

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

ESTABLISHED BY INSTRUMENT MADE BY THE MINISTER FOR JUSTICE
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 THURSDAY, 10TH MAY 2018 - DAY 72

72

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action.

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1 THE HEARING RESUMED, AS FOLLOWS, ON THURSDAY, 10TH MAY
2 2018:

3
4 MR. MCGUINNESS: Chairman, the first witness this
5 morning is Ms. Elaine Strachan. 10:29

6
7 MS. ELAINE STRACHAN, HAVING BEEN SWORN, WAS DIRECTLY
8 EXAMINED BY MR. MCGUINNESS:

9 MR. MCGUINNESS: Chairman, for your benefit and those
10 of my colleagues, Ms. Strachan's statements and reports 10:30
11 are all in volume 17, and I'm commencing with her
12 statement and report in relation to SM1, and that's to
13 be found at -- commencing at page 4610 of volume 17.

14 1 Q. Ms. Strachan, could I just ask you to outline your
15 qualifications and your experience. 10:30

16 A. I hold a BEng Honours Degree in Electronic Engineering
17 from the University of Ulster.

18 2 Q. Would you mind perhaps just speaking a little closer to
19 the microphone?

20 A. Sorry. Is that better? 10:31

21 3 Q. Yes, thank you.

22 A. I hold a BEng Honours Degree in Engineering from the
23 University of Ulster in Electronic Systems. I am a
24 Higher Scientific Officer in Forensic Science Northern
25 Ireland, and I have been a member of the Digital 10:31
26 Electronic Unit for over ten years conducting
27 examinations on electronic and electrical devices and
28 retrieve information from electronic devices, including
29 mobile phones and memory cards.

1 4 Q. Yes. It might help if you angle the microphone up
2 slightly. And I think you have been working in that
3 capacity for the Forensic Service of Northern Ireland?
4 A. I have been, yes.
5 5 Q. And how long have you been working for them? 10:31
6 A. Over ten years.
7 6 Q. And could you just explain to the Tribunal what that is
8 and what work it does?
9 A. The Forensic Science Northern Ireland is part of the
10 Department of Justice. The employees are all civil 10:32
11 servants. It is an independent forensic service
12 provider, with responsibility for the provision of
13 impartial forensic services to a wide range of
14 customers.
15 7 Q. Yes. It's not exclusively, therefore, a State-based 10:32
16 service; you provide services to all parties who wish
17 to avail of your services?
18 A. That is correct.
19 8 Q. Right. Both within Northern Ireland, within the island
20 of Ireland and the United Kingdom? 10:32
21 A. And further afield.
22 9 Q. And further afield?
23 A. Yes.
24 10 Q. And it's based in Northern Ireland?
25 A. Yes, it's based in Carrickfergus. 10:32
26 11 Q. In Carrickfergus. Now, the first item that I am going
27 to ask you to give evidence on today relates to an item
28 called SM1 and you provided a statement which is at
29 page 4622 in relation to that and a report at 4611 of

1 volume 17. If you wish to refer to the volume or your
2 own notes or your own statement, please do so at any
3 stage.

4 A. Yes, please.

5 12 Q. And I think this is a black Nokia phone that was 10:33
6 received into evidence by the Forensic Science of
7 Northern Ireland and you received it from Mr. Mark
8 McConnell, is that correct?

9 A. That is correct.

10 13 Q. And could you just outline the purpose of the 10:33
11 examination of the phone?

12 A. The purpose of the examination was to retrieve
13 information present on the handset to assist an
14 investigation into certain disclosures made by members
15 of An Garda Síochána in a time period from the 1st July 10:34
16 2012 to the 31st May 2014.

17 14 Q. Yes. And could you just outline the procedures and
18 methodology used by you in examining that phone?

19 A. Okay. This phone was examined in line with Forensic
20 Science Northern Ireland's Mobile Phone and Memory Card 10:34
21 Procedure. The procedure involves a manual examination
22 to visually access the item and to ascertain the
23 current date and time setting of the mobile phone, if
24 available. The item was then examined using
25 examination, forensic examination systems which consist 10:34
26 of forensic hardware and software for electronically
27 downloading information from the handset. The system
28 used in this case, or the systems used were
29 Microsystemation XRY and Cellebrite's UFED.

1 15 Q. They are two different systems, as I understand it,
2 each of which can be used but they have different, as
3 it were, capabilities, is that right, in a general
4 sense?

5 A. In a general sense, not every software will retrieve 10:35
6 all information, and so both systems together gives the
7 best result of recovering as much information as
8 possible.

9 16 Q. Yes. Now, I think this phone was provided by the
10 Tribunal? 10:35

11 A. Yes, that is correct.

12 17 Q. And I don't know whether you knew that it was
13 identified as a phone that had been belonging or in the
14 possession of the former Commissioner Martin Callinan?

15 A. Yes, I was aware of that. It was in the information 10:35
16 provided by the Tribunal.

17 18 Q. Yes.

18 CHAIRMAN: If you wouldn't mind giving me the dates
19 because I think I am going to take this as read,
20 Mr. McGuinness; if you tell me that it's such-and-such 10:35
21 a phone, such-and-such a date used between A and B, I
22 am going to take that as a given because I know this
23 stuff, I am inquiring, after all.

24 MR. MCGUINNESS: Yes. Chairman, this phone was I think
25 issued to former Commissioner Callinan in December of 10:36
26 2013 and remained in his possession until it was
27 surrendered to the Fennelly Commission and then
28 pursuant to an order made by the Tribunal it was
29 surrendered to the Tribunal on behalf of the

1 Commission.

2 CHAIRMAN: And the Fennelly Commission would have been
3 around what date, Mr. McGuinness?

4 MR. MCGUINNESS: well, the precise dates upon which it
5 sat and reported, Chairman, I don't have -- 10:36

6 CHAIRMAN: It's certainly after the target 23 months we
7 are talking about.

8 MR. MCGUINNESS: Yes.

9 CHAIRMAN: So it's '15 or thereabouts.

10 MR. MCGUINNESS: Yes. But the Chairman will know that 10:36
11 Commissioner Callinan retired on 23rd March 2014, and
12 the phone and the SIM, as I understand it, were
13 surrendered after that date but we can get the precise
14 date.

15 19 Q. But in any event, Ms. Strachan, I think you used those 10:36
16 extraction systems in relation to the phone, and I
17 think you report on that at page 4623 of the volume,
18 and you set out details of the make, model and IMEI
19 number of the phone.

20 A. Yes, I do. 10:37

21 20 Q. And Chairman, that phone number is one of the phone
22 numbers in respect -- IMEI numbers in respect of which
23 Superintendent Flynn gave evidence as having been
24 issued to Commissioner Callinan. Could you explain in
25 detail what you found on the phone? 10:37

26 A. On this mobile phone handset there was in excess of
27 1,100 contacts, including deleted contacts. There was
28 email and web addresses associated with some of the
29 contacts. There was also ten calls stored on the phone

1 and all of these were to 171 voicemail. There was 278
2 SMS messages recovered from the memory of the handset,
3 277 of these messages had been deleted. In addition,
4 there was 241 email messages stored in the memory of
5 the phone, including some that were identified as being 10:38
6 deleted.

7 21 Q. In relation to the deleted SMS messages, I think it
8 didn't prove possible to retrieve full details in
9 relation to those, in particular the identity of the
10 sender or the recipient, is that correct? 10:39

11 A. That is correct. The direction, as in an incoming or
12 an outgoing message, and the sender or the party it
13 intended to be received by have not been recovered.

14 22 Q. Yes. I think you note on page 2 of your statement, at
15 the bottom of it, that a number of SMS messages making 10:39
16 reference to "Thanks Dave" were recovered but the
17 direction and message sender details have not been
18 recovered?

19 A. That is correct.

20 23 Q. Okay. You refer to the number of contacts stored in 10:39
21 the memory of the phone and were they contacts that
22 were, as it were, not deleted but available to be
23 discovered?

24 A. There was a mixture of deleted contacts and live 10:40
25 contacts.

26 24 Q. Yes. I see. At page 2 of your report on page 4610,
27 you identify a number of contacts that might be
28 considered relevant from the point of view of the
29 Tribunal, and if you see that list there, I think at

1 number 5 there appears to be one which is "Con Noel",
2 which perhaps is Noel Cunningham; at number 8 there is
3 "Diarmuid O'Sullivan"; number 14, there is a "Leo
4 McGinn"; number 15, a "J McCann"; number 24, "Paul
5 Reynolds"; 25, "Brian Purcell"; 28, "J Sheridan"; 29, a 10:41
6 "O'Sullivan Diarmuid"; and there is a "Tom Brady" there
7 as well - is that correct?

8 A. That is correct.

9 25 Q. And that is a selection of the potentially relevant
10 contacts, as far as the Tribunal is concerned? 10:41

11 A. Yes, it's just a selection.

12 26 Q. At page 3 of your report, you describe the SMS deleted
13 messages and at page 4 you detail a number of those
14 that have been recovered, is that correct?

15 A. That is correct. 10:41

16 27 Q. They continue on page 5, and on to page 6 of your
17 report. The emails that you report upon are contained
18 at pages 6, 7, 8 of your report, isn't that correct?

19 A. That is correct.

20 28 Q. There's a number of images which are of no relevance, I 10:42
21 think?

22 A. Yes, they were newspaper cuttings.

23 29 Q. Yes. You have provided a glossary of terms and perhaps
24 it's appropriate to go through this just at this stage,
25 it will be applicable to all of your other reports 10:42
26 also, isn't that correct?

27 A. That is correct.

28 30 Q. And at page 10 of your report you describe what is an
29 IMEI number?

1 A. Yes. Yes. It's an international manufacturer's
2 equipment identity number.

3 31 Q. Yes. And that is a unique 15-digit number?

4 A. It is unique. It's found on the label on the handset
5 and also stored electronically inside the device. 10:43

6 32 Q. Yes. You provide a definition then of a number of
7 other terms: SIM service provider, SIM card number,
8 IMSI, MSIDN, suggested phone numbers, and other details
9 there, which are all available for people to see.

10 A. That's correct, yes. 10:43

11 33 Q. Okay. You may or may not be asked any questions in
12 relation to those, but on page 3 of your report you set
13 out your conclusions and findings, and I think --

14 A. Sorry, is that 3 of the statement?

15 34 Q. Page 3 of your statement, I beg your pardon. You were 10:43
16 provided with a number of search terms by the Tribunal?

17 A. Yes, I was.

18 35 Q. And I think part of your conclusion is that:
19

20 "No evidence was recovered from item SM1 to support a 10:44
21 claim made by Superintendent Taylor that he was
22 instructed by the former Commissioner Martin Callinan
23 to brief the media against Sergeant Maurice McCabe or
24 the allegation made by Superintendent David Taylor that
25 the former Commissioner of An Garda Síochána, Nóirín 10:44
26 O'Sullivan, was aware of the said instruction. It
27 should be noted that all of the information obtained
28 from item SM1 was within the time period covering the
29 17th January 2014 to the 16th April 2014. This is

1 within the time period of relevance."

