearly what I'm doing here is  
18 responding to the terms of reference as best I can,  
19 accepting that I don't have all of the detail, whereas  
20 with Mr. Justice O'Neill's letter I was trying to 12:12  
21 respond to allegations that I really had very little  
22 detail of in the first instance, so that was the  
23 difference there.

24 196 Q. I see. Mr. Callinan, were you concerned that any  
25 further information might come to light, that if you 12:12  
26 put a denial in it would cause you problems at some  
27 stage?

28 A. Absolutely not. The allegations were there to be  
29 accepted or denied. But it was also the case that you



1 might have something to say about those allegations,  
2 and clearly I have got an awful lot of material from  
3 the Tribunal that I wasn't in possession of at the time  
4 Mr. Justice O'Neill was writing to me.

5 197 Q. I see. Now, just in terms of the responses that you 12:12  
6 gave to Mr. Justice O'Neill, there is no reference in  
7 conjunction with your denial that Superintendent Taylor  
8 was engulfed with bitterness to Commissioner O'Sullivan  
9 and that, in fact, he'd uttered words to you that he  
10 was going to bring her down. 12:13

11 A. Correct.

12 198 Q. I see. If I could then return to the next section of  
13 your correspondence with Mr. Justice O'Neill, because  
14 having indicated to him that you were denying the  
15 allegations, as we have referred to in your last letter 12:13  
16 to him, he then writes to you again on the 18th  
17 November 2016 and indicates that his view was that an  
18 inquiry of some form will need to take place, and in  
19 the second-last paragraph of the letter, on page 585 of  
20 volume 2, he asks you to set out the specific topics 12:13  
21 you want included in any such inquiry and also whether  
22 you have a view as to what form of inquiry should take  
23 place. So I think that shows a consultation process  
24 being offered by Mr. Justice O'Neill to you in terms of  
25 what form of inquiry and what should, in fact, be 12:14  
26 inquired into. And your response to that letter then  
27 is dated the 23rd November 2016 and can be found at  
28 page 586, volume 2, of the documentation, and if I  
29 could just bring you to the last paragraph of that

1 letter, which is on page 587. And having set out your  
2 various concerns and issues, maybe most particularly in  
3 relation to the allegations of John McGuinness, you  
4 then set out that:

5  
6 "Having regard to all of the matters and procedures  
7 which have taken place to date and with particular  
8 regard to the foregoing, I have been advised that any  
9 possible matter arising from the two protected  
10 disclosures should have been raised at the Commission  
11 of Investigation carried out by Mr. Justice O'Higgins  
12 and that the failure to do so is a bar to any further  
13 form of inquiry involving matters which ought to have  
14 been raised."

15  
16 Now, Mr. McDowell has questioned you in relation to  
17 your views regarding the O'Higgins Commission, and I  
18 don't want to repeat those. I understand your  
19 position, that they should have been raised, not that I  
20 accept that position but I understand your evidence in  
21 relation to it. But what I did want to ask you about,  
22 Mr. Callinan, is that these very serious allegations,  
23 having now been made in the public domain, and the fact  
24 that they hadn't been raised at the O'Higgins  
25 Commission, did you not have a desire to set the record  
26 straight and clear your name in relation to the  
27 allegations which had been made?

28 A. well, I don't think I could have been in any doubt at  
29 any point that there wasn't going to be either a

1 commission of investigation or something similar  
2 following, so it really didn't matter. I was making  
3 the point that these matters, and I've -- as you quite  
4 rightly say, I have raised it in response to  
5 Mr. McDowell's question earlier. I was of the view 12:16  
6 very firmly that these matters should have been dealt  
7 with by Mr. Justice O'Higgins, they should have been  
8 brought to his attention.

9 199 Q. But, Mr. Callinan, my question is slightly different to  
10 that, because while your first position is that they 12:16  
11 should have been dealt with by Mr. Justice O'Higgins,  
12 your second point is that, because there was an inquiry  
13 before Mr. Justice O'Higgins, there is now a bar to any  
14 further inquiry in relation to these matters. And my  
15 question for you is: Is that not a strange position 12:16  
16 for you to have taken, in light of the fact that very  
17 serious allegations had been made against you, and  
18 would you not have had a desire to, in fact, have these  
19 aired in the public arena?

20 A. I don't think I was under any illusions, as I said to 12:17  
21 you, that there would not be some form of inquiry. But  
22 just to clarify, the point is, these matters weren't  
23 brought to Mr. O'Higgins. Whether he choose to deal  
24 with them or not is a matter for himself, of course  
25 we'll all accept that, but that's the point I'm making, 12:17  
26 that these matters should have been brought to his  
27 table in the first instance.

28 200 Q. No, and I understand that, I understand that you are  
29 saying that this should have been dealt with by

1 Mr. Justice O'Higgins and that the interested parties  
2 should have complained there, but your answer to me in  
3 terms of the actual question that I'm asking regarding  
4 your views as to clearing your name, your answer seems  
5 to be that: well, I may have answered that my view is 12:17  
6 that there is a bar to any further form of inquiry, but  
7 nonetheless, I knew that was going to come?

8 A. Yes, correct.

9 201 Q. But surely you had an interest in a further inquiry  
10 taking place in relation to these? 12:18

11 A. I had no doubt that that is what was going to happen at  
12 any rate, but I was making the point that they should  
13 have been raised earlier, and, I mean, I didn't make  
14 that point entirely on my own, as you can appreciate.

15 202 Q. Oh, I can see that, and clearly you were getting advice 12:18  
16 in relation to these matters, it's clear from the  
17 correspondence. But if you were of the view that there  
18 would be some form of inquiry in due course, well why  
19 then did you make the point that there would be a bar  
20 to any further inquiry? 12:18

21 A. Well, that was the -- that was a point I was raising,  
22 you know, clearly that was a point I'm raising in the  
23 correspondence.

24 203 Q. And that's exactly what I'm attempting to ask you  
25 about, Mr. Callinan; why did you want there to be a bar 12:18  
26 to any further inquiry?

27 A. Well, you see, as far as I was concerned, there was  
28 going to be an inquiry one way or the other, but I'm  
29 making the point, through my solicitor, I suppose, that

1           it is the case that I felt strongly that these matters,  
2           because they were so serious, that they should have  
3           been brought to Mr. O'Higgins' table in the first  
4           instance. That is the only point I was making there.

5 204 Q.   well, I don't think that is the only point that you are 12:19  
6           making there, Mr. Callinan. What you seem to be making  
7           the point of is that there should be no further inquiry  
8           because O'Higgins existed and these complaints weren't  
9           made. Now, your answer seems to be, well, I knew there  
10          was going to be one in due course, but I'm just making 12:19  
11          the point that the existence of O'Higgins and the  
12          non-complaining at O'Higgins by interested parties was  
13          a bar to any future inquiry?

14          A.   I see that, yes, I see that. I see the point you are  
15          making, yes. 12:19

16 205 Q.   But surely you had a desire to clear your name in  
17          relation to this?

18          A.   well, of course. That goes without saying.

19 206 Q.   Yes. well, then --

20          A.   And, you know, I was -- as I said, I was under no 12:20  
21          illusion that there would be some form of inquiry, and,  
22          if that hadn't been the case, I would have gone another  
23          direction, because I certainly wouldn't be letting  
24          matters lie, if that is the question you are raising  
25          with me, was I anxious to clear my name; you can be 12:20  
26          100% guaranteed I was going to try to clear my name one  
27          way or another.

28 207 Q.   well, then, Mr. Callinan, two things: Firstly, why are  
29          you saying that there is a bar to any further inquiry

1 if you did have an interest in clearing your name?  
2 A. Because that was my belief, that these matters should  
3 have been brought there in the first case. I mean, I'm  
4 retired a couple of years at this stage; you know, is  
5 it fair that these matters weren't dealt with way 12:20  
6 before this particular process?  
7 208 Q. And you have indicated in your answer moments ago to me  
8 that you would have done something about this had there  
9 not been an inquiry, but is this not your opportunity  
10 to set out to Mr. Justice O'Neill what form of inquiry 12:21  
11 you think should take place, as opposed to you having  
12 to personally go to somewhere else to seek to clear  
13 your name?  
14 A. No, because I genuinely believed that these matters  
15 should have been dealt with previously, as I said, and 12:21  
16 the fact that that didn't happen, I said is -- it's  
17 clearly in the letter, and I have stated it there and I  
18 have signed my name to it, it is my belief at that  
19 time, because that didn't happen, I didn't believe at  
20 this point in time that it should happen, regardless of 12:21  
21 the seriousness of these matters, that is something  
22 that I would have had to deal with further down the  
23 line.  
24 209 Q. How do those two answers marry then, Mr. Callinan, that  
25 on the one hand you think that there shouldn't be any 12:21  
26 further inquiry, but on the other hand you wanted to  
27 clear your name and would have had to do something  
28 personally about that yourself?  
29 A. Well, if it was the case that this inquiry or a similar

1 inquiry didn't take place, of course I would have had  
2 to deal with these matters. They were very serious  
3 matters.

4 210 Q. well, then, why didn't you say that in your letter to  
5 Mr. Justice O'Neill, that you most certainly, while you 12:22  
6 had objections and annoyance that they weren't dealt  
7 with at O'Higgins, that, nonetheless, you most  
8 certainly wanted these things inquired into?

9 A. well, I see the point you are making, but I was  
10 certainly going to make every effort to clear my name 12:22  
11 in relation to these most serious allegations, that  
12 aren't true, by the way.

13 211 Q. And I know that you are denying them, Mr. Callinan.  
14 But your letter certainly doesn't read like that; your  
15 letter certainly seems to read that they now should not 12:22  
16 be inquired into because the time has come and gone?

17 A. well, I accept, yes, I accept that is what I said and  
18 that was my thinking at the time, that this should have  
19 been dealt with way before now and that it was very  
20 unfair on me in particular that these matters were 12:23  
21 being raised now, when there was an awareness way back  
22 and at a time before and during when Mr. O'Higgins was  
23 dealing with these matters --

24 212 Q. I see.

25 A. -- or related matters. 12:23

26 213 Q. But you accept that the letter reads that you did not  
27 want these matters inquired into in light of the fact  
28 that the complaint hadn't been made at O'Higgins?

29 A. well, I believed that -- yes, I believed that these

1 were matters that should have been inquired into  
2 earlier and I believed that it was unfair, that is  
3 certainly my view, that it was unfair for this process  
4 to take place, but that wasn't going to be -- just the  
5 question you asked, trying to reconcile the two things, 12:23  
6 I certainly wouldn't be leaving it at that, not that I  
7 ever felt that there wouldn't be some form of inquiry,  
8 but, beyond that, I would certainly be making very  
9 strong moves to protect my reputation and clear my  
10 name. 12:24

11 214 Q. I see. In any event, arising from Mr. Justice  
12 O'Neill's review, and obviously this inquiry has now  
13 come to pass so you didn't have to do anything further  
14 about it?

15 A. Correct. 12:24

16 215 Q. I see. In relation to the -- that letter that I have  
17 just brought you through, again there is no reference  
18 in that letter to this information that you had  
19 regarding Superintendent Taylor's grievance as against  
20 Nóirín O'Sullivan and specific utterances that he'd 12:24  
21 made about wanting to bring her down, there is no  
22 reference to that in the letter?

23 A. There is no reference to very many things that now form  
24 part of the terms of reference and matters that I feel  
25 were relevant to the terms of reference. 12:24

26 216 Q. I see.

27 A. And the reason that there isn't is, I didn't have the  
28 detail on which I could respond.

29 217 Q. Well, just in relation to that, Mr. Callinan, you are



1 the person who says you had the detail in relation to  
2 what Superintendent Taylor said to you one day in your  
3 house, and that isn't something that you had to wait  
4 for somebody else to tell you; that comes from your own  
5 evidence and your own observations in terms of a 12:25  
6 discussion that you say you had with Superintendent  
7 Taylor?

8 A. That's a fair question, yes, and that's -- that's a  
9 fair point.

10 218 Q. So you could have set that out in any of the letters 12:25  
11 that you had with Mr. Justice O'Neill, that you had  
12 direct knowledge of an agenda that Superintendent  
13 Taylor had in relation to this protected disclosure of  
14 his?

15 A. Well, there are many things, I think, that I could have 12:25  
16 set out at that time, but obviously I wanted to have  
17 clear -- a clear roadmap as to what I'm expected to  
18 answer. That's the point.

19 219 Q. Well, is it not vitally important that something that  
20 you yourself had witnessed, an utterance you say made 12:25  
21 to you by Superintendent Taylor, that that should have  
22 been brought to somebody's attention at a very early  
23 stage, that this man said to me certain things, was  
24 that not an important thing to have raised with  
25 Mr. Justice O'Neill? 12:26

26 A. Well, it's important, but there are many other  
27 important things that would need to have been raised  
28 with Mr. Justice Iarfhlaith O'Neill's letter if I had  
29 sufficient detail to allow me to say those things, but

1 I didn't at that time. But here we have a situation  
2 now where we have terms of reference, and I'm trying to  
3 respond clearly, as clearly as I can, with a blank  
4 sheet in front of me, sitting at home when I get the  
5 terms of reference, with no materials in front of me. 12:26  
6 I'm trying to respond as best I can to the request from  
7 the Chairman to supply a letter, a statement.

8 220 Q. I see. But just to, I suppose, make the point again;  
9 in terms of any of the detail of the conversation that  
10 you say you had with Superintendent Taylor, which he 12:27  
11 denies, you had all that detail, you didn't have to  
12 wait for any more detail in relation to that specific  
13 issue because that was the conversation you say that  
14 you had between himself and yourself, you are present,  
15 you know what was said, you surely could have brought 12:27  
16 that to somebody's attention?

17 A. There is lots of things I could have done, absolutely  
18 there is lots of things I could have done.

19 221 Q. I see. Because the first time I think, and maybe I'm 12:27  
20 wrong about this and I am sure I will be corrected if I  
21 am, but the first reference that I see by you to any  
22 agenda that Superintendent Taylor had as against Nóirín  
23 O'Sullivan is in that statement that you make to the  
24 Tribunal on the 13th March 2017 and can be found at  
25 volume 2, page 648. And at the very end of your 12:27  
26 statement, there is reference to Superintendent  
27 Taylor and -- sorry, page 648 of volume 2.

28 A. Thank you, Chairman. Yes.

29 222 Q. And what you set out is:

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"The principal allegations against me --"

so an acknowledgement by you that they are the principal allegations.

12:28

-- have been made by Superintendent Taylor. I have already commented on the vague --"

A. "Terms of same".

223 Q. I just can't see that.

12:28

-- terms of same. It is also relevant to make the Tribunal aware that subsequent to my retirement from An Garda Síochána, Superintendent Taylor came to visit me in my house on a number of occasions, and in particular following his transfer from Garda HQ to the traffic section. He had not previously been a visitor to my home. He expressed anger and disappointment over his transfer. I advised him to get on with his job and make a success of it."

12:28

12:29

Now, in relation to that, I can see there is no reference to Nóirín O'Sullivan. Perhaps it shows a view in relation to his point regarding her or his thought process in relation to her, but there is nothing specific that you might bring to anybody's attention. But then the next paragraph states:

12:29

"On a further occasion following his suspension and

1 arrest, Superintendent Taylor called to my home to  
2 describe how badly he had been treated when in custody.  
3 He blamed the Commissioner for having him arrested and  
4 stated that he would bring her down because of what she  
5 did to him. While I sympathised with him on a human 12:29  
6 level because his suspension had financial implications  
7 for him, I did not engage with him in relation to the  
8 views he was expressing about Commissioner O'Sullivan,  
9 nor did I endorse his sentiments."

10  
11 So that is the first reference I can see in March 2017  
12 when you reply to the terms of reference from this  
13 Tribunal, to you actually stating that Superintendent  
14 Taylor had said to you that he would bring Nóirín  
15 O'Sullivan down. why did you wait so long before you 12:30  
16 made anybody aware of that?

17 A. well, I don't think there is any particular reason. I  
18 mean, what I tried to do was go through the actual  
19 terms of reference and frame my answers as best I could  
20 in that context, and, you know, when you go down 12:30  
21 through them, it talks about this campaign and  
22 malicious campaign against Sergeant McCabe and this was  
23 a campaign that was at the highest -- directed at from  
24 the highest level of An Garda Síochána and the deputy  
25 commissioner was aware, so I was trying to address all 12:30  
26 of those points.

27 224 Q. I see.

28 CHAIRMAN: Right. This is an important point. Maybe  
29 we will take it up in an hour, wouldn't that be a good

1 idea? Thank you.

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3 THE HEARING ADJOURNED FOR LUNCH

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1 THE HEARING RESUMED, AS FOLLOWS, AFTER LUNCH:

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3 225 Q. MS. BURNS: Good afternoon, Mr. Callinan.

4 A. Good afternoon, Ms. Burns.

5 226 Q. I think then that we had just left off where I drew 13:36  
6 attention to the first reference that I can see in the  
7 papers to you indicating that you had this conversation  
8 with Superintendent Taylor at your house and what you  
9 say, which he denies, what he said about Nóirín  
10 O'Sullivan. 13:36

11 A. Yes, Chairman.

12 227 Q. Now, in your interview with the Tribunal, and if I  
13 could ask that page 601, volume 2, of the papers be  
14 brought up, and this obviously occurs -- sorry, I will  
15 get the date for you now -- it occurs after you have 13:37  
16 given your statement to the Tribunal; it's on the, I  
17 understand, the 20th October 2017 that you're  
18 interviewed by the Tribunal. And at the very end of  
19 page 601, you're asked the question:

20 13:37

21 "I have been asked whether I can offer any explanation  
22 for Superintendent David Taylor's assertions which he  
23 has detailed in his statements to the Disclosure  
24 Tribunal; namely, that I instructed him to brief the  
25 media that Sergeant McCabe was motivated by 13:37  
26 maliciousness and revenge; (b) encouraged the media to  
27 write negatively about Sergeant McCabe; and (c)  
28 informed the media that the Garda had fully  
29 investigated his complaints and found no substance to

1 his allegations."

2

3 And your answer to that question as to whether you  
4 could offer any explanation regarding Superintendent  
5 Taylor's allegations, your answer was:

13:38

6

7 "No, I can't. The allegations have come as a complete  
8 surprise to me."

9 A. Yes.

10 228 Q. Now, we know obviously, Mr. Callinan, that you were  
11 asked a somewhat similar question by Mr. Marrinan at  
12 the commencement of your evidence last Friday.

13:38

13 A. Yes.

14 229 Q. And you gave an explanation as to why you thought that  
15 Superintendent Taylor had invented, as you say, these  
16 allegations against you, which related back to that  
17 conversation that you say occurred in your house when  
18 he made the comments in relation to Nóirín O'Sullivan,  
19 about he was going to bring her down, and that your  
20 explanation to Mr. Marrinan, or your thought process,  
21 was that this was him acting on foot of that comment  
22 and that to add credence to allegations that he was  
23 going to make against Nóirín O'Sullivan, that he added  
24 you into it. Had that not come to mind when you were  
25 interviewed by the Tribunal investigators?

13:38

13:38

13:39

26 A. Yes, well, clearly it was there. They had had access  
27 to my statement, so clearly that was there. I suppose  
28 I was particularly focused on myself and in relation to  
29 the allegations that I was directing this operation. I

1           suppose that's the context there. But certainly the  
2           Tribunal investigators had my statement and had what I  
3           had written in the statement.

4 230 Q.    You see, you'd already, as I've just before lunch gone  
5           through, you'd already mentioned in your interview with 13:39  
6           the Tribunal on the 30th March 2017, the conversation  
7           that you say occurred at your house between yourself  
8           and Superintendent Taylor, but, again, there's no  
9           reference in the interview with the Tribunal to the  
10          terms of that conversation. 13:40

11          A.    Well, I was responding to particular questions. I  
12          mean, that was the composition of the interview, if you  
13          like. There were certain questions put to me and I was  
14          providing answers. That's the way that interview  
15          worked. 13:40

16 231 Q.    I see. And I suppose, in fairness, questions are being  
17          asked, and you're obviously providing answers, but  
18          reading the interview that took place with the Tribunal  
19          investigators, it seems that that was an appropriate  
20          time when you're asked that question, as to whether you 13:40  
21          have any explanation for Superintendent Taylor's  
22          allegations, that you might have raised the issue of  
23          his attitude towards Nóirín O'Sullivan and your view  
24          that you're then put into that to add credence to his  
25          actions as against her. So I suppose my question is, 13:40  
26          why didn't you mention it there?

27          A.    Yeah. Well, again, I can only repeat what I've told  
28          you already, that my focus on the question, you know,  
29          can I give any explanation as to why he's saying that I



1 directed, so the focus at that time for me was on  
2 myself.

3 232 Q. You see, in relation to the allegations that  
4 Superintendent Taylor has made against you, it's quite  
5 clear that Nóirín O'Sullivan isn't the principal actor 13:41  
6 in relation to what he says he was directed to do; you  
7 are.

8 A. I accept that, Chairman, yes.

9 233 Q. And the height of his allegation as against Nóirín  
10 O'Sullivan is that, as deputy commissioner of 13:41  
11 operations, she would have been aware of the direction  
12 given to him by you and aware of what he did on foot of  
13 that?

14 A. That's correct, Chairman, yes.

15 234 Q. So in terms of your explanation that you proffered to 13:41  
16 the Tribunal when asked by Mr. Marrinan as to where has  
17 all this come from and what is Superintendent Taylor's  
18 motivation, the allegation that he has come forward  
19 with to the Tribunal doesn't bear out that grudge as  
20 against Nóirín O'Sullivan and you simply being thrown 13:42  
21 into it, to add credence to it.

22 A. Well, I think it's very clearly the case, and the terms  
23 of reference set it out quite clearly, that both the  
24 then-Deputy Commissioner O'Sullivan and the former  
25 Commissioner O'Sullivan and I, both of us were 13:42  
26 complicit in this enterprise, although I do agree that  
27 the balance of the complaint seems to be more against  
28 me. But there's no question but that my colleague, the  
29 then-Deputy Commissioner, was part of that enterprise.

1 235 Q. Well, that is absolutely clear, and I am not seeking to  
2 demur from that, Mr. Callinan, but it is equally clear  
3 that what Superintendent Taylor is alleging is that you  
4 were the person who directed him in relation to what he  
5 says was the negative campaign that he was to carry out 13:42  
6 as against Sergeant McCabe?

7 A. Correct, Chairman, yes.

8 236 Q. And he doesn't place Nóirín O'Sullivan in that  
9 category?

10 A. No, no, other than precisely what he is saying, is that 13:43  
11 she was aware of the campaign, but -- I mean, I'm aware  
12 of the allegation, absolutely.

13 237 Q. I mean, I suppose if he was doing what you have  
14 suggested he was doing, he might well have said that  
15 both yourself and Nóirín O'Sullivan had directed him in 13:43  
16 relation to this, as opposed to simply saying that it's  
17 you who directed him but that Nóirín O'Sullivan was  
18 aware of it?

19 A. That's a possibility, yes.

20 238 Q. And also in terms of other evidence that the Tribunal 13:43  
21 has heard, and specifically I'm referring to the text  
22 message that's contained on your phone from Dave Taylor  
23 that we referred to in evidence yesterday, that's the  
24 text message, it can be found at Volume 17, page 4616,  
25 and I'm sure you know what I'm referring to, 13:44  
26 Mr. Callinan, it refers to -- it's after you've retired  
27 and Dave Taylor sends you a message wishing you well  
28 for the future.

29 A. Oh, yes, yes.

1 239 Q. And that if he can do anything to help "please let me  
2 know". I mean, your suggestions as regards Dave Taylor  
3 don't seem to add up with that text message?  
4 A. What particular suggestions are you --  
5 240 Q. The suggestions that this is all to back up his story 13:44  
6 as against Nóirín O'Sullivan. I mean, his allegations  
7 as against you are very much focused on you, and, in my  
8 submission to you, would find it hard to marry with the  
9 text message that we're now referring to?  
10 A. Well, I absolutely agree with you, based on what we are 13:44  
11 reading here and based on what we now know are his  
12 allegations and the detail of those allegations, you  
13 know, they don't bear any resemblance in any way, shape  
14 or form.  
15 241 Q. And the other thing that has emerged in the course of 13:45  
16 evidence, which I'd suggest to you doesn't add up with  
17 your suggestion that this is a campaign as against  
18 Nóirín O'Sullivan, which you've simply thrown in to add  
19 credence to it, is the fact that Dave Taylor is at odds  
20 with Sergeant McCabe in relation to their discussions 13:45  
21 regarding this very issue, because I'm sure you're  
22 aware that Sergeant McCabe alleges that Superintendent  
23 Taylor said to him that Nóirín O'Sullivan was the  
24 pusher in relation to this campaign. That obviously  
25 would equate with what your explanation of Dave 13:45  
26 Taylor's actions are, but yet Dave Taylor takes  
27 vehement denial in relation to that and denies that he  
28 said any such thing to Sergeant McCabe. Now, surely if  
29 you were right, that dispute between ourselves and

1 Sergeant McCabe wouldn't, in fact, exist.

2 A. Well, I mean, I can't account for what Superintendent  
3 Taylor is saying, you know. That is a matter for  
4 himself. I can only deal with the allegations as I see  
5 them. 13:46

6 242 Q. And I accept that, Mr. Callinan. I suppose the reason  
7 why I'm pursuing this with you is that you're the  
8 person who introduced it in the course of evidence, and  
9 my suggestion to you is that evidence that's been heard  
10 by the Tribunal doesn't marry with that suggestion made 13:46  
11 by you in terms of what Superintendent Taylor was up to  
12 in relation to these allegations?

13 A. Again, I can only -- I can only tell you what  
14 Superintendent Taylor said to me in my home.

15 243 Q. I see. Well, in relation to that then, when he said 13:46  
16 this to you, what was your reaction to it?

17 A. I didn't engage. I told the superintendent that I  
18 wasn't going to go there.

19 244 Q. I see. Were you alarmed?

20 A. I was a little bit annoyed, yes. 13:46

21 245 Q. Well, 'alarmed' is what I asked, rather than 'annoyed'.  
22 So you were a little bit annoyed, but were you alarmed  
23 also?

24 A. Well, I didn't think it was proper, I really didn't  
25 think it was proper for a superintendent in An Garda 13:47  
26 Síochána to be speaking about his Commissioner in those  
27 terms, certainly not.

28 246 Q. I see. Did you do anything about that, that he said to  
29 you?

1 A. No, I did not, apart from telling him I wasn't going to  
2 engage, and left it at that.

3 247 Q. I see. Did you inform Nóirín O'Sullivan about his  
4 comments?

5 A. I don't believe I did. I don't believe I did. 13:47

6 248 Q. Would that not have been an appropriate thing to do?

7 A. Well, perhaps. But I don't believe I did, that is my  
8 answer.

9 249 Q. Well, why wouldn't you have done that?

10 A. No particular reason. You know, to be fair to 13:47  
11 Superintendent Taylor, he was moved to the traffic  
12 department. He saw that as a huge slight on him  
13 personally, he thought his peers would be taking a  
14 particular view, being moved sideways, that it wasn't a  
15 good move and that perhaps he wasn't doing his job 13:48  
16 correctly, and he did have a grievance, there is no  
17 doubt at all. And then laterally when he was arrested  
18 and suspended, he was in a difficult place, there is no  
19 doubt at all about that, absolutely no doubt at all  
20 about that, and, you know, you take these things into 13:48  
21 consideration. I tried to advise him as best I could  
22 along the lines get on with your job, you're a  
23 superintendent in the guards, it's a good position to  
24 have, try and make a career of yourself, and the  
25 challenges that are in there in the traffic department 13:48  
26 are of enormous importance to An Garda Síochána. Along  
27 those -- that was the type of discussion I had with  
28 him. I tried to give him advice, basically, to get on  
29 with his business.

1 250 Q. And, Mr. Callinan, I think that seems like a very fair  
2 account of what may well have transpired in terms of  
3 your initial meetings with Superintendent Taylor when  
4 he was moved from the Press Office to the Traffic Unit  
5 and nothing specifically said by him in terms of any 13:49  
6 grievance that he had with Nóirín O'Sullivan. But when  
7 a specific issue is said, as you allege, after his  
8 arrest and suspension, and a specific threat in  
9 relation to Nóirín O'Sullivan, did you not think it  
10 appropriate to bring that to Nóirín O'Sullivan's 13:49  
11 attention?

12 A. Well, I felt really he was just hitting out at what had  
13 happened, you know, which is an understandable human  
14 reaction. I wasn't going to get involved in the detail  
15 of the arrest or the inquiry because I think that would 13:49  
16 be regarded as interfering. So I took the decision  
17 simply not to go there.

18 251 Q. But, with respect, his arrest had occurred, so that's  
19 over with, he is now suspended and he is making a  
20 threat as against Nóirín O'Sullivan, that he is going 13:50  
21 to bring her down. Did you not think that that was an  
22 important thing to bring to somebody 's attention?