2

3 Is that correct?

4 A. That is correct.

5 36 Q. Okay. I think you set out at the conclusion of your
6 statement your understanding of your duty in relation
7 to providing an expert opinion in these matters, and
8 that's as recorded there by you in your statement?

10:44

9 A. That is correct.

10 37 Q. Okay. Could I ask you to deal with the next relevant
11 phone, which is SM3, and that's to be found in volume
12 17 at page 4527. And this relates to a Nokia Lumia
13 925, is that correct?

10:44

14 A. That's correct.

15 38 Q. And at page 2 of your statement you identify the IMEI
16 number?

10:45

17 A. Yes.

18 39 Q. And, Chairman, just for your information, that's the
19 Nokia Lumia that was issued to Superintendent Taylor on
20 or about the 9th September of 2014 and was seized by
21 Chief Superintendent Clerkin on 18th of December of
22 2014. And I think you received this from the Tribunal?

10:46

23 A. I did.

24 40 Q. And I think you were asked to perform the same task in
25 relation to this matter, in relation to this phone?

10:46

26 A. Yes, I was.

27 41 Q. And you came to a conclusion from the data recovered
28 that it was determined this was used by Superintendent
29 Taylor from the 5th September 2014 to the 18th December

1 2014, and the recovered information from the memory of
2 the mobile phone handset pertains to Superintendent
3 David Taylor. You note that some image files predate
4 the 5th September, and this would support a suggestion
5 made by Superintendent Taylor that material from his 10:47
6 previous phone was transferred to item SM3, these image
7 files include photographs of a private family nature,
8 is that correct?

9 A. That's correct.

10 42 Q. Okay. And did your examination disclose how those 10:47
11 predated photographs might have got on to the phone or
12 not, or could it determine that?

13 A. Not conclusively. There is a number of ways that data
14 could have got on to the phone: If a memory card had
15 been used and the photographs were stored on a memory 10:47
16 card and then transferred from a previous handset into
17 this one, it would account for the movement of the
18 photos.

19 43 Q. Yes.

20 A. Or if they were attached to an account. 10:47

21 44 Q. Yes. Was there any evidence of any texts transferred
22 from a previous phone or predating the issue of the
23 phone?

24 A. No. The only information that predated the issue of
25 the phone was image files. 10:48

26 45 Q. Yes. I think you set out on page 3 of your statement
27 that this handset was examined so as to ascertain
28 whether or not there was any data relevant to the
29 Disclosures Tribunal terms of reference and you set out

1 the identical search terms that were used in that
2 regard, isn't that correct?

3 A. That's correct.

4 46 Q. And I think you reached a similar conclusion, that
5 there was no evidence recovered from this item SM3 to 10:48
6 support either of the claims made by Superintendent
7 Taylor in that regard?

8 A. That's correct.

9 47 Q. I think in your report, which commences on page 4532,
10 you have a 63-page report in relation to the contents 10:49
11 of the phone, I think you found over 200 -- sorry, 2000
12 contacts stored there, is that correct?

13 A. That's correct.

14 48 Q. I think you set out the contacts commencing at page 2
15 of the report, and among the contacts are, at number 3, 10:49
16 there is Alison O'Reilly; number 10, Cathal McMahon;
17 number 19, Conor Lally; number 21, Cormac O'Keefe;
18 number 28, Debbie McCann; number 33, Eavan Murray;
19 number 39, Finan Sheehan, number 62, John Mooney,
20 number 65, John O'Reilly; number 66, John Burke; number 10:49
21 72, Juno McEnroe; number 95, Mark Hilliard; number 103,
22 Michael O'Toole; number 108, Mick Clifford; number 109,
23 Mick McCaffrey; on page 8 of your report, number 142,
24 Paul Reynolds; 143, Paul Williams; 146, Philip
25 Boucher-Hayes; 165, Sarah Bardon. And there is a large 10:50
26 variety of other contacts there, many other journalists
27 and media organisations also?

28 A. Yes, that's correct.

29 49 Q. You report on the call history log, commencing at page

1 10 of your report in relation to calls dialled and
2 received in that period?

3 A. Yes.

4 50 Q. You report on SMS messages from page 12 of your report
5 onwards, a number of which have been redacted by the 10:51
6 Tribunal, isn't that correct?

7 A. That's correct.

8 51 Q. And a number of phone numbers which have been redacted
9 at the request of parties also.

10 A. Yes. 10:51

11 52 Q. You report on a number of emails from page 4547 of the
12 report onwards. I think there is in excess of 800
13 email messages stored there?

14 A. Yes, that's correct.

15 53 Q. There's some relevant to, it would appear, work in 10:51
16 progress of Superintendent Taylor's, and you report on
17 a document stored which relates to some thesis work of
18 Superintendent Taylor, I think --

19 A. Yes.

20 54 Q. -- it would appear. 10:52

21 A. Yes, that's correct. That is in the -- towards the
22 end, on page 4584.

23 55 Q. Yes. You reported in relation to a number of image
24 files that the Tribunal isn't concerned with, and in
25 short, you found no evidence directly relating to any 10:52
26 of the claims made by Superintendent Taylor?

27 A. No, I didn't.

28 56 Q. Could I ask you then to turn to SM2, which is to be
29 found at volume 17, page 4726. And this again is a

1 Nokia Lumia phone?

2 A. Yes, it is.

3 57 Q. The IMEI is set out on page 1 of your report, at the
4 top - and, Chairman, that corresponds to the second
5 Nokia Lumia 925 seized by Chief Superintendent Clerkin, 10:53
6 as detailed in his statement in the matter, seized on
7 19th February 2015 and provided to the Tribunal - and
8 you received this from the Tribunal?

9 A. I did.

10 58 Q. And this is dealt with by you as SM2, isn't that 10:53
11 correct?

12 A. Correct.

13 CHAIRMAN: So that it starts on 18th December '14,
14 isn't that correct?

15 MR. MCGUINNESS: Yes. 10:53

16 CHAIRMAN: Yes.

17 MR. MCGUINNESS: And goes --

18 59 Q. I think you discovered that it was in use by
19 Superintendent Taylor between the 18th December 2014
20 and the 19th February 2015? 10:54

21 A. I don't have a copy of the statement in this volume.

22 60 Q. In this volume. Perhaps just looking at your report.

23 A. The report is --

24 CHAIRMAN: Yes, we have the evidence from Chief
25 Superintendent Clerkin, it wasn't challenged, we can 10:54
26 take it as a given.

27 A. Okay.

28 61 Q. MR. MCGUINNESS: Yes. You record that the user of the
29 phone was David Taylor and there is a device account,

1 davidtaylor@garda.ie stored in the memory of the phone?

2 A. Yes.

3 62 Q. I think you reported on 950 contacts in that phone, is
4 that correct?

5 A. That's correct, in excess of 950. 10:54

6 63 Q. Yes. And you set out contact information associated
7 with some potentially relevant parties from page 2 of
8 your report onwards, including at number 6, Cormac
9 O'Keeffe --

10 A. Yes. 10:55

11 64 Q. -- Debbie McCann at number 7; number 9, Eavan Murray;
12 number 16, John Burke; number 18, John Mooney; number
13 20, Juno McEnroe; number 25, Michael O'Toole; number
14 37, Paul Reynolds; and number 38, Paul Williams. Is
15 that correct? 10:55

16 A. That's correct.

17 65 Q. I think you report on calls made and received on pages
18 3 to 4?

19 A. Yes.

20 66 Q. And you report on the SMS message history commencing at 10:55
21 page 5 of your report, isn't that correct?

22 A. That's correct.

23 67 Q. And there's a number of texts there which have been
24 redacted by the Tribunal at present?

25 A. Yes. 10:56

26 68 Q. And the full details of those are in your original
27 report?

28 A. They are.

29 69 Q. Yes. I think you report on 600 emails there which you

1 considered not to be of any relevance in the matter?

2 A. That's correct.

3 70 Q. And I think were your findings the same in relation to
4 SM2, that, having regard to the search terms and your
5 analysis, there was no evidence found on the phone to 10:56
6 support either of the claims made by Superintendent
7 Taylor?

8 A. That's correct.

9 71 Q. Right. Could we turn to SM4, upon which you reported,
10 and it's dealt with at page 4735 of volume 17. And 10:56
11 your statement commences there, I think do you have
12 that?

13 A. I do have it.

14 72 Q. And I think this is reported as SM4, a Nokia mobile in
15 a brown envelope? 10:57

16 A. Correct.

17 73 Q. This was presented to you by the Tribunal?

18 A. It was.

19 74 Q. And the IMEI number is reported on at page 2 of your
20 statement? 10:57

21 A. Yes.

22 75 Q. And this was a Nokia Lumia 930 --

23 A. Correct.

24 76 Q. -- which was reported as having been seized by Chief
25 Superintendent Clerkin? 10:57

26 A. Yes.

27 77 Q. Okay. And I think from your examination, you report at
28 the bottom of page 2 of your statement that it was
29 ascertained that this mobile handset was used by

1 Superintendent Taylor from approximately the 24th
2 February to the 29th May 2015?

3 A. Correct.

4 78 Q. And all of the recovered information from the memory
5 pertained to Superintendent Taylor? 10:58

6 A. Correct.

7 79 Q. I think it was examined for the same purpose and with
8 the same search terms by you?

9 A. Yes.

10 80 Q. And I think your conclusion was that no evidence was 10:58
11 recovered from it to support either of the claims made
12 by Superintendent Taylor?

13 A. That is correct.

14 81 Q. I think your report on the matter commences at page
15 4738? 10:58

16 A. Yes.

17 82 Q. You report that there were 9 -- sorry, 580 contacts?
18 A. In excess of.

19 83 Q. In excess of that. You set out a number of those,
20 commencing at page 2 of your report onwards? 10:59

21 A. Yes.

22 84 Q. And included there at number 5 is Debbie McCann --
23 A. Yes.

24 85 Q. -- number 18 John McCann; number 19 John Burke; number
25 20, Juno McEnroe; number 28, Michael O'Toole, number 10:59
26 39, Paul Reynolds; number 40, Paul Williams - is that
27 correct?

28 A. That's correct.

29 86 Q. You set out the call history log there?

1 A. Yes.

2 87 Q. And you set out the message history log there, and
3 include a number of SMS messages which have been
4 redacted by the Tribunal?

5 A. Yes, that's correct. 10:59

6 88 Q. But they were located by you on the phone?

7 A. Yes.

8 89 Q. There is a Viber message history reported upon from
9 page 7 onwards?

10 A. Yes. 11:00

11 90 Q. And your conclusion obviously remains the same, there
12 was no evidence to support the claims based upon the
13 search criteria given to you by the Tribunal?

14 A. That's correct.

15 91 Q. Could we turn to SM6, which is dealt with in the volume 11:00
16 at page 4749. I am sorry, I meant to deal with item
17 number 5 next, sorry. SM6, which is at 4626. And SM6
18 is a Nokia Lumia 520, is that correct?

19 A. That's correct.

20 92 Q. And this was provided to you by the Tribunal? 11:01

21 A. Yes, it was.

22 93 Q. And you set out the IMEI number at page 2 of your
23 statement?

24 A. Yes.

25 94 Q. And Chairman, that is the IMEI number of a phone that 11:01
26 had been issued to Superintendent Taylor -- or
27 Commissioner Callinan, which had been handed back and
28 has been faulty and was repaired and was issued to
29 Superintendent Howard and this was disclosed to the

1 Tribunal and provided to the Tribunal. And I think you
2 examined this phone --

3 CHAIRMAN: And the dates for that phone -- oh, yes, you
4 are going to tell me.

5 MR. McGUI NNESS: Yes. 11:02

6 CHAIRMAN: It would have been wiped prior to being
7 given to -- in the ordinary routine.

8 MR. McGUI NNESS: Yes.

9 95 Q. I think, could you just detail the period that you
10 found that this phone was operational for in relation 11:02
11 to Superintendent Howard?

12 CHAIRMAN: It seems to be June to July of '15, is it?

13 A. The SMS message history was in the period the 30th
14 August '14 to 8th July '15.

15 CHAIRMAN: Okay. 11:03

16 96 Q. MR. McGUI NNESS: The call history was for a shorter
17 period, it would appear?

18 A. It was, yes.

19 97 Q. And I think you determined that the user of this SM6,
20 this Nokia, was Detective Superintendent Tony Howard, 11:03
21 is that correct?

22 A. That's correct.

23 98 Q. And all of the recovered information from the memory
24 pertained to him?

25 A. It did. 11:03

26 99 Q. And no information was recovered that was attributed to
27 the previous user of the phone, as reported to you?

28 A. No, no.

29 100 Q. And did you find that to be consistent with that having

1 been the subject of a factory reset prior to the
2 detective superintendent coming into possession of it?

3 A. That's correct, yes.

4 101 Q. Yes. I think it's obvious then no evidence was
5 recovered from the phone which related to any of the 11:03
6 search terms or matters of relevance to support any
7 claim made by Superintendent Howard --

8 A. No.

9 102 Q. -- Superintendent Taylor.

10 A. No. 11:04

11 103 Q. And could I ask you then to deal with SM8, which is
12 reported upon by you in Volume 17 at page 4749, and
13 this was an iPad, is that correct?

14 A. Yes, yes, an Apple iPad.

15 104 Q. And this was received from the Tribunal? 11:04

16 A. Yes, it was.

17 105 Q. And could you just explain the methodology for
18 examining this particular iPad; what is used to examine
19 the contents of the iPad, including any deleted
20 matters? 11:05

21 A. It's handled exactly the same as a mobile phone, the
22 same software is used, but in this case the iPad was
23 passcode locked when it was received into the
24 laboratory, and there was three attempts left at
25 entering the passcode before it was -- it would be 11:05
26 wiped.

27 106 Q. And were there any unsuccessful attempts recorded as
28 having been made to open it before you received it?

29 A. Well, it was on -- it was on its seventh attempt out of

1 ten, with three remaining, and three possible passwords
2 were provided, so I didn't attempt any of them.

3 107 Q. Yes.

4 A. But we sent it to an external company to get it
5 unlocked. 11:05

6 108 Q. But were those three passwords provided by the Tribunal
7 as having come from An Garda Síochána --

8 A. They were, yes.

9 109 Q. -- as being the appropriate passwords?

10 A. Yes. But again, there was no degree of certainty with 11:06
11 them as to which was the correct one.

12 110 Q. Yes. These were possible alternative ones that were
13 being asserted as being the ones likely to open it, is
14 that right?

15 A. That is correct. 11:06

16 111 Q. Okay. Were they in fact the correct passcodes?

17 A. I'm sorry, I can't answer that at the moment, I'm
18 not -- I would have to check back on the notes, what
19 the passcode was.

20 112 Q. Yes. Did you use any of the passcodes to open it or 11:06
21 did you open it otherwise?

22 A. Opened it otherwise. I erred on the side of caution
23 because there was three attempts left and three
24 possible passcodes, if the wrong passcode was entered
25 the device would have been wiped so I thought it best 11:06
26 not to attempt any of them.

27 113 Q. Yes.

28 A. And to get it --

29 114 Q. Is that a regular setting or is it a customised

1 setting, that the contents are wiped after ten
2 unsuccessful attempts?

3 A. It's an option available to the user to set. It's
4 quite common with iPads belonging to a company, many
5 companies would set that for security reasons. 11:07

6 115 Q. Okay. I think at page 2 of your statement you detail
7 the model and the serial number - and, Chairman, that
8 is consistent with the iPad that was surrendered to the
9 Tribunal on behalf of Commissioner O'Sullivan in June
10 of 2017 - and I think the user was recorded as Nóirín 11:07
11 O'Sullivan, is that correct?

12 A. That's correct.

13 116 Q. And I think from the data recovered, it was determined
14 that the item was used by the former Commissioner from
15 approximately the 14th May 2014 to 21st November 2016? 11:07

16 A. That's correct.

17 117 Q. I think you examined the iPad to see whether there was
18 any data relevant to the Tribunal's terms of
19 reference --

20 A. That's correct. 11:08

21 118 Q. -- by reference to search terms, and I think no
22 evidence was recovered from that to support a claim
23 made by Superintendent Taylor that he was instructed by
24 former Commissioner Martin Callinan to brief the media
25 against Sergeant Maurice McCabe or the allegation that 11:08
26 the former Commissioner was aware of the said
27 instruction?

28 A. That's correct.

29 119 Q. And I think you indicate that the period of relevance

1 was both within and without the specified period --

2 A. Yes.

3 120 Q. -- of time there.

4 CHAIRMAN: I think, Mr. McGuinness, the necessity to
5 have the matter unlocked was because of Commissioner 11:08
6 O'Sullivan indicating that she had forgotten the
7 four-digit password?

8 MR. MCGUINNESS: Yes, and there were three ones then
9 proffered with it.

10 CHAIRMAN: Yes. As potential possibles. 11:09

11 MR. MCGUINNESS: Yes.

12 A. Yes.

13 CHAIRMAN: And if they were wrong, that was it.

14 121 Q. MR. MCGUINNESS: I think your report, a 67-page report
15 on the iPad commences at page 4752 of the volume. I 11:09
16 think you set out a list of contacts, many of which are
17 Garda email contacts?

18 A. That's correct.

19 122 Q. And you recovered a number of emails from that?

20 A. Yes. There was in excess of 800 emails stored in the 11:09
21 memory of the iPad.

22 123 Q. Yes. And commencing from page 4 onwards, from page
23 4755 up until page 4794, you report on a number of
24 potentially relevant emails, and I think you had
25 provided an earlier report in January of 2018 of -- in 11:10
26 relation to emails that were then brought to the
27 Tribunal's attention in connection with the O'Higgins
28 module?

29 A. That's correct.

1 124 Q. And I think you were asked to modify your search by
2 searching for a number of persons named within the
3 Department of Justice, and you reported on those also
4 at the time?

5 A. At the time, yes. 11:10

6 MR. MCGUINNESS: Yes. And, Chairman, those have been
7 already considered in the context of the O'Higgins
8 module and they contained, as you may well recall, a
9 number of emails from the Commissioner to the Minister
10 at the time and to members of her Department. 11:10

11 CHAIRMAN: Yes. And all of those were actually given
12 in open evidence before the Tribunal during that
13 hearing.

14 MR. MCGUINNESS: Yes, yes. But none of those related
15 to Superintendent Taylor or his allegations. 11:11

16 125 Q. And your conclusion was that there was nothing on the
17 iPad relevant to the claims made by Superintendent
18 Taylor, although these other matters were relevant to
19 the Tribunal's other terms of reference?

20 A. That's correct. 11:11

21 126 Q. You also reported on another phone, SM7, and that's to
22 be found in this volume at 4498. And this was an Apple
23 iPhone 4 received from the Tribunal, isn't that
24 correct?

25 A. That's correct. 11:12

26 127 Q. There's an IMEI number at page 2 of your statement?

27 A. Yes.

28 MR. MCGUINNESS: Chairman, that is one of the phones
29 issued to the former Commissioner O'Sullivan, which was

1 set out in Superintendent Flynn's report, it's an Apple
2 iPhone 4.

3 128 Q. And at the time you examined it you determined that the
4 user was a son of the former Commissioner?

5 A. That's correct. 11:12

6 129 Q. And there was no evidence found on that to support a
7 claim made by Superintendent Taylor --

8 A. No, there wasn't.

9 130 Q. -- of the type indicated?

10 A. Yes. 11:12

11 131 Q. You also examined SM 12 --

12 CHAIRMAN: Can I just go back to SM7, Mr. McGuinness?
13 Clearly if it's used by somebody else there is nothing
14 that one would certainly expect to find in relation to
15 anything to do with this, but the relevant dates, I 11:13
16 suppose, just for the sake of exactitude, when it was
17 used, when it ceased, when it started, when it stopped,
18 are we in a position just to indicate that?

19 MR. MCGUINNESS: Yes.

20 132 Q. What did you find in terms of the use of it commencing, 11:13
21 relevant to --

22 A. Sorry, it commenced on the 1st February 2014 and --

23 133 Q. And that is, the then current user you believe
24 commenced using it on 1st February, is that right?

25 A. That's correct, '14. 11:13

26 134 Q. Yes.

27 CHAIRMAN: So it's within the target 23 months but it
28 has nothing whatever to do with anything to do with
29 law, Garda business, allegations, nothing?

1 A. No.

2 135 Q. MR. MCGUINNESS: None of the Commissioner's contacts or
3 SMSS or --

4 A. No. All information recovered from it pertained to the
5 former Commissioner's son. 11:14

6 136 Q. Yes. SM12 then, just turn to that. That's a Samsung
7 Galaxy S7 and I think you deal with that commencing in
8 our papers at 4631. And, Chairman, this represents a
9 Samsung Galaxy, one of a pair identified by the
10 Commissioner as being used by her and which was offered 11:14
11 to the Tribunal in June of 2017 and then later provided
12 by the Commissioner. And you report on this in your
13 statement dealing with it commences at page 4631. You
14 use the same methodology in examining the phone, is
15 that correct? 11:15

16 A. That is correct.

17 137 Q. And you recovered no evidence from it in terms of
18 supporting either of the claims made by Superintendent
19 Taylor?

20 A. That is correct. 11:15

21 CHAIRMAN: Do we have dates for use in that one? Was
22 that possible to recover that?

23 A. It was used approximately from the 26th April 2017 to
24 the 20th July 2017.

25 138 Q. MR. MCGUINNESS: You report on the contacts in your 11:16
26 report on this from page 2 of your report onwards?

27 A. Yes.

28 139 Q. And it includes a number of journalists in the contacts
29 there at that point, isn't that correct?