23 A. Well, I think, you know, people say things in the heat  
24 of battle, so to speak, and there is no doubt the man  
25 was suffering, so I didn't add to his woes. I just 13:50  
26 advised him to get on with his job, the same as I had  
27 previously. That was the extent of it.

28 252 Q. Well, as you're aware, Mr. Callinan, Superintendent  
29 Taylor takes issue with that conversation having taken

1 place between you. But if we move from that slightly  
2 for a moment. You didn't, on your evidence, do  
3 anything about that when the comment was said. You've  
4 explained why you didn't do anything about it. When  
5 Superintendent Taylor's allegations then became known 13:51  
6 to you, and your evidence earlier today was they became  
7 known on receipt of the letter from Mr. Justice O'Neill  
8 on the 26th October 2016, at that stage did you think  
9 to do anything about that conversation that you had had  
10 with Superintendent Taylor, on your evidence? 13:51

11 A. Not particularly, no. Not at that time, no.

12 253 Q. Well, aside from bringing to the attention of  
13 Mr. Justice O'Neill, which we know you didn't, did you  
14 not think it important to bring it to anybody else's  
15 attention at that stage? 13:51

16 A. No.

17 254 Q. You didn't speak to Nóirín O'Sullivan about it at that  
18 stage?

19 A. Well, I can't be absolutely sure on that point, but I  
20 don't have a recollection. 13:51

21 255 Q. I see.

22 A. I don't --

23 256 Q. Could you think about that for a moment because it  
24 seems that this may well have been the key to what  
25 Superintendent Taylor was all about. Did you or did 13:51  
26 you not speak to Nóirín O'Sullivan about this when you  
27 became aware of the allegation?

28 A. I've just explained to you, I can't be sure whether I  
29 did or I didn't. I have no recollection.

1 257 Q. Do you have a recollection of speaking to anybody else  
2 about it?

3 A. No, I don't believe I did, no. As I said, this was a  
4 conversation from Superintendent Taylor to me. He was  
5 in a very difficult period and I advised him to get on 13:52  
6 with his life, basically, and I left it at that.

7 258 Q. Yes. No, and I understand that that was your position  
8 at the time of the conversation, you're putting that  
9 conversation after the time of his arrest, which we  
10 know would have been May 2015. 13:52

11 A. Yes.

12 259 Q. Your notification of these allegations is in October  
13 2016, so it's perhaps a year and a bit after you've had  
14 this conversation. It's not a huge length of time that  
15 has passed. 13:52

16 A. I agree.

17 260 Q. You're the person who is now in a very difficult  
18 position because these allegations have been made and  
19 your position is that these are untrue allegations.  
20 Surely that was the time to think of this conversation 13:53  
21 and to think of doing something about this alleged  
22 conversation?

23 A. Well, you see, as I said earlier on before lunch,  
24 Ms. Burns, the situation at that time was, I was  
25 looking for more detail and I didn't have that detail, 13:53  
26 and, you know, that's factually the position. I had  
27 taken legal advice, I acted on that legal advice, and  
28 we entered into communication between Mr. Justice  
29 O'Neill and myself based on that legal advice. And



1 then when the Tribunal was set up and we got the terms  
2 of reference and I sat down to try and address each and  
3 every one of these points, I felt that that was the  
4 appropriate time to mention this issue, because I'm now  
5 armed with some of the detail, only some of the detail 13:54  
6 of what is alleged against me.

7 261 Q. Well, in terms of all that has transpired, in terms of  
8 the whole affair with Sergeant McCabe, all of the  
9 allegations that have been made, your central, and I  
10 will say defence, but in reality what I am, I suppose, 13:54  
11 saying is, your central response to Superintendent  
12 Taylor's allegation is this view that he had in  
13 relation to Nóirín O'Sullivan, his stated animosity  
14 towards her, his stated future modus operandi as to  
15 what he would do against her and him dragging you into 13:54  
16 that to add credence, as you say, to the allegations he  
17 made. Surely when all of this raises its head, that  
18 very simple conversation that you say occurred with  
19 Superintendent Taylor, surely that should have been  
20 told to somebody at that stage and notified to 13:55  
21 somebody?

22 A. Well, I think, just to be clear, what I stated the  
23 other day was an opinion, when I was asked for an  
24 opinion, as to why these matters were being alleged.  
25 But I certainly addressed all of the allegations as 13:55  
26 best I could. So, you know, just nominating this  
27 particular passage, the couple of paragraphs at the end  
28 of my statement of the 13th March, it would be very  
29 unfair to suggest that that's all I was doing in terms

1 of trying to address the allegations. I mean, for  
2 instance, I could do little more than deny some of  
3 them, because they're still fairly opaque. But  
4 certainly when it came to conversations I had with  
5 individuals, for instance, and certainly in relation to 13:55  
6 the circumstances leading up to the meeting with  
7 Mr. McGuinness in the car park and what transpired at  
8 that car park, in addition to the time-line of events  
9 that occurred that particular day, the 24th January  
10 '14, all of those matters are addressed in my 13:56  
11 statement. So it's not just a question of speaking  
12 about these two paragraphs in relation to the  
13 conversation I had with Superintendent Taylor and  
14 saying, sure that's the be-all and end-all, and, by the  
15 way, that is your defence to this catalogue of 13:56  
16 complaints.

17 262 Q. But in relation to Superintendent Taylor's allegations  
18 against you, which are obviously contained within his  
19 protected disclosure, that is your case, that is what  
20 was put by your counsel to Superintendent Taylor, and 13:56  
21 it was repeated by you in the course of evidence.

22 A. Well, I was asked for an opinion and, you know, that is  
23 my opinion.

24 263 Q. And it was also put to Superintendent Taylor, obviously  
25 on your instructions, in terms of his motivation. It 13:57  
26 is a central plank to your case in relation to the  
27 allegations that have been made by Superintendent  
28 Taylor against you?

29 A. Well, the central plank to the allegations that have

1           been made against me is that they are absolutely untrue  
2           and I'm dealing with those on that basis, that they are  
3           absolutely untrue, they are false, they should never  
4           have been made, I never directed any campaign, there  
5           was no smear campaign, and the former Commissioner 13:57  
6           certainly wasn't complicit in that campaign, nor was  
7           any other member of An Garda Síochána. And I certainly  
8           didn't get -- I know that a number of things are now  
9           withdrawn from Superintendent Taylor in the context of  
10          the original complaints he's made, and, you know, that 13:57  
11          is the position. There were no derogatory text  
12          messages, there was no verbal instructions given by me  
13          to brief the media negatively against Sergeant McCabe.  
14          All of those things are false, absolutely false.

15 264 Q.    I see. But your case just simply isn't that, well, 13:58  
16           what Superintendent Taylor says is untrue and false,  
17           your case goes a little bit further than that, it goes  
18           as far as: and not only is it all false, I can  
19           actually point to an animus that Superintendent Taylor  
20           had and these are the words that were spoken to me. 13:58  
21           And my point is, with that extra part of your case, the  
22           extra element to his allegations are false, why wasn't  
23           that raised by you at an earlier stage?

24           A.    well, at what point would you have wished me to have  
25           raised it? 13:58

26 265 Q.    well, my point is it should have been raised  
27           straightaway with Nóirín O'Sullivan, but giving you the  
28           benefit of, well, I didn't think anything would come of  
29           this, certainly by the time that you're notified of the

1 protected disclosure, that you should have been doing  
2 something in relation to that element of the proof that  
3 you say that you have in relation to Superintendent  
4 Taylor's animus?

5 A. Okay, I see where you're coming from. Well, the 13:59  
6 reality, Ms. Burns, is this: Superintendent Taylor had  
7 embarked on a course of action that I and I don't think  
8 anybody else in An Garda Síochána was aware of. So  
9 when he was hitting out based on his reaction to his  
10 arrest and his suspension, I took the view that the man 13:59  
11 was just hitting out at the Commissioner and, you know,  
12 I took it at face value on that basis and I tried to  
13 advise him, slow down, go back, do your job, all of  
14 those sort of paternal advices that you would give to  
15 somebody. That was my reaction to it. I mean, that's 13:59  
16 the context. I wasn't aware that he was in a position.  
17 Am I making sense?

18 266 Q. Yes. I think we will move on from that aspect that I  
19 wanted to ask you about. The next thing I wanted to  
20 ask you about, Mr. Callinan, is in relation to the 14:00  
21 evidence that you've given regarding Ms. Debbie McCann,  
22 Ms. Eavan Murray and then Mr. Paul Williams. And in  
23 relation to that, your position is that you were never  
24 informed by Superintendent Taylor that these three  
25 journalists had any involvement at the Ms. D house? 14:00

26 A. That's correct, Chairman.

27 267 Q. And Superintendent Taylor's evidence is to the complete  
28 opposite, that he says he did inform you in relation to  
29 all three journalists and their involvement at the

1 Ms. D house?

2 A. I see.

3 268 Q. I see.

4 A. Yes.

5 269 Q. Now, just two things in relation to that. I think that 14:00  
6 you accepted, when questioned by Mr. Marrinan  
7 yesterday, that Superintendent Taylor did keep you  
8 updated in relation to all of the Maurice McCabe issues  
9 that were in the media at the time and were ongoing in  
10 the political establishment also? 14:01

11 A. Quite a good few of the issues that were arising, yes.

12 270 Q. I don't think you take any issue --

13 A. No.

14 271 Q. -- in terms of his information to you in relation to  
15 Sergeant McCabe? 14:01

16 A. No, no, Superintendent Taylor was an avid texter. He  
17 sent me many, many texts about operational matters and  
18 articles appearing and various other matters that he  
19 felt I should be apprised of.

20 272 Q. And I think that you also accepted to Mr. Marrinan 14:01  
21 yesterday that, regardless of the issue between you as  
22 to whether there was a direction to negatively brief  
23 the media, that, regardless of that, Superintendent  
24 Taylor still should have told you in the normal course  
25 of his information regarding Debbie McCann, Eavan 14:02  
26 Murray and Paul Williams being at Ms. D's house?

27 A. I would have thought that that would have been  
28 appropriate, yes.

29 273 Q. I see. So that is exactly what Superintendent Taylor

1 says he did do, that he did inform you in relation to  
2 that.

3 A. No, he didn't.

4 274 Q. Well, it will be a matter for the Chairman to determine  
5 in relation to that. Earlier today, Mr. McDowell 14:02  
6 questioned you in relation to your meeting with Philip  
7 Boucher-Hayes, and I take it that your end position in  
8 terms of any involvement that Superintendent Taylor had  
9 in relation to informing Philip Boucher-Hayes of the  
10 matters which Philip Boucher-Hayes alleges he was told 14:02  
11 on the day by you, you're not actively pursuing a case  
12 that Superintendent Taylor was involved in relation to  
13 that?

14 A. I have no evidence to suggest he was.

15 275 Q. Yes. And no questions were put by your counsel to him 14:02  
16 in relation to that?

17 A. That's fine. I merely pointed out that the manner in  
18 which Mr. Boucher-Hayes used the expressions he used, I  
19 found somewhat opaque, in that he must have had some  
20 sort of knowledge. Otherwise, as an experienced 14:03  
21 reporter, I would have expected him to ask me what I  
22 was talking about. That's the only point I make.

23 276 Q. I see.

24 A. And my staff were over there earlier on in the day,  
25 including Superintendent Taylor. 14:03

26 277 Q. Other staff as well?

27 A. Other staff as well, of course.

28 278 Q. And in relation then to a comment that you made to  
29 Mr. McDowell this morning in relation to Superintendent

1 Taylor meeting with John McGuinness, again I assume  
2 that you're not actively pursuing a case that  
3 Superintendent Taylor is behind John McGuinness's  
4 evidence to the Tribunal?

5 A. No, I'm not saying that. But I do make the point, 14:03  
6 because I would be less than honest for thinking it and  
7 not saying it, the fact that a number of key witnesses  
8 to this Tribunal have been engaging with one another  
9 prior to making their statements, was on my mind, and  
10 that's what I stated this morning. I don't go beyond 14:04  
11 that, Chairman, but, you know, that is a fact.

12 279 Q. Mr. Callinan, just then in relation to Sergeant McCabe,  
13 and we heard evidence from yourself and also from Alan  
14 Shatter in relation to the various issues that Sergeant  
15 McCabe was raising, it's obviously not just the fixed 14:04  
16 charge notices, there obviously had been all of the  
17 investigations that had come from the Byrne/McGinn  
18 report, then Assistant Commissioner Rice had to also  
19 engage in an investigation; Sergeant McCabe had caused  
20 a lot of investigations to have to be conducted by An 14:05  
21 Garda Síochána?

22 A. Correct, Chairman, yes.

23 280 Q. Now, in terms of the difficulties that all of that  
24 caused and the continuing nature of Sergeant McCabe's  
25 raising of issues, it seems that your position is that 14:05  
26 you are of a view that it is possible that the sexual  
27 assault allegations in 2006 may have been a driving  
28 feature in relation to those allegations?

29 A. I never said they were a driving feature.

1 281 Q. I see. Well, just in terms of your evidence to Mr.  
2 Marrinan last Friday, and that's Day 78 at page 35, you  
3 were asked about whether you felt that there was some  
4 improper motive that Sergeant McCabe had for making his  
5 allegations in relation to the fixed charge penalty 14:06  
6 notice, and you go on to say that you were aware from  
7 reading the executive summary in the McGinn report of  
8 the sexual assault allegations in 2006, and you go on  
9 to make a comment:  
10  
11 "Nor did I believe that it was the conduit --" 14:06  
12  
13 And that's referring to the sexual assault allegations.  
14  
15 "-- for Sergeant McCabe to make the complaints he was 14:06  
16 making."  
17  
18 And then -- sorry, I might just wait for the transcript  
19 to come up. So it's page 35 of Day 78. So just the  
20 first answer that's referred to at the top of the page, 14:06  
21 you say:  
22  
23 "But I did read, of course I read in the executive  
24 summary the observation of the assistant commissioner.  
25 It's there in black and white. But I certainly wasn't 14:06  
26 linking it --"  
27  
28 Now, that is referring to the sexual assault  
29 allegations.



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-- or nor did I believe that it was the conduit for Sergeant McCabe to make the complaints he was making."

And then Mr. Murrinan says:

14:07

"Well, it clearly wasn't a conduit. But, I mean, did you think that this was influencing Sergeant McCabe in some way in making false and spurious accusations against his colleagues?"

14:07

And your answer is:

"It's very, very difficult to tell whether that was a motivation."

14:07

So I certainly interpreted your evidence as it being something that you thought was a possibility, that the sexual assault allegations in 2006 were a motivating factor for Sergeant McCabe to make the allegations he was making?

14:07

A. Well, of course, I can't -- I can't answer that. I simply don't know.

282 Q. And that's -- I'm not asking you whether that is the reason that Sergeant McCabe was raising these issues. What I instead am asking you is what your view was of why Sergeant McCabe was raising these accusations.

14:07

A. Again, I cannot answer that. The sergeant is entitled to make any allegations he wishes. My job is to make

1           sure that they were investigated and investigated  
2           properly.

3 283 Q.    I see. well, I will just bring you then down to a  
4           little bit further on that page, the last question  
5           that's asked at the bottom of the page:

14:08

6  
7           "Did you consider that the 2006 allegation was in some  
8           way behind Sergeant McCabe making false accusations  
9           against his colleagues?"

14:08

10  
11          And the answer is:

12  
13          "Yeah, I suppose, Chairman."

14  
15          And then you go on to recount the conversation that you  
16          had with Alan Shatter on the next page, in relation to  
17          him asking you about this.

14:08

18          A.    Yes.

19 284 Q.    So again, just to make it clear, Mr. Callinan, I'm not  
20          asking you whether Sergeant McCabe was motivated by  
21          revenge in terms of the sexual assault allegation in  
22          2006, what I'm specifically asking you is what was your  
23          view in relation to what was Sergeant McCabe's  
24          motivating factor?

14:08

25          A.    Well, the response to the Minister there was in  
26          response to a question I was asked, a specific question  
27          I was asked; you know, is there something behind this  
28          that he should be informed of? And I felt obliged, as  
29          I am statutory obliged to do anyway, to answer the

14:09

1 question. And I was aware of this allegation of  
2 sexual -- I think in the Byrne/McGinn report it's  
3 referred to as an indecent assault. But anyway, that's  
4 semantics, I suppose. So I did mention very briefly  
5 this particular issue and I had indicated that the  
6 matter had been investigated and the DPP had decided  
7 there would be no prosecution, and that was the end of  
8 the matter. The Minister didn't question me on it, we  
9 didn't have a discussion on it. He just moved on.

14:09

10 285 Q. I'm not being remotely critical that you discussed this  
11 with Mr. Shatter at all. Really what I'm asking you,  
12 and I thought it was clear in your evidence, that you  
13 were of a view that there was a possibility that  
14 Sergeant McCabe was motivated to make the various  
15 accusations he was making arising from the  
16 investigation in 2006?

14:10

14:10

17 A. No. I think that, you know, that is there. It's an  
18 inescapable fact. But I cannot say that that was the  
19 motivating factor.

20 286 Q. And again, perhaps I'm not being clear, and my  
21 apologies if I am not.

14:10

22 A. Sorry, no --

23 287 Q. I'm not asking whether Sergeant McCabe was making  
24 accusations because of the 2006 allegation; what I am  
25 asking you is what your view was as to whether -- as to  
26 why Sergeant McCabe was making allegations arise -- and  
27 whether that was because of the 2006 allegation, in  
28 your mind?

14:10

29 A. Well, I don't know, is the answer, but he is certainly

1 entitled to make any allegation he likes.

2 288 Q. No, and I understand that, too. But apart from the  
3 answers that you gave to Mr. Marrinan on Friday that  
4 I've just referred you to, I have to suggest to you  
5 that it does seem that when you were asked about this 14:11  
6 by Mr. Shatter, and also by Mr. Purcell, that they  
7 raised the issue as to whether there was anything in  
8 the background of Sergeant McCabe, and to both  
9 Mr. Shatter and to Mr. Purcell, you raised the issue of  
10 the 2006 allegation. So it seems to me that there's an 14:11  
11 inescapable conclusion that you thought there was the  
12 possibility that this was a motivating factor for  
13 Sergeant McCabe?

14 A. And again, I don't know, I don't know. I've given you  
15 the circumstance in relation to which the former 14:11  
16 Minister asked me the question and my response. I  
17 don't recall the particular conversation I had with the  
18 secretary general in relation to this matter, but it is  
19 the case that he is one of the office holders that is  
20 mentioned under the Garda Síochána Act, Section 41, 14:12  
21 that there is a requirement on me to keep them briefed  
22 of matters. But I don't recall the specific  
23 conversation, whereas I do with the minister, the  
24 former minister.

25 289 Q. And again, Mr. Callinan, I'm not for a second saying 14:12  
26 that you acted outside Section 41. My only interest in  
27 terms of the questions that I'm putting is what your  
28 attitude was as to why Sergeant McCabe may have been  
29 doing the things he was doing, and, apart from the

1 evidence that you gave on Friday, my suggestion to you  
2 is that, in light of the answers that you gave to  
3 Mr. Shatter and to Mr. Purcell, the implication must be  
4 that your view was that the 2006 allegation was  
5 influencing Sergeant McCabe in bringing his allegations 14:13  
6 forward?

7 A. Well, I mean, I cannot simply say that that is the  
8 case. But I have read the Byrne/McGinn report. The  
9 executive summary, in particular, makes mention of the  
10 reaction from Sergeant McCabe in response to the 14:13  
11 allegation that was made way back then, he indicated in  
12 terms that he was a changed person, etcetera. So, you  
13 know, there it is. I have read that.

14 290 Q. I see.

15 A. But I cannot say that that is the catalyst for Sergeant 14:13  
16 McCabe to raise all these issues.

17 291 Q. Okay. Well, just to probe that then a little bit  
18 further in light of your answer. In terms of what you  
19 said to Mr. Shatter, we have his evidence specifically  
20 in relation to this issue at Day 77, and in the entire 14:13  
21 paragraph that will be on screen in a moment -- sorry,  
22 did I give a page? Page 144, my apologies if I didn't.  
23 That paragraph is Mr. Shatter's evidence in relation to  
24 that conversation that he had with you. But it is  
25 quite clear from that, and if I could specifically draw 14:14  
26 your attention to line 22 of the page, that not only  
27 did you impart the information to Mr. Shatter that  
28 there had been a previous investigation in relation to  
29 allegations of a sexual nature in 2006 regarding

1 Sergeant McCabe, but you then went on to speculate, and  
2 it's at line 22:

3  
4 "And he then speculated that perhaps Sergeant McCabe  
5 was upset at the manner in which the matter was dealt 14:14  
6 with."

7  
8 Now, I've to suggest to you, Mr. Callinan, that that  
9 shows a thought process by you that the 2006  
10 allegations were an influencing factor on Sergeant 14:15  
11 McCabe?

12 A. Well, I read that and I don't recall saying that.

13 292 Q. I see.

14 A. But I think it would be a natural reaction, you know,  
15 when people think about what I said, that maybe it was 14:15  
16 the catalyst for doing all of these things, i.e. making  
17 the complaints. But I don't recall saying that.

18 293 Q. I see. Well, Mr. Shatter says that that is what you  
19 informed him of. And Mr. Purcell then gave evidence on  
20 Day 66, and at page 125 he also gives evidence, from 14:15  
21 125 on to 126, in relation to you informing him of  
22 anything in the background in relation to Sergeant  
23 McCabe.

24 A. That's correct, Chairman, yes.

25 294 Q. Now, both Mr. Shatter and Mr. Purcell thought that 14:16  
26 these conversations happened on the phone, so it isn't  
27 that they were in each other's presence, with you, when  
28 these conversations happened. They were two separate  
29 conversations.

1 A. Well, I certainly, in the context of the message I gave  
2 to the former minister, that was certainly on the  
3 phone.

4 295 Q. And Mr. Shatter didn't think there was anything  
5 inappropriate in terms of him asking this question of 14:16  
6 you. Did you think there was anything inappropriate  
7 about it?

8 A. Inappropriate, you say?

9 296 Q. Yes.

10 A. No. 14:16

11 297 Q. Him asking about anything in the background of Sergeant  
12 McCabe?

13 A. Well, there was certainly nothing inappropriate from me  
14 responding.

15 298 Q. Well, he thought neither was there anything 14:16  
16 inappropriate in him asking or in your responding?

17 A. I would think that is fair.

18 299 Q. I see. I just wonder, Mr. Callinan, in terms of two  
19 very senior significant persons who had dealings with  
20 Sergeant McCabe, wondering whether there was something 14:17  
21 in his background that was causing him to air the  
22 grievances that he had, did that have any effect on you  
23 in terms of your dealings with Sergeant McCabe?

24 A. No, no. Why would it?

25 300 Q. Well, here were two people who very much knew exactly 14:17  
26 the difficulties that Sergeant McCabe's allegations  
27 were causing, they had firsthand knowledge of all of  
28 the complaints that had been made, and they're  
29 wondering is there something more here. And your

1 information to them is that, well, there's an  
2 investigation in 2006, perhaps that's why he's upset.

3 A. Yes.

4 301 Q. Did that have any effect on you in terms of how you  
5 would deal with Sergeant McCabe and perhaps the  
6 unfairness of the media and the public not realising  
7 the situation that actually was in existence?

14:18

8 A. No. Certainly not, no. I mean, I mean, I said it  
9 several times: Sergeant McCabe was entitled to make  
10 whatever allegations he wished and those matters need  
11 to be attended to. He made very serious allegations  
12 about me, but I didn't hold that against him. I got on  
13 with it because I knew the truth of the matter at that  
14 point and I got on with the business of dealing with  
15 his allegations. But I certainly didn't dig down to  
16 personalise any of these matters to the extent that I  
17 was engaging in a personal campaign directing  
18 Superintendent Taylor to brief negatively against the  
19 media. That's not what I am about.

14:18

14:19

20 302 Q. Well, were you frustrated that a minister and a  
21 secretary general were suspicious as to whether there  
22 was something more behind Sergeant McCabe and you  
23 weren't in a position to inform people of that?

14:19

24 A. No. I mean, all I was doing was giving the facts that  
25 were in my possession when I was asked, nothing more.

14:19

26 303 Q. Did you think about what they had asked you after  
27 either of those conversations?

28 A. Not particularly, no.

29 304 Q. Did you think that, well, perhaps if people realised



1 that there's a bit more to Sergeant McCabe, things  
2 might be easier from our perspective in terms of  
3 management in An Garda Síochána?

4 A. Not at all, certainly not.

5 305 Q. Really?

14:20

6 A. Really and truly, Chairman. That's not what I was  
7 about. I'm not in the business of personalising these  
8 matters. I mean, the Garda Síochána is a huge  
9 organisation, as we all know. Members of An Garda  
10 Síochána have difficulties with their Commissioner and  
11 their senior officers every single day of the week,  
12 whether it's over transfer, whether it's over  
13 promotion, whether it's over a variety of things, but  
14 you don't take it out on the individual that's making  
15 the complaint; you try and manage these situations and  
16 deal with the matters that come in front of you.

14:20

14:20

17 306 Q. You see, as you know, Mr. Callinan, obviously  
18 Superintendent Taylor and yourself differ in this  
19 respect, and my suggestion to you has to be that  
20 whether it be arising from the conversations that you  
21 had with Mr. Shatter and Mr. Purcell, or whether it be  
22 in terms of just considering Sergeant McCabe and the  
23 previous issues that you were aware of, that you did  
24 determine that a negative briefing campaign should  
25 occur in relation to Sergeant McCabe and you briefed  
26 David Taylor accordingly?

14:21

14:21

27 A. No, Chairman, that's not correct.

28 307 Q. Can I just ask you one further thing, Mr. Callinan.  
29 When it came to your knowledge that there had been the

1 possibility of questioning Sergeant McCabe at the  
2 O'Higgins Tribunal in relation to the 2006 allegation,  
3 what was your view in relation to that?

4 A. I wasn't aware of that.

5 308 Q. Well, when you did become aware of it -- I assume that 14:21  
6 you became aware of it, as all of us did, in the media  
7 at some stage or other. When you did become aware of  
8 it, what was your view?

9 A. Well, I didn't have a particular view. I mean, I doubt  
10 very much if that was ever going to arise. I couldn't 14:22  
11 see how it would arise and I couldn't see how - the  
12 Chairman has adverted to it earlier on this morning - I  
13 couldn't see how Mr. Justice O'Higgins would allow  
14 something of that nature to arise in the context of the  
15 complaints. 14:22

16 CHAIRMAN: This hare has been raised again and really  
17 at this point I'm absolutely sick of it. Now, the  
18 point is, it was never raised. Nobody raised it. I've  
19 said that a dozen times. It's clear on the transcript.  
20 People can make press statements to the contrary if 14:22  
21 they wish, but it never happened.

22 MS. BURNS: That isn't really the question I was  
23 asking, Chairman.

24 CHAIRMAN: So, I mean, what's the point? Did it ever  
25 go through his mind? 14:22

26 MS. BURNS: Yes.

27 CHAIRMAN: Well, that is a good question. Did it ever  
28 go through your mind, we'll get him in the witness-box  
29 and we will ask him about sexually abusing Ms. D?

1 A. Not at all, absolutely not, Chairman, no, no, no, no.  
2 Sure that'd be a terrible -- no, absolutely not. I  
3 won't go any further. No is the answer, Chairman.  
4 MS. BURNS: Thank you very much, Mr. Callinan.

5 A. Thank you, Ms. Burns.

14:23

6

7 MR. CALLINAN WAS CROSS-EXAMINED BY MR. GILLANE:

8

9 309 Q. MR. GILLANE: Good afternoon, Mr. Callinan. Séan  
10 Gillane is my name. I appear for RTÉ,  
11 Mr. Boucher-Hayes, Mr. Reynolds and Mr. Burke.

14:23

12 A. Mr. Gillane, yes.

13 310 Q. I will be no more than ten minutes, or possibly less.  
14 I have a small number of questions for you. In the  
15 first instance, if I can just ask you a number of  
16 questions about the Crimecall programme broadcast in  
17 December 2013. Now, I'm not going to ask you any  
18 questions about the PAC, or anything of that nature;  
19 that was very much on the horizon or in the future at  
20 that stage.

14:23

21 A. Thank you.

22 311 Q. Running up to the Crimecall programme, I think you will  
23 accept that it had been a very, very difficult year for  
24 An Garda Síochána?

25 A. Absolutely, yes.

14:23

26 312 Q. And there were, at that stage, a number of issues  
27 converging in terms of public concern about certain  
28 things in respect of An Garda Síochána, isn't that  
29 right?

1 A. Well, there was the GSOC offices, yes, certainly, yeah.

2 313 Q. Yes. I mean, An Garda Síochána, one way or the other,  
3 was in the news, if not every day, every other day?