1 A. That is correct.

2 CHAIRMAN: Or it's again former Commissioner O'Sullivan
3 as opposed to -- yes.

4 MR. MCGUINNESS: Yes, former Commissioner O'Sullivan.

5 140 Q. There is, at number 12, there is a Debbie McCann; 11:16
6 number 13, Dave Taylor; there is number 41, John
7 McCann; number 42, John Mooney; number 81, a Paul R.
8 You set out the call history log, the SMS history, the
9 page 7 to 23 of your report, which there's a number of
10 SMS messages, some of which have been redacted at 11:17
11 present?

12 A. That's correct.

13 141 Q. You set out emails from page 25 onwards. But in short,
14 there was nothing which, in your opinion, supported
15 either of the claims made by Superintendent Taylor? 11:17

16 A. That's correct.

17 142 Q. I think the final phone you reported on was SM13, which
18 is the other Samsung Galaxy proffered by the former
19 Commissioner, and you report on that in your statement
20 at 4671 of our volume, and that is a Samsung Galaxy S6? 11:17

21 A. Yes.

22 143 Q. And can you report on the period of use of that phone?

23 A. From approximately the 29th May 2016 to the 12th
24 October 2016.

25 144 Q. Yes. And I think you recovered no evidence from the 11:18
26 phone that supported either of the claims made by
27 Superintendent Taylor?

28 A. That's correct.

29 145 Q. In your report commencing at page 4674, you set out the

1 contacts, you set out the SMS messages from page 5 of
2 your report onwards?
3 A. Yes.
4 146 Q. Some of which have personal phone numbers redacted?
5 A. Mm-hmm. 11:18
6 147 Q. And you set out the emails from page 7 onwards --
7 A. Yes.
8 148 Q. -- many of which relate to the Department of Justice
9 and contacts that had been had and some of which are
10 replicated from the iPad in terms of content? 11:19
11 A. That's correct.
12 149 Q. Would that support a conclusion that she was accessing
13 her emails via her phone or getting them also sent to
14 her phone?
15 A. Yes, yes. 11:19
16 150 Q. And there was nothing else of relevance on that phone,
17 as far as you could see?
18 A. No.
19 151 Q. Okay. I think that concludes the nine items that you
20 examined on behalf of the Tribunal, is that correct? 11:19
21 A. That's correct.
22 MR. McGUI NNESS: Okay. Thank you. Would you answer
23 any questions anyone else may have?
24 MR. McGARRY: I don't have any questions, Chairman.
25 11:19
26
27
28
29

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

2 152 Q. MS. BURNS: I just have a few short questions.

3 Ms. Strachan, just in relation to --

4 CHAIRMAN: Maybe you would tell Ms. Strachan who you
5 are.

11:20

6 153 Q. MS. BURNS: sorry, my apologies, Ms. Strachan. My name
7 is Tara Burns and I appear on behalf of Superintendent
8 Taylor.

9 A. Okay.

10 154 Q. Just in relation to your examination of SM1 and
11 specifically if I could ask page 4616 of the Tribunal
12 papers to be placed on screen, my understanding,
13 Ms. Strachan, is that this is your examination relating
14 to former Commissioner Martin Callinan's phone and
15 specifically it's page 6 of your report, and at item
16 number 35 there is a note of a text at 17:39:59 on the
17 date of the 28/3/2014, and it reads:

11:20

11:20

18
19 "Commi ssi oner

20 I feel so sorry for the way you have been treated.

11:20

21 It's despic cable. You will always be the boss to me and
22 I am proud to have served under you and worked with
23 you. You were inspirational to me. I wish you and
24 your family all the best for the future, and if I can
25 do anything to help, please let me know. Dave."

11:21

26
27 And it's noted "deleted carved". That was found on
28 former Commissioner Callinan's phone, is that correct?

29 A. That's correct.

1 155 Q. I see. And then, if I could also ask in relation to
2 your examination of one of the phones of former
3 Commissioner O'Sullivan, and specifically it's SM12 and
4 if I could ask that page 4646 of the Tribunal papers be
5 placed on screen. And at the end of that page, I hope, 11:21
6 at item number 29, yes, just there, I think that that
7 reads, it's from and there is -- I think there probably
8 is a number that is redacted?
9 A. Yes, that would be the telephone number.

10 156 Q. And it reads "Eugene Corcoran" and the date is 11:21
11 13/2/2017, the time 13:39, and then a text message:
12 "DPP has directed no prosecution against D Taylor."
13 That is a text found on former Commissioner
14 O'Sullivan's phone, is that correct?
15 A. That's correct. 11:22

16 157 Q. And just one further thing that I just don't understand
17 more so than me having a question necessarily in
18 relation to it. I note that in the course of your
19 reports you are aware of use of a phone from a
20 particular day, but then when you analyse the call 11:22
21 history it seems that the call history is at a later
22 time, closer to when the phone in fact was no longer
23 used; what is the reason for that?
24 A. That -- sorry, that is the information that was
25 recovered from the phone. The full content of 11:22
26 information on the phone is never going to be
27 recovered.

28 158 Q. I see.
29 A. So it's -- there is internal housekeeping and whilst

1 more information is put on the phone, other information
2 is effectively wrote over, and that's what was
3 recovered, the call history that was recovered from the
4 phone. There is nothing to suggest that there wasn't
5 call history prior to it, it's just I haven't recovered 11:23
6 it.

7 159 Q. I see. So in my very simple terms, is it that in terms
8 of a call history, a phone only retains the call
9 history for the last, we'll say, 200 calls, or it's
10 probably less than that even, but any calls prior to 11:23
11 that are no longer retained on the handset, is that
12 correct?

13 A. It depends on the particular phone and what way the
14 user has set it it up.

15 160 Q. I see. 11:23

16 A. A user can set it up to delete call history once it
17 reaches a certain number, or the phone will do it
18 automatically as, for example, it runs out of space --

19 161 Q. I see.

20 A. -- to fit other information on the phone. It really 11:23
21 depends on the make and model of the phone and the way
22 the user has set it up.

23 MS. BURNS: I see. Thank you very much.

24

25 CHAIRMAN: Mr. Ó Muircheartaigh? 11:24

26 MR. Ó MUI RCHEARTAI GH: No questions.

27 MR. DONAL McGUI NNESS: No questions, Chairman.

28 CHAIRMAN: Was there anything?

29 MR. McGUI NNESS: Nothing further.

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CHAIRMAN: I don't know, Ms. Strachan, how many hours in all have the Forensic Service of Northern Ireland spent on work for the Tribunal between coming up and down to Dublin visiting Garda Headquarters, meeting us up there and doing these examinations, man and woman hours, are you in a position to give us even a ballpark figure? 11:24

A. I am sorry, I don't know the exact number of hours, I would have to -- that would have to be worked out. It is recorded somewhere, it could be found out. But a considerable amount of time. 11:24

CHAIRMAN: well, it's months of work effectively.

A. Oh, yes. I have been working on this approaching a year. 11:24

CHAIRMAN: And can I just, a brief note of thanks. You have done a great job, you have always been very pleasant and the thoroughness and commitment has been outstanding, and thank you very much.

A. Thank you. 11:25

CHAIRMAN: And to Mr. McConnell as well.

A. Thank you very much.

THE WITNESS THEN WITHDREW

MS. LEADER: The next witness, sir, is Mark McConnell. 11:25

MR. SIMON MARK McCONNELL, HAVING BEEN SWORN, WAS

1 DIRECTLY EXAMINED BY MS. LEADER:

2 162 Q. MS. LEADER: The various reports that Mr. McConnell
3 prepared are to be found in volume 17 at different page
4 numbers and I will refer to them as I deal with them in
5 evidence. Mr. McConnell, if you could first of all 11:26
6 outline your qualifications?

7 A. Yes. I have a Bachelor's Degree and a Master's Degree
8 in Electronics, Electronic Engineering, and a Master's
9 Degree in Forensic Computing.

10 163 Q. And I think you, along with the last witness, are 11:27
11 currently employed about the Forensic Service of
12 Northern Ireland?

13 A. That's correct, yes.

14 164 Q. How long have you worked for the Forensic Service of
15 Northern Ireland? 11:27

16 A. Fifteen years now.

17 165 Q. And your job there is what?

18 A. Essentially it's in digital and electronics forensics.
19 So, the examination of anything of a digital or
20 electronic -- that has digital or electronic capacity, 11:27
21 computers, mobile phones, and any other items with a
22 plug, switch or a wire.

23 CHAIRMAN: Mr. McConnell, I don't know if you can move
24 that device a bit closer to you there.

25 A. Sorry. 11:27

26 166 Q. MS. LEADER: And you, in common with the last witness,
27 are an independent person working for the Forensic
28 Service of Northern Ireland?

29 A. Yes. We are independent and impartial. We do

1 examinations for a wide range of customers and offer a
2 wide range of forensic services, not just digital.

3 167 Q. Okay. Now, I think for the purposes of the Tribunal,
4 you conducted a number of examinations, and if I could
5 just, first of all, summarise exactly what you looked 11:28
6 at, and we will go into each of those in detail --

7 A. Yes.

8 168 Q. -- in turn. So, the first thing you looked at was a
9 laptop computer which is referred to as SM10, which was
10 previously in the possession of Superintendent David 11:28
11 Taylor, is that correct?

12 A. That's correct, yes.

13 169 Q. Thereafter, we are going to deal with an image of that
14 laptop computer, which we refer to as SM5, which the
15 Gardaí prepared when they were investigating, 11:28
16 conducting their investigations?

17 A. Sorry, the SM10 was David Taylor's laptop image --

18 170 Q. Image. And SM5?

19 A. -- and SM5 was the actual laptop itself, yes.

20 171 Q. The laptop computer. So SM5 is his laptop and SM10 is 11:29
21 the image which the guards prepared, is that correct?

22 A. That's correct, yes.

23 172 Q. You also looked at the Spotlight system, is that
24 correct?

25 A. Yes, I did. 11:29

26 173 Q. You looked at former Commissioner Callinan's laptop
27 computer, is that correct?

28 A. I did, yes.

29 174 Q. And that is SM23.

1 A. Yes, that's correct.

2 175 Q. You looked at a wide range of Garda systems, is that
3 correct?

4 A. That's correct, yes.

5 176 Q. And you also, at the request of the Tribunal, conducted 11:29
6 some investigation around an operation which is
7 referred to as Operation Squeeze?

8 A. That's correct, yes.

9 177 Q. Right. So they are the areas that you were responsible
10 for in particular, is that correct? 11:29

11 A. That's correct.

12 178 Q. Now, if I could first of all ask you about the
13 Spotlight system as we have been dealing with the press
14 queries generally, and that appears at page 4506 of the
15 materials, your report in relation to that. 11:30

16 A. Yes.

17 179 Q. Now, I think before you looked at the spotlight system,
18 you were aware that it was a database used by the Press
19 Office in An Garda Síochána, is that correct?

20 A. That's correct, yes. 11:30

21 180 Q. And you looked at that system on the 24th November 2017
22 at the request of the Tribunal?

23 A. That's correct, yes.

24 181 Q. And you, in summary, conducted a search of that system,
25 looking for entries relevant to Sergeant Maurice 11:30
26 McCabe, is that correct?

27 A. That's correct, yes.

28 182 Q. And all search results relating to Sergeant Maurice
29 McCabe you downloaded on to a USB stick, is that

1 correct?

2 A. I did, yes.

3 183 Q. So I think the methodology was, you searched the system
4 for McCabe, you looked at the results and any McCabe
5 which was Sergeant Maurice McCabe, you downloaded it on 11:31
6 to the USB stick?

7 A. That's correct, yes.

8 184 Q. And you handed it over to the Tribunal?

9 A. Yes.

10 185 Q. And just for the purposes of the Tribunal, the contents 11:31
11 of that USB stick have been distributed in volume 11 of
12 the materials, sir. And that begins at page 2874 of
13 the materials. Now, the next thing I want to ask you
14 about is Superintendent Taylor's computers, his laptop
15 computer, which is SM5 and the report begins at page 11:31
16 4520, and the mirror image of that laptop computer,
17 SM10, which begins at 4502 of the materials. Now, just
18 generally, your instruction given to you by the
19 Tribunal, if you could confirm this to be the case,
20 that you were to search that computer for any material 11:32
21 that would show or tend to show that there was a
22 campaign or an instruction or anything that can be
23 interpreted as such, to brief the media with material
24 that was negative to Sergeant McCabe, is that correct?

25 A. That's correct, yes. 11:32

26 186 Q. And you were asked to search the computer for that kind
27 of material between July 2012 and May 2014?

28 A. That is correct, yes.

29 187 Q. And that, you may know at this stage that this refers

1 to the period of time when Superintendent Taylor was
2 the Garda Press Officer?

3 A. Yes.

4 188 Q. And in order to identify any such material, I think you
5 were supplied with a series of keywords that would 11:32
6 assist you in your searches for words that are likely
7 to throw up material of that nature, is that correct?

8 A. Yes, there was a list of search terms, yes.

9 189 Q. Yes. And those search terms, if you could confirm this
10 to be the case, include the words "McCabe", "Maurice", 11:33
11 Ms. D, in her correct name --

12 A. Yes.

13 190 Q. -- both first name and surname, is that correct?

14 A. That's correct, yes.

15 191 Q. The word "rat", "Oisín"? 11:33

16 A. Yes.

17 192 Q. The word "whistle", a separate word "blower" and then
18 "whistleblower" together, is that correct?

19 A. That's correct, yes.

20 193 Q. "Person of the year" as a phrase, is that correct? 11:33

21 A. Yes.

22 194 Q. "Child"?

23 A. Yes.

24 195 Q. "Child abuse"?

25 A. Yes. 11:33

26 196 Q. "Kiddie fiddler"?

27 A. Yes.

28 197 Q. "Negative publicity"?

29 A. Yes.

1 198 Q. "Reputation" and "RTÉ"?

2 A. Yes.

3 199 Q. Is that correct?

4 A. That's correct.

5 200 Q. So in all of the searches that you conducted, that was 11:33
6 your instruction, to look for material that would
7 suggest that there was some sort of a campaign, if I
8 can put it that way, or an instruction to disburse
9 negative material in relation to Sergeant McCabe and
10 you used those keywords in common over all your 11:34
11 searches, is that correct?

12 A. That's correct, yes.

13 201 Q. Now, in relation to Superintendent Taylor's computer,
14 the relevant report is at page 4520 of the materials,
15 and I will take you through that. It was supplied to 11:34
16 you by the Tribunal, is that correct?

17 A. That is correct, yes.

18 202 Q. And you outline the procedure you followed in examining
19 the Tribunal -- or in examining the computer,
20 essentially you downloaded an image on that computer, 11:34
21 is that correct, and you examined your download?

22 A. Yes.

23 203 Q. All right. Now, it's a Dell computer, is that correct?

24 A. That's correct, it's a Dell Latitude computer.

25 204 Q. All right. And it had been active from the period the 11:35
26 1st July 2012 to the 31st May -- to October 2014, I beg
27 your pardon. So active from the 31st July 2012 to the
28 8th October 2014. It's included in your comments
29 section at page 4523 of your report.

1 A. That's correct, yes.

2 205 Q. All right. And during that period of time,
3 Superintendent Taylor didn't have access to his Garda
4 email account on that computer, is that correct?

5 A. That's correct. On a visit to Garda Headquarters IT on 11:35
6 21st September 2017, it was verbally confirmed that
7 during that period Garda email was not available on
8 issued laptops.

9 206 Q. All right. And I think you found, and this is at the
10 top of page 4523 of your report, there were 149,339 11:36
11 search hits --

12 A. That's correct, yes.

13 207 Q. -- produced from a search using those keywords, is that
14 correct?

15 A. That's correct. 11:36

16 208 Q. And you reviewed each of those search hits and none of
17 them displayed an instruction or any information that
18 would suggest that there was an instruction given to
19 disseminate negative material in relation to Sergeant
20 McCabe? 11:36

21 A. That's correct, yes.

22 209 Q. All right. And I think your notes and so on are
23 available should people need to see them in relation to
24 your search of that laptop, is that correct?

25 A. Yes. 11:36

26 210 Q. Now, if I could turn then to the laptop image, the
27 report begins at page 4502 of the materials. And as I
28 understand it, the laptop image contains a subset of
29 the information which is actually on the laptop, is

1 that correct?

2 A. That is correct. It would contain all the logical
3 information, the information that is available to the
4 user but some of -- the unused space was not part of
5 that image. 11:37

6 211 Q. Okay. And that's not unusual in any way, is that
7 correct?

8 A. Well, essentially the size of the image is much reduced
9 because it doesn't include the unused space but the
10 unused space can contain information that has been 11:37
11 previously deleted and essentially that space is marked
12 as unused. So it would not be available for any user
13 of a laptop to actually see the content of that unused
14 space.

15 212 Q. All right. And when you searched the laptop image, I 11:38
16 think you found 90 -- and this is at page 4505 of the
17 materials -- 90,819 hits generated from a search using
18 the keywords, is that correct?

19 A. That's correct, yes.

20 213 Q. And the lesser number is explained by the lesser 11:38
21 material on the laptop image, is that correct?

22 A. Yes. The unallocated space was not available so there
23 were no hits from that area, which was quite extensive.

24 214 Q. Yes. And in relation to the hit, the search hits that
25 were generated, you reviewed each of those hits, is 11:38
26 that correct?

27 A. I did, yes.

28 215 Q. And you didn't find anything on each of those hits that
29 would suggest that there was an instruction given to

1 Superintendent Taylor to disseminate negative
2 information in relation to Sergeant McCabe, is that
3 correct?

4 A. That's correct.

5 216 Q. And again, your notes, etcetera, are available, is that 11:39
6 correct?

7 A. Yes, yes, if needed, yes.

8 217 Q. All right. The next thing I want to ask you about is
9 former Commissioner Callinan's laptop computer, and
10 that is SM23, and it's at page 4518 of the materials. 11:39
11 Now, I think you followed the same procedure in
12 relation to examining that computer; you downloaded the
13 computer, is that correct?

14 A. Not on this case. Essentially the computer was
15 examined at Garda Headquarters IT section and the hard 11:40
16 disk was removed and connected to a ripe locker to make
17 sure that no data was changed on the hard disk and then
18 it was examined in a live manner rather than actually
19 making an image first and then recording it because of
20 the nature of the examination, it was to confirm 11:40
21 certain issues prior to running searches if necessary
22 but it was found that searches weren't necessary.

23 218 Q. All right. Now, the Tribunal has already heard that,
24 in accordance with Garda protocol, that computer was
25 made available to former Commissioner Callinan after he 11:41
26 retired, he made arrangements to buy it and the
27 computer was cleaned of all material that had been on
28 it, in accordance with Garda protocol?

29 A. Yes.

1 219 Q. And what did your examination conclude?
2 A. My examination confirmed that; that the dates that were
3 found on the laptop for the installation of the new
4 operating system were consistent with the indicated
5 time-line and that the previously-held data that was on 11:41
6 that device, whenever it was an official laptop, was
7 non-recoverable.

8 220 Q. All right. So that conclusion appears at page 4519 of
9 the materials, we can see there that you conclude:
10 11:42
11 "Former Commissioner Callinan's laptop was found to
12 have been sanitised and re-installed in accordance with
13 Garda IT protocol. The laptop user's account "Martin
14 Callinan" was created on Friday, 4th April 2014. Any
15 data from when Mr. Callinan was in post as Commissioner 11:42
16 is no longer available and non-recoverable."

17 A. That's correct, yes.

18 221 Q. Yes.
19 CHAIRMAN: So that's within ten days of his
20 resignation? 11:42
21 MS. LEADER: Exactly.

22 222 Q. And you conducted that examination in Garda
23 Headquarters on the 4th January of this year, is that
24 correct? That would appear from page 4518 of the
25 materials. 11:42
26 A. 4th January 2018, that's correct, yes.

27 223 Q. Now, I think you are aware that the Tribunal has a term
28 of reference asking that we examine all electronic and
29 paper files relating to Sergeant McCabe held by An

1 Garda Síochána and to consider any material therein
2 relevant to other terms of reference which relate to
3 the dissemination of material negative to Sergeant
4 McCabe?

5 A. Yes. 11:43

6 224 Q. Is that correct?

7 A. That's correct, yes.

8 225 Q. And you were asked by the Tribunal to conduct an
9 examination of the electronic systems of An Garda
10 Síochána in furtherance of that term of reference, 11:43
11 isn't that correct?

12 A. Yes, that's correct.

13 226 Q. And you actually did that, you attended at Garda
14 Headquarters from the 19th to the 22nd September 2017,
15 examining various Garda systems, is that correct? 11:43

16 A. That's correct, yes.

17 227 Q. Now, I think prior to you attending in Garda
18 Headquarters, you had received two documents from An
19 Garda Síochána, is that correct?

20 A. Yes. 11:43

21 228 Q. And those documents have recently been circulated in
22 redacted format, you obviously got them in unredacted
23 format, is that correct?

24 A. That's correct, yes.

25 229 Q. And if page 6877 could be put up on screen in front of 11:44
26 you, that is an An Garda Síochána request for
27 information from the Disclosures Tribunal and the next
28 page, you will see the contents, it provides an
29 executive summary - "Garda IT Service Catalogue,

1 provision of access, contents of Pulse and contact
2 points" - is that correct?

3 A. That's correct, yes.

4 230 Q. That is the document you were given beforehand?

5 A. That is the document. 11:44

6 231 Q. And if I could just turn to an example of the Garda
7 Service Catalogue at page 6881, and this will have to
8 be rotated. It provides a list of various applications
9 that are available to members of An Garda Síochána, is
10 that correct? 11:45

11 A. That's correct, yes.

12 232 Q. And all of those are separate electronic databases?

13 A. Yes, they are separate systems.

14 233 Q. In very crude terms.

15 A. Yes. 11:45

16 234 Q. So, for instance, and this is just as an example, it
17 shows "AFIS", which is the Automated Fingerprint
18 Identification System?