4 A. That would be correct, more so than usual. It's in the  
5 news almost every day, anyway. 14:24

6 314 Q. And perhaps two or three things in particular coming up  
7 to December 17th were perhaps of special relevance.  
8 Firstly, in broad terms, the ticketing issue or the  
9 penalty points issue --

10 A. Yes, Chairman. 14:24

11 315 Q. -- had become a problem, if I can put it this way, in  
12 broad terms, that just wouldn't go away. It had gained  
13 significant traction as a story, isn't that right?

14 A. That's correct, Chairman, yes.

15 316 Q. It had also become a story which was very much in the 14:24  
16 popular consciousness because certain aspects of it  
17 were being personalised, in that various personalities  
18 were either being named or hinted at as having been the  
19 beneficiaries of inappropriate quashing of tickets,  
20 isn't that right? 14:25

21 A. Correct, Chairman, yes.

22 317 Q. And indeed you have instanced a specific example of it  
23 being personalised and your specific connection in  
24 respect, I think, of a story to be written by  
25 Ms. O'Doherty, isn't that right? 14:25

26 A. Yes, that's correct, Chairman, yes.

27 318 Q. Now, another storm cloud at the time, if I can put it  
28 that way, was also the recently-published Smithwick  
29 report, isn't that right?

1 A. Yes, Chairman.

2 319 Q. And in relation to that, while it was dealing with  
3 something unconnected with what we are concerned with,  
4 there was some phraseology in the report that had also  
5 received a considerable amount of attention, I think to 14:25  
6 do with this question of loyalty trumping honesty, is  
7 that right?

8 A. Correct, Chairman, yes.

9 320 Q. Now, in relation to that then, that was the context  
10 building up to December 17th, and the intended 14:25  
11 broadcast of an interview with you by Ms. Seoige, isn't  
12 that right?

13 A. Correct, Chairman, yes.

14 321 Q. Now, in relation to that then, I just want to ask you  
15 some specific questions about your arrival at RTÉ and 14:26  
16 your conversation with Mr. Boucher-Hayes.

17 A. Yes, Chairman.

18 322 Q. He requested to speak to you alone, isn't that right?

19 A. We met in the corridor of RTÉ. I think we just  
20 happened on one another. 14:26

21 323 Q. All right.

22 A. I don't know whether he had suggested earlier, but that  
23 wasn't brought to my attention.

24 324 Q. You may be unaware of that, but I think he was  
25 intending on speaking to you alone. 14:26

26 A. Okay.

27 325 Q. And I think you were in or around the doorway, I think,  
28 to studio 4 at the time.

29 A. Yes, he was talking to a young lady at a doorway when I

1 walked down the corridor.

2 326 Q. Now, what I want to suggest to you, and just think  
3 about this, is that Mr. Boucher-Hayes wanted to bring,  
4 I'm going to say three things to your attention?

5 A. Correct, Chairman. 14:26

6 327 Q. Firstly, he wanted to make it clear to you that the  
7 programme that was to be broadcast had to be relevant,  
8 that it had to be relevant to his viewers, do you  
9 remember that?

10 A. That was his view, Chairman, yes. 14:27

11 328 Q. Secondly, he wanted to make it clear to you that he  
12 couldn't tolerate the agenda, if I can put it that way,  
13 being set by An Garda Síochána?

14 A. Yes, Chairman, that was his view.

15 329 Q. And thirdly, he also wanted to make it clear to you 14:27  
16 that there couldn't be any question of An Garda  
17 Síochána deciding what questions would be asked?

18 A. That's a fair representation, Chairman, yes.

19 330 Q. And in respect of all that, you accept that that's so?

20 A. Absolutely, Chairman, yes. 14:27

21 331 Q. And I'm going to put it to you that it's not that he's  
22 an incurious journalist, as might have been suggested  
23 by you earlier; it's just that he had a particular bit  
24 of business in mind in approaching you to set all of  
25 these things out to you in crystal-clear terms? 14:27

26 A. Yes, I accept that, Chairman, totally.

27 332 Q. And effectively I think he was communicating to you  
28 that to have an interview with the Commissioner of An  
29 Garda Síochána at this particular time of times that

1 didn't treat of issues such as the penalty points or  
2 the Smithwick report, or the closure of rural stations  
3 I think was also mentioned, would be like ignoring the  
4 elephant in the room, if I can put it that way, that  
5 these were matters with which the public was concerned? 14:28

6 A. Yes, that was his view, Chairman, yes.

7 333 Q. And it's in that context in terms of his conversation  
8 with you I'm going to suggest to you that he wasn't, in  
9 fact, looking for information from you or questioning  
10 you with a view to getting information; he was, in 14:28  
11 fact, seeking to get your agreement to allow questions  
12 to be asked by his colleague, Ms. Seoige?

13 A. Yes, Chairman, except I had been told earlier by the  
14 Press Officer that those two items in particular, the  
15 Smithwick Tribunal report -- 14:28

16 334 Q. Yes.

17 A. I beg your pardon.

18 335 Q. I understand.

19 A. The Smithwick report and the fixed charge penalty  
20 notice system and particular reference to the 14:29  
21 whistleblowers controversy and naming the two  
22 individuals, Sergeant McCabe and John Wilson, clearly  
23 that was said to me.

24 336 Q. No, that's what I'm coming to. I'm putting it to you  
25 clearly that what he was trying to get across to you 14:29  
26 was that the agenda couldn't be driven by An Garda  
27 Síochána. He wasn't at that stage seeking any  
28 information from you. And that, in fact, you then  
29 responded in the terms which Mr. Marrinan has already

1 taken you through?

2 A. Well, I think there was a little bit more to it really,  
3 you know, in fairness. I absolutely agree with you  
4 that all of those things were spoken about and that  
5 that was his view and that we shouldn't be setting -- 14:29  
6 sorry.

7 337 Q. And you introduced these topics and the detail which  
8 you introduced, again which Mr. Marrinan has already  
9 taken you through?

10 A. No, no, I mean -- 14:29

11 338 Q. I'm going to suggest to you that, far from being  
12 opaque, there's a degree of technicolour to you, and,  
13 as I say, Mr. Marrinan has read all of that out to you.

14 A. Okay.

15 339 Q. And do you remember saying to him, for example, that 14:30  
16 Sergeant McCabe was famous within An Garda Síochána for  
17 being motivated by grievance?

18 A. No, I did not say that.

19 340 Q. And that, whether or which, that was something that he  
20 couldn't have known unless it was said to him? 14:30

21 A. I don't know what he could have known, Mr. Gillane.  
22 I'm not trying to be awkward --

23 341 Q. All right. I understand. And if, Chairman, you allow  
24 me to adopt Mr. Marrinan's questioning in respect of  
25 the detail, I think Mr. Marrinan read the entirety of 14:30  
26 that conversation.

27 A. Absolutely.

28 342 Q. And you've made your position clear on that.

29 A. Yes.



- 1 343 Q. Can I then just ask you briefly in relation to another  
2 issue that I don't want to give more oxygen than it  
3 deserves and it may be the subject of submission in due  
4 course, but you were questioned about it; that on-line  
5 story published by Mr. Reynolds which became a 14:31  
6 subsequent broadcast on the 24th February, I think that  
7 was handed up to you in a particular form there. Do  
8 you have that?
- 9 A. I have that, thank you, Chairman.
- 10 344 Q. Can you just confirm in relation to the middle 14:31  
11 paragraph there and the reference to the assistant  
12 commissioner saying he'd sit down and give Sergeant  
13 McCabe a fair hearing, that the first part of that  
14 paragraph indicates that this was after he had  
15 forwarded the investigation report to the Minister for 14:31  
16 Justice?
- 17 A. Yes. The report was forwarded to the Minister on the  
18 28th March '13, Chairman.
- 19 345 Q. Yes.
- 20 A. And this refers to the 13th April, which is a fortnight 14:31  
21 later.
- 22 346 Q. I think it's clear on the face of the document you see  
23 there?
- 24 A. Absolutely, Chairman, yes.
- 25 347 Q. And you can also confirm that, on that document, 14:31  
26 there's nothing there suggesting that Sergeant McCabe  
27 refused to do anything?
- 28 A. I don't believe so, Chairman, no.
- 29 348 Q. And you may be unaware, but seeing as it was put to

1           you, that this story which subsequently became the  
2           substance of a broadcast on that day, was thereafter  
3           amended as soon as Sergeant McCabe let his views be  
4           known, and that, ultimately, the story as carried on  
5           RTÉ, carried a picture of Sergeant McCabe and every 14:32  
6           cough and splutter from his own statement; you may be  
7           unaware of that?

8           A.    I'm sorry, I beg your pardon?

9   349   Q.    In other words, the story that was handed to you was  
10           the original story, and I'm just putting it to you, you 14:32  
11           may be unaware of it, that later that night and into  
12           the following morning, when Sergeant McCabe's account  
13           of that event was released, it was incorporated into  
14           the story and quoted extensively as part of it?

15          A.    Yes. I beg your pardon, I just didn't understand your 14:32  
16           earlier point. Yes.

17   350   Q.    That is my fault.

18           CHAIRMAN: well, Mr. Gillane, Commissioner Callinan is  
19           not saying that he ever issued a direction to the  
20           sergeant to cooperate with the O'Mahony investigation. 14:32  
21           MR. GILLANE: That is my last question, in fact.

22           CHAIRMAN: Right. Okay. Well, I mean, that is wrong,  
23           basically.

24           MR. GILLANE: well --

25           CHAIRMAN: It seems to be wrong at the moment. 14:32

26           MR. GILLANE: Yes. We will hear more in respect of  
27           that in due course.

28           CHAIRMAN: well, no, I am here to listen, I am here to  
29           listen, yes.

1 351 Q. MR. GILLANE: what I wanted to ask you in respect of  
2 this direction, that I know yourself and Mr. McDowell  
3 have discussed earlier, and I don't, as it were, have a  
4 dog in that fight, I don't know whether it is a good  
5 direction or a bad direction and I know what Sergeant 14:33  
6 McCabe says about it.

7 A. Yes.

8 352 Q. But when you say direction as quoted, what is one to  
9 understand by that phrase 'direction'? Is that an  
10 instruction or order or what is it, as phrased in the 14:33  
11 document that's been handed up?

12 A. Well, it was intended a direction to desist from what  
13 was going on at the time, printing off Pulse records  
14 that were subsequently disclosed to third parties, and  
15 the last sentence of that direction dealt with an 14:33  
16 invitation to Sergeant McCabe and John Wilson, if they  
17 had any further concerns regarding the fixed charge  
18 penalty issue, that they should take them up with the  
19 assistant commissioner, without any -- you know,  
20 without their entitlement to the confidential reporting 14:34  
21 mechanism system.

22 353 Q. Yes.

23 A. I mean, I couldn't tell them not to do that, if that's  
24 the way they wished to go.

25 354 Q. No, I understand. As I say, I'm not interested in the 14:34  
26 merits, or otherwise, of it, but does the word  
27 'direction' cover the paragraph or just the first  
28 sentence?

29 A. The full paragraph, yes.

1 355 Q. Can I just ask you, does 'direction' mean instruction,  
2 order, or what does it mean?  
3 A. Well, to my mind, and what I was thinking of at the  
4 time was, this was a direction to stop what they were  
5 doing in the first instance and if they had any issues 14:34  
6 at all around the system, that they could bring those  
7 to either the assistant commissioner or work through  
8 the confidential reporting mechanism. That was  
9 essentially the direction, Judge.

10 356 Q. All right. I think understand. 14:34  
11 CHAIRMAN: The first was a direction, certainly --  
12 A. It is.  
13 CHAIRMAN: -- because there was a block on Sergeant  
14 McCabe accessing Pulse. The second was like an  
15 invitation to dinner, which is not a compulsion, you 14:35  
16 will come to my house for dinner tonight, it was an  
17 invitation that if you wished to raise anything, well  
18 then you have your channel, it's assistant  
19 commissioner.

20 MR. GILLANE: And that is why, in fairness, Chairman, I 14:35  
21 was asking the former commissioner what he meant by it  
22 and whether 'direction' covered the paragraph, and he  
23 has given his answer in that regard.

24 CHAIRMAN: On the plain wording of the text, it  
25 doesn't, but that doesn't mean that Mr. Reynolds was 14:35  
26 out to mislead the Irish public.

27 MR. GILLANE: No, I understand.

28 CHAIRMAN: If you wish, you may wish to ask a question  
29 as to whether the Commissioner, who has been accused of

1 being the source of this somewhat misleading paragraph,  
2 was indeed the source or inspiration or indeed gave a  
3 briefing on the record that we don't know about, to  
4 Mr. Reynolds, or through his Press Officer,  
5 Superintendent Taylor, to the effect that there was 14:35  
6 non-cooperation with the O'Mahony investigation.  
7 MR. GILLANE: I think the former Commissioner has  
8 already responded to Mr. McDowell directly in that  
9 regard, so I don't want to, in my particular position,  
10 trespass on that aspect of the -- 14:36  
11 CHAIRMAN: I'm not sure that is the point, Mr. Gillane.  
12 A. I have --  
13 CHAIRMAN: The point, Mr. Gillane, is, if you have  
14 instructions to the effect that the Commissioner was  
15 the source of that, let us say, on the record -- 14:36  
16 MR. GILLANE: No, I don't have instructions to put to  
17 the Commissioner in that regard.  
18 CHAIRMAN: All right. Okay, that is fine.  
19 MR. GILLANE: Thank you very much, Mr. Callinan.  
20 A. Thank you, Mr. Gillane. 14:36  
21 CHAIRMAN: Mr. Harty, you're for Alison O'Reilly, isn't  
22 that right?  
23 MR. HARTY: I'm for Gemma O'Doherty.  
24 CHAIRMAN: Gemma O'Doherty, yes. I'm sorry,  
25 Mr. Ó Muircheartaigh, would you like to go then for 14:36  
26 Alison O'Reilly?  
27  
28  
29

1 MR. CALLINAN WAS CROSS-EXAMINED BY

2 Mr. Ó MUI RCHEARTAI GH:

3  
4 357 Q. MR. Ó MUI RCHEARTAI GH: My name is Fíonán Ó  
5 Muircheartaigh and I represent the journalist Alison 14:36  
6 O'Reilly. My questions concern your contacts with  
7 Debbie McCann. You will recall she was the first  
8 journalist to call to the home of Ms. D early in 2014.  
9 And you told the Tribunal yesterday, I think around  
10 lunchtime, you were not advised on a current basis that 14:37  
11 Debbie McCann was going to Ms. D's house, you were  
12 surprised by that. But that is not really what I want  
13 to ask you about. Do you know the journalist Debbie  
14 McCann personally?

15 A. Yes, I have met her, yes. She is the daughter of a 14:37  
16 colleague that I worked with in the past, many years  
17 ago.

18 358 Q. And did you have many contacts with Ms. McCann in the  
19 line of your duty?

20 A. No, very little. She would have appeared probably at a 14:37  
21 couple of public appearances that I would have made,  
22 but little or no contact.

23 359 Q. And did Debbie McCann speak to you about Maurice McCabe  
24 at all in the period let's say December 2013 to March  
25 2014, this is just before the -- 14:37

26 A. No.

27 360 Q. -- PAC, for example, and then just after her visit to  
28 Ms. D's house, that period?

29 A. The answer is no, Chairman.

1 361 Q. Very good. So would it be fair to say then that, in  
2 that period, that Debbie McCann did not ask you to  
3 confirm anything about Maurice McCabe's character?  
4 A. Correct, Chairman, yes.

5 362 Q. And would it be fair to say that Debbie McCann didn't 14:38  
6 ask you to confirm that Maurice McCabe was a  
7 paedophile?  
8 A. Correct, Chairman.

9 CHAIRMAN: So you never had any conversation with  
10 Debbie McCann about Maurice McCabe at all? 14:38  
11 A. No, Chairman.

12 CHAIRMAN: You seem to be confining your conversations  
13 with her to social interactions?  
14 A. That's all, Chairman, yeah, yeah, absolutely.

15 363 Q. MR. Ó MUIRCHEARTAIGH: And was any question ever put to 14:38  
16 you by Debbie McCann about Maurice McCabe's character?  
17 A. No, Chairman.

18 364 Q. Did you ever have any discussion about Maurice  
19 McCabe or were you ever -- any questions ever put to  
20 you by Debbie McCann about Maurice McCabe? 14:38  
21 A. No, Chairman.

22 365 Q. Just a couple of other short questions. Your report,  
23 it's reported that after the events of the PAC and  
24 there was this talk about a remark you made, a phrase  
25 used by you that caused a terrible furore and it seems 14:39  
26 to go out of all proportion to the whole issue, but did  
27 you ever speak to Debbie McCann about that?  
28 A. No, Chairman. I've no memory whatsoever.

29 366 Q. Were you aware that she wrote an article two years

1 later, on the 15th May 2016, in the Irish Mail on  
2 Sunday? And the two paragraphs read as follows:  
3  
4 "Retired Garda Commissioner Martin Callinan wanted to  
5 withdraw the 'quite disgusting' remark he made before 14:39  
6 the Public Accounts Committee, but was stopped by the  
7 government from doing so, the Irish Mail on Sunday has  
8 learned.  
9  
10 Sources said it was all agreed the weekend before he 14:40  
11 retired that he would withdraw this remark but he was  
12 stopped in his tracks."  
13  
14 Now, were you aware that that article was written?  
15 A. I don't recall it. But if you read it out, of course I 14:40  
16 accept it was written, but it's not true, that's not  
17 true, the contents of that article is not true.  
18 367 Q. Is not true?  
19 A. No, no.  
20 368 Q. You didn't intend to -- 14:40  
21 A. No, not at all, certainly not.  
22 369 Q. So Debbie McCann didn't approach you about that?  
23 A. No.  
24 370 Q. So the sources that she quotes are not you in that  
25 regard? 14:40  
26 A. Correct, Chairman.  
27 CHAIRMAN: well, I don't know if there is a source at  
28 all. I mean, it seems like an opinion piece, doesn't  
29 it, Mr. Ó Muircheartaigh? And the other thing is, I



1           suppose, paper doesn't refuse ink, does it? I mean,  
2           the government, the government made a decision that you  
3           weren't to apologise to Sergeant McCabe? I mean, that  
4           seems one of the more bizarre things I have heard.

5           A.     Totally untrue, Chairman. 14:41

6           MR. Ó MUI RCHEARTAIGH: Thank you very much. Those are  
7           my questions.

8           A.     Thank you.

9

10          MR. CALLINAN WAS CROSS-EXAMINED BY MR. HARTY: 14:41

11

12 371 Q.     MR. HARTY: Mr. Callinan, my name is Mark Harty and I'm  
13           instructed on behalf of Gemma O'Doherty.

14           A.     Thank you.

15 372 Q.     You will recall the circumstances in which you came to 14:41  
16           have an involvement with Ms. O'Doherty. She received  
17           from a source a copy of a Pulse printout which  
18           indicated that you had had a fixed penalty notice  
19           rescinded or removed, that that fixed penalty notice  
20           was in relation to an incident where the vehicle wasn't 14:41  
21           stopped, which took place in July 2007?

22           A.     Correct, Chairman, yes.

23 373 Q.     And the information that she would have received from  
24           her source in relation to that would have been the name  
25           and address of the person who owned the vehicle, the 14:42  
26           vehicle registration, where it was stopped and the date  
27           on which the notice was issued -- or, sorry, not where  
28           it was stopped, but where it was noted to have been  
29           speeding?

1 A. Yes.

2 374 Q. And it would have noted on the face of it simply that  
3 the fixed penalty notice had been retracted, isn't that  
4 right?

5 A. Correct, Chairman, yes. 14:42

6 375 Q. No other information was given in relation to it?

7 A. Pardon me?

8 376 Q. There was no real other information given as to how  
9 these circumstances arose. For example, because the  
10 car was never stopped, the identity of the driver 14:42  
11 wasn't contained in that, isn't that correct?

12 A. Well, it was my vehicle and I was attending to an  
13 urgent operational matter, and that's what appears on  
14 the Pulse entry.

15 377 Q. No -- 14:42

16 A. And that Pulse entry has appeared on social media on  
17 several occasions.

18 378 Q. Well, yes. It doesn't appear on the Pulse entry that  
19 you were attending an urgent -- it doesn't make any  
20 reference to who was driving the vehicle, isn't that 14:43  
21 correct?

22 A. No, no, it does, it refers to me and that I was  
23 attending to an urgent operational matter, because  
24 otherwise how could I apply to have the matter  
25 cancelled? It wouldn't make sense. 14:43

26 379 Q. Who did you apply to?

27 A. The member in charge of the fixed charge notice office  
28 at the time.

29 380 Q. You were the Deputy Commissioner at the time?

1 A. Yes.

2 381 Q. Do you have that application in relation to that --

3 A. At this remove.

4 382 Q. -- issuing that paper?

5 A. At this remove, I don't know whether I have it or not. 14:43

6 383 Q. You see, the Pulse printout that I've seen doesn't make

7 any reference to who the driver of the vehicle was.

8 A. I don't know what you have seen.

9 384 Q. I have simply seen one. It's contained in the -- page

10 7382, the most recent documentation which was handed 14:44

11 out -- 7384. Unfortunately, it is a rather poor copy.

12 [Same handed]

13 A. Thanks very much. Thank you.

14 385 Q. Did you get that?

15 CHAIRMAN: Sorry, Mr. Harty, it seems to be a tweet, is 14:44

16 that right?

17 MR. HARTY: It was a tweet, it was tweeted. But that

18 is the printout.

19 CHAIRMAN: Yes. Can we make anything out of this at

20 all? I don't know. 14:45

21 MR. HARTY: No.

22 CHAIRMAN: No.

23 MR. HARTY: The difficulty is that because it actually

24 doesn't give any further details as to who the -- it

25 says "exceeding the speed limit" and it simply says 14:45

26 "terminated". It doesn't say who is driving the car.

27 A. Yes, I wouldn't think that is the complete entry, I

28 wouldn't think it is.

29 386 Q. If that was the complete entry that Ms. O'Doherty had,

1           it gives rise to a number of questions, doesn't it?

2           A.    I beg your pardon?

3 387    Q.    If that was the complete entry that Ms. O'Doherty had,  
4           it gives rise to a number of questions, doesn't it?

5           A.    Such as? 14:45

6 388    Q.    Such as who was driving the car on the day in question?

7           A.    I was driving the car on the day in question.

8 389    Q.    It doesn't tell you that, Commissioner --

9           CHAIRMAN: Ah, yes. No, the surname is there,  
10          Mr. Harty. 14:45

11          MR. HARTY: No, that is in terms of the owner of the  
12          car, but not in terms of the driver of the car.

13          CHAIRMAN: well, I would hope the owner would be  
14          driving the car.

15          MR. HARTY: No. 14:46

16 390    Q.    How many -- there's a number of people in your  
17          household, I take it, Mr. Callinan, who would be  
18          entitled to drive your car in 2007?

19          A.    There would be one, yes.

20 391    Q.    Yes. Your wife? 14:46

21          A.    My wife, yes.

22 392    Q.    So there would be two people, in theory, could be  
23          driving your car on that day?

24          A.    In theory, yes.

25          CHAIRMAN: In theory, but one might be wearing a skirt 14:46  
26          so --

27          MR. HARTY: well, this is somebody who is not stopped.  
28          This is taken by a camera. The car is never stopped.

29          CHAIRMAN: All right. I thought you said stopped.

1 MR. HARTY: No, no, sorry, I did use the word  
2 'stopped', but I corrected myself.

3 CHAIRMAN: All right. Well, thank you for correcting  
4 yourself.

5 393 Q. MR. HARTY: Detected. So the driver of the vehicle had 14:46  
6 never been stopped. If it had been stopped, it would  
7 have been very easy to have sorted the matter out,  
8 isn't that correct?

9 A. Absolutely.

10 394 Q. But the driver of the vehicle was not, in fact, 14:46  
11 detected. And on the printout that was received by  
12 Ms. O'Doherty, there's no explanation as to why the  
13 fixed penalty notice was terminated?

14 A. Well, I mean, I can only tell you that there is a Pulse  
15 entry indicating those facts, so I don't think what you 14:47  
16 see here -- I know it's a very poor copy, but I don't  
17 think you have -- or historically --

18 395 Q. You see, I'm coming to a situation whereby  
19 Ms. O'Doherty is given this information, this is some  
20 time after the points, penalty points issue has arisen 14:47  
21 as a matter of public concern.

22 A. Right.

23 396 Q. Certainly towards the end of 2011 -- 2012, sorry, the  
24 matter was very much live and in the public  
25 consciousness. This is now April 2013, and -- 14:47  
26 A. Sorry, what's April --

27 397 Q. This is received by Ms. O'Doherty in around April 2013.

28 A. The Pulse?

29 398 Q. Yes, the Pulse entry.

1 A. I see.

2 399 Q. And the question does arise as to how it is that a  
3 Deputy Commissioner of An Garda Síochána may have a  
4 fixed penalty notice on his car terminated. And that's  
5 a relevant question, isn't it? It's your private 14:48  
6 car --

7 A. You're asking the question --

8 400 Q. Yes.

9 A. -- how does it arise that I had my fixed charge penalty  
10 cancelled? 14:48

11 401 Q. Yes. I'm not asking how, it's a matter of public  
12 interest that you did.

13 A. Yes.

14 402 Q. A matter of some considerable public interest that  
15 you did -- 14:48

16 A. And your question?

17 403 Q. No. Do you agree that it is a matter of considerable  
18 public interest?

19 A. Yes, it is, of course.

20 404 Q. Whether you did it for yourself or whoever else might 14:48  
21 have been driving the car at the time, as a matter  
22 of --

23 A. Well, I've just told you I'm driving the car at the  
24 time, you know, that is a matter of fact as far as I'm  
25 concerned, and I was attending to an urgent operational 14:48  
26 matter at the time.

27 405 Q. Right.

28 A. I was recorded as exceeding the speed limit and I  
29 subsequently applied to the member in charge of the

1 fixed penalty notice office, who was a designated  
2 authority for cancellation, on the basis that I was  
3 driving the car attending to an urgent operational  
4 matter. That is the circumstances.

5 406 Q. So what did you use to back up that version of events? 14:49  
6 what was necessary for you to show to that person, the  
7 member in charge, in order to have those points  
8 cancelled?

9 A. Well, that's as much as was necessary to produce.

10 407 Q. For you just simply to say that? 14:49  
11 A. Pardon me?

12 408 Q. For you to assert that, is it?  
13 A. Yes. That is what I indicated, yes.

14 409 Q. But you didn't reveal anything to explain why you were  
15 going there; you didn't show rosters, nothing else in 14:49  
16 relation to proof of you driving?

17 A. Well, I was working certainly on the day and I was  
18 going to meet -- as it turned out, I was going to -- it  
19 was a security issue, it was a source, actually, that I  
20 was going to deal with some information that was passed 14:50  
21 to me in relation to something that was happening, and  
22 it was particularly urgent.

23 410 Q. And you didn't have your own, an official car?  
24 A. I jumped into my own car and I attended to the matter.

25 411 Q. The situation is that the information had -- the 14:50  
26 penalty points story having been a story at this stage  
27 for at least six or seven months, if not more, was that  
28 the now-Commissioner of An Garda Síochána had arranged  
29 to have a fixed penalty notice in relation to his car

1 terminated and that was the story that was advised to  
2 Ms. O'Doherty and that will be her evidence.

3 A. Okay.

4 412 Q. One thing that isn't clear from that Pulse record,  
5 because it's your private car, is that the man named in 14:51  
6 that Pulse record is, in fact, Martin Callinan, the  
7 Commissioner of An Garda Síochána, isn't that correct?

8 A. I don't think you have the full information there.

9 413 Q. Are you saying to me that that Pulse record makes it  
10 clear that you're the Commissioner of An Garda 14:51  
11 Síochána?

12 A. Well, I think it's very clear that -- my name is on it,  
13 I take it, and I cannot quite make it out, but I accept  
14 my name is there somewhere.

15 414 Q. Your name is on it. 14:51

16 A. Okay.

17 415 Q. And are you the only Martin Callinan in the island of  
18 Ireland?

19 A. I wouldn't think so, no, no, but --

20 416 Q. No. And you appreciate that if Martin Callinan, the 14:51  
21 Garda Commissioner, never had penalty points notices  
22 terminated, that would be a very serious thing to say  
23 about him?

24 A. It would, but, I mean, I accept as fact that this  
25 particular incident happened. 14:51

26 417 Q. Yes.

27 A. There's no question at all about that.

28 418 Q. That is not where we are coming from, Mr. Callinan.  
29 The point about it is, it would be very serious and



1           defamatory of you to (inaudible) that you had a fixed  
2           penalty notice if, in fact, it was an entirely  
3           different Martin Callinan, isn't that correct?  
4           A.    Oh, I accept that, yes, of course.  
5   419   Q.    So a responsible journalist, regardless of the quality   14:52  
6           of their source, will go and check the information?  
7           A.    I accept that, yes.  
8   420   Q.    Now, it's 2007. There are two ways that Ms. O'Doherty  
9           can link this incident to you personally, because  
10          nowhere does it say Commissioner of An Garda Síochána   14:52  
11          or Deputy Commissioner of An Garda Síochána.  
12          A.    All right.  
13   421   Q.    It's either the car or the address, isn't that correct?  
14          A.    Correct.  
15   422   Q.    And Ms. O'Doherty went to the address, isn't that   14:52  
16          right?  
17          A.    Em, called to my home?  
18   423   Q.    Yes.  
19          A.    She did, yes.  
20   424   Q.    Yes. And she had a very brief conversation with the   14:53  
21          lady who answered the door, who turns out to be your  
22          wife?  
23          A.    Correct.  
24   425   Q.    And she introduced herself as Gemma O'Doherty, isn't  
25          that correct?   14:53  
26          A.    Correct, yes.  
27   426   Q.    She pointed out she was a journalist for the  
28          Independent Newspapers?  
29          A.    So I understand, yes.

1 427 Q. And she said, 'is this the Commissioner's home?', isn't  
2 that correct?

3 A. Yes, so I believe, yes.

4 428 Q. And your wife responded that it was indeed your home  
5 but that you were away? 14:53

6 A. Correct.

7 429 Q. And that was that. Nothing further was said?

8 A. I don't believe so, Chairman.

9 430 Q. So why did that get you so angry?

10 A. Well, the journalist called to my home late in the 14:53  
11 evening and at a time when I was away and I felt that  
12 these were matters that would have been dealt with  
13 properly in the Garda Press Office, which is open from  
14 seven in the morning until eleven at night, and I felt  
15 that that was the appropriate way of conducting her 14:54  
16 business rather than calling to my home. This is most  
17 unusual, most unusual.

18 431 Q. Are you saying to me that in relation to your personal  
19 affairs, that a journalist should contact the Garda  
20 Press Office in relation to your personal affairs? 14:54

21 A. Well, I mean, she was legitimately making an inquiry  
22 about Martin Callinan, at that time the Garda  
23 Commissioner, so of course it was legitimate for her to  
24 make that inquiry.

25 432 Q. I'm asking in relation to your personal affairs? 14:54

26 A. Well --

27 433 Q. Are you saying that the appropriate thing to do in  
28 respect of your driving of your personal car is to make  
29 inquiries through the Garda Press Office?

1 A. Well, I think the point that's being made here is that  
2 it is Martin Callinan, the Garda Commissioner, that  
3 she's inquiring about, not any other Martin Callinan,  
4 and therefore --

5 434 Q. Are you saying that if Gemma O'Doherty rang the Garda 14:55  
6 Press Office and asked for the address of either Martin  
7 Callinan, the Garda Commissioner, or the current acting  
8 Garda Commissioner, that the Garda Press Office would  
9 be instructed to give that out to a journalist?

10 A. It's highly unlikely. But what she would certainly be 14:55  
11 entitled to do was to make the inquiry as to whether or  
12 not I had been issued with a penalty points fixed  
13 charge notice back in 2007, some six years, or whatever  
14 it was, earlier. She'd certainly be entitled to make  
15 that inquiry. 14:55

16 435 Q. And who in the Garda Press Office would know that? Was  
17 that a matter which was in the knowledge of people in  
18 the Garda Press Office?

19 A. Well, I'm sure that would be -- well, it could have  
20 been examined on the Pulse system if she had the 14:55  
21 information.

22 436 Q. And would they reveal it?

23 A. Well, I'm quite sure they would, yes. I'm sure it  
24 would have been --

25 437 Q. Would that not have been a breach of the data 14:56  
26 protection that the whistleblowers have all engaged  
27 in --

28 A. You see --

29 438 Q. -- feeding Pulse entries to the press?

1 A. Well, you see it brings into question why Ms. O'Doherty  
2 had my Pulse -- or the Pulse record in the first  
3 instance, but, going beyond that, I am a public  
4 official and she was entitled to make that inquiry.

5 439 Q. All she asked your wife was was that your home and then 14:56  
6 she left, isn't that correct?

7 A. As I understand it, yes.

8 440 Q. And it was approximately 8:30/9:00 in the evening?  
9 A. I thought it was later, but maybe you're correct.

10 441 Q. Her recollection is that she went out for dinner with 14:56  
11 her husband afterwards, so -- on the other side of  
12 town, so that was the time that she puts it at.

13 A. I don't know whether that is correct or not.

14 442 Q. So did you contact Ms. O'Doherty to complain about  
15 this? 14:57

16 A. No, no.

17 443 Q. Why not?  
18 A. I spoke to the Press Officer.

19 444 Q. Well, did you ask him to contact Ms. O'Doherty to  
20 complain about it? 14:57

21 A. No, I asked him to contact the newspaper and to  
22 indicate that the correct approach would be to address  
23 her concerns, if she had any, to the Press Office.

24 445 Q. And is that all?  
25 A. That was it. 14:57

26 446 Q. All? Nothing else said? You didn't express your  
27 disapproval?  
28 A. Oh, I absolutely did, yes, of course I did.

29 447 Q. Anger?

1 A. Well, I wasn't pleased.

2 448 Q. Upset?

3 A. Yes, certainly.

4 449 Q. And you asked Mr. Taylor to make that call. Now,  
5 Ms. O'Doherty had been in contact with your office on a 14:57  
6 regular basis at that stage by both email and had  
7 attempted to contact by phone in relation to cases that  
8 she had been investigating, isn't that correct? There  
9 was a number of matters which would have been -- she  
10 would have cc'd you on many emails around that time in 14:57  
11 relation to matters that she was investigating,  
12 unrelated to these issues?

13 A. I'm sure that is correct, yes.

14 450 Q. And you didn't think to send an email to Ms. O'Doherty  
15 saying 'next time you have a query like that, why don't 14:58  
16 you just email me and ask?'

17 A. No, I did not. I contacted the Press Officer who deals  
18 with the press and I asked him to make known my views,  
19 that I didn't think this was the appropriate manner in  
20 which to conduct that type of inquiry, calling to my 14:58  
21 home.

22 451 Q. And that is all you asked?

23 A. I have already said that that is the position, yes.

24 452 Q. Okay. So how did Assistant Commissioner Twomey end up  
25 being at a meeting to which two editors of Independent 14:58  
26 News and Media were summonsed?

27 A. Presumably -- Assistant Commissioner Twomey at that  
28 time was in charge of the city, and part of that  
29 responsibility would be security around my home, and

1 I'm sure it was in that context, but I don't have that  
2 detail.

3 453 Q. well, surely you should have that detail?  
4 A. why?

5 454 Q. well, I'm assuming that directions are not given by 14:59  
6 Superintendent Taylor to Assistant Commissioner Twomey  
7 to attend meetings with editors of newspapers?  
8 A. well, I don't know what the particular arrangements for  
9 that meeting were. I just don't have that detail.

10 455 Q. Did you know that meeting was happening? 14:59  
11 A. No. I read about it in the papers that were delivered  
12 to me.

13 456 Q. So how did Assistant Commissioner Twomey end up there?  
14 A. I don't have that detail. I don't know who arranged  
15 the meeting. 14:59

16 457 Q. You don't know who arranged the meeting?  
17 A. No.

18 458 Q. So you just said to Mr. Taylor that he was to contact  
19 the editor of Independent News and ask that the  
20 journalist not come to your address again, and that's 14:59  
21 all?  
22 A. I'd asked the superintendent to make contact with the  
23 newspaper and inform them that if there was queries of  
24 that nature, that they should be addressed to the Press  
25 Office, the Press Office opening early in the morning, 15:00  
26 closing late at night, and if there were queries to be  
27 raised, to either raise them by phone or email, and  
28 that that was the appropriate manner in which to  
29 address those matters.

1 459 Q. what queries were you talking about?  
2 A. Pardon me?  
3 460 Q. what queries were you talking about?  
4 A. Any queries.  
5 461 Q. No, you said 'queries of that nature', so what queries 15:00  
6 were you talking about? was it about your address or  
7 about the question of the fixed penalty notice?  
8 A. Any queries, any queries.  
9 462 Q. Do you recall whether it was about the address or about  
10 the fixed penalty notice? 15:00  
11 A. well, I think it was about both.  
12 463 Q. So who told you it was about a fixed penalty notice?  
13 who told you that the story that Ms. O'Doherty was  
14 researching was about a fixed penalty notice?  
15 A. I didn't know at that particular point. I know that 15:01  
16 she was calling to verify the address, and that's as  
17 much as I knew. So I'd indicated the correct procedure  
18 for dealing with those issues; that if there were  
19 queries, that she should go to the Press Office and  
20 deal with them. That's as much as -- 15:01  
21 464 Q. The address of the Garda Commissioner isn't a news  
22 story, so did you -- surely you enquired as to what the  
23 news story was?  
24 A. No, I simply asked the superintendent to contact the  
25 newspaper and indicate to them that if there are any 15:01  
26 queries from any journalist in relation to me or  
27 anybody else, the appropriate fashion is to address  
28 those issues with the Garda Press Office, which is open  
29 from early in the morning to late at night, that that

1 is the standard operating procedure and that is the  
2 understanding with the media, that that's the way  
3 business is conducted.

4 465 Q. I see.

5 A. That is what I was asking. 15:02

6 466 Q. What did you understand Ms. O'Doherty's story to be  
7 about when you gave that instruction to Mr. Taylor, or  
8 Superintendent Taylor?

9 A. I don't know, I don't know. I didn't know at the time.

10 467 Q. So how can it be a legitimate query simply to ask, is 15:02  
11 this the Garda Commissioner's address? That can't be a  
12 story. They can't go around publishing your address as  
13 the front-page story, can they?

14 A. I can only tell you what I did. I don't really have  
15 the detail that you're asking me about, and didn't have 15:02  
16 it at that particular time.

17 468 Q. You understand that Ms. O'Doherty was effectively  
18 rained down on like a ton of bricks by editorial staff  
19 in Independent News and Media?

20 A. I have read that in the correspondence I received from 15:02  
21 the Tribunal, yes.

22 469 Q. And that she was told that she had ruined things, that  
23 she was a rogue journalist, there had been suggestions  
24 made by you as to her bona fides, she'd been told all  
25 of this. Are you aware of that? 15:03

26 A. I've read that in the correspondence, yes.

27 470 Q. I'm just wondering how editorial staff in Independent  
28 News and Media might have come up with that particular  
29 version of events on the basis of your -- if there's to



1 be any further queries as to where the Commissioner  
2 resides, they should be directed through the Garda  
3 Press Office?

4 A. I don't know that.

5 471 Q. Right. And if there are any further queries as to 15:03  
6 where the Commissioner resides, they should be  
7 addressed to the Garda Press Office, also required the  
8 attendance of an assistant commissioner at a meeting  
9 with two editorial staff of Independent News and Media?

10 A. Yes. Is there a question? 15:03

11 472 Q. I'm just saying, is that what you are saying? That  
12 that simple issue that you had, which was nothing more  
13 than it should be directed through the Press Office,  
14 required two editorial staff of Independent News and  
15 Media to travel across town, to Harcourt Square, to 15:04  
16 attend a meeting with Superintendent Taylor and  
17 Assistant Commissioner Twomey, is that what you are  
18 saying?

19 A. Well, as I say, I don't know the detail and didn't have  
20 the detail of the arrangements for that meeting so I 15:04  
21 can't answer that question for you.

22 473 Q. When did you ask what the story was about?

23 A. I don't know when I heard about it. It was some time  
24 subsequent to it. I don't have a particular date.

25 474 Q. Some time subsequent about it. So Superintendent 15:04  
26 Taylor has been directed to contact staff, editorial  
27 staff. Some days later there's a meeting with two  
28 editorial staff, assistant commissioner and  
29 Superintendent Taylor, and none of you asked what the

1 story was about?

2 A. I'm sure, and maybe it wasn't, I don't know, I mean  
3 this is several years ago, I just didn't involve myself  
4 in any of that, so it may well have been discussed at  
5 that meeting, what she was trying to establish. I 15:05  
6 don't know.

7 475 Q. And was there any input or direction? When was that  
8 put back to you? When were you told that?

9 A. Well, I didn't recall it until I saw it in the  
10 documentation, but I couldn't say that perhaps somebody 15:05  
11 did indicate to me at the time, I just don't know. I  
12 just can't recall that.

13 476 Q. Are there other stories about penalty points notices  
14 being cancelled on your behalf?

15 A. Certainly not, no. That's the one -- that's -- 15:05

16 477 Q. Why don't you remember the specifics of this one?

17 A. Pardon me?

18 478 Q. I'm just wondering why you don't remember the specifics  
19 of this one?

20 A. Well, I don't recall who arranged the meeting, that's 15:05  
21 all I can say to you, and I don't recall what was said,  
22 I don't recall any of that.

23 479 Q. Did you get a report back?

24 A. I don't recall that I did. If I did, it would be a  
25 matter of record up in Headquarters and I'm sure it 15:06  
26 could be made available at pretty short notice.

27 480 Q. Do you know did that come from Assistant Commissioner  
28 Twomey or Superintendent Taylor?

29 A. Which?

1 481 Q. The report back?  
2 A. I don't know, I just don't know whether it was reported  
3 back. I just don't know at this stage. But if it was,  
4 there should be a report on it.  
5 482 Q. Ms. O'Doherty is of the view, having followed all of 15:06  
6 these stories, that the animosity towards Sergeant  
7 McCabe increased following the publication of that  
8 story?  
9 CHAIRMAN: Have you a date of publication for me,  
10 Mr. Harty, if you wouldn't mind, please? 15:06  
11 MR. HARTY: 19th April 2013.  
12 483 Q. Ms. O'Doherty is of the view that animosity towards  
13 Sergeant McCabe increased following that, isn't that  
14 correct?  
15 A. That's what I read in the correspondence, yes. 15:07  
16 484 Q. And certainly it is a situation, you will accept, that  
17 the penalty points arguments or debacle had become  
18 personal following the publication of that article,  
19 isn't that correct?  
20 A. No, that is not true. Absolutely not true. 15:07  
21 485 Q. Well, for the first time it's directly related to you,  
22 isn't that correct?  
23 A. In relation to the query and the story that  
24 Ms. O'Doherty had, that relates to me, yes.  
25 486 Q. So it's personal at that stage? 15:07  
26 A. Well, it involves me personally, yes.  
27 487 Q. Yes.  
28 A. But I didn't take it personal against Sergeant McCabe  
29 to start some sort of vendetta, which is what is

1 suggested in the correspondence that I have seen. That  
2 is not true.

3 488 Q. But it did at this point become personal to you, the  
4 issue of the fixed penalty points debacle. It became  
5 about you. The story became more about you than it 15:08  
6 ever had before, isn't that correct?

7 A. Well, Ms. O'Doherty had a story in relation to a fixed  
8 charge notice that was cancelled on my behalf,  
9 that's --

10 CHAIRMAN: Yes. Well, it is just in terms of the 15:08  
11 chronology, Mr. Harty, I mean, okay, April 2013, it's  
12 the 19th April 2013 --

13 MR. HARTY: Yes.

14 CHAIRMAN: -- this story about Commissioner Callinan 15:08  
15 having a fixed charge penalty notice published. On the  
16 15th May, Assistant Commissioner O'Mahony reported that  
17 there was no evidence of crime, corruption, deception  
18 or falsification in relation to the Pulse matter. On  
19 the 6th August, Ms. D returned to counselling with  
20 Rian. On the 6th August, similarly, the discipline 15:09  
21 proceedings against Maurice McCabe were terminated in  
22 the case of the Molloy computer. And that's what is  
23 happening at that time. I mean, where is the evidence  
24 of a sudden escalation of ire or disapproval against  
25 Sergeant McCabe? It would seem to be the opposite. 15:09

26 And I have no evidence to suggest that, vis-à-vis  
27 Ms. D, that anyone in Garda Headquarters is controlling  
28 that. I don't mean perhaps visits to her house, but  
29 certainly anything in relation to whether she makes a

1 choice to go back to counselling with Rian or not.

2 MR. HARTY: The situation is that I'm mindful of the  
3 Tribunal's direction in relation to matters being put  
4 to witnesses without answer, and that is certainly what  
5 is contained in Ms. O'Doherty's statement before the 15:09  
6 Tribunal, and I felt it was important that it be put to  
7 the Commissioner in relation to her view in relation to  
8 it, and it is expressed simply as a view in her  
9 statement.

10 CHAIRMAN: Well, it is a view, yes. But is there 15:10  
11 anything to back it up?

12 MR. HARTY: I don't have anything before me, any  
13 specific item before me now.

14 CHAIRMAN: All right. If you wanted to mention  
15 anything, such as the particular points that I've 15:10  
16 mentioned --

17 MR. HARTY: Yes. No, there are no specific matters  
18 which I feel require -- is necessary for me to put.

19 CHAIRMAN: Yes.

20 489 Q. MR. HARTY: Mr. Callinan, did you speak to any other 15:10  
21 editors in Independent News and Media or did you have  
22 any communication with any other editors in Independent  
23 News and Media in relation to this article?

24 A. Not that I recall.

25 490 Q. In relation to the amended version of the article which 15:10  
26 was published, how did that come about? There was an  
27 altered version of the article from the version that  
28 originally -- was Superintendent Taylor briefed in  
29 relation to the circumstances in which the fixed

1 penalty notice was issued?

2 A. I'm sure he would have been aware, yes.

3 491 Q. By whom?

4 A. I presume I would have made him aware. But as I say, I  
5 don't recall these details you're asking me about at 15:11  
6 this remove.

7 MR. HARTY: All right. Thank you very much,  
8 Mr. Callinan.

9 MR. GORDON: There is one matter, just before Mr. Harty  
10 leaves the room, Chairman, that I've been instructed to 15:11  
11 bring to the Tribunal's attention. Mr. Harty, while  
12 he's in the room --

13 CHAIRMAN: Did you say he's leaving the room? Sorry?

14 MR. GORDON: I'm just saying that if he does leave the  
15 room. 15:11

16 CHAIRMAN: Oh, sorry, he may be leaving the room.

17 MR. GORDON: My client has just asked me to bring to  
18 your attention, Judge, that Mr. Harty has examined the  
19 witness in relation to --

20 CHAIRMAN: I'm sorry, Mr. Gordon, I'm just finding it 15:11  
21 very hard to hear you. Thank you.

22 MR. GORDON: I beg your pardon, Judge. Mr. Harty has  
23 examined this witness from a point where a document was  
24 shown on the screen up to a suggestion that there was  
25 some escalation in an animus towards my client, Maurice 15:11  
26 McCabe. The source of that particular document on the  
27 screen has never been revealed and my client has given  
28 specific instructions a moment ago to say that it was  
29 not him, and I just wanted to point that out while

1 Mr. Harty is still in the room, if he wants to say  
2 something about that.

3 CHAIRMAN: well, that is one aspect. And then I  
4 suppose it could have been assumed that the source of  
5 it was -- did you assume the source was Sergeant  
6 McCabe? 15:12

7 A. It's a possibility, but I don't know.

8 CHAIRMAN: well, I mean --

9 A. I don't know, Chairman.

10 CHAIRMAN: As a criminal detective, it might have gone 15:12  
11 through your mind, if you were looking for suspects he  
12 would have been one of them, I suppose --

13 A. I would think so, Chairman. I think that would be  
14 fairly logical.

15 CHAIRMAN: I'm certainly not saying that he was the 15:12  
16 source of that. But can I just see the thing, would  
17 you mind opening it? Is there anything else apart from  
18 that?

19 MR. GORDON: No.

20 MR. HARTY: No. 15:12

21 A. But it is the case, Chairman, just to mention, this  
22 particular document was outside the set of complaints  
23 that the Assistant Commissioner John O'Mahony was  
24 dealing with. That timescale was from the 1st January  
25 2009 to June of '12, and this is two years earlier. 15:13  
26 wherever the journalist got her hands on it, I don't  
27 know, but it's certainly outside that time-line.

28 CHAIRMAN: Yes. I mean, it says you have a Renault, a  
29 particular kind of Renault.

1 A. Yes. 15:14

2 CHAIRMAN: I beg your pardon for just one second. And  
3 it gives an insurance expiry date for January 2008 and  
4 the incident is supposed to have happened on the 9th  
5 July 2007, somewhere around about the North Circular  
6 Road kind of area, and then it claims that the purchase  
7 date for your car is the 15th May 2008, which seems to  
8 be looking into the future. That's what it says  
9 anyway.

10 A. I've no idea, Chairman. No, I can't make out any 15:14  
11 detail whatsoever here.

12 CHAIRMAN: When you put in like somebody's registration  
13 number, and I'm not going to read it out even if it is  
14 there, I can't see it - yes, it is there, but it's  
15 blanked out on this one, does all of this stuff get 15:14  
16 generated automatically?

17 A. It should do, Chairman.

18 CHAIRMAN: Yes, like, what is the date of expiry of the  
19 insurance?

20 A. Yes. 15:14

21 CHAIRMAN: Where do you live? When did you buy your  
22 car? Well, that is clearly wrong because they could  
23 hardly be predicting you are going to buy your car into  
24 the future.

25 A. No, I agree, Chairman, yeah. 15:15

26 CHAIRMAN: Yes. And then you may have reason to use  
27 your own car, but, at Commissioner level, your car  
28 isn't -- is it registered as an official vehicle, I  
29 don't know, for expenses purpose, or anything like



1           that?

2       A.    No, no, it's not Chairman, no.

3           CHAIRMAN:   And would you have a car as a commissioner?

4       A.    Well, you could get a car from the pool, certainly,

5           Chairman, yes. 15:15

6           CHAIRMAN:   So if you wanted to be driven some place in

7           particular?

8       A.    Exactly, yes.

9           CHAIRMAN:   But you don't have a -- I mean, the

10          commissioner has a dedicated driver? 15:15

11       A.    Exactly, Chairman. On this occasion it wouldn't be

12          suitable to get an official car for the particular

13          matter I was dealing with.

14          CHAIRMAN:   I'm sorry to interrupt people now. I

15          thought there was a theory that gardaí are always on 15:15

16          duty?

17       A.    Well, I suppose you could technically say that. I

18          suppose the obvious answer, or an answer to your

19          question, Chairman, would be that if a garda who is off

20          duty and spotted something, there'd be an expectation 15:16

21          that he or she would react if it was something that was

22          happening unlawfully, and indeed it has been the case

23          on time out of number, particularly in rural areas,

24          where members of An Garda Síochána have used their own

25          vehicles to deal with matters that they saw happening 15:16

26          before them.

27          CHAIRMAN:   Yes. But I think everybody knows that the

28          road traffic general bylaws states that it does not

29          apply to the gardaí who are acting in the course of

1 duty, isn't that --

2 A. That's correct, Chairman, yes.

3 CHAIRMAN: All right. Okay. Thanks. Sorry, was there  
4 any further questions from anybody?

5 MR. HARTY: I am finished. 15:16

6 CHAIRMAN: Mr. Harty, you're finished.

7 MR. HARTY: Thank you, Mr. Callinan.

8 A. Thank you.

9

10 MR. CALLINAN WAS CROSS-EXAMINED BY MR. FREEMAN: 15:16

11

12 492 Q. MR. FREEMAN: Yes, Mr. Callinan, I am John Freeman. I  
13 appear for Independent News and Media. I've just two  
14 very net matters to put to you, Mr. Callinan. We just  
15 might have the transcript for Day 77 up, please, and 15:17  
16 this is Superintendent Taylor was under examination by  
17 counsel for Ms. O'Doherty, and it's at page 67. Just  
18 while we wait for that to come up, Superintendent  
19 Taylor was dealing with the events following the visit  
20 to your home by Ms. O'Doherty on the 11th April 2013, 15:17  
21 or on the night of the 11th April 2013, and I don't  
22 know is that --

23 CHAIRMAN: It just takes a minute. There it is coming  
24 now.

25 MR. FREEMAN: That was page 67, Mr. Kavanagh. 15:17

26 493 Q. Yes, I think that should be on screen now,  
27 Mr. Callinan. So this is Superintendent Taylor being  
28 questioned by Mr. Berry for Ms. O'Doherty, and he is  
29 dealing with Superintendent Taylor's communication with

1 Independent News and Media on foot of an instruction  
2 from yourself, and he indicates that he made phone  
3 contact. And then at question 264,  
4 Superintendent Taylor is asked if he wrote on your  
5 behalf to Independent News and Media. And I think, in 15:18  
6 fairness, Superintendent Taylor wasn't sure, but he  
7 thinks there may have been a letter to Independent News  
8 and Media and that you may have dealt with that through  
9 your legal advisers, but, in fairness to him, he's not  
10 sure, I think. I just want to put to you that my 15:18  
11 instructions are that no such letter was received by  
12 Independent News and Media relating to this incident  
13 either from yourself or from solicitors on your behalf?  
14 A. I would think that is the case, but I simply don't know  
15 at this remove. I would accept what you are saying is 15:19  
16 correct, but I can't recall.  
17 494 Q. So that deals with the form of the communication. And  
18 just very briefly on the substance of the communication  
19 between Superintendent Taylor, on your instruction, and  
20 Independent News and Media, and if we might just have 15:19  
21 up page 3670 of volume 14 of the materials,  
22 Mr. Kavanagh. Yes, Mr. Callinan, this is a letter of  
23 the 31st July 2017 from solicitors for Ms. O'Doherty to  
24 the Tribunal, and just on the first paragraph on the  
25 page, "She" -- so that is Ms. O'Doherty: 15:19  
26  
27 "She maintains that her wrongful dismissal was  
28 significantly contributed to by former Commissioner  
29 Callinan who had communicated his anger to Independent

1 News and Media management about her modus operandi and  
2 her support for Sergeant McCabe and Garda John Wilson  
3 in their endeavours to reveal malpractice in the Garda  
4 Síochána. "

5  
6 Now, I don't think it was put to Superintendent Taylor  
7 that he was instructed to convey the latter part of  
8 that sentence, and my instructions, and I just want  
9 to --

10 CHAIRMAN: Maybe just -- it's a long sentence. Just  
11 give us the last bit of the sentence, instructed to do  
12 what exactly?

13 MR. FREEMAN: Yes, Chairman.

14 495 Q. So this is that you communicated your anger about her  
15 support for Sergeant McCabe and Garda John Wilson in  
16 their endeavours to reveal malpractice in the Garda  
17 Síochána. And just what I am putting to you is that my  
18 instructions are that the meeting with Assistant  
19 Commissioner Twomey and Superintendent Taylor concerned  
20 the appropriateness or otherwise of an INM journalist  
21 attending at the home of the Garda Commissioner and had  
22 nothing to do with your support -- or, sorry,  
23 Ms. O'Doherty's support, or perceived support, for  
24 Sergeant McCabe or Garda John Wilson?

25 A. I would agree with that completely, Chairman.

26 MR. FREEMAN: Thank you, Mr. Callinan.

27 CHAIRMAN: In other words, all you can say is you never  
28 gave instructions --

29 A. Correct.

1 CHAIRMAN: -- to David Taylor, 'you're to go and give  
2 out buckets to Independent News and Media that a  
3 journalist is supporting Maurice McCabe'?

4 A. Absolutely, Chairman.

5 CHAIRMAN: All right. Okay. And, Mr. Freeman, is 15:21  
6 there a denial that the editorial staff came down on  
7 Gemma O'Doherty like a ton of bricks and told her that  
8 she was a rogue journalist who had ruined everything?  
9 Is that accepted?

10 MR. FREEMAN: An unequivocal denial, Chairman, and that 15:21  
11 will be dealt with in detail.

12 CHAIRMAN: All right. I don't know. Will it be dealt  
13 with in detail? Are we calling --

14 MR. FREEMAN: Well, it is absolutely essential to a  
15 matter of credit. 15:22

16 CHAIRMAN: Issues as to credit are final, so that's the  
17 last I've heard of that, unless it's relevant to a term  
18 of reference. I mean, if you want to call somebody,  
19 please write a letter to the Tribunal. I mean, I don't  
20 know where this is going, Mr. Freeman. But I 15:22  
21 appreciate it is perfectly proper to deal with that,  
22 and you've dealt with it, but am I to make a decision  
23 on it one way or the other? I don't think that I can.  
24 I think, again, it is a matter of credit.

25 MR. FREEMAN: I gather Ms. O'Doherty, if she gives 15:22  
26 evidence in accordance with her statement, that is the  
27 area she intends to cover, and insofar as editors or  
28 management at Independent News and Media are impugned  
29 or implicated, then there may be issues arising,

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Chairman.

CHAIRMAN: All right. Well, let's see how it goes.

MR. FREEMAN: May it please you.

CHAIRMAN: Thank you.

15:22

MR. CALLINAN WAS CROSS-EXAMINED BY MR. LEHANE:

MR. LEHANE: Mr. Chairman, Mr. Callinan, my name is Darren Lehane. I'm down here at the back on your right.

15:23

A. Thank you very much.

496 Q. I'm counsel for Deputy John McGuinness and I have a number of questions for you arising out of your various interactions with Deputy McGuinness. Now, Mr. Marrinan has covered a lot of this ground yesterday, so I'm going to adopt his questions in relation to putting my client's statement and note of interview to you.