19 A. That's correct.

20 235 Q. And then there is "AFIS CT visa" which is a system 11:45
21 allowing for the receipt of files containing
22 fingerprint data; and then underneath that there is
23 "AGS portal", which is a web portal where the user can
24 view Garda information; and then there is a system
25 which automatically identifies number plate 11:45
26 registrations, is that correct?

27 A. That's correct, yes.

28 236 Q. And the last one on that page is a bomb scare database
29 system?

1 A. That's correct.

2 237 Q. And the document goes on like that for a number of
3 pages, until page, I think it's 6892 of the materials,
4 and it lists all the various Garda systems/databases,
5 is that correct? 11:46

6 A. That's correct, yes.

7 238 Q. Now, as I understand it, those databases are
8 tailor-made for the information which they are designed
9 to keep and the systems that assist the guards in their
10 work, is that correct? 11:46

11 A. That's correct, yes.

12 239 Q. So, for instance, if I was trying to input negative
13 material about Sergeant McCabe into the fingerprint
14 section, we will just take that as an example --

15 A. Yes. 11:46

16 240 Q. -- it wouldn't take it, is that correct?

17 A. No, that's correct, yes.

18 241 Q. And you satisfied yourself that that was the case, is
19 that correct?

20 A. I did, yes, yes. 11:46

21 242 Q. So I think what you did is, you requested -- and also
22 in that document there was a summary provided to you of
23 the contents of the Pulse system which is at page 6893,
24 is that correct? And that will come up, you can just
25 identify that. 11:47

26 A. Yes, that's correct.

27 243 Q. And I think again, in very simple terms, the Pulse
28 system is a database of information available to An
29 Garda Síochána and that lists the main contacts --

1 contents of the Pulse system, is that correct?

2 A. Yes, it's a series of interconnected databases, yes.

3 244 Q. All right. And after you looked, considered that
4 document, a further document was made available to you
5 which the cover page appears at page 6895 of the 11:47
6 materials, which is a service catalogue "Additional
7 Information" and the summary of that document is on the
8 following page. And you asked for further information
9 on the file share cluster, and we have heard some
10 evidence in relation to the file share system from 11:48
11 Superintendent Ryan yesterday, the correspondence
12 register, record ICT on line services, and then there
13 are two matters which are redacted and there is the
14 Computer Crime Investigation Unit and the post log, is
15 that correct? 11:48

16 A. That's correct, yes.

17 245 Q. And that information was made readily available to you
18 by members of An Garda Síochána, is that correct?

19 A. We have the series of documents, yes, from --

20 246 Q. Yes. And I think in relation to the -- at the risk of 11:48
21 getting too technical, the correspondence register is
22 exactly what it says, it's a register which records
23 correspondence to and from Garda Headquarters, is that
24 correct?

25 A. That's correct, yes. 11:48

26 247 Q. And the RECORD system is the successor to that system,
27 is that correct?

28 A. That's correct, yes.

29 248 Q. And there is a lot of information given to you in

1 respect of the migration of material or the starting
2 of, when various stations used the record service, is
3 that correct?

4 A. Yes, I believe that occurred in 2009/2010.

5 249 Q. On a phased basis? 11:49

6 A. On a phased basis, yes.

7 250 Q. And that information was given to you. Now, I think I
8 should say there were some systems that you weren't
9 granted access to and there are two witnesses tomorrow
10 to deal with those systems, Superintendent Brunton and 11:49
11 former Chief Superintendent Kirwan, you were made aware
12 of that?

13 A. Yes, they are privileged systems, yes.

14 251 Q. Privileged systems. And there was a different way of
15 searching those systems? 11:49

16 CHAIRMAN: We are talking there about crime and
17 security, is that right?

18 MS. LEADER: Yes.

19 CHAIRMAN: which, in fact, I searched in my own way.

20 MS. LEADER: supervised. And there are two witnesses 11:49
21 tomorrow to deal with those systems.

22 252 Q. So I think following on your perusing of that system
23 and various systems and the gathering of information,
24 you decided to concentrate your efforts in relation to
25 the following systems, and I will go through each of 11:50
26 these, not particularly in order, the summary is on
27 page 4608 of your report.

28 A. Yes.

29 253 Q. The first one is the AGS portal, and I think one of the

1 ways you narrowed your searches down was, in relation
2 to, perhaps we'll take the fingerprint example again,
3 because it wouldn't accept any information other than
4 fingerprint-related information it wasn't going to be
5 searched, isn't that correct? 11:50

6 A. That's --

7 254 Q. That was one of the criteria you applied?

8 A. That was correct.

9 255 Q. And the other criteria you applied was the systems
10 which the relevant parties, those being Commissioner 11:51
11 Callinan, Commissioner O'Sullivan and Superintendent
12 Taylor, had access to, is that correct?

13 A. That's correct, yes.

14 256 Q. So the first narrowing down of the search was would it
15 hold information -- can it hold information that is 11:51
16 likely to be relevant to the terms of reference which
17 we are supposed to be searching for, is that correct?

18 A. Yes, that's correct, yes.

19 257 Q. And the first system you looked at was AGS portal, and
20 that's described in the manual document, if I can refer 11:51
21 to it that way, at 6681, and which should come up on
22 the screen in front of you, sorry, 6881, I beg your
23 pardon. I wonder if a hard copy could be made
24 available to the witness. It's just not reading it.
25 6881. It's the most recently distributed one, volume 11:52
26 25.

27 CHAIRMAN: Do we have that, I wonder?

28 MS. LEADER: It's better now, yes. You can read it
29 now, Mr. McConnell. Yes.

1 258 Q. "AGS portal: The AGS portal is a web portal where the
2 user can view Garda information."
3 A. Yes, that's correct.

4 259 Q. And that adequately describes it in your view, is that
5 correct? 11:52
6 A. Yes.

7 260 Q. And that is available to all members of An Garda
8 Síochána, is that correct?
9 A. I believe so, yes.

10 261 Q. And it went live in 2011, according to that manual? 11:52
11 A. Yes.

12 262 Q. Yes. So when you searched that system, it generated 25
13 searched hits, you reviewed each individual one of
14 those and they were all found to be official documents
15 and not of significance and not matters that would 11:53
16 suggest that there was an instruction given or that
17 there was in actual fact material being disseminated
18 which would negatively reflect on Sergeant McCabe, is
19 that correct?
20 A. That is correct, yes. 11:53

21 263 Q. Now, I want to skip the correspondence register and
22 file share just for the minute, and if we could then
23 look at the Mail Meter searches, which is, in essence,
24 the email system, isn't that correct?
25 A. That's correct, yes. 11:53

26 264 Q. Now, yesterday we heard evidence from Superintendent
27 Pat Ryan which, he explained to us that there was an
28 archiving system employed in An Garda Síochána which
29 archives all emails going back a considerable period of

1 time, and I think you searched that system using the
2 keywords, is that correct?

3 A. I did, yes.

4 265 Q. And in relation to what you found in relation to the
5 searches, you found 71 search hits on Commissioner 11:54
6 Callinan's email and none -- you reviewed each of those
7 individually and none of them were significant insofar
8 as they were impacted on our terms of reference?

9 A. That's correct. The emails and any attachments that
10 were attached to the emails as well. 11:54

11 266 Q. You opened each one of those?

12 A. I did, yes.

13 267 Q. And in relation to former Commissioner O'Sullivan's
14 email you found 480 search hits on her email account
15 and did you review each of those individually? 11:54

16 A. Yes.

17 268 Q. And were any of them of significance insofar as what
18 you were looking for in that time, as you have already
19 outlined?

20 A. Not in accordance with the terms. 11:54

21 269 Q. All right. And in relation to Superintendent Taylor's
22 emails, I think there were 692 search hits on his
23 emails, is that correct?

24 A. That's correct, yes.

25 270 Q. And that would be using the keywords, is that correct? 11:55

26 A. Yes.

27 271 Q. And you reviewed each of those individually and none of
28 them were of significance, is that correct?

29 A. No, there was no instruction to inform the press

1 negatively.

2 272 Q. All right. I just want to leave the Pulse and record
3 just for the minute. You also had decided that the
4 Computer Crime Investigation Unit was an area which
5 potentially could have had negative material stored on 11:55
6 it in relation to Sergeant McCabe, is that correct?

7 A. That was one of the shortlisted systems, yes.

8 273 Q. Yes. And the description of that system is at page
9 6882 of that manual that I referred to earlier on. I
10 think our system is now reading it, yes. It's 11:55
11 called -- it's described as "Forensic investigation of
12 computers using CCIU database".

13 A. That's correct, yes.

14 274 Q. And I think when you looked further into that, you
15 found that the former commissioners, both former 11:56
16 Commissioner Callinan and former Commissioner
17 O'Sullivan, and also Superintendent David Taylor, had
18 no access to that system, is that correct?

19 A. That was correct, yes.

20 275 Q. So you didn't search it, that being the case? 11:56

21 A. No, it wasn't searched, yes. We made inquiries and
22 were informed that there was no access for the parties
23 to that system.

24 276 Q. All right. Okay. The next thing that was on the
25 shortlist was the Cohort Medical Access System and that 11:56
26 is described at page 6883 of the materials as the
27 medical system used by staff in the medical centre.
28 And I think when you look further into that matter you
29 found that it became active on the 24th June 2015,

1 which was after the time period you were searching in,
2 is that correct?

3 A. That's correct, yes.

4 277 Q. All right. You also then shortlisted the fixed charge
5 processing system, is that correct? 11:57

6 A. That's correct, yes.

7 278 Q. And you noted that none of the parties had accessed
8 that system during the relevant time period, is that
9 correct?

10 A. That's correct. 11:57

11 279 Q. And you left your searches at that --

12 A. Yes.

13 280 Q. -- at that stage.

14 A. Yes.

15 281 Q. Yes. The next thing that is listed is GEMS, Garda 11:57
16 Employment Management System, and that is described at
17 6886 of the materials, in redacted format, which is,
18 it's described as a management information system used
19 by the Internal Affairs section. "This application's
20 purpose is to store key metrics on complaints received 11:58
21 in relation to members of An Garda Síochána." That
22 describes the system adequately?

23 A. It does, yes.

24 282 Q. And what you found when you looked further into that
25 was that the system wasn't in place during the 11:58
26 timeframe of interest and since auditing was only
27 introduced in October 2016 there is nothing of
28 relevance to the Tribunal on the GEM System, is that
29 correct?

1 A. That's correct.

2 283 Q. And you satisfied yourself with that. The next thing
3 that was shortlisted was GRIPS, Garda Regional
4 Integrated Personnel System, is that correct?

5 A. That's correct. 11:58

6 284 Q. And that is at 6887 of the materials, it's described in
7 redacted format again as "a system tracking and
8 updating members' personal records throughout the
9 country", is that correct?

10 A. That's correct. 11:59

11 285 Q. And in actual fact, that system, no auditing is
12 available on it, is that correct?