15:23

Mr. Callinan, I want to deal first with your relationship with Deputy McGuinness in the period prior to the meeting of the PAC on the 23rd January 2014, if that is okay. Now, Deputy McGuinness has given evidence to the Tribunal that he had a good working relationship with you during his time as chairman of the PAC; would you agree with that evidence?

15:23

A. I think that would be fair, yes, Chairman, yes.

497 Q. And, Mr. Callinan, was there anything in Deputy McGuinness's attitude to you or anything you heard that would have led you to believe that he had a negative

1 attitude towards you?

2 A. well, certainly in the context of Sergeant McCabe's  
3 appearance or proposed appearance before the Public  
4 Accounts Committee and particularly in the exchange of  
5 correspondence from November '13 onwards, I think it's 15:24  
6 safe to assume that we were locking horns in relation  
7 to whether or not the Public Accounts Committee had an  
8 entitlement to have possession of the Pulse documents.

9 498 Q. Mr. Callinan, I think we'd all agree that different  
10 parties can take different views on legal issues, and 15:24  
11 data protection is unfortunately one of those issues  
12 that people can have different views on, but aside from  
13 that difference of view between you and your officials  
14 and Deputy McGuinness and the PAC in relation to data  
15 protection issues, was there anything negative or was 15:25  
16 there anything in his attitude towards you personally  
17 which showed that he had a negative attitude to you  
18 prior to your appearance at the PAC?

19 A. well, I think up to that point, I think, Mr. Lehane,  
20 until we started to exchange documentation in relation 15:25  
21 to the matter, I don't believe there were any  
22 particular issues. You know, Deputy McGuinness is a  
23 very outspoken politician. He has been critical of An  
24 Garda Síochána in the past, but so were many other  
25 people. So I didn't have a particular issue or a 15:25  
26 particular problem or I wasn't aware of any particular  
27 issue in that context.

28 499 Q. Thank you, Mr. Callinan. I now want to turn to the  
29 events leading up to the meeting of the PAC on the 23rd

1 January 2014. Now, we know from the documentation and  
2 the evidence to date that the motivation of the  
3 whistleblowers and the 2006 allegation of sexual  
4 assault had been referenced during meetings that senior  
5 gardaí had in the run-up to that hearing, isn't that 15:26  
6 right?

7 A. Well, there is a reference in two of the notes that I  
8 saw to 2006, yes.

9 500 Q. And we know that you were very keen that Sergeant  
10 McCabe should not give evidence to the PAC and that any 15:26  
11 documentation that had been provided by whistleblowers  
12 to the PAC should be returned to the gardaí, isn't that  
13 correct?

14 A. That's correct, Chairman, yes.

15 501 Q. And you've referred to the extensive exchange of 15:26  
16 correspondence between your office and the PAC, and  
17 it's been opened to this Tribunal on a number of  
18 occasions so I'm not going to open it again; suffice to  
19 say that you agree with me that there had been a  
20 hardening of views between the two sides? 15:26

21 A. Correct, Chairman, yes.

22 502 Q. Now, we know on the morning of the 23rd January, just  
23 before the start of the hearing, you had an interaction  
24 with Deputy John Deasy, and that Deputy Deasy maintains  
25 that you told him that Maurice McCabe was not to be 15:27  
26 believed or trusted. Now, you deny saying that, isn't  
27 that right?

28 A. That's absolutely the case, Chairman.

29 503 Q. Now, why do you think that Deputy Deasy would make that



1 up?

2 A. I've no idea, Chairman. I mean, we've been through  
3 this ground before. I'm very clear in what I said to  
4 the deputy. I said -- I cautioned on the need to be  
5 aware of the information being imparted and that not 15:27  
6 all of the allegations made by Sergeant McCabe turned  
7 out to be correct. Some of them turned out to be  
8 questionable, in that they were subsequently proved to  
9 be incorrect, and that the O'Mahony investigation file  
10 was there in front of the Committee which they had at 15:27  
11 the time.

12 504 Q. Now, the reason I'm asking you about this again today  
13 is that yesterday and this morning you appeared to  
14 suggest that Deputy McGuinness might have had something  
15 to do with the fact that Deputy Deasy is giving this 15:28  
16 evidence to the Tribunal?

17 A. Well, I don't know if that is the case or not, but I  
18 think it is the situation when Deputy Deasy was asked  
19 by the Tribunal investigators if he had spoken to any  
20 other member of the Committee, he indicated that he 15:28  
21 thought about six months earlier he had a conversation  
22 with Deputy McGuinness, and the character of that  
23 conversation seemed to be tallying with what I had said  
24 to him on the morning of the Public Accounts Committee  
25 meeting, except that it didn't, because we know that 15:28  
26 Mr. McGuinness has gone further now and he started  
27 speaking about very serious sexual allegations that I  
28 claimed were against Sergeant McCabe.

29 505 Q. Well, if we can just stick with Deputy Deasy. Are you

1 suggesting as a possibility to the Tribunal that  
2 Mr. McGuinness somehow contaminated Deputy McGuinness?  
3 A. No, I'm simply drawing attention to the material that I  
4 saw in front of me. I can't go any further.  
5 506 Q. Well, I'm going to have to take issue with you on that, 15:29  
6 Mr. Callinan, because --  
7 A. That's fine.  
8 507 Q. -- your evidence yesterday is that, on the one hand,  
9 you accept that Deputy McGuinness and Deputy Deasy  
10 acted independently, you said that, and you also said 15:29  
11 that you had no evidence to suggest that they did not  
12 act independently, isn't that right?  
13 A. Well, I'm saying that each of the interactions that I  
14 had with the parties were independent of one another.  
15 508 Q. Well, in any case, the Chairman has the evidence of 15:29  
16 Mr. Deasy and your evidence and he can draw his own  
17 conclusions. But we know that after your exchange with  
18 Deputy Deasy, you had a further interaction with the  
19 Comptroller & Auditor General, isn't that right?  
20 A. Correct, Chairman, yes. 15:29  
21 509 Q. And you've accepted that there is a complete divergence  
22 between your evidence as to what transpired in that  
23 conversation and Mr. McCarthy's, isn't that right?  
24 A. Insofar as Mr. McCarthy is stating that I had indicated  
25 that there were sexual offences against him, and my 15:30  
26 position is, I was never aware of any other  
27 allegations, let alone sexual offences, against him at  
28 all, and that is my position.  
29 510 Q. Now, the reason I am asking you again about this today

1 is that yesterday you were asked by Mr. Marrinan  
2 whether there was any link that you could establish  
3 between Deputy Deasy, Deputy McGuinness and the  
4 Comptroller & Auditor General, and you gave evidence to  
5 the Tribunal that, and this is on page 48, line 5, I 15:30  
6 will just read it to you, which is probably quicker:

7  
8 "Q. With very much opposing views as to whether or not  
9 Sergeant McCabe would give evidence, but I'm talking  
10 about, can you establish any link between any of these 15:31  
11 individuals?"

12  
13 Answer, and this is you:

14  
15 "Well, I mean, there is a certain amount of commonality 15:31  
16 in relation to the business that they are doing on a  
17 very regular basis down at the Public Accounts  
18 Committee and they interact with one another. I mean,  
19 it would be nonsensical to suggest, for instance, that  
20 there wasn't some form of discussion about Sergeant 15:31  
21 McCabe appearing before the Public Accounts Committee.  
22 So that level of discussion at least had to go on.  
23 Beyond that, I don't know what was spoken about and I  
24 cannot make any allegations against the individuals you  
25 have spoken about. All I can do is give you an account 15:31  
26 of the conversations and the interactions that I had  
27 with those individuals. That is as far as I can go."

28  
29 Now, just in relation to that, you're not suggesting to

1 the Tribunal, are you, that Mr. McGuinness in some way  
2 contaminated Mr. McCarthy's evidence to the Tribunal,  
3 are you?

4 A. No, I'm not saying that, Chairman.

5 511 Q. Now, if I can move on to the actual PAC hearing itself. 15:31  
6 I mean, it's clear from the transcript that it was a  
7 fairly robust meeting; I think you'd agree with that?

8 A. Well, the nature of those hearings are such.

9 512 Q. They're designed to be robust?  
10 A. They are. 15:32

11 513 Q. Now, Deputy McGuinness has given to the Tribunal that,  
12 in his view, you were angry and frustrated during the  
13 hearing; would you agree with that assessment?

14 A. Not at all. Why would I be angry and frustrated? I  
15 mean, I was there for a long period of time and we were 15:32  
16 answering questions from a number of politicians, and  
17 it was challenging in its own right, but, you know,  
18 that's the nature of the business.

19 514 Q. Yes. And yesterday, in fairness to you, at page 151,  
20 lines 8 to 9, you said that you had "strong feelings" 15:32  
21 during the course of the hearing, isn't that right?

22 A. About?

23 515 Q. About the questioning and the actions of the various  
24 individuals you were being asked about, leading up to  
25 your use of the word 'disgusting'? 15:32

26 A. Strong feelings about the manner in which the  
27 whistleblowers were bringing -- dealing with the  
28 allegations. It was the manner in which they were  
29 dealing with them that I had the issue, and that was

1 the only issue. I think that is what I had said.

2 516 Q. And would you agree with me that those strong feelings,  
3 they wouldn't be on the happy end of the spectrum of  
4 feelings; they'd be on the rather unhappy end of the  
5 spectrum? 15:33

6 A. Well, that is absolutely the case, Chairman.

7 517 Q. Now, after the hearing you agree that Deputy McGuinness  
8 came down from his podium and walked towards you, as  
9 was his normal practice?

10 A. That's correct, Chairman, yes. 15:33

11 518 Q. And after that there is a total divergence between your  
12 account and Deputy McGuinness's account in relation to  
13 what happened, isn't that right?

14 A. Absolutely, Chairman.

15 519 Q. Now, Mr. Murrinan put to you at length yesterday what 15:33  
16 Mr. McGuinness says. But the first aspect I want to  
17 ask you about is: Mr. McGuinness says, or has said,  
18 that you launched into this famous story about John  
19 Wilson and the horse, and you deny telling that story,  
20 don't you? 15:33

21 A. Well, the first time I heard about that was subsequent  
22 to my making my statement and indicating to  
23 Mr. McGuinness -- I asked the question, are you going  
24 to call former Garda John Wilson? And his response  
25 was -- 15:34

26 CHAIRMAN: Sorry, I thought you were going to say, are  
27 you going to call the horse? But in any event.

28 A. So that was my first --

29 MR. LEHANE: Yes.

1 A. That was the first time I heard mention of the horse  
2 story. Certainly, it wasn't mentioned previously.

3 520 Q. And you, in your evidence, have attributed the nickname  
4 John 'Jockey' Wilson to the fact that there is a darts  
5 player who looked nothing like John Wilson and his only 15:34  
6 similarity with John Wilson is that they shared the  
7 same name?

8 A. Yes, that is correct.

9 CHAIRMAN: He was world darts champion in 1981, if I  
10 remember correctly, and he had a great fondness for 15:34  
11 sweets, in consequence of which he had no teeth. I  
12 don't know if there was any resemblance with John  
13 Wilson in that respect?

14 A. I think I'd better keep away from that one, Judge.

15 521 Q. MR. LEHANE: Now, I have to put it to you that you did, 15:35  
16 in fact, recount that story in front of John  
17 McGuinness?

18 A. No, I did not, absolutely not.

19 522 Q. And that it is simply not credible to say to the  
20 Tribunal that you never heard that story before? 15:35  
21 A. Well, that is my evidence, you know.

22 523 Q. And that your denial of any knowledge of the story is  
23 an attempt to distance yourself from the fact that you  
24 told the story in a particular context?

25 A. Chairman, I didn't know about the story. That's my 15:35  
26 position. I can't change that, I can't alter it. And  
27 I'm not doing it for a particular reason. As I say --

28 524 Q. Sorry --

29 A. -- I was the person to mention former Garda John Wilson

1 to the chairman of the PAC in the first instance. I  
2 was the person who brought it up.

3 525 Q. Can you offer any view to the Chairman, as a very  
4 experienced policeman, former policeman, as to how  
5 Deputy McGuinness would have heard the story of this 15:36  
6 famous horse independently of you or a guard?

7 A. Well, to be fair, Mr. Lehane, you know, Mr. McGuinness  
8 is also a very experienced politician. He would have  
9 interaction with many, many gardaí over the years; in  
10 fact, he has been critical on more than one occasion 15:36  
11 about An Garda Síochána and how it did its business.  
12 But leaving that aside, there could be any amount of  
13 avenues in which Mr. McGuinness would have been aware  
14 of that story.

15 526 Q. Now, your evidence is that Deputy McGuinness introduced 15:36  
16 this story to detract from the fact that you say he  
17 described whistleblower John Wilson as 'a fucking  
18 header', pardon my use of language, when you asked  
19 whether he was going to be called to give evidence to  
20 the Tribunal, isn't that right? 15:36

21 A. I mean, that's not language that I would involve myself  
22 in. I don't get involved in that type of language, and  
23 particularly in the context of where we were and  
24 speaking with a politician. It's not in my nature to  
25 use that type of language, Chairman. It's as simple as 15:37  
26 that.

27 527 Q. Now, in the context of where you were, you were in a  
28 situation where the Public Accounts Committee had  
29 indicated it was going to call a whistleblower to give

1 evidence before it. There was a second whistleblower,  
2 John Wilson, on the scene. You have asked, according  
3 to your account, whether the second whistleblower, John  
4 Wilson, is going to be called to give evidence, and the  
5 chairman of the PAC has said no. Now, did you take a 15:37  
6 note of what Deputy McGuinness said about Wilson?  
7 A. Well, I didn't think there was any need to take a note  
8 of what his reply was. It wasn't 'no'. It was 'you  
9 must be joking, he's an f-ing header'. That is what he  
10 said, and I can still remember it to this day. 15:37  
11 528 Q. Now, you didn't tell Deputy Commissioner O'Sullivan, as  
12 she then was, about what Deputy McGuinness had said  
13 about Mr. Wilson, did you?  
14 A. No.  
15 529 Q. You didn't tell anyone else, did you? 15:38  
16 A. Well, I don't know. People were in the vicinity,  
17 Mr. Lehane, I don't know whether they may have picked  
18 up any portion of the short conversation we had. I  
19 just don't know.  
20 530 Q. Why didn't you tell anyone? 15:38  
21 A. Well, why would I? I wouldn't have a particular  
22 reason.  
23 531 Q. But surely this would have been a ray of light in an  
24 otherwise dull day, that the chair of the PAC had a  
25 negative view of Mr. Wilson? 15:38  
26 A. Well, I mean, that's a comment. I don't know. That's  
27 a comment. And it's not something that I even thought  
28 about.  
29 532 Q. I have to put it to you that the fact that you didn't



1 take a note of Mr. McGuinness's comment or the fact  
2 that you didn't tell anyone about it is because it  
3 simply didn't happen.

4 A. Well, that's not true, Chairman.

5 533 Q. And I have to put it to you that Deputy McGuinness most 15:38  
6 certainly did not call John Wilson an f-ing header?

7 A. Well, that --

8 534 Q. Sorry.

9 A. Sorry, that's my evidence on oath, Chairman.

10 535 Q. And that you introduced this allegation into the mix 15:39  
11 simply to discredit John McGuinness, fully conscious of  
12 the fact that he had very damaging evidence to give  
13 about you at this Tribunal?

14 A. Well, as I said previously, Chairman, I was the one to  
15 introduce the question about former Garda John Wilson, 15:39  
16 I was the person to introduce it, not Mr. McGuinness.  
17 It was only subsequent to me making my statement that  
18 we heard this story about the horse and what I am  
19 supposed to have said.

20 536 Q. Now, turning to what Mr. McGuinness says you said about 15:39  
21 Sergeant McCabe on the floor of the Committee.  
22 Mr. McGuinness has told the Tribunal that you said that  
23 Mr. McCabe fiddles with kids, and you deny that?

24 A. That is correct, Chairman.

25 537 Q. And yesterday, and I want to be very fair to you on 15:39  
26 this point because perhaps I have taken you up wrong,  
27 but at page 37, line 15, of the transcript, you said  
28 that you had never heard the expression 'kiddie  
29 fiddler' before, is that right?

1 A. Yes, Chairman.

2 538 Q. I have to put it to you that it is simply not credible  
3 that you, as a former commissioner of An Garda  
4 Síochána, would not have heard the expression 'kiddie  
5 fiddler'? 15:40

6 A. I wonder why that would be so. I have heard lots of  
7 expletives of all variety, shapes and sizes, but that  
8 is certainly something I am not familiar with, that  
9 particular phrase.

10 539 Q. So I didn't take you up wrong. Your evidence to the 15:40  
11 Tribunal is that you'd never, ever heard the expression  
12 'kiddie fiddler' used in any context before?

13 A. Correct, Chairman, yes.

14 540 Q. Now, it's your evidence -- now, you've drawn attention 15:40  
15 to the fact that the difference between Superintendent  
16 Taylor's account of what was said and Mr. McGuinness's  
17 and the distinction between 'fiddles with kids' and  
18 'kiddie fiddler', isn't that right?

19 A. Well, there is a distinction, of course. They're  
20 different words. 15:41

21 541 Q. Well, what is the difference between somebody who  
22 fiddles with kids and is a kiddie fiddler?

23 A. Well --

24 542 Q. They're the same thing.

25 A. They're different words, you know. If you and I are 15:41  
26 having a conversation and the Chairman overhears part  
27 of that conversation, you know, why would there be  
28 issues around the wording? I recall, I think, what  
29 Mr. McGuinness said in his original statement,

1 something to the effect that I had said, when he  
2 approached, this man fiddles with children, this is  
3 outrageous, or the other fella fiddles with children,  
4 this is outrageous, and then there's a kiddie fiddler  
5 expression as related by Superintendent Taylor. 15:42

6 543 Q. Well, I have to put it to you, Mr. Callinan, I'm trying  
7 to put this as delicately as I can, but you'd want to  
8 be living under a rock, they're the same thing, a  
9 kiddie fiddler and a person who fiddles with kids. But  
10 in any case, your evidence is that you'd never heard 15:42  
11 the expression 'kiddie fiddler' prior to the events  
12 that led to the establishment of this Tribunal?

13 A. That's correct, Chairman, yes.

14 544 Q. Can I now move on to the events in the car park. Now,  
15 it's common case that you asked for the meeting? 15:42

16 A. Yes, Chairman.

17 545 Q. And your evidence is that the purpose of you asking for  
18 the meeting was to try and dissuade the Public Accounts  
19 Committee from calling Mr. McCabe and that you had  
20 various suggestions as to how the situation might be 15:42  
21 dealt with as set out in draft correspondence, isn't  
22 that right?

23 A. Yes. It was in response to something that the Chairman  
24 had mentioned towards the end of the meeting, the day  
25 before, that where issues arise between an employer and 15:42  
26 employee, efforts would be made to try and resolve  
27 those matters, and I took that to be a suggestion that  
28 I should directly involve myself and try to resolve  
29 these issues. And that -- sorry --

1 546 Q. Sorry, Mr. Callinan. Go on.

2 A. And that is why I had the draft letter prepared.

3 547 Q. But you didn't bring the draft letters with you?

4 A. No, I didn't, no.

5 548 Q. And the draft letters have been opened, and I'll adopt, 15:43  
6 with respect, Mr. Marrinan's questions in relation to  
7 that.

8 A. Yes.

9 549 Q. But again, you chose the venue because it suited both  
10 of you? 15:43

11 A. Correct Chairman, yes. The Chairman had indicated to  
12 me that he was in a hurry back to Kilkenny, that he had  
13 a pressing appointment, and I said perhaps we could  
14 meet somewhere on the outskirts of the city to  
15 facilitate that journey and to expedite his journey. 15:43  
16 And he had suggested -- he had asked me to suggest a  
17 location, and what sprung to mind was Bewley's Hotel  
18 car park there, just beyond Newlands Cross, I thought  
19 that might be a convenient place to meet. After all,  
20 two or three minutes would have done my business. But 15:44  
21 it turned out to be a little bit longer - 15/20 minutes  
22 perhaps.

23 550 Q. Now, it was always your intention that the meeting  
24 should take place in the car park, isn't that right?

25 A. Well, it didn't matter particularly to me. I mean, if 15:44  
26 it's the case Mr. McGuinness had said plans have  
27 changed, I've managed to put back the meeting, or  
28 whatever, I would have been quite prepared to go into  
29 the hotel and buy him a cup of tea, or whatever. I

1 would have had no difficulty with that whatsoever.

2 551 Q. The only reason I ask, Mr. Callinan, is, when  
3 Mr. McGuinness was giving evidence, we had a -- there  
4 was a lengthy exchange in relation to the weather and  
5 it was raining and the Chairman referenced some 15:44  
6 Japanese film in relation to moving at speed, I can't  
7 recall what it was, but in any case, you were always  
8 intent on having the meeting in the car in the car  
9 park?

10 CHAIRMAN: All right. The weather. The director was 15:44  
11 Kurosawa, who famously was noted by Spielberg as liking  
12 rain. Rain is in all of his films. I don't just mean  
13 rain, I mean torrential rain. That is what I was  
14 referring to. I am sorry if people are not as up to  
15 date on film as I am. Kurosawa is dead about twenty 15:45  
16 years at this point. We have actually got a weather  
17 report, is that what you are going to start  
18 referencing?

19 MR. LEHANE: Sorry, no, Chairman --

20 CHAIRMAN: Are you going to start referencing a weather 15:45  
21 report?

22 MR. LEHANE: No, Chairman --

23 CHAIRMAN: well, it wasn't raining on that day, except  
24 the odd bit of drizzle, just by the way, so Kurosawa is  
25 out of this equation. 15:45

26 MR. LEHANE: The only reason I raise it was, there was  
27 an exchange in relation to it and there were various  
28 questions put on the basis that they could have gone  
29 into the hotel to have a coffee but people were in a

1           hurry. That was the evidence yesterday:  
2  
3           "It was confirmed to me by Mr. Callinan that it was  
4           always his intention to have a meeting in the car park  
5           I'm moving off it." 15:45  
6           CHAIRMAN: well, the weather report, in any event,  
7           indicates a couple of millimetres of rain.  
8           A. Yes, Chairman, yes.  
9   552 Q. MR. LEHANE: And again, Mr. Callinan, just returning to  
10           the meeting in the car park, there is a complete 15:45  
11           divergence between you and Mr. McGuinness in relation  
12           to what was said during the course of that meeting,  
13           isn't that right?  
14           A. That's correct, Chairman, yes. I mean, when I  
15           approached Mr. McGuinness's car, he had papers on the 15:46  
16           front seat and he moved them into the back, so I took  
17           that to be an invitation to sit into the car and I sat  
18           into the car. If he had said, come on, let's go in for  
19           a cup of coffee, I have time, or whatever, I'd have  
20           been delighted. 15:46  
21   553 Q. No. And Mr. McGuinness doesn't dispute moving his  
22           documents from the front seat to the back seat of the  
23           car.  
24           A. Okay.  
25   554 Q. That is the evidence he gave in relation to that. NOW, 15:46  
26           Deputy McGuinness's evidence has been put to you at  
27           least twice, I think, in relation to the content of the  
28           conversation that he says that he had with you, isn't  
29           that right?

1 A. I accept that, Chairman, yes.

2 555 Q. Yeah. And it boils down to this: Simply that you said  
3 there were issues to do with Maurice McCabe and his  
4 behaviour and that you said that Sergeant McCabe had  
5 sexually abused his family and an individual and that 15:46  
6 you threatened him, isn't that, Mr. McGuinness's  
7 evidence?

8 A. Yes. Well, I mean, that's a matter of record. If you  
9 want me to go through it again, I can, no problem.

10 556 Q. No. And you say that that is false evidence that 15:47  
11 Deputy McGuinness has given to this public inquiry?

12 A. Well, in relation to the very serious allegations made  
13 against me in the context of what I am alleged to have  
14 said about Sergeant McCabe, it is false, totally false.

15 557 Q. Now, you say in your evidence that it was Deputy 15:47  
16 McGuinness who introduced the issues around Sergeant  
17 McCabe, isn't that right?

18 A. That is correct, Chairman, yes.

19 558 Q. And you say that Deputy McGuinness asked the question,  
20 why was it that Sergeant McCabe was raising all of 15:47  
21 these issues and that he queried was it because of the  
22 file that went to the DPP, isn't that right?

23 A. That's correct, Chairman, yes.

24 559 Q. And you say you looked at him with some surprise and  
25 that he said to you that he knew all about the criminal 15:48  
26 investigation underlying this allegation?

27 A. Correct, Chairman.

28 560 Q. And you say that you simply replied by saying to  
29 Mr. McGuinness, well, if you're aware of the file that

1           went to the DPP, you must be aware of the directions  
2           that issued on foot of it, isn't that right?

3           A.     Correct, Chairman, yes.

4   561   Q.     Now, was that not a very significant intervention by  
5           the Chairman of the Public Accounts Committee just           15:48  
6           before Sergeant McCabe was going to give evidence?

7           A.     well, it's factually correct. That's what happened,  
8           Chairman.

9   562   Q.     No, but leaving aside the fact that you say that it is  
10          factually correct, which Mr. McGuinness obviously           15:48  
11          disputes, do you not agree that it is fairly  
12          significant that the chairman of the PAC, when he's  
13          meeting you at your request to discuss these data  
14          protection issues and employment issues, if I can use  
15          that expression, has introduced this information into           15:48  
16          the mix?

17          A.     well, you see, the precursor to that was, he asked the  
18          question why was it that Sergeant McCabe was raising  
19          all of these issues.

20   563   Q.     I suppose, Mr. Callinan, and I don't want to be rude,           15:49  
21          but would you answer the question. would you agree  
22          that it's a significant intervention by the Chairman of  
23          the Public Accounts Committee to be introducing these  
24          issues?

25          A.     well, I mean, that's what happened. Significant or           15:49  
26          otherwise, that is what happened.

27   564   Q.     why won't you answer my question, Mr. Callinan, as to  
28          whether it was a significant intervention or not?

29          A.     well, it was a significant intervention.



1 565 Q. Okay. Thank you. Did you take a note of this  
2 significant intervention?  
3 A. No.  
4 566 Q. Sorry, Mr. Callinan, I didn't catch that? No?  
5 A. No, I did not, Chairman, no. 15:49  
6 567 Q. Did you tell anybody else about this significant  
7 intervention?  
8 A. I don't believe so, Chairman, no.  
9 568 Q. Not even Mr. Brian Purcell, who knew about the fact  
10 that you were going to the meeting and inquired how you 15:50  
11 got on?  
12 A. I believe I spoke to him in the context -- he knew what  
13 I was doing, putting the proposals of the letters to  
14 Mr. McGuinness.  
15 569 Q. But you didn't tell him that there had been this 15:50  
16 significant intervention where the chairman of the PAC  
17 had asked, well, is all of this about this old  
18 allegation?  
19 A. I don't believe that was -- this was something that  
20 came and went very, very quickly. There was no long 15:50  
21 discussion on it. Mr. McGuinness has already  
22 indicated, I think, on a number of occasions, and  
23 indeed it's in his statements, that he was aware of  
24 these allegations, so there was nothing new in what was  
25 mentioned here. 15:50  
26 570 Q. I have to put it to you that the fact that you didn't  
27 take a note of this significant intervention or tell  
28 anybody else about the significant intervention is  
29 because it simply didn't happen?

1 A. No, no, it certainly did happen, Chairman. And it  
2 happened in the context and in the manner and the  
3 detail in which I have described, and it is the case  
4 that Deputy McGuinness then went on to describe further  
5 what happened on the occasion. But it was a very brief 15:51  
6 reference on the meeting we had on the 24th January, it  
7 was a very, very brief reference to the fact that he  
8 was aware that Sergeant McCabe had been the subject of  
9 a criminal investigation.

10 571 Q. I have to put it to you that you asked for the meeting 15:51  
11 in the car park with Deputy McGuinness because all of  
12 your previous efforts to stop Sergeant McCabe from  
13 giving evidence had failed?

14 A. That is absolutely correct, Chairman. That is  
15 precisely why I was there, to try and see if the 15:51  
16 proposals that he had been suggesting the evening  
17 before would be workable. That was the whole purpose  
18 of the car park meeting, nothing else.

19 572 Q. Yes. And that this was your last-chance saloon, that  
20 this was the last opportunity, as you've just agreed 15:52  
21 with me there, that you could stop Sergeant McCabe from  
22 giving evidence and that's why you told Deputy  
23 McGuinness these things about Sergeant McCabe?

24 A. You're correct in the first piece of your question.  
25 You're absolutely incorrect in the second piece. 15:52

26 573 Q. And I've to put it to you that the importance of this  
27 meeting from your perspective is reflected from the  
28 fact that you ended your interaction on this point with  
29 Deputy McGuinness by threatening him?

1 A. Under no circumstances, Chairman, did I threaten Deputy  
2 McGuinness.

3 574 Q. Well, you've heard or read Deputy McGuinness's evidence  
4 that he said there would be grave consequences both for  
5 him and the Committee if they proceeded along the 15:53  
6 course of action which they had indicated they were  
7 going on?

8 A. I've heard -- I've read that evidence, I should say,  
9 Chairman, and it's totally incorrect. How could I  
10 cause the Public Accounts Committee that type of grief? 15:53  
11 It would be impossible.

12 575 Q. You were the Garda Commissioner, Mr. Callinan.

13 A. I might have certain control over the organisation, but  
14 I certainly can't control the Public Accounts Committee  
15 or the politicians contained within it. 15:53

16 576 Q. Now, you have described Deputy McGuinness's evidence in  
17 relation to what transpired at the car park yesterday  
18 as outrageous and this morning as crazy, isn't that  
19 right?

20 A. In relation to the car park? 15:53

21 577 Q. Yes. And the conversation, his evidence as to what  
22 occurred during the conversation in the car park,  
23 you've described that as outrageous and crazy?

24 A. That is correct, Chairman, yes.

25 578 Q. Okay. Now, you're aware of the note that Deputy 15:53  
26 McGuinness prepared following the meeting. It was  
27 handed up to you, his big A4 notebook.

28 A. Yes, Chairman, I have seen that.

29 579 Q. Now, are you suggesting that that note was fabricated?

1 A. Chairman, I can only tell you what I know. I know  
2 there was no note taken there and then. I am aware  
3 that Deputy McGuinness was on the national airwaves,  
4 that he indicated that he didn't take any note of the  
5 meeting, either at the time or later, he said that. He 15:54  
6 also said that he didn't inform Sergeant McCabe about  
7 the meeting between the pair of us and what I am  
8 alleged to have said about Sergeant McCabe, and then he  
9 was asked was it before or after and he said both  
10 before and after. And the reaction from Sergeant 15:54  
11 McCabe in the context of what Sergeant McCabe said here  
12 in his evidence and the statement he gave to the  
13 Committee.

14 580 Q. Now, your counsel cross-examined Mr. McGuinness at  
15 length in relation to the preparation of that note, 15:55  
16 asking him why he'd written the note by leaning it  
17 against the steering wheel, I think, of the car -- or,  
18 sorry, why he wrote it while the book was on the seat  
19 as opposed to the steering wheel of the car, and the  
20 Chairman can make his own assessment as to the veracity 15:55  
21 of the note. But, in essence, your evidence is that  
22 Mr. McGuinness, a Dáil deputy and the former chairman  
23 of the Public Accounts Committee, not only is coming  
24 here to give false evidence but has fabricated a diary  
25 entry to give credence to that false evidence? 15:55

26 A. Well, I'm not accusing him of fabricating a note. I'm  
27 only relaying to you what I heard the deputy speak  
28 about on the national airwaves, and he certainly  
29 indicated he didn't make any note, either then or

1 later.

2 581 Q. But, Mr. Callinan, what is preparing a false account of  
3 what transpired at a meeting, what is it other than a  
4 fabrication? That is what you are accusing  
5 Mr. McGuinness of? 15:56

6 A. No, I'm not accusing him. I'm stating the facts as I  
7 know them.

8 582 Q. What's Mr. McGuinness's motive for doing all of this,  
9 for falsifying or preparing this false entry and for  
10 giving this false evidence to the Tribunal? 15:56

11 A. I cannot answer that, Chairman. That's between him and  
12 his maker. And I'm happy to go to mine knowing that I  
13 am telling the truth here.

14 583 Q. Mr. Callinan, I have to put it to you that it's been a  
15 feature of your evidence, particularly today, that you 15:56  
16 have sought to cast a further doubt over  
17 Mr. McGuinness's integrity in the course of his  
18 interactions with you?

19 A. In what way?

20 584 Q. That you have suggested today that Mr. McGuinness had 15:56  
21 interactions with Deputy Deasy, that you say just --  
22 you put out there, you say to the Chairman, look, there  
23 are these meetings going on and I'm not going to draw  
24 any conclusion, but, you know, you might as well draw a  
25 conclusion, that you've put that out there in respect 15:57  
26 of Mr. Deasy, haven't you?

27 A. Well, I'm only indicating what's on my mind. I mean, I  
28 cannot possibly make allegations of that nature. But,  
29 you know, from reading the materials, I've seen what's

1 in the materials and I've seen who was in contact with  
2 who, prior to making their statements. But that's it.  
3 I wasn't interacting with anybody before I made my  
4 statement.

5 585 Q. And that's the point I wanted to put to you, because 15:57  
6 you introduced that today, and you've read Deputy  
7 McGuinness's evidence and I don't want to get into the  
8 instructions or the interactions between you and your  
9 legal advisers, but you're aware that Deputy McGuinness  
10 was cross-examined by your counsel for five-and-a-half 15:58  
11 hours?

12 A. Well, I'm aware of the -- yes, I have read the  
13 material. I wasn't sure of the precise time, but I  
14 accept what you are saying is correct.

15 586 Q. And if you have read it, you will see that your counsel 15:58  
16 never put it, and I'm sure I will be corrected if I am  
17 wrong in this, but your counsel never put it to Deputy  
18 McGuinness that he had these interactions with Deputy  
19 Deasy that might have contaminated his evidence, I mean  
20 that is a -- 15:58

21 A. Well, I mean, I'm not saying that, Chairman, but all  
22 I'm saying is, I have read the materials and I have  
23 read the various interactions and interplay between  
24 some of the key witnesses in this Tribunal and --

25 587 Q. And just -- sorry, Mr. Callinan. 15:58

26 A. And I can't go beyond that. But it's on my mind, so  
27 there you have it.

28 588 Q. And in relation to one of those key individuals, are  
29 you suggesting that Mr. McGuinness and Superintendent

1 Taylor colluded in relation to their recollections of  
2 what Mr. McGuinness said?  
3 A. I'm not saying that. But there were conversations. I  
4 don't know what the detail of those conversations were,  
5 that is between them. I cannot make those accusations, 15:59  
6 of course I can't.  
7 589 Q. I have to put it to you, Mr. Callinan, that you have  
8 spun a web of lies around your interaction with people  
9 about Sergeant McCabe and that your evidence to this  
10 Tribunal has been an attempt to entrap Deputy 15:59  
11 McGuinness within that web of lies?  
12 A. That is absolutely untrue, Chairman.  
13 MR. LEHANE: Thank you very much.  
14 CHAIRMAN: All right. well, it's four o'clock.  
15 Mr. Dignam, are you taking on the reins? You are? 15:59  
16 MR. DIGNAM: I am, Chairman, and I hope not to be very  
17 long.  
18 CHAIRMAN: How long do you think you will be?  
19 MR. DIGNAM: I should be able to do it within half an  
20 hour. 15:59  
21 CHAIRMAN: All right. well, then, let's take a break  
22 for ten minutes, it's only fair.  
23  
24 AFTER A SHORT ADJOURNMENT THE HEARING RESUMED  
25 AS FOLLOWS: 16:00  
26  
27 MR. CALLINAN WAS EXAMINED BY MR. DIGNAM:  
28  
29 590 Q. MR. DIGNAM: Mr. Callinan, I just want to cover a few

1 themes with you just to clarify some points and bring  
2 you back over some of the points that have been raised  
3 with you. I don't propose referring you to any great  
4 extent to documentation, but if you feel you want to  
5 see a document that I'm referring to, then we can 16:12  
6 certainly open it to you.

7 A. Thank you, Chairman.

8 591 Q. Just to begin with, you've already given evidence that  
9 you didn't know Superintendent Taylor before you  
10 appointed him as Press Officer, isn't that right? 16:13

11 A. That's correct, Chairman, yes.

12 592 Q. And I think you've explained to the Tribunal that you  
13 had met him at least once, you're not limiting it to  
14 once but at least once that you remember at an airport  
15 somewhere abroad, as you were travelling back from some 16:13  
16 official duty, is that right?

17 A. That's correct, Chairman, yes.

18 593 Q. Can I just ask you, was it unusual for a commissioner  
19 to have appointed a person who had no media  
20 qualification or media background to the role of Press 16:13  
21 Officer of An Garda Síochána?

22 A. No, Chairman, that wouldn't be unusual.

23 594 Q. And then in terms of your relationship with Mr. Taylor,  
24 having appointed him, I think you worked -- you accept  
25 that you worked closely with him? 16:13

26 A. I did, Chairman, yes.

27 595 Q. I think in your evidence today you said that you may  
28 not have had daily contact, but you certainly had very,  
29 very frequent contact and sometimes daily contact, is



1           that right?

2           A.    Correct, Chairman, yes.

3 596 Q.    And I think that's not unusual. We've heard the  
4           evidence of members of the Press Office and indeed  
5           other gardaí who have said that the Commissioner and           16:14  
6           the Press Officer do work together, work very closely  
7           together, is that right?

8           A.    That would be the nature of the job, Chairman, yes.

9 597 Q.    Now, people have expressed their perception in the  
10          witness-box as being that you and he were particularly           16:14  
11          close; you've read that evidence?

12          A.    I have, Chairman, yes.

13 598 Q.    Yes. And I think you accept that you would have been  
14          together a lot, working together, and that could be  
15          where that perception comes from?                                   16:14

16          A.    I would expect that is reasonable, Chairman, yes.

17 599 Q.    And could I just ask you, did you become personally  
18          close from your point of view?

19          A.    No, Chairman. We did have a working relationship,  
20          obviously that is the nature of the job, but we weren't           16:14  
21          close socially or on a personal level, no.

22 600 Q.    Yes. You didn't socialise together?

23          A.    No, we didn't, Chairman, no.

24 601 Q.    I think there's a reference somewhere in the papers,  
25          and nothing really turns on it, but there's some                   16:15  
26          reference to you -- to Superintendent Taylor's wife and  
27          your wife being friendly?

28          A.    No, that's not correct, Chairman, no.

29 602 Q.    Did you socialise as couples?

1 A. No, Chairman, certainly not.

2 603 Q. Would you describe Superintendent Taylor as having  
3 become a confidante of yours?

4 A. No, Chairman.

5 604 Q. In relation to visits to your house, you've already 16:15  
6 given evidence, but just to clarify, is it your  
7 position that Superintendent Taylor had never visited  
8 your house before the occasions after your retirement?

9 A. That's correct, Chairman, yes.

10 605 Q. Now, can I then just -- 16:15  
11 CHAIRMAN: Just to clarify, is there a problem with him  
12 perhaps calling and dropping in a document?

13 A. Would there be a problem?

14 CHAIRMAN: No, I mean did that happen? Obviously your  
15 reference is to social visits, he made a reference to 16:15  
16 calling in because it was necessary to give you  
17 something, or something like that.

18 A. Oh, I see. I don't recall that happening, Chairman.  
19 But if it did it --

20 CHAIRMAN: It didn't stick in your mind? 16:16

21 A. No, it did not, Chairman, no.

22 606 Q. MR. DIGNAM: Now, if I can then just ask you about your  
23 attitude to Sergeant McCabe, and if I could begin by  
24 asking you about the impression that has been given of  
25 your attitude to Sergeant McCabe, principally by 16:16  
26 Superintendent Taylor. He has sought to convey that  
27 you appear to have been consumed by Sergeant McCabe and  
28 the issues that he was raising. He has described you  
29 as being, on various occasions, angry, upset, down

1 about Maurice McCabe, and particularly his allegations,  
2 and he has put that in dramatic terms on occasions. If  
3 I can just ask you to look at page 207, which is Volume  
4 1.

5 A. Sorry, Volume 1?

16:16

6 607 Q. Volume 1, page 207.

7 A. Thank you, Chairman.

8 608 Q. This is one of Superintendent Taylor's interviews with  
9 the Tribunal investigators, and you'll see his answer  
10 on the third line of the text on that page, and three  
11 lines down, he says:

16:17

12  
13 "The former Commissioner Callinan always expressed his  
14 deep frustration at what was going on and he often said  
15 if the people only knew, meaning his motives, and the  
16 sexual assault allegation."

16:17

17  
18 And then if you turn over to the next page, you'll see,  
19 just below halfway down through that paragraph, a line:

20 16:17

21 "The man was deeply frustrated."

22

23 Do you see that?

24 A. I see that, Chairman. Sorry, I beg your pardon.

25 609 Q. Line 66. What Superintendent Taylor says is:

16:18

26

27 "The man was deeply frustrated. The longer it went on,  
28 the more worn down he became by the weight of history  
29 on him and that he was not going to be the first man to

1           lose his position as Commissioner. He was the holder  
2           of the Commissioner's office and it was unprecedented  
3           that a sergeant was putting it up to him. He was  
4           burdened by this and that he would be the first  
5           Commissioner to let this happen. I cannot add anything 16:18  
6           further than I have in respect of the dates I received  
7           these instructions."

8  
9           Now, is that a fair description of how you felt and  
10          were reacting to Sergeant McCabe and his raising of 16:18  
11          these issues?

12          A. No, Chairman, that is not the case.

13 610 Q. Now, this may seem like a foolish question,  
14          Mr. Callinan, but you were Commissioner of An Garda  
15          Síochána at the time; can I take it, and can the 16:19  
16          Tribunal take it, that there were many other things on  
17          your plate in that role --

18          A. Absolutely --

19 611 Q. -- at that time?

20          A. -- Chairman, I had a lot of very serious issues to deal 16:19  
21          with at a time of competing interests in relation to a  
22          whole range of subjects, both policing and security,  
23          that we were dealing with, and at a time of reduced  
24          resources, both human and financial.

25 612 Q. Yes. I think you've referred to the resources issue in 16:19  
26          the context of your description of when you were  
27          apologising to Mr. Brett of the Road Safety Authority,  
28          your description of being under pressure, and I think  
29          Mr. McDowell was teasing that out with you today, and

1 you referred to the pressure arising from resources.  
2 we don't -- I think everybody is aware of the economic  
3 difficulties and the particular difficulties that were  
4 being faced by An Garda Síochána, but, very briefly,  
5 can you describe to the Tribunal the type of pressures 16:20  
6 that that was putting on the force around that period  
7 of 2012, 2013 and 2014?

8 A. Thank you, Chairman. I suppose it is the situation  
9 that everybody knew the position the country was in  
10 financially, and in terms of An Garda Síochána at that 16:20  
11 time, we had an attrition rate, personnel, I suppose  
12 roughly 300 or so every year, we had a fleet that was  
13 aging, patrol cars were literally breaking down on the  
14 side of the road, so we had a lot of difficulties. It  
15 was also the case that An Garda Síochána didn't escape 16:20  
16 the requirement to try and streamline its activities,  
17 and we had station closures and all of the difficulties  
18 that that created for An Garda Síochána and a change of  
19 roster to try and keep apace of some of the  
20 restructuring we were putting in place at that time, to 16:21  
21 keep what we hoped would have been an adequate policing  
22 and security service in place. There were a lot of  
23 difficulties.

24 613 Q. Now, I suppose it's easy for some of us when -- the  
25 issues surrounding Sergeant McCabe are central to the 16:21  
26 work of this Tribunal obviously, but is it fair to say  
27 that it was one of the many issues that you had to deal  
28 with and one of the important and big issues, but one  
29 of those important and big issues that you had to deal

1 with?

2 A. Yes, absolutely, Chairman. I mean, it is the case  
3 gangland crime was a huge issue for us, as well as  
4 volume crime, burglaries, larcenies, all of the  
5 attendant business that you have to try and deal with 16:21  
6 in terms of solving those issues. So they were there.  
7 There was also the various factions of the IRA that  
8 were causing problems, and they had to be dealt with as  
9 well. So there were huge issues to be dealt with in  
10 relation to, particularly along the border where we had 16:22  
11 particular issues and particular commitments that I  
12 felt had to be maintained at a time when we really  
13 didn't have all of the resources we should have had,  
14 but that work continued.

15 614 Q. Now, if you had become consumed to the extent that has 16:22  
16 been sought to be conveyed by Superintendent Taylor, by  
17 this one issue, could you have carried out your  
18 functions as Commissioner?

19 A. No, certainly not, Chairman. If you were -- I think I  
20 have mentioned previously that the work of the Garda 16:22  
21 Commissioner, it's a very highly pressurised role. And  
22 if you weren't in a position to handle those pressures  
23 and deal with them on a daily basis, then I made  
24 mention of the fact that you wouldn't come into work,  
25 and that is my belief. You were expected, the people 16:23  
26 of Ireland and the government expected that you would  
27 deal with those pressures. After all, that is what you  
28 were put in there to do in the first instance.

29 615 Q. Now, you dealt with your attitude or your view of

1 members who raised wrongdoing when you were giving  
2 evidence to the PAC on the 23rd January. If I can just  
3 ask you to look at page 1346, which is in volume 5.

4 A. Thank you, Chairman.

5 616 Q. Now, the first -- the top of the text there, this is 16:23  
6 you speaking, I think, is that correct --

7 A. Correct, Chairman.

8 617 Q. -- Mr. Callinan, where you say:

9  
10 "My position is very clear. Anyone who makes any 16:23  
11 report of wrongdoing to me, I will deal with it very  
12 seriously. I am sure I speak for my officers beside me  
13 and elsewhere when I say that is the case. We will not  
14 be isolating anyone who makes a complaint of wrongdoing  
15 against another member of the force. We have many 16:24  
16 examples within the disciplinary process where we deal  
17 with people who transgressed every year. We are  
18 certainly not perfect, nor would I ever profess to come  
19 before this Committee and say so. We have difficult  
20 problems, as one can imagine in a force of over 13,000 16:24  
21 dealing with such complex issues, of course we have  
22 difficulties. However, the deputy should be very clear  
23 that, from my perspective as Commissioner of An Garda  
24 Síochána, I will not allow anyone reporting wrongdoing  
25 to be bullied, harassed, intimidated, or whatever 16:24  
26 adverb or adjective the deputy chooses to use. That  
27 will not happen on my watch. There is a mechanism and  
28 procedure for reporting wrongdoing, which should not be  
29 going off to a third party with a whole raft of serious

1           allegations, criminal and otherwise, and producing them  
2           elsewhere. "

3

4           Now, am I correct to say, Mr. Callinan, that that was  
5           in reply to a question, I think a question from Deputy     16:24  
6           Ross, is that right?

7           A.     Yes, I believe that's the situation, Chairman, yes,  
8           from recollection.

9     618    Q.     And then if I could just ask you to look at page 1402.  
10           A.     Thank you, Chairman.                                     16:25

11    619    Q.     Sorry, I think I have given you the wrong page,  
12           Mr. Callinan. Now, just in relation to that question  
13           that I've just asked you, Mr. Callinan, was that a  
14           scripted response?

15           A.     What you've just read out?                             16:25

16    620    Q.     What I've just read out, yes, was that a scripted  
17           response?

18           A.     No, it wasn't, Chairman, no.

19    621    Q.     Does that reflect your attitude and approach to members  
20           who bring forward allegations and incidents of             16:25  
21           wrongdoing?

22           A.     Absolutely, Chairman, yes.

23    622    Q.     Now, presumably those comments also apply to Sergeant  
24           McCabe --

25           A.     Yes.   16:26

26    623    Q.     -- specifically?

27           A.     Absolutely, Chairman, that's correct, yes.

28    624    Q.     Now, yesterday or Friday, but while you were being  
29           questioned by Mr. Marrinan, he was correctly exploring



1 with you whether you had an anger towards Sergeant  
2 McCabe that caused you to brief negatively against him  
3 or to desire to brief negatively against him, and  
4 Mr. Marrinan grounded that in the story that had  
5 appeared and had been written by Ms. O'Doherty, who we 16:26  
6 heard from earlier on, and your belief or suspicion  
7 that Sergeant McCabe may have been the source for her  
8 information. Now, it appears, I think, that  
9 Ms. O'Doherty is claiming journalistic privilege and is  
10 refusing to disclose her source, but the question that 16:27  
11 I wanted to come to was, if I can just ask you to look  
12 at page 7382 in the documents that are furnished today.  
13 I'm not sure if they are in a separate folder. Yes, I  
14 just want to put this in context, Mr. Callinan.  
15 Mr. Marrinan was exploring that issue with you and 16:27  
16 giving you an opportunity to address it, quite  
17 correctly and properly. The document is at page 7382,  
18 and the next two pages are tweets from Ms. O'Doherty,  
19 and the first of them she pins her colours to the mast  
20 and seems to prefer Mr. McGuinness's account of things 16:27  
21 than yours, but the one I wanted to ask you about was  
22 the one overleaf which I understand was tweeted by  
23 Ms. O'Doherty as a witness to the Tribunal on the 16th  
24 May -- 17th May, so five days ago, where she posted the  
25 snapshot or the screenshot of your Pulse entry dealing 16:28  
26 with the squashing of your penalty points and says in  
27 her tweet:  
28  
29 "Martin Callinan's hatred for 'hashtag Maurice McCabe'

1 became personal after it was revealed 'hashtag  
2 Callinan' had his own speed points wiped. The public  
3 still haven't been given the full facts about this  
4 dubious point termination as the media turn a blind  
5 eye, 'hashtag Disclosures Tribunal'."

16:28

6  
7 Now, that was tweeted five days ago, just immediately  
8 before you started giving evidence. Is the first part  
9 of that correct, Mr. Callinan; did your hatred for  
10 Maurice McCabe become personal after it was revealed  
11 that you had your own speed points wiped?

16:29

12 A. Absolutely not, Chairman. Nothing do with it.

13 625 Q. Do you harbour feelings of hatred towards Sergeant  
14 McCabe?

15 A. No, I certainly do not.

16:29

16 626 Q. No doubt we will hear from Ms. O'Doherty. Then just  
17 related to those questions, I think you've given  
18 evidence, and very clear evidence, about your attitude  
19 to serving members of giving evidence to the PAC, and  
20 it's been dealt with in correspondence, the Tribunal  
21 has seen all of the documentation, it's been opened to  
22 them several times, and I don't propose to open any of  
23 those letters to and from the PAC in relation to that.

16:29

24 A. Yes.

25 627 Q. But can I summarise it, and correct me if I am not  
26 summarising it correctly, Mr. Callinan. Your  
27 opposition to a serving member, and in this case  
28 Sergeant McCabe, giving evidence before a Dáil  
29 committee was twofold, I think there was two limbs to

16:29

1 it. Firstly, you felt that it was damaging to a  
2 disciplined force for a serving member to be going  
3 outside the force to give evidence to a third-party  
4 body. And the second limb is that it risked -- him  
5 doing so risked disclosure of confidential information 16:30  
6 about members of the public, which obviously is  
7 precluded by statute under the data protection  
8 legislation and you were data controller for the force,  
9 is that a fair summary of your concerns?

10 A. That is a good summary, Chairman, yes. 16:30

11 628 Q. Now, the second one of those, I think, is it fair to  
12 say that there's two parts to that also. Firstly, you  
13 had a concern about the delivery of documents to a  
14 third party -- of information, rather, to third  
15 parties, in itself was a concern of yours, isn't that 16:30  
16 right?

17 A. It was, Chairman, yes.

18 629 Q. And secondly, you seem to have had a concern that more  
19 information about the members of the public who were  
20 the subject of that information would come out at any 16:31  
21 hearing in the PAC and that that might be in a public  
22 forum, is that a fair --

23 A. Correct, Chairman, that was one of my primary  
24 considerations, absolutely.

25 630 Q. Now, as part of the interaction that you had with the 16:31  
26 PAC about those issues, I think they suggested or  
27 offered some comfort on that by saying, sure the  
28 documents are going to be redacted so there'll be no  
29 information about members of the public, no information

1 about members of the public will get out, will be  
2 disclosed. Now, I don't think that allayed all of your  
3 concerns, is that fair to say?

4 A. No, Chairman. My difficulty, and this is what I tried  
5 to impress again on Mr. McGuinness when I met him in 16:31  
6 the car park on the 24th January, was that I couldn't  
7 see how it would be possible for Sergeant McCabe to  
8 raise the issues he was raising without mentioning  
9 individuals. I think I used the expression  
10 'benefactors' and the people who had cancelled them and 16:32  
11 the relationship or the correlation between the two. I  
12 couldn't see how effectively you could deal with those  
13 complaints otherwise. That was my point.

14 631 Q. Yes. Because if there was to be a consideration about  
15 whether, in a particular case, it was legitimate to 16:32  
16 quash the penalty points, there would have to be some  
17 discussion of the circumstances and the merits of that  
18 case, is that --

19 A. Absolutely, Chairman, yes. I mean, it is the case that  
20 one of the repeat offenders that was complained about 16:32  
21 was a person delivering blood to hospitals, you know,  
22 there's those type of issues.

23 632 Q. And I think your concerns in relation to the data issue  
24 or the data protection issue were very much shared by  
25 the statutory officer in relation to data protection, 16:32  
26 the Data Protection Commissioner, isn't that right?

27 A. That's right.

28 633 Q. And he wrote to the PAC in relation to the issues,  
29 isn't that right?

1 A. That's correct, Chairman, yes.

2 634 Q. Do I take it from that that you'd agree, and really  
3 it's a matter for the Tribunal insofar as it is  
4 relevant, that this wasn't a mad idea on your part, it  
5 wasn't some sort of bizarre notion or concern that you 16:33  
6 had; it was shared by the relevant statutory  
7 office-holder, isn't that right?

8 A. Absolutely, Chairman, yes.

9 635 Q. Now, you also -- I think it's fair to say that you have  
10 been absolutely open and transparent and frank about 16:33  
11 your concerns in this regard. It's been raised in  
12 correspondence and it's been raised in testimony before  
13 the PAC, isn't that right?

14 A. I don't think there's any doubt about that, Chairman.  
15 But absolutely, I agree. 16:33

16 636 Q. And similarly, your point of view, and I don't want to  
17 get into the merits or the correctness or otherwise of  
18 it, the Tribunal has heard extensive evidence of it,  
19 but your point of view that Sergeant McCabe had not  
20 engaged with the O'Mahony investigation was something 16:34  
21 which you dealt with openly and stated publicly, is  
22 that correct?

23 A. Yes, Chairman, that is correct.

24 637 Q. Yes. As a matter of fact, Sergeant McCabe did not  
25 engage with the O'Mahony investigation, but we've 16:34  
26 traversed that territory and his explanation as to why  
27 and your perception in relation to that. But the point  
28 is that you have stated that at all stages openly and  
29 publicly, isn't that right?

1 A. I have, Chairman, yes.

2 638 Q. Now, if I can then just turn to the interactions that  
3 you had with Mr. Boucher-Hayes in the first instance.  
4 That was leading up to Christmas time, it was the  
5 Crimecall Christmas broadcast. And just for the 16:34  
6 avoidance of doubt, Crimecall is the successor to the  
7 old Garda Patrol programme, isn't that right?

8 A. Yes, that's correct.

9 639 Q. And it is, in essence, a partnership between  
10 independent production companies, An Garda Síochána and 16:35  
11 RTÉ, isn't that right?

12 A. Correct, Chairman, yes.

13 640 Q. And the purpose of the programme from the Garda  
14 perspective is to provide information to the public in  
15 the hope of receiving information to tackle crimes and 16:35  
16 crime prevention?

17 A. Yes.

18 641 Q. Isn't that fair?

19 A. That is it, Chairman, yes.

20 642 Q. And it's not a current affairs programme? 16:35

21 A. No, Chairman, no.

22 643 Q. And on the day in question when you went to RTÉ, I  
23 think you're generally aware that there had been  
24 interactions during the course of the day about  
25 questions that you should be asked, etcetera. And some 16:35  
26 of those questions I think dealt with Garda-specific  
27 issues, but current affairs issues, isn't that right?

28 A. Yes, Chairman.

29 644 Q. So there was a desire to talk about the FCPS, the

1 Smithwick Inquiry, current affairs issues such as  
2 those, isn't that right?

3 A. Correct, Chairman, yes.

4 645 Q. And I think you became aware -- sorry,  
5 Mr. Boucher-Hayes says in his statement that he wanted 16:36  
6 to speak to you in private about his desire to have  
7 these issues discussed on that Christmas Crimecall  
8 programme, isn't that right?

9 A. That's correct, Chairman, yes.

10 646 Q. Now, Mr. Boucher-Hayes is a presenter on the programme; 16:36  
11 he's not the producer, isn't that right?

12 A. Correct, Chairman, that's correct.

13 647 Q. Now, when you got to RTÉ, I think you've said in your  
14 evidence earlier on today that you weren't made aware  
15 that Mr. Boucher-Hayes wanted to meet you, he'd 16:36  
16 expressed that desire to somebody else, but that you  
17 did meet him when you got there and you describe that  
18 meeting and indeed Mr. Boucher-Hayes also describes the  
19 meeting as happening in a corridor, isn't that right?

20 A. That's the position, Chairman, yes. 16:36

21 648 Q. And you say that when you met him, he was -- there was  
22 a woman with him, who I think you surmise, although you  
23 don't know, was maybe a make-up artist?

24 A. I thought that was the situation. I could be wrong  
25 there, Chairman, but I thought that was the situation. 16:36

26 649 Q. Yes. So when you met him, there was somebody with him.  
27 That person presumably left and you had your  
28 conversation then, is that right?