13 A. That's correct.

14 286 Q. And that means you can't search it, am I correct in
15 saying that? 11:59

16 A. Yes, you wouldn't be able to say who had accessed it
17 and when.

18 287 Q. All right. Okay. And also, you found that the parties
19 of interest, those being the two commissioners and
20 Superintendent Taylor, didn't have access to the 11:59
21 system; therefore, on that basis you satisfied yourself
22 that there was nothing of relevance to the Tribunal, is
23 that correct?

24 A. Yes, that's correct.

25 288 Q. The next thing that was shortlisted was ICT Online 11:59
26 Services, and that is described at page 6888 of the
27 materials. And I think, in essence, that is a service
28 where various members of An Garda Síochána can request
29 access to other databases that they may not have access

1 to or other applications, is that correct?

2 A. That's correct, yes.

3 289 Q. It's a way of managing the system -- the systems, is
4 that correct?

5 A. Yes, it is. 12:00

6 290 Q. Yes. And what you found in relation to that was, when
7 you searched it, that nothing of significance to the
8 Tribunal was located during searches, is that correct?

9 A. Yes. There's only a small period of overlap between
10 the time in which the system went live and the date 12:00
11 frame of interest to the Tribunal, and during that date
12 frame there were only a small number of services
13 available via the system, which were a web access,
14 email and standard Pulse.

15 291 Q. Okay. All right. And when you searched that system, 12:00
16 was it using the keywords and applying the criteria, is
17 that correct?

18 A. Essentially, looking at that system, it would be to
19 look to see who actually had access.

20 292 Q. Had access? 12:01

21 A. Yes. So it was a matter of accessing permissions,
22 rather than actual key-word searches.

23 293 Q. Key-word search. All right. The next thing that was
24 shortlisted was the NBCI database, the National Bureau
25 of Criminal Investigation, and I think that may be 12:01
26 totally redacted, the description of that database, but
27 I think it's no secret, it deals with serious criminal
28 matters?

29 A. Yes, that's correct, yes.

1 294 Q. Yes. And your search of that, you found that the
2 persons of interest to the Tribunal do not have direct
3 access to the system. While that may seem unusual, I
4 think the system is that they go through somebody else
5 who has direct access to the system, if they need 12:01
6 information from it, is that correct?
7 A. That's correct. We made inquiries and that was the
8 responses that we got.
9 295 Q. All right. And you then eliminated that database, is
10 that correct? 12:02
11 A. That's correct, yes.
12 296 Q. In relation to, finally, before I go into the detail of
13 what you actually found, the post log system, which is
14 described at page 6890 of the materials, which is
15 exactly what it says, it's a logging system to record 12:02
16 correspondence, isn't that correct?
17 A. That's correct, yes.
18 297 Q. Yes. And you discovered that the commissioners and
19 Superintendent Taylor did not have access to the system
20 and you eliminated that from your inquiries, is that 12:02
21 correct?
22 A. That's correct, yes.
23 298 Q. Now, in relation to the correspondence register which
24 is described at page 6883 of the materials, and again,
25 that is exactly what is suggested it is, it's a 12:03
26 register of correspondence, is that correct?
27 A. That's correct, yes.
28 299 Q. It's described as "a local access database used to
29 trace correspondence sent by each department in Garda

1 Headquarters", is that correct?

2 A. That's correct, yes.

3 300 Q. And it's used to keep track of correspondence coming in
4 and out of the office?

5 A. Yes. 12:03

6 301 Q. Yes. So what you found when you searched that was that
7 there were 12 search hits for correspondence in
8 relation to Maurice McCabe?

9 A. That's correct, yes.

10 302 Q. And one item related to the correct Maurice 12:03
11 McCabe/Sergeant McCabe, isn't that correct?

12 A. That's correct, yes.

13 303 Q. And when you looked for an electronic version of that
14 file there was none to be found, is that correct?

15 A. Yes. 12:04

16 304 Q. And you concluded that it most likely is in paper
17 format only, which has been searched using a different
18 system, not you?

19 A. Yes. We were informed that that could often be the
20 case. 12:04

21 305 Q. Yes. It wouldn't be unusual. Now, the next thing of
22 significance, I think you looked at, was the RECORD
23 system, which is at 68 -- described at page 6891 of the
24 materials, and that is, as I understand it, the
25 successor to the correspondence register, is that 12:04
26 correct?

27 A. It is, yes.

28 306 Q. 6891. And it, again, records correspondence, but I
29 think it's not confined to Garda Headquarters, is that

1 correct, the system? Am I --

2 A. Yes, I do believe that it is distributed.

3 307 Q. Yes. Certainly on a phased basis, and you were given
4 lists of dates for that, isn't that correct, in the
5 first -- the second manual, is that correct? 12:05

6 A. Yes, yes.

7 308 Q. And if we just look at page 6891 - "The RECORD system
8 is a replacement for the correspondence register system
9 and has been designed to provide similar
10 functionality." - is that correct? 12:05

11 A. That's correct.

12 309 Q. Now, in relation to that system, you found six search
13 hits in total, is that correct?

14 A. That's correct.

15 310 Q. And two of those entries were of potential interest to 12:05
16 the Tribunal but weren't an instruction to inform the
17 press negatively or distribute negative information to
18 An Garda Síochána, is that correct?

19 A. That's correct, yes.

20 311 Q. Now, if we just turn to the body of your report in 12:05
21 respect of that document. I will just get the -- the
22 page number is 4600. Sorry, I beg your pardon, it's
23 4606. And what you found, your report starts at page
24 4605:

25 12:06

26 "A search across offices of relevance yielded five
27 search results, only one result --"

28

29 And you reviewed each of those five search hits, is

1 that correct?

2 A. Yes, that's correct.

3 312 Q. "-- and only one result, item 55, record date 16/5/2014
4 was deemed to be of significance to the Tribunal."
5
6 And you outline the details of that. You give the
7 reference CMR19101262/14, and it was the Tusla record
8 correspondence number CMR with reference 19101262/14
9 Sligo, is that correct?

10 A. That's correct, yes. 12:07

11 313 Q. And a broad description of that document is "The Tusla
12 referral notification of suspected child abuse", is
13 that correct?

14 A. That's correct, yes.

15 314 Q. And you may not be familiar but the Tribunal has heard 12:07
16 evidence in relation to those documents of how they
17 travelled from Sligo to Dublin to the Commissioner's
18 office, from former Commissioner Kenny and various
19 other officials?

20 A. Yes. 12:08

21 315 Q. And I think you downloaded -- there was a second search
22 performed then on the RECORD system and it showed
23 something received by the Commissioner's office on the
24 7th January 2013, and it would appear to be an FCPS
25 complaint, which is fixed charge penalty notice, is 12:08
26 that correct?

27 A. That's correct, yes.

28 316 Q. But there was no electronic copy of that
29 correspondence --

1 A. No, there wasn't.

2 317 Q. -- ever found?

3 A. No.

4 318 Q. So it goes into a different search criteria?

5 A. Yes. 12:08

6 319 Q. So I think prompted by the results of that RECORD
7 search you then searched the file share system, is that
8 correct?

9 A. That's correct, yes.

10 320 Q. And you used that as a way of navigating your search in 12:09
11 the file share system?

12 A. Yes. I used the reference numbers that were found in
13 the RECORD system and applied those search terms in the
14 file share.

15 321 Q. All right. Now, again, yesterday, Superintendent Ryan 12:09
16 told us, gave us some information about the file share
17 system but the description of it, it's at page 6883 of
18 the materials with the manual, and you'll see -- sorry,
19 maybe I am incorrect. Sorry, it's 6885. And it's
20 essentially a file storage platform for An Garda 12:09
21 Síochána?

22 A. That's correct, yes.

23 322 Q. It stores the files for the whole of the
24 organisation --

25 A. Mm-hmm. 12:10

26 323 Q. -- is that correct?

27 A. It stores pretty much everything file-wise, yes.

28 324 Q. Yes. So it's a very big database, is that correct?

29 A. Yes, yes, considerable.

1 325 Q. Yes. So you managed your search in relation to that
2 system as outlined in the body of your report, starting
3 at page 4600. So you looked at former Commissioner
4 O'Sullivan's user file share, which she has. Every, I
5 think, member of An Garda Síochána has a user account 12:10
6 in the file share system, is that correct?

7 A. Yes.

8 326 Q. Yes. It's at page 4600, sorry, if you want to look at
9 it in hard copy, it's your own report, or page 5 of
10 your report. You have it. So what you found was, 12:11
11 Commissioner O'Sullivan's user file share was found to
12 be unused, is that correct? It's at the very top of
13 the page under --

14 A. Yes.

15 327 Q. Yes. And former Commissioner Callinan's user file 12:11
16 share was reviewed and nothing of significance found,
17 is that correct?

18 A. That's correct.

19 328 Q. You looked through it using the keywords and --

20 A. Yes. 12:11

21 329 Q. -- applying the search criteria. And Superintendent
22 Taylor's user file share was found to contain only
23 information outside the timeframe of interest, is that
24 correct?

25 A. That's correct, yes. 12:11

26 330 Q. And then you commenced searching through the file share
27 system in its entirety, as I understand it, using the
28 RECORD search results which we have already referred
29 to, is that correct?

1 A. Yes, looking for those documents that we came across
2 previously from RECORD.

3 331 Q. All right. And then again that showed you the Tesla
4 notification, is that correct?

5 A. That's correct, yes. 12:12

6 332 Q. And it was in two formats, is that correct; it was in
7 PDF and a word file, is that correct?

8 A. That's correct. But the two documents weren't -- have
9 the same content, they complemented each other rather
10 than being the same material, yes. 12:12

11 333 Q. Exactly. And I may be incorrect in this, but the PDF
12 one showed the notification, it was in essence like a
13 photograph of the notification, is that correct? And
14 the other file was the correspondence generated, is
15 that correct? 12:12

16 A. That's correct, yes.

17 334 Q. In very broad terms?

18 A. Terms, yes.

19 335 Q. That is how the breakdown was. In relation to the
20 fixed charge penalty notice complaint, you couldn't 12:13
21 find a file in the file share system corresponding with
22 the record reference, is that correct?

23 A. That's correct. There was no digital copy.

24 336 Q. All right. Now, you also looked at the -- in its
25 entirety, the Commissioner's office group file share 12:13
26 searches, is that correct?

27 A. That's correct, yes.

28 337 Q. And that is the part of the file share system which
29 directly relates to the Commissioner's office in its

1 entirety, is that correct?

2 A. That's correct.

3 338 Q. So everybody in the Commissioner's office has access to
4 that part of the file share system?

5 A. Yes. In the office, they would apply for access and 12:13
6 then there would be a group, which is a list of people
7 which would have access to the --

8 339 Q. To the system?

9 A. To the system, yes.

10 340 Q. And I think when you searched that system, you found 12:13
11 seven separate files relating to Sergeant McCabe, is
12 that correct?

13 A. That's correct, yes.

14 341 Q. All right. And in relation to those files, they
15 haven't been distributed but I think you downloaded 12:14
16 those files along with the Tusla file on to a USB stick
17 and you gave that to the Tribunal in the last few days,
18 is that correct?