29 A. That's right, Chairman, yes.

1 650 Q. Now, the conversation -- you met him in the corridor,  
2 and, if I understand matters correctly, the  
3 conversation happened in the corridor, isn't that  
4 right?  
5 A. Yes, Chairman. 16:37  
6 651 Q. It didn't happen in a private room?  
7 A. No.  
8 652 Q. He or you didn't take the other party off to somewhere  
9 secluded or private where nobody could come across you  
10 or hear your conversation, isn't that right? 16:37  
11 A. Correct, Chairman, yes.  
12 653 Q. And you were quite happy to have your conversation with  
13 Mr. Boucher-Hayes in the corridor where people could  
14 have walked by or come across you, is that right?  
15 A. Yes, absolutely, Chairman, yes. 16:37  
16 654 Q. Now, we have your evidence in relation to the  
17 conversations, and I don't propose to go over that  
18 again, and no doubt we will hear from Mr. Boucher-Hayes  
19 in the coming weeks.  
20 A. Yeah. 16:37  
21 655 Q. But just to be absolutely clear, and I don't think  
22 there is any dispute between you on this, when you  
23 told -- or when -- at the end of the conversation when  
24 Mr. Boucher-Hayes describes you as having told him this  
25 information about Mr. Wilson and Sergeant McCabe, is it 16:38  
26 correct to say that Mr. Boucher-Hayes asked no  
27 questions whatsoever about it?  
28 A. That's correct.  
29 656 Q. Now, can I then just ask you to turn to the 23rd



1 January, which was your visit to the Dáil, to the PAC.  
2 And you -- I think the Tribunal has heard of three  
3 interactions that had you on that day: one with Deputy  
4 Deasy; one with Mr. McCarthy, the Comptroller & Auditor  
5 General; and the third with Deputy McGuinness. If I 16:38  
6 can just deal with Deputy Deasy's conversation with you  
7 in the first instance. I think it's agreed that that  
8 happened in the coffee dock, isn't that right?  
9 A. Correct, Chairman, yes.  
10 657 Q. And that has been described, and I think the 16:39  
11 Tribunal -- the Chair has seen the location of it, is  
12 at the top of the stairs and seems to be a busy hub of  
13 activity, is that fair?  
14 A. That's fair, Chairman, yes.  
15 658 Q. And, in fact, Deputy Deasy, on page 204 of Day 63, Day 16:39  
16 63, page 206, describes it as being -- sorry.  
17 A. Thank you, Chairman, yes.  
18 659 Q. At page 206, at the very top of the page, he describes  
19 it as being:  
20 16:40  
21 "A very public place, very noisy, people milling about.  
22 It wasn't a place where -- it wasn't a car park or a  
23 corridor, it was a public area."  
24  
25 Okay. Is that your memory of it? 16:40  
26 A. I agree with that, Chairman.  
27 660 Q. And you've been in Leinster House on a number of  
28 occasions, and indeed addressing various Dáil  
29 committees, you've been in that place. Would you agree

1 with that description?

2 A. I would, Chairman, yes.

3 661 Q. Now, if I can just ask you to look then at page 1470,  
4 which is Deputy Deasy's account, his first ever account  
5 of his conversation with you, and this is a broadcast 16:41  
6 on the 14th February 2017, page 1470, volume 6.

7 A. Thank you.

8 662 Q. And you see halfway down that page -- sorry, this was a  
9 larger broadcast, but I think there was a recorded  
10 interaction with Deputy Deasy by Ms. O'Callaghan, and 16:41  
11 on page 16 of the transcript of that broadcast, halfway  
12 down the page, Deputy Deasy is dealing with his  
13 revelation that he had a conversation with you on the  
14 morning of the PAC hearing. Sorry, I should have said  
15 this broadcast took place on the 14th February 2017. 16:42

16 A. Yes, Chairman.

17 663 Q. So three years after the PAC hearing, and he is  
18 revealing and describes meeting you, and he says:  
19  
20 "Before the meeting, I was approached by a very senior 16:42  
21 guard and he proceeded to make some very derogatory  
22 comments about Maurice McCabe, the nature of which  
23 were, you know, Maurice McCabe couldn't be believed and  
24 couldn't be trusted on anything. They were very, very  
25 derogatory. It was, you know, a serious attack and 16:42  
26 very strongly worded."  
27  
28 Now, he then deals with this meeting in his statement  
29 to the Tribunal on page 1503, in a two-paragraph email,

1 I think, to the Tribunal, dated 10th March 2017, and he  
2 says:

3  
4 "I was a member of the Oireachtas Public Accounts  
5 Committee."  
6

16:43

7 So this is a month after his broadcast, or his  
8 interview with Miriam O'Callaghan that I've just read  
9 out you. He says:

10  
11 "I was a member of the Oireachtas Public Accounts  
12 Committee from 2011 to 2016. On January 23rd 2014,  
13 prior to a PAC Committee meeting regarding fixed notice  
14 penalties, I spoke with the then-Garda Commissioner,  
15 Martin Callinan. Mr. Callinan made reference to  
16 Sergeant Maurice McCabe. He referred to Sergeant  
17 McCabe as being someone who could not be believed or  
18 trusted."  
19

16:43

16:43

20 Now, he doesn't say in that email who approached whom,  
21 but what he says is that you refer to Sergeant McCabe  
22 as being someone who could not be believed or trusted.

16:43

23 A. Yes.

24 664 Q. Now, he said in his radio interview that what you said  
25 was that he couldn't be believed and couldn't be  
26 trusted on anything. Now, are either of those two  
27 descriptions of what you said correct?

16:43

28 A. No, they're not, Chairman.

29 665 Q. Now, he was then interviewed by the Tribunal

1 investigators, and the transcript of that interview is  
2 at page 1490.

3 A. Thank you, Chairman.

4 666 Q. And if you just turn to page 1491, at the very bottom  
5 of the page, there's a question on line 21:

16:44

6  
7 "I have been referred to my statement and have been  
8 asked to provide a complete and detailed account of the  
9 conversation I had with the former Garda Commissioner  
10 Martin Callinan prior to the Public Accounts Committee 16:44  
11 as referred."

12  
13 And answer:

14  
15 "The former Commissioner was attending a PAC meeting 16:44  
16 and the Commissioner and several other senior gardaí  
17 were in the coffee dock one floor above the Committee  
18 room. I spoke to Martin Callinan in the coffee dock  
19 standing in an informal manner and the former  
20 Commissioner made reference to Maurice McCabe as 16:44  
21 someone that could not be believed or trusted."

22  
23 And he omits the words "on anything".

24  
25 "It was a very quick conversation after saying 'hello', 16:45  
26 and that is my recollection. I did not reply to the  
27 comment, the reason being I was surprised at it. One  
28 element I have thought about since is, was there anyone  
29 else in earshot, and I can't say if there was anyone

1 else in earshot of the former Commissioner.

2  
3 Question: I have been asked how this conversation with  
4 the former Garda Commissioner Martin Callinan came  
5 about and to detail all attendant circumstances, 16:45  
6 including where and at what time the conversation took  
7 place, were there any other persons present who may  
8 have witnessed and/or overheard the conversation."

9  
10 And his answer to a question asking for the particular 16:45  
11 circumstances of how the conversation came about is  
12 that:

13  
14 "The conversation took place prior to the PAC meeting.  
15 I can't be absolutely certain of the time the 16:45  
16 conversation took place due to the passage of time. I  
17 think Committee meetings took place at 11:00am on a  
18 Thursday. I just can't be sure of the time the  
19 conversation took place.

20 16:45  
21 The conversation took place just prior to the public  
22 session that day. I recall I approached the  
23 Commissioner in the coffee dock and there were other  
24 senior guards present. It was a very basic 'hello',  
25 and then the conversation took place as I have 16:46  
26 described already."

27  
28 So he confirms in his interview that, in fact, it was  
29 he who approached you, is that your recollection of

1 your interaction with him?

2 A. My recollection is the former Commissioner Nóirín  
3 O'Sullivan introduced us.

4 667 Q. Yes. And he deals with that on Day 63, page 205. And  
5 in the middle of that page -- sorry, beginning on page 16:46  
6 204, he says:  
7  
8 "The guards were already in the coffee dock."  
9

10 Sorry, I will let you find it, Mr. Callinan. Line 17. 16:47

11 A. Thank you.

12 668 Q. Sorry, line 13, I should say.

13 A. I have it, yes. Thank you, Chairman.

14 669 Q. Sorry, if I just go back. Line 12, I should say, is  
15 the question, Mr. Callinan: 16:47  
16  
17 "And could you just describe how he approached you?"  
18  
19 Now, that's how you, Mr. Callinan, approached Deputy  
20 Deasy, and presumably that question is based on the 16:47  
21 radio broadcast description of the interaction. And he  
22 says:  
23  
24 "The guards were already in the coffee dock and I was  
25 on my way to the Committee. I stopped off to get a 16:47  
26 coffee and he was standing --"  
27  
28 That is you.  
29

1 " -- I believe with Nóirín O' Sullivan, former  
2 Commi ssi oner.

3  
4 Question: Had you met him before?

5 Answer: Yeah, I had, maybe once, you know, once or  
6 twice, but I knew Nóirín better, former Commi ssi oner  
7 O' Sullivan. She tapped him on the arm and I think he  
8 just turned around and put his hand out. "

16:47

9  
10 Now, if you then go down to page 205, question at line  
11 11:

16:47

12  
13 "And it's your recollecti on that Deputy Commi ssi oner  
14 tapped him on the --

15 Answer: Yeah. I think Nóirín O' Sullivan, former  
16 Commi ssi oner, she tapped him. I was on my way to them.  
17 I suppose I knew former Commi ssi oner O' Sullivan and I  
18 think it was me approaching them and him turning around  
19 and just we shook hands. It was just a meeting like  
20 that. "

16:48

16:48

21  
22 Now, can you reconcile Deputy Deasy's description of  
23 who approached whom, given on the radio broadcast in  
24 February 2017 with his later descriptions of how the  
25 conversation was initiated and how it then took place?

16:48

26 A. Well, I think what you've just read out is an accurate  
27 description of what happened in the context of Deputy  
28 Commissioner, as she was then, former Commissioner  
29 O'Sullivan, introducing us. And I agree the

1 conversation was very brief. He just gave me the  
2 indication, as I've said in my statement, as to what he  
3 was going -- the subject he was going to ask me about,  
4 and he also asked me about whistleblowers and what was  
5 my view on the whistleblowers, and I indicated sure you 16:49  
6 already know my views, I've written to you on two  
7 occasions, and that was pretty much the extent of it,  
8 except to say that -- to bear in mind that not all of  
9 the allegations that Sergeant McCabe had made were  
10 correct. Some of them were questionable and it turned 16:49  
11 out to be some of them turned out to be untrue and that  
12 he had Assistant Commissioner O'Mahony's report which  
13 the Committee had at the time --

14 670 Q. Yes.

15 A. -- to guide them on that process. And that's 16:49  
16 consistent with what I said to the others as well.

17 671 Q. Yes. So you've never denied or disputed that you would  
18 have said to Deputy Deasy that some of the allegations  
19 which are being made by Sergeant McCabe are  
20 questionable because some of them turned out to be 16:49  
21 untrue?

22 A. That is absolutely correct, yes, Chairman.

23 672 Q. And I take it from your description and your  
24 confirmation of Deputy Deasy's later description of who  
25 approached who, that Deputy Deasy was wrong in his 16:50  
26 first revelation of this conversation given in the  
27 radio broadcast that you approached him, is that right?

28 A. I agree, Chairman, absolutely, that is correct, yes.

29 673 Q. Now, it's my understanding, Mr. Callinan, that Deputy



1 Deasy has never suggested that you mentioned sexual  
2 offence or offences or allegations or historic  
3 allegations that had been made against Sergeant McCabe  
4 and of which he had been cleared by the DPP?

5 A. No, Chairman, that never entered the conversation at 16:50  
6 all.

7 674 Q. Yes. The most that Deputy Deasy says is contained at  
8 page 211 on Day 63, and at the very bottom of that page  
9 he's describing how long the conversation took --  
10 sorry, on line 12 he is asked: 16:51

11  
12 "Q. You've no recollection, therefore, of referring to  
13 files or sexual abuse allegations?

14 A. No.

15 Q. And how long did you perhaps spend? I know it is a 16:51  
16 brief period.

17 A. I'd say less than a minute.

18 Q. Less than a minute, all right. But is the height  
19 of it then, as you have stated in your statement and to  
20 the investigators, was that he simply referred to him 16:51  
21 as someone who couldn't be believed or trusted?

22 A. Yes.

23 Q. But did you understand that that related to the  
24 penalty points issue?

25 A. Em. . . 16:51

26 Q. Or did it go further in your mind?"

27

28 And Deputy Deasy says:

29

1 "In my mind it went further."  
2  
3 And then he says:  
4  
5 "And I suppose, maybe I'm putting this together after 16:51  
6 the fact."  
7  
8 Now, I take that to understand - you might confirm if  
9 this is also your understanding, Mr. Callinan - that  
10 Deputy Deasy, having thought about it at some point 16:52  
11 after this conversation, and he doesn't say when or how  
12 long after the conversation, he imported into your  
13 conversation something that he accepts wasn't said or  
14 wasn't even suggested.  
15 A. I agree, Chairman, yes. 16:52  
16 675 Q. Now, if I can then ask you to -- on page --  
17 CHAIRMAN: what is the bit that he accepts wasn't said?  
18 MR. DIGNAM: I think Deputy Deasy confirms, Judge, that  
19 there was never any reference to sexual allegations or  
20 sexual offence having been made against Sergeant 16:52  
21 McCabe. I think he accepted that in evidence. I just  
22 can't find the passage. But he has never suggested  
23 that Mr. Callinan suggested or alleged or implied that  
24 there was a sexual allegation.  
25 CHAIRMAN: I knew that. But, I'm sorry, I thought 16:53  
26 there was a new point being made?  
27 MR. DIGNAM: Oh, no, simply that Deputy Deasy, what he  
28 says is that he thinks he read more into the  
29 conversation, but that was after the fact, not at the

1 time, so he didn't understand.

2 CHAIRMAN: Knowing everything else --

3 MR. DIGNAM: Yes.

4 CHAIRMAN: -- I suppose. No, I do understand the  
5 point. And your point is that this would have been 16:53  
6 another ideal opportunity?

7 MR. DIGNAM: Yes.

8 CHAIRMAN: All right. I take the point.

9 MR. DIGNAM: Thank you, Chairman.

10 676 Q. Now, then, just to finish with Deputy Deasy -- perhaps 16:53  
11 I will move on to Mr. McCarthy, Mr. Callinan. Again,  
12 I'm not going to ask you to recite your version of the  
13 conversation again, the Tribunal has that, Mr. Marrinan  
14 has brought you through that and Mr. McCarthy has given  
15 evidence. But one -- your memory of where this 16:53  
16 conversation took place was that it was, as you walked  
17 down the stairs from, I think the coffee dock area into  
18 the Committee room area downstairs, isn't that right?

19 A. Yes, Chairman.

20 677 Q. I think Mr. McCarthy's memory of it is that it took 16:54  
21 place in the lobby outside the Committee room. But  
22 wherever it took place, is it fair to say that it was a  
23 public place and that it was a place where other people  
24 were congregating and moving around or milling around?

25 A. That's absolutely correct, Chairman, yes. 16:54

26 678 Q. Yes. And would you describe it as busy location?

27 A. Yes, there's always people moving about, particularly  
28 at that hour of the day, yes.

29 679 Q. Presumably there are quite a number of members of An

1           Garda Síochána, there's people from the Department of  
2           Justice, there are the members of the Committee, at the  
3           very least, and, I don't know, there may have been  
4           other committee hearings going on in other rooms. So  
5           there are people around? 16:55

6           A.     Correct, Chairman, including staff.

7   680   Q.     Yes. And I think Mr. McCarthy, in his statement,  
8           fairly qualifies his descriptions of what was said by  
9           use of phrases of -- words were used "to the effect  
10          that", and then he recounts what he says happened. And 16:55  
11          I think he accepted in his evidence that he used that  
12          phrase to convey that he wasn't purporting to quote  
13          exactly what was said. You have probably seen that  
14          evidence, have you?

15          A.     I haven't seen that piece, but I accept that is 16:55  
16          correct, yes.

17   681   Q.     Now, again, I think this was a -- Mr. McCarthy was  
18          attending the same hearing as you and you just happened  
19          to be going down the stairs or happened to be in the  
20          lobby at the same time, is that right? 16:55

21          A.     Absolutely.

22   682   Q.     Did you set out to meet Mr. McCarthy?

23          A.     No, I did not, Chairman, no.

24   683   Q.     And I think it's your view, and again I don't think we  
25          need to trouble the Tribunal with getting into the 16:56  
26          conversation, I think it was your view that  
27          Mr. McCarthy is mistaken in his interpretation of what  
28          you're saying, is that a fair summary?

29          A.     Well, that is what I believed. That is truly what I

1 believe is the situation, based on his conclusion that  
2 it related to the missing computer, etcetera. I think  
3 that is the position, and I can't put it any further.

4 684 Q. Yes. If I can then just ask you to deal with the  
5 interactions with Mr. McGuinness, which happened on the 16:56  
6 23rd and then the 24th January, and I am going to ask  
7 you to deal with the different accounts given by  
8 Mr. McGuinness, because I think you're conscious and  
9 aware that Mr. McGuinness has, in fact, given different  
10 accounts, particularly of his conversation with you on 16:56  
11 the 23rd, immediately after the PAC hearing. And  
12 you're aware that the first time he mentioned you doing  
13 anything improper or inappropriate was in his Dáil  
14 speech in May, isn't that right?

15 A. Correct, Chairman, yes. 16:57

16 685 Q. Yes. And then I think he gave some radio broadcasts in  
17 the months -- the days and then months after --

18 A. Following.

19 686 Q. After that Dáil speech?

20 A. Yes. 16:57

21 687 Q. And I think it's fair to say that he didn't mention in  
22 either his Dáil speech or indeed in those broadcasts  
23 anything about the allegation that you had said  
24 something improper to him at the conclusion of the PAC  
25 hearing, isn't that right? 16:57

26 A. Is that the Dáil speech?

27 688 Q. Yes.

28 A. Other than indicating that vile allegations were  
29 repeated, but they were non-specific.

1 689 Q. Yes. But I think it's fair to say that that is in  
2 reference to your meeting in the car park?  
3 A. Oh, that's correct, yes.

4 690 Q. Yes. So he didn't say, and you may correct me if I am  
5 wrong, but he didn't say in either his Dáil speech or 16:57  
6 in the radio broadcast that not only had you said  
7 something inappropriate or improper in the car park,  
8 but, in fact, the very day before that you had said  
9 that Sergeant McCabe interfered with children, or  
10 whatever phrase he feels was used? 16:58

11 A. Correct, Chairman, yes, that is the position.

12 691 Q. Then just dealing with the shorthand, the 'kiddie  
13 fiddler' allegation, and, in fact, it's correct to say  
14 that Deputy McGuinness never used the words 'kiddie  
15 fiddler', isn't that right? 16:58

16 A. No, he didn't, Chairman.

17 692 Q. And that that, in fact, comes from Superintendent  
18 Taylor's account of the conversation, not Deputy  
19 McGuinness's account?

20 A. Correct, Chairman, yes. 16:58

21 693 Q. Now, it was put to you by Mr. Lehane that, sure they're  
22 the same thing. So Deputy McGuinness, I think, says  
23 that -- claims to have said -- sorry, claims you said  
24 'this man fiddles with children, this is outrageous',  
25 and in Dave Taylor's he heard you saying that 'this man 16:59  
26 is a kiddie fiddler'?

27 A. Correct, Chairman, yes.

28 694 Q. Now, it was put to you that they're one and the same  
29 thing. Now, I think you'll agree that the substance of

1 those two phrases is one and the same, isn't that --

2 A. There are certain similarities, I would have to concede

3 that, of course.

4 695 Q. But I think the point you're making in response to

5 Mr. Lehane is that the words are different? 16:59

6 A. They are, they're certainly different.

7 696 Q. And I think the Tribunal obviously will be reading the

8 evidence and the documents very carefully, but both

9 Deputy McGuinness and indeed Superintendent Taylor give

10 those words, give their respective words as quotes, not 16:59

11 qualified in the way that that Mr. McCarthy has

12 qualified his description of the conversation, but

13 actually as quotations of what you have said, and

14 they're different?

15 A. Well, I think that is the point, Chairman, yes. 17:00

16 697 Q. Now, the first time that Deputy McGuinness said that

17 you said 'this man fiddles with children, this is

18 outrageous' was in his statement to the Tribunal on the

19 28th March 2017, isn't that right?

20 A. That's correct, Chairman, yes. 17:00

21 698 Q. And then a full year later to the very day, the 28th

22 March 2018, just under two months ago, Deputy

23 McGuinness then gave in an interview with the Tribunal

24 his longer description of what you're alleged to have

25 said, and if I can just ask you to look at page 2165 17:00

26 very briefly, you'll see, and I'm not going to read it

27 all out to you again Mr. Callinan, but you will see

28 that the quote is considerably longer and the contents

29 are considerably different to what Deputy McGuinness

1 had attributed to you in his first statement to the  
2 Tribunal and the only piece that it has in common with  
3 Deputy McGuinness's first statement, you'll agree, is  
4 "and the other fella fiddles with kids", isn't that  
5 right?

17:01

6 A. That's correct, Chairman, yes.

7 699 Q. And I think it is correct to say that that statement  
8 was given a number of months or that account was given  
9 a number of months after you had dealt with Deputy  
10 McGuinness's original allegation and original quotation  
11 of what you said and that's to be found at page 690,  
12 but I don't need you to look at it --

17:02

13 A. Okay.

14 700 Q. -- Mr. Callinan, and that is where you described Deputy  
15 McGuinness coming to you and you asking him whether he  
16 was going to call Mr. Wilson and you describing to the  
17 Tribunal what Deputy McGuinness's response to that was,  
18 and a number of months after that, Deputy McGuinness  
19 put this statement in, isn't that the chronology?

17:02

20 A. That's correct, Chairman. That is the chronology, yes.

17:02

21 701 Q. And we then have a number of accounts given by Deputy  
22 McGuinness as to exactly what happened and again I  
23 don't need to get into them in any detail, just for the  
24 purpose of the Tribunal, they are to be found on day  
25 62, pages 35, 43 and 45 of the transcripts. But Deputy  
26 McGuinness is describing at various stages how he  
27 approached the group and whether you were in the middle  
28 of the story or just commencing the story or had just  
29 started talking about Mr. Wilson. Now, are any of the

17:02



1 accounts, either the first one that Deputy McGuinness  
2 gave in his first statement or the enlarged one that he  
3 gave in his second statement or the accounts that he  
4 gave in his evidence, which I think you have read  
5 carefully, correct?

17:03

6 A. No, they are not, Chairman.

7 702 Q. Now, Superintendent Taylor's evidence has been that he  
8 heard you say that "this man is a kiddie fiddler". So  
9 this is his account of the exact same conversation that  
10 Deputy McGuinness has given. And what Superintendent  
11 Taylor describes you as saying is that "this man is a  
12 kiddie fiddler" and that is all he describes you as  
13 saying. Because he says he missed the opening because  
14 he was getting your hat and satchel. And he then says  
15 what he says he heard, but he doesn't and didn't hear  
16 the final bit of the conversation, which is "these are  
17 the type of fucking headbangers that I've to deal  
18 with", which is recounted by Deputy McGuinness. Now,  
19 can you offer any explanation as to how Superintendent  
20 Taylor, having come into the conversation before you  
21 allegedly said "this man is a kiddie fiddler", would  
22 have missed that last part of the conversation?

17:04

17:04

17:04

23 A. I think it would be extraordinarily difficult for him  
24 if he had heard the remark he's alleged to have said I  
25 had uttered on the occasion for him not to have heard  
26 at least a portion of what Mr. McGuinness was  
27 subsequently describing, Chairman.

17:05

28 703 Q. Now on day 77, page 36, and again I don't need you to  
29 open the transcript but, Superintendent Taylor said in

1 his evidence that he never heard you using bad  
2 language, that it wasn't part of your vocabulary?  
3 A. He is correct there, Chairman.  
4 704 Q. But Deputy McGuinness has you in fact using bad  
5 language on an occasion when Superintendent Taylor was 17:05  
6 there. Do you take it from that that Superintendent  
7 Taylor definitely didn't hear you saying what you're  
8 alleged to have said to Deputy McGuinness?  
9 A. I can only go by what he is saying to me.  
10 705 Q. Now, if I can then just turn to the car park when you 17:06  
11 met Deputy McGuinness at Bewley's hotel on the 24th.  
12 I'm just going to try and summarise your evidence  
13 rather than going through it again, Mr. Callinan,  
14 because I think the Tribunal has again heard this at  
15 great length. But your purpose of trying to see Deputy 17:06  
16 McGuinness was to present some proposals that you had  
17 come up with to him, isn't that right?  
18 A. Correct, Chairman, yes.  
19 706 Q. And you've explained to the Tribunal that how you came 17:06  
20 up or how you came to come up with those proposals was  
21 that the previous evening towards the end I think of  
22 the hearing before the PAC, Deputy McGuinness had said  
23 well look, if I was having trouble with an employee or  
24 having an issue with an employee I'd sit down and talk  
25 or I'd call him in and talk to him and you had 17:06  
26 reflected on that and you thought that there was a  
27 possibility that you could ward off the necessity for  
28 the PAC to call Sergeant McCabe by adopting a version,  
29 and only a version, of that suggestion by Deputy

1           McGuinness, is that right?

2           A.    That's correct.  Or at least postpone the proposed  
3           meeting --

4   707   Q.    Yes?

5           A.    -- on the basis that I would deal with it along the           17:07  
6           steps I was suggesting.

7   708   Q.    If I understand the chronology correctly, you took  
8           legal advice on the evening of the 23rd and the two  
9           draft letters that we have seen that weren't in fact  
10          sent were drafted up on the evening of the 23rd?           17:07

11          A.    They were.  They were, Chairman.

12   709   Q.    Mr. Marrinan has pointed out to you some difficulties  
13          with language where on one occasion you're referring to  
14          the 23rd as yesterday evening --

15          A.    Yes.   17:07

16   710   Q.    -- and on another occasion you're referring to it as  
17          the day that the letter had been written?

18          A.    Yes.  I think if "today" had been corrected to  
19          "yesterday" I think that probably would have  
20          straightened out the issue.   17:07

21   711   Q.    You've been asked why you didn't send those letters to  
22          the PAC, why you didn't simply send them, rather than  
23          seeking to meet Mr. McGuinness.  And would you correct  
24          me, correct my understanding of your evidence, that you  
25          wanted to see Deputy McGuinness, who was the Chairman           17:08  
26          of the committee, to see if they were a runner, so to  
27          speak?

28          A.    That is correct, Chairman.  That was my sole purpose.

29   712   Q.    Yes.  So I think you were of the view that there was no

1 point in sending them unless you were getting the  
2 recommendation or endorsement or agreement of the  
3 Chairman of the committee, is that right?

4 A. That's correct, Chairman, yes. That's the position.

5 713 Q. Now it's been repeatedly said in evidence that all of 17:08  
6 the issues had already been dealt with and decided, so  
7 there was no point in you coming to Deputy McGuinness  
8 saying all of this. From your point of view I think  
9 this has been described, I think you would accept this,  
10 that this was you having a last go, having another go 17:09  
11 at achieving the result that you wanted to achieve?

12 A. Absolutely, Chairman. That is the position, yes.

13 714 Q. Is it correct to say that all of the issues had been  
14 dealt with and decided at that stage?

15 A. No, no, Chairman. The committee were meeting on the 17:09  
16 Tuesday, as I understood it, to decide whether the  
17 meeting would be in public or private and that was a  
18 particularly big issue for me.

19 715 Q. One of the things, if I understand your evidence  
20 correctly, that the way the meeting I think concluded 17:09  
21 was you wanted Deputy McGuinness to let you know if it  
22 was going to be in public or private, isn't that right?

23 A. Correct, Chairman, yes. And also, of course, some  
24 reassurance about personalising some of the  
25 documentation or at least identifying individuals 17:09  
26 within the documentation and how that could be  
27 overcome. And again, I repeated the fact I didn't  
28 believe it was possible for Sergeant McCabe to raise  
29 those issues without actually dealing with individuals,

1 private individuals, and indeed Gardaí, and their  
2 relationships.

3 716 Q. I think it was put to you that your efforts to date  
4 hadn't borne fruit and I think you'd accept that, that  
5 up to that day your efforts hadn't borne fruit, but in 17:10  
6 fact the decision was made, and I don't think you're  
7 claiming credit for this but a decision was made the  
8 following week that it would be a private hearing and  
9 not a public hearing?

10 A. Correct. 17:10

11 717 Q. Yes. And that was one of the fruits that you wanted,  
12 one of the fruits of your labours that you were hoping  
13 would be achieved?

14 A. It was, Chairman. And I was trying to claim a bit of  
15 credit but obviously it didn't work, apparently. 17:10

16 718 Q. It wasn't an ideal solution. It didn't allay all your  
17 concerns. But it went some way towards allaying your  
18 concerns.

19 A. It was a compromise, yes. As far as I was concerned,  
20 Chairman. 17:10

21 719 Q. You've given your account of the conversation in the  
22 car, am I correct in my understanding that he didn't  
23 mention at any stage, Deputy McGuinness didn't mention  
24 at any stage during that conversation the comments  
25 which he now accuses you of having made on 23rd 17:11  
26 January, either form of them?

27 A. Correct.

28 720 Q. Yes. So he alleges that in this conversation you  
29 brought up with sexual allegations and he didn't refer

1 back and say 'You told me about this yesterday, Martin,  
2 I'm not interested', there was no reference at all, is  
3 that right, to what you had allegedly said the day  
4 before?

5 A. That is correct, Chairman, yes.

17:11

6 721 Q. On day 62, page 60, I might ask you to look very  
7 briefly at that, Mr. Callinan, day 62, page 60, if I  
8 can ask Mr. Kavanagh to scroll down slightly, you will  
9 see on line 15 he describes you getting into the car  
10 and then he says:

17:12

11  
12 "And then he immediately got into the conversation to  
13 do with the Maurice McCabe and the issues. I suggested  
14 to him at the beginning of this conversation, as I did  
15 the day before, that like any other employer that  
16 perhaps the best way out of this was for him to talk  
17 directly to Sergeant Maurice McCabe and to determine  
18 what exactly the issues were and resolve it that way,  
19 without it having to, you know, go into the public  
20 realm and him dealing -- trying to deal with it that  
21 way. And it was at that stage that he said to me --"

22  
23 That is, that you said to Deputy McGuinness.

24  
25 "-- that no, it had gone beyond all of that and that  
26 there was issues to do with Maurice McCabe and his  
27 behaviour and he suggested that there was --"

28  
29 Then he goes on to describe what you say about the

1 sexual allegations. Now, the previous evening you had  
2 gone to the trouble of getting legal advice and ask  
3 people to draft up two proposal letters which was an  
4 adoption by you of a version of what Deputy McGuinness  
5 had said at the end of the PAC and what he refers to in 17:13  
6 that passage.

7 A. Correct, Chairman, yes.

8 722 Q. Does it make any sense to you, Mr. Callinan, that  
9 having gone to that trouble, that if he had suggested,  
10 if he'd referred again to the employer/employee issue 17:13  
11 that you would have simply dismissed it, having gone to  
12 the trouble of drafting the two letters and taken legal  
13 advice the previous evening?

14 A. No. That was my attempt to resolve matters, as  
15 suggested by the Chairman at that particular point. 17:13

16 723 Q. Finally in relation to Deputy McGuinness, Mr. Callinan,  
17 you have been accused by Deputy McGuinness of accusing  
18 or seeking to brief negatively or suggest that there  
19 was something untoward about Sergeant McCabe because of  
20 a sexual allegation about him in the past. What would 17:14  
21 you, at that stage Commissioner of An Garda Síochána,  
22 have expected a responsible public representative to  
23 have done if those conversations took place?

24 A. Well, if they had taken place, Chairman, as I indicated  
25 earlier on, I would have expected that those 17:14  
26 allegations would have been laid at the feet of the  
27 Minister for Justice or the Taoiseach or both. And I  
28 also believe that they should have been brought to the  
29 O'Higgins Commission. I think it was very appropriate

1           that that would have happened.

2   724   Q.   It has been said that the reason didn't tell anybody in  
3           authority, so to speak, about this conversation or  
4           these conversations was that he didn't want to add to  
5           the hurt of Sergeant McCabe and indeed of his family by 17:15  
6           making this public.  Were there ways in which a public  
7           representative could bring inappropriate improper  
8           behaviour by the Commissioner of An Garda Síochána to  
9           the attention of relevant authorities without making it  
10          public? 17:15

11          A.   Well, I think GSOC would be another option I suppose,  
12          that that could have been done.  But certainly, I'd  
13          strong views about the O'Higgins Commission being --  
14          you know, that they should have been consulted.

15   725   Q.   So finally in relation to those conversations, 17:15  
16          Mr. Callinan, it's been suggested -- that's  
17          Mr. Boucher-Hayes, Deputy Deasy, Deputy McGuinness, and  
18          Mr. McCarthy -- it has been suggested to you that we  
19          had four people who within a calendar month are  
20          accusing you of saying more or the less the same thing. 17:16  
21          Now, I think it's more correct to say, would you agree,  
22          that in face we have four people who between two and  
23          four years after the relevant time period are saying  
24          that you said similar things; would you agree with  
25          that? 17:16

26          A.   I would absolutely agree with that, Chairman, yes.

27   726   Q.   And would you agree that there are in fact striking  
28          differences between the accounts of what the four  
29          people give of what they allege you said?



1 A. Yes, there are, Chairman.

2 727 Q. And would you agree that all of these meetings and  
3 interactions bar the car park one happened in public  
4 places, and by that I mean places that are accessible  
5 to other people and that people could have come across 17:16  
6 you and could have entered at any point in time?

7 A. Absolutely, Chairman. That is the -- that is factually  
8 correct.

9 728 Q. Did any journalist -- just moving to a different topic.  
10 Did any journalist ask you any questions, any follow-up 17:17  
11 questions to anything that they had ever been told by  
12 Superintendent Taylor?

13 A. No, never, Chairman.

14 729 Q. And I think, again I don't need to you go to them, but  
15 there are occasions described at page 595, which is 17:17  
16 your interview with the Tribunal investigators, I don't  
17 need you to look at it Mr. Callinan, where you explain  
18 occasions when you would have met journalists. Nobody  
19 ever asked you at those type of occasions what's this  
20 about Sergeant McCabe, Dave has been telling us 17:17  
21 something, can he give us any more information?

22 A. No, that never happened, Chairman, no.

23 730 Q. Just turning then to Ms. O'Doherty's visit to your  
24 home. Is it fair to say, Mr. Callinan, that your  
25 concern and annoyance and upset about that was at the 17:17  
26 idea of a journalist knocking on the Garda  
27 Commissioner's door late in the evening to follow up a  
28 story?

29 A. That's essentially it, Chairman, yes.

1 731 Q. And could you see it as being an acceptable or  
2 tolerable situation that a person in the public eye,  
3 such as the Commissioner of An Garda Síochána, could be  
4 placed in a situation and a scenario where journalists  
5 can feel free to pursue their stories by knocking on 17:18  
6 the Commissioner's door rather than making official  
7 contact with the Commissioner's office or with the  
8 Press Office?

9 A. Well, I didn't think it was appropriate, Chairman.  
10 And, you know, it has always been the case that the 17:18  
11 interaction between the media and the Gardaí are  
12 through the Press Office.

13 732 Q. Yes. Now it's been put to you that this was about your  
14 personal affairs so it shouldn't have gone through the  
15 Press Office, but I think it is fair to say, and you 17:18  
16 might differ with me if your understanding is  
17 different, that the gist of this story that ultimately  
18 was published was that it was newsworthy because the  
19 Commissioner of the Garda Commissioner had had penalty  
20 points quashed whilst he was Deputy Commissioner of the 17:19  
21 guards, isn't that right?

22 A. That's correct, Chairman, yes.

23 733 Q. Now I understand from what Mr. Harty put to you that in  
24 fact Ms. O'Doherty was in frequent enough, it seems,  
25 email contact with you about other matters, is that 17:19  
26 right?

27 A. I would expect that was the position, certainly, yes.

28 734 Q. Did she ever send you an email to say, listen, I have  
29 this Pulse entry, would you confirm that this is you?

1 A. No, certainly not, Chairman, no.

2 735 Q. You've agreed that you did ask Superintendent Taylor to  
3 take up the issue of a nighttime visit by a journalist  
4 to your private home with Ms. O'Doherty's employers,  
5 isn't that right? 17:19

6 A. I did indeed, Chairman.

7 736 Q. As far as you were aware that took place by a phone  
8 call that Superintendent Taylor placed to  
9 Ms. O'Doherty's employers, isn't that right?

10 A. I believe that was the situation, Chairman, yes. 17:20

11 737 Q. Did you direct or instruct him to also set up a meeting  
12 or have a meeting with Ms. O'Doherty's employers?

13 A. No, Chairman.

14 738 Q. Now I just have a few areas that I want to cover very  
15 briefly, and I am conscious that I have gone 17:20  
16 considerably over --

17 CHAIRMAN: Yes.

18 MR. DIGNAM: -- the estimate.

19 CHAIRMAN: 40 minutes over 30 minutes. One hour and  
20 ten minutes. But let's carry on. 17:20

21 739 Q. MR. DIGNAM: Mr. Callinan, it was, your phone contact  
22 log from your mobile phone, it was put to you that  
23 certain people's addresses or phone numbers rather were  
24 in your contact log, I don't know whether any point is  
25 being made about that, would you confirm -- and I don't 17:20  
26 propose to open it up, would you confirm -- I think the  
27 FSNI have said that there were about 1200 contacts in  
28 your phone, would you confirm that amongst those there  
29 are very, very many superintendents and chief

1           superintendents of An Garda Síochána?

2           A.    Absolutely, Chairman, yes.

3           CHAIRMAN:  Honestly, I would expect that.

4           A.    Mr. Chairman.

5   740   Q.    MR. DIGNAM:  Now, Mr. McDowell yesterday suggested that  17:21

6           history would have been very different but for the

7           letter of the 4th July 2011, the Chief Superintendent

8           Rooney letter, and that in those circumstances it was

9           unreasonable to expect Sergeant McCabe to have engaged

10          with the internal processes.  To your knowledge has  17:21

11          Sergeant McCabe ever offered that as a reason for not

12          having engaged with the O'Mahony investigation?

13          A.    Not to my knowledge, Chairman, no.

14   741   Q.    Mr. McDowell opened the transcript of his meeting with  17:22

15          Superintendent Curran when the direction/invitation

16          letter or circular was read out to him, there's nothing

17          in that where Sergeant McCabe says, well, you can't

18          expect me to go through the internal processes because

19          of the way I was treated by Chief Superintendent

20          Rooney's letter or indeed the Commissioner's response  17:22

21          to that, isn't that right?

22          A.    That's correct, Chairman, yes.

23   742   Q.    You suggested yesterday that the head of the National

24          Bureau of Criminal Investigation -- sorry, whose name

25          just escapes me?  17:22

26          A.    Padraig Kenny, chief superintendent.

27   743   Q.    Yes, thank you, Mr. Callinan -- may have been part of

28          the O'Mahony investigation team and that may have been

29          why he ended up interviewing Mr. Bernard McCabe?

1 A. I think that might be the position, Chairman. I'm not  
2 a hundred percent sure but I think that is the  
3 situation.

4 744 Q. I don't need to you look at this --

5 A. Okay. 17:23

6 745 Q. -- but on page 7155, Assistant Commissioner O'Mahony  
7 confirms that Chief Superintendent Kennedy was in fact  
8 a member of the investigation team.

9 A. I thought so, yes. Thank you.

10 746 Q. Now just in relation to some of the questions that you 17:23  
11 were asked by Ms. Burns about not bringing it to  
12 anybody's attention at an earlier stage that  
13 Superintendent Taylor had said that he would bring  
14 Nóirín O'Sullivan down, isn't it correct to say that  
15 that was referred to in your very first statement -- 17:23

16 A. It is, Chairman, yes.

17 747 Q. -- to the Tribunal. Yes. So on foot of the invitation  
18 and the call made by the Chairman for relevant  
19 information to be given you responded with a statement  
20 and in that statement you told the Tribunal of that 17:23  
21 conversation and that Superintendent Taylor said that,  
22 isn't that right?

23 A. I did, Chairman, yes.

24 748 Q. And that was on the 13th March 2017. In relation to  
25 the penalty points and the quashing of your penalty 17:24  
26 points issues, much was made of the fact that the Pulse  
27 printout, which was attached to Ms. O'Doherty's tweet  
28 of five days ago, didn't show who the driver of the car  
29 was. You might correct me if I am wrong, Mr. Callinan,

1 but certainly in those days I think, probably still the  
2 same now, that the default position is that the owner  
3 of a car is fixed with the penalty points and it's up  
4 to the owner --

5 A. Nominate.

17:24

6 749 Q. -- to nominate somebody else if they happen to be  
7 driving the car?

8 A. That's correct, Chairman.

9 CHAIRMAN: Or even if they don't happen to be driving  
10 the car. I'm making a joke. Right. I'm not saying  
11 you would. But it has happened.

17:24

12 A. Thank you, Chairman.

13 750 Q. MR. DIGNAM: Then finally, just these issues,  
14 Mr. Callinan, Mr. Shatter gave evidence of him having  
15 asked you for information and I think he put it in  
16 terms that he asked you whether there was any  
17 background information to explain why it was so  
18 difficult to deal with Sergeant McCabe about these  
19 issues, and Mr. Shatter gave some colourful  
20 descriptions of how he perceived those interactions to  
21 be. And I think you've given today that, and indeed  
22 over the last few days, that you felt obliged to tell  
23 Mr. Shatter, who was your Minister at that time,  
24 anything that was in Sergeant McCabe's background that  
25 you felt he should know about, isn't that right?

17:25

17:25

17:25

26 A. I think I was obliged, statutorily obliged to do that,  
27 Chairman.

28 751 Q. Just in closing, Mr. Callinan, I think you'd accept  
29 that Superintendent Taylor is your principal accuser, I

1 mean is paragraph 1 of the terms of reference of this  
2 Tribunal, isn't that right?

3 A. He is, Chairman, yes.

4 752 Q. The title of the Tribunal is the Disclosures Tribunal  
5 because it is into the protected disclosure made by 17:26  
6 Superintendent Taylor, isn't that right?

7 A. Yes, Chairman.

8 753 Q. And from the outset, even before this Tribunal was  
9 established, you had denied any wrongdoing of the type  
10 that had been alleged against you by Superintendent 17:26  
11 Taylor, isn't that right?

12 A. I had, Chairman, yes.

13 754 Q. Ms. Burns pointed out that you didn't give that denial  
14 in the first two letters in response to Judge O'Neill.  
15 I think is it fair to say that Judge O'Neill was doing 17:26  
16 a scoping exercise, so he needed to know whether there  
17 was a dispute between you or not, but you were focused  
18 on dealing with the substance of the allegations that  
19 are made against you, so that you could put your  
20 position, is that fair? 17:27

21 A. That's fair, Chairman. And with considerable legal  
22 advice as well.

23 755 Q. And then when it became clear that Judge O'Neill needed  
24 to know from the point of view of a scoping exercise  
25 that there was a dispute that couldn't be resolved you 17:27  
26 said you fully deny any of the wrongdoing of the type  
27 alleged by Superintendent Taylor, isn't that right?

28 A. That's correct, Chairman, yes.

29 756 Q. And the Tribunal has that correspondence and can see

1 the terms of your denial and indeed the fact that you  
2 repeatedly say in your correspondence with Judge  
3 O'Neill that you need to know the specifics and details  
4 of the allegations against you, you repeat that over  
5 and over again in that correspondence? 17:27

6 A. Correct, Chairman, yes.

7 757 Q. And indeed you repeated that to this Tribunal on the  
8 first page of your statement on page 640 of the booklet  
9 where you say it's very difficult to deal with this  
10 because it's all so vague and unspecific and lacking in 17:28  
11 detail, but here, here's my account of things to the  
12 best that I can do in the absence of any details?

13 A. Chairman.

14 758 Q. Is it fair to say that you expected, Mr. Callinan, that  
15 if there was any truth to the allegations made by 17:28  
16 Superintendent Taylor that he would have provided some  
17 minimum level of detail to this Tribunal?

18 A. That would be a minimum expectation, Chairman.

19 759 Q. And I think you will have no difficulty agreeing that  
20 this Tribunal has gone to enormous lengths to provide 17:28  
21 Superintendent Taylor with every opportunity to give a  
22 shred of detail about his interactions or alleged  
23 interactions with journalists which formed the basis of  
24 his allegations against you, would you agree with that?

25 A. I saw that, Chairman, absolutely, yes, and I agree 17:28  
26 fully with it.

27 760 Q. Mr. McGuinness, indeed the Chair and other parties  
28 repeatedly asked Superintendent Taylor for details or  
29 specifics and the closest that Superintendent Taylor



1 came to giving detail was to say that when he was  
2 briefing on the phone, his location was at the other  
3 end of the phone, and when he was asked whether  
4 briefings took place during the day or night he  
5 couldn't answer save to say that it was some time 17:29  
6 within the 24 hour clock. So they are the only  
7 specifics that Superintendent Taylor gave and --  
8 CHAIRMAN: Yes. That was a memorable answer,  
9 certainly. The 24 hour cycle in fact I think is what  
10 he said. 17:29

11 761 Q. MR. DIGNAM: So in the absence of that detail and  
12 specifics, Mr. Callinan, allowing for that continuing  
13 lack of detail or information are you still comfortable  
14 telling this Tribunal that you didn't participate or  
15 engage in any of the -- or direct any of the wrongdoing 17:29  
16 which is alleged against you by Superintendent Taylor?  
17 A. Absolutely, Chairman. There was no campaign and I did  
18 not direct any campaign to negatively brief against  
19 Sergeant McCabe.

20 MR. DIGNAM: Thanks, Mr. Callinan. 17:30

21 CHAIRMAN: Thank, you. Is there anything,  
22 Mr. Murrinan?

23 MR. MARRINAN: Yes, just one matter, sir.

24  
25 THE WITNESS WAS RE-EXAMINED BY MR. MARRINAN AS FOLLOWS: 17:30

26 762 Q. MR. MARRINAN: Mr. Callinan, obviously you're in  
27 conflict with a large number of witnesses who have  
28 given evidence already to the Tribunal but perhaps just  
29 if I can deal with one area where there doesn't appear

1 to be any conflict at all, indeed you commented on it  
2 in your evidence on the first day you were giving  
3 evidence when I brought you to the draft letter or  
4 notes or whatever you wish to call it, in relation the  
5 private dispute between Gerald Kean and Maurice McCabe 17:30  
6 and you said that it wasn't your finest hour.

7 A. Yes, Chairman.

8 763 Q. That being so, and I think that Superintendent Frank  
9 Walsh and yourself both identified that this was wholly  
10 inappropriate, to be sending this or to be drafting it 17:31  
11 in the first instance and then in the second instance  
12 to be sending it to Mr. Kean, even though it  
13 subsequently did make its way to Mr. Kean and formed  
14 part of his letter in defence that he sent to Sergeant  
15 McCabe, but that being not your finest hour, what do 17:31  
16 you think caused you to behave inappropriately at that  
17 time in relation to Sergeant McCabe?

18 A. Well, it was just the matter of the way the  
19 correspondence, it came to me, and my initial thoughts  
20 and my thought process and then I decided this isn't 17:31  
21 the way to go and I stopped. I had that discussion  
22 with the private secretary, Frank Walsh, and we both  
23 agreed it wasn't the way to go. And he subsequently  
24 went to see Mr. Kean and I was aware of that. I was  
25 absolutely aware of that. 17:32

26 764 Q. I'm not going to go back over it again, we've dealt  
27 with the issue of the non-disclosure of the discussion  
28 with Mr. Kean on Saturday 24th and also your  
29 non-disclosure to Superintendent Frank Walsh of that

1 earlier conversation. We have been through all that.

2 A. Yes, Chairman.

3 765 Q. One could discern from that, that you were slightly  
4 embarrassed to tell Superintendent Frank Walsh that you  
5 had had the discussion that you had with Gerald Kean 17:32  
6 prior to him going on the Marian Finucane show, is that  
7 right?

8 A. Well, I can see where that point might be raised but  
9 that wasn't the case, Chairman.

10 766 Q. Well, it was either that or what Gerald Kean says; 17:32  
11 namely, that you said that you wanted to keep the  
12 conversation between yourselves, that Superintendent  
13 Frank Walsh wasn't told?

14 A. No, Chairman. That's not correct.

15 767 Q. All right. 17:33

16 A. I certainly didn't say that.

17 768 Q. Well regardless, I mean the Tribunal has been  
18 confronted, for example, with Diarmuid O'Sullivan  
19 coming in, when clearly he had phone contact with  
20 Gerald Kean, and clearly had phone contact with you, 17:33  
21 not only on the Saturday but also on the Sunday --

22 A. No, sorry, chief superintendent -- retired Chief  
23 Superintendent O'Sullivan didn't have contact with me  
24 until the Sunday evening.

25 769 Q. Yeah. Well, whatever. I mean, he's coming in here and 17:33  
26 he claims that he has no recollection at all of  
27 Saturday or Sunday. Did you speak to Diarmuid  
28 O'Sullivan in the recent past?

29 A. No, Chairman.

1 770 Q. Did you speak to Mr. Kean either at the end of last  
2 year or the beginning of 2017 or this year?  
3 A. I don't have any recollection at all of speaking --  
4 771 Q. well, did you or didn't you? whether you have  
5 recollection now or not, did you or didn't you? 17:34  
6 A. I'm sorry, I did not have any contact with Mr. Kean.  
7 772 Q. All right, that is fine. So Mr. Kean didn't contact  
8 you and advise you that he was going to refer to you in  
9 his defence to the civil action being brought by  
10 Maurice McCabe? 17:34  
11 A. In the recent past?  
12 773 Q. well, at all.  
13 CHAIRMAN: It's a good while ago, but it is in the  
14 defence. It's a public interest defence, a defence to  
15 libel. The public had a legitimate interest and he 17:34  
16 checked his sources prior to making a comment. So that  
17 is what Mr. MARRINAN is asking: At any time did he  
18 tell you look, you're going to be in the defence?  
19 A. No, certainly not, Chairman. Sorry, I beg your pardon.  
20 I just didn't pick you up properly there. 17:35  
21 774 Q. MR. MARRINAN: Or his solicitors didn't contact you to  
22 advise you of that?  
23 A. No, no. Certainly not, Chairman, no. Certainly not.  
24 775 Q. When you communicated with the Tribunal with your first  
25 statement, which was your third supplemental statement 17:35  
26 to the Tribunal, you weren't aware of the fact that  
27 Gerald Kean was stating that he had received this  
28 information from you?  
29 A. No, I was not, Chairman.

1 776 Q. And of course we know that you didn't include any  
2 reference to the Saturday conversation in that  
3 statement, that you initially provided to the Tribunal.

4 A. No, because initially, as I've said already, Chairman,  
5 I didn't even remember the letter in the first place 17:35  
6 until I got it and I didn't remember the sequence of  
7 phone calls. I knew I had spoken to Mr. Kean but I  
8 didn't remember the series of phone calls.

9 777 Q. Well, you see, that may feed into the suggestion that  
10 could be made that you and Mr. Kean had agreed not to 17:35  
11 refer to this, to this conversation and that that's why  
12 we weren't told about it and that is why you didn't  
13 tell Superintendent Frank Walsh about it and that is  
14 why Diarmuid O'Sullivan has no recollection of this at  
15 all. Do you see how a lot of that could possibly be 17:36  
16 seen to fit together?

17 A. I take the point you're making, Mr. Marrinan,  
18 absolutely. But I have indicated at the first  
19 available opportunity when I saw those records that the  
20 chief superintendent, retired chief superintendent 17:36  
21 spoke to me on the Sunday and he did indicate to me  
22 that he was aware that I had been speaking with  
23 Mr. Kean but we didn't discuss what we had been talking  
24 about and he went on to deal with something, a very  
25 sensitive issue, an operational issue which he had 17:36  
26 dealt with me on a number of occasions subsequent to  
27 that phone call.

28 778 Q. Well, in any event, if we just down to this not being  
29 your finest hour, I mean, you've just given evidence to

1 the Chairman, talking about the responsibilities of the  
2 Garda Commissioner, and all the weighty issues that had  
3 to be dealt with on a daily basis, and indeed the  
4 number of crises that were plaguing the Gardaí at this  
5 time, I mean the notion of you sitting down and 17:37  
6 drafting this letter in the first person for Mr. Kean  
7 might suggest that you were doing it to do down Maurice  
8 McCabe and to join with Mr. Kean in responding to  
9 Maurice McCabe's legitimate concerns that he had about  
10 the radio broadcast? 17:38

11 A. No, Chairman. That isn't true. That is not true.

12 779 Q. Well, when you said that it wasn't your finest hour,  
13 you meant that in the narrow sense that you've  
14 explained a few moments ago, is that so?

15 A. Well, it wasn't the appropriate thing to do. I have 17:38  
16 said that.

17 MR. MARRINAN: Okay, thank you very much.

18 A. Thank you very much.

19

20 THE WITNESS WAS THEN QUESTIONED BY THE CHAIRMAN, 17:38  
21 AS FOLLOWS:

22 780 Q. CHAIRMAN: I have just got a couple of questions, I  
23 don't mean to delay people. Did you ever hear any  
24 reference to any other offences and Maurice McCabe, any  
25 other alleged offences and Maurice McCabe? 17:38

26 A. No, Chairman.

27 781 Q. CHAIRMAN: Because in the D household there was talk  
28 about him stopping around outside secondary schools and  
29 ogling school girls. I mean, none of this is true.

1 There was reference to a girl who was sexually  
2 assaulted by him in Cootehill, again talked about in  
3 the D household. And then when Laura Brophy rang to  
4 say, look, I have made a mistake and this is what I  
5 have written down and it's incorrect, the first 17:39  
6 question asked by Ms. D was, oh, is that another  
7 allegation made against Maurice McCabe? So, did you  
8 have any communication with the D family of any kind?  
9 A. No, Chairman, no. And you're investigators asked me  
10 about that -- 17:39  
11 782 Q. CHAIRMAN: Yes.  
12 A. -- and I clarified.  
13 783 Q. CHAIRMAN: Sure, okay. While you were Garda  
14 Commissioner, this is the second question, was there  
15 anyone within the force or outside the force to whom 17:39  
16 you could actually pour out your innermost thoughts, be  
17 they deeply politically incorrect or perhaps another a  
18 friend, someone who would actually listen to you?  
19 A. No, Chairman, I didn't consult anybody in that period,  
20 no. 17:39  
21 784 Q. CHAIRMAN: No, I don't mean consult anybody. I meant  
22 maybe there's somebody the odd time could you have  
23 lunch with whatever, and tell that person I'm having a  
24 dreadful time and mention a whole load of things,  
25 whatever you like, and I'm not saying politicians are 17:39  
26 dreadful, journalists are dreadful, and it's a witch  
27 hunt, etcetera, that kind of thing, I am not saying any  
28 of that might be true but you might feel that or a  
29 person in a position of authority might feel that and





1 have to report on that, and clearly it has to be based  
2 on something, but is there any possibility that David  
3 Taylor went about this expedition entirely on his own  
4 without any consultation with you and without ever  
5 telling you about it or without you ever getting an  
6 inkling of what he was up to, whatever that was?

17:41

7 A. Well, that's absolutely the case, Chairman. I had no  
8 knowledge whatsoever in relation to the campaign or the  
9 briefing, if that is the case. I have no knowledge. I  
10 certainly didn't direct anything. Absolutely not.  
11 There was no campaign as far as I was concerned. And I  
12 have no knowledge of anybody being involved in a  
13 campaign of that nature.

17:42

14 789 Q. CHAIRMAN: well then the supplemental is: well, let's  
15 suppose he did it on his own what possible benefit  
16 could it have been to him? How would it possibly  
17 advance him within the Garda organisation unless, and  
18 the possibility is, one possibility, the Garda  
19 organisation was hostile to Sergeant McCabe and by  
20 being hostile and doing bad things vis-à-vis Sergeant  
21 McCabe he was going to curry favour, is he that  
22 devious?

17:42

17:42

23 A. I don't know, Chairman. I certainly don't know. And I  
24 didn't know about his activities until I read the  
25 material that's presented to me. But it certainly a  
26 side of superintendent McCabe -- or, I beg your pardon,  
27 of Superintendent Taylor that I knew nothing about.  
28 And I know a number of other colleagues that are in the  
29 same position.

17:42

1 790 Q. CHAIRMAN: You will understand that by asking that  
2 question I'm not saying that Superintendent Taylor was  
3 devious or deceitful or was engaged in bad things, I  
4 haven't made my mind up on anything at all, I am simply  
5 putting these propositions out there so that you can 17:43  
6 perhaps give me some assistance and if you're not in a  
7 position to, and you have indicated you can't, I'm  
8 going to make my mind up obviously later on, but thank  
9 you for your help.

10 A. I understand. Thank you very much, Chairman. 17:43

11 CHAIRMAN: It's been a long day and we can go off  
12 transcript. Mr. McGuinness, just tell us, please, what  
13 is happening next.

14  
15 THE TRIBUNAL THEN ADJOURNED UNTIL TUESDAY, 29TH MAY 17:43  
16 2018 AT 10:00AM

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