19 A. I did, yes.

20 342 Q. Yes. And they will be available. But the first one, 12:14
21 it says "Confidential Report 1 to 10 Documents" and
22 there is also a synopsis of that report at number 4,
23 you see in your report, at the bottom of page 4600?
24 Sorry, it's page 5 of your report, internal pagination,
25 at the very bottom. 12:14

26 A. Page 5. Yes, that is correct.

27 343 Q. Okay. And that, having looked at it, relates -- and
28 this is again in very general terms, in relation to a
29 meeting Sergeant McCabe had with Assistant Commissioner

1 relation to Sergeant McCabe?
2 A. Yes.
3 349 Q. It lists a mixture of all different items in relation
4 to Sergeant McCabe and confidential reporting, his
5 dealings with the Commissioner and the confidential 12:17
6 recipient?
7 A. Yes, it's a compilation.
8 350 Q. Yes. And I think you also placed all of those files on
9 to the memory stick which has been made available to
10 the Tribunal? 12:17
11 A. I did, yes.
12 351 Q. Now, you also searched the Pulse system, isn't that
13 correct?
14 A. That's correct, yes.
15 352 Q. Now, the summary of that is again at page 13 of your 12:17
16 report at page 4608. You found 32 search hits for
17 entries pertaining to Maurice McCabe on the system, 15
18 were false positives -- 17, sorry, I beg your pardon,
19 17 were false positives, is that correct?
20 A. That's correct, yes. 12:18
21 353 Q. Now, we will go back to that in a minute, but in
22 general terms you found 57 accesses by Nóirín
23 O'Sullivan on Pulse and none of them were of relevance,
24 is that correct?
25 A. Yes, that's correct, none related to Maurice McCabe. 12:18
26 354 Q. Yes. So what you mean there, as I understand it, is:
27 Commissioner O'Sullivan accessed the Pulse system 57
28 times during the relevant period, is that correct?
29 A. That's correct.

1 355 Q. And on none of those occasions was she accessing it in
2 relation to Sergeant McCabe, is that correct?

3 A. Yes, that's correct.

4 356 Q. And you could see that from your searches, is that
5 correct? 12:18

6 A. Yes, that was the -- essentially the searches were run
7 using Scripts and the results came out along those
8 lines.

9 357 Q. Yes. And just in my very basic terms, Scripts is a
10 computer programme which you instructed the computer to 12:19
11 search for different things but it takes quite a long
12 time to do it, is that correct?

13 A. That's correct. It's a form of a computer programme
14 and the search terms would be actually embedded in that
15 computer programme and then the computer programme is 12:19
16 run.

17 358 Q. So it wouldn't be quite as simple as just entering the
18 keywords?

19 A. No.

20 359 Q. It would have to be put into a particular programme in 12:19
21 order to search the Pulse system, is that correct?

22 A. Yes.

23 360 Q. And I think they take quite a long time to run, it's an
24 overnight procedure, is that correct, or a long number
25 of hours? 12:19

26 A. Yes. Well, it depends on the search criteria and the
27 breadth of the search across the system, how long it
28 will actually take. But it can be quite long, yes.

29 361 Q. Yes. And you also found that former Commissioner

1 Callinan and Superintendent David Taylor have no
2 recorded inquiries on Pulse during the timeframe of
3 interest, is that correct?

4 A. That's correct, yes.

5 362 Q. Now, you, at the request of the Tribunal, ran a search 12:20
6 in order to locate people who were looking up Pulse for
7 Sergeant McCabe, is that correct?

8 A. That's correct, yes.

9 363 Q. And in relation to that you generated a list on an 12:20
10 Excel spreadsheet, and that accounts for the search
11 hits of relevance, is that correct?

12 A. That's correct, yes.

13 364 Q. And that's is at present -- some inquiries are being 12:20
14 carried out in relation to that but there were people
15 accessing the system in An Garda Síochána relating to
16 Sergeant McCabe and that document will be distributed
17 in due course?

18 A. Yes.

19 365 Q. I see. But essentially, you provided that information 12:21
20 to the Tribunal?

21 A. Yes, it is on the memory stick, yes.

22 366 Q. Yes. And I think that concludes your searches of the
23 -- in Garda Headquarters, is that correct?

24 A. Yes, I think we have covered all --

25 367 Q. In relation to the systems? 12:21

26 A. Yes.

27 368 Q. Yes. And how you came to the conclusions you came to
28 and what documents you found?

29 A. Yes.

1 369 Q. Now, there was one final thing the Tribunal asked you
2 to search about, and that is a particular operation
3 which was run by An Garda Síochána called Operation
4 Squeeze, isn't that correct?
5 A. That's correct, yes. 12:21
6 370 Q. And your report in relation to that matter appears at
7 page 4512 of the materials, isn't that correct? It's
8 dated 13th March 2018.
9 A. Yes, that's correct.
10 371 Q. All right. And if I could just go to the comments 12:22
11 section of your report, which is at page 4 of that
12 report. Sorry, page 4516 of the materials. Your
13 inquiries established that "it was an investigation
14 into the cancellation (squashing) of fixed charge
15 penalties in relation to traffic offences", isn't that 12:22
16 correct?
17 A. That's correct, yes.
18 372 Q. And you established that the first job number was the
19 6th November 2012, isn't that correct?
20 A. That's correct, yes. 12:22
21 373 Q. And you couldn't establish who had commissioned the
22 operation, isn't that correct?
23 A. That's correct. Inquiries were made but they came back
24 as unknown.
25 374 Q. All right. And the objective of the operation was to 12:23
26 investigate and establish if the cancellation of fixed
27 charged penalties were in line with the correct policy
28 and procedure?
29 A. That's correct.

1 375 Q. And in relation to why it was given an operational
2 name, first of all could you explain, from your
3 inquiries, what an operational name is, as you
4 understand it from the guards?

5 A. As I understand it, an operation is a series of 12:23
6 investigations which combine in focusing on one thing.

7 376 Q. On one thing.

8 A. So each operation would then be given an operation name
9 to identify that particular series of investigations.

10 377 Q. To associate it with an overall aim, is that correct? 12:23
11 A. Yes.

12 378 Q. So it could perhaps be described as follows: That it's
13 a number of small individual investigations or maybe
14 not so small individual investigations, but it links
15 into an overall theme, is that correct? 12:24
16 A. That's correct, yes.

17 379 Q. And maybe to take the fixed charge penalty notice,
18 there may be an investigation into inspector A in
19 relation to the quashing of penalty points, which is an
20 individual operation, and there may be another 12:24
21 investigation or an individual investigation, another
22 one into inspector B, which is an individual
23 investigation, but they all come under the umbrella of
24 Operation Squeeze?

25 A. That's correct. 12:24

26 380 Q. Yes. But in relation to particular, a particular
27 series of questions that were asked of a number of
28 people, they fell under Operation Squeeze since it
29 related in very broad terms to penalty points, is that

1 correct?

2 A. That's correct, yes.

3 381 Q. And I think in the summary of the results at the bottom
4 of page 3 of your report, at page 4515 of the
5 materials, you set out your findings. The 12:25
6 correspondence register was outside the time period, is
7 that correct?

8 A. That's correct, yes.

9 382 Q. The file share system found a number of files and they
10 have been downloaded on to a memory stick, which you 12:25
11 gave to the Tribunal, is that correct?

12 A. Yes, they have been provided, yes.

13 383 Q. And then the Mail Meter, you found 33,167 search hits
14 on Squeeze, is that correct?

15 A. That's correct, yes. 12:25

16 384 Q. And you refine that downwards and you limit it to 16
17 mail messages, is that correct?

18 A. That's correct, yes.

19 385 Q. And on Pulse there was no record of Operation Squeeze,
20 is that correct? 12:26

21 A. That's correct.

22 386 Q. And on RECORD, which records correspondence, there was
23 14 relevant search hits in total?

24 A. Yes, that's correct.

25 MS. LEADER: Could you answer any questions anybody 12:26
26 else might have for you, Mr. McConnell.

27 CHAIRMAN: It might be useful to say at this point that
28 all of the reports of Ms. Strachan and Mr. McConnell
29 are now in evidence, not just the bits we have gone

1 through, the whole lot are in evidence. Thanks.

2 MR. GORDON: No questions.

3 MS. BURNS: No questions, Chairman.

4 MR. Ó MUI RCHEARTAIGH: No questions.

5 MR. DONAL McGUI NNESS: Yes, Chairman, just one
6 question.

12:26

7

8 THE WITNESS WAS CROSS-EXAMINED BY MR. DONAL McGUI NNESS:

9 387 Q. MR. DONAL McGUI NNESS: Donal McGuinness, on behalf of
10 Martin Callinan and Nóirín O'Sullivan. Just one issue
11 I'd like to explore with you. In relation to SM10,
12 which is the image of the Toshiba laptop --

12:26

13 A. Yes.

14 388 Q. -- you are familiar with that particular one --

15 A. Yes.

12:27

16 389 Q. -- there was no access at the relevant time. sorry, I
17 should set out relevant time 31 July '12 to 8 October
18 '14 was the time when that laptop was in use, isn't
19 that correct?

20 A. This was the image -- I will have to check back on --

12:27

21 390 Q. It's 4505. It begins on 4502.

22 MS. LEADER: It is internal pagination page 215.

23 A. Yes. The period of use of the user account G22459F was
24 the 31st July 2012 to the 8th October 2014.

25 391 Q. MR. DONAL McGUI NNESS: Yes. And, as I understand it,
26 this particular laptop didn't have access to Garda
27 email at the time because it wasn't generally
28 available, Garda email wasn't available on laptops at
29 that time.

12:28

1 A. On laptops at that time, that's correct, yes.

2 392 Q. However, this laptop would have been able to access the
3 ordinary email, the personal email account of
4 Superintendent Taylor?

5 A. Yes. There was a SIM card connected to it and 12:28
6 attached -- Internet access, yes.

7 393 Q. Yes. And in relation to your search of the image, as I
8 understand it there were 90 -- approximately 90,000
9 hits on the image --

10 A. Yes. 12:29

11 394 Q. -- and 149,000 on the actual laptop itself, and you
12 have already explained the reason for the differential
13 between those two.

14 A. Yes, it was the unallocated space.

15 395 Q. Yes. And then on page 4505, which is page, internal 12:29
16 pagination of your report page 4, and you gave evidence
17 to this effect, you used the formula of words: "No
18 evidence was recovered from item SM10 to support a
19 claim made by Superintendent David Taylor that he was
20 instructed by former Commissioner Martin Callinan to 12:29
21 brief the media against Sergeant Maurice McCabe or the
22 allegation made by Superintendent David Taylor that the
23 former Commissioner of An Garda Síochána, Nóirín
24 O'Sullivan, was aware of the said instruction."

25 A. That's correct, yes. 12:30

26 396 Q. And just in relation to leaving that formula of words
27 aside for a second, and I understand the reason why you
28 would use that formula because it's directly associated
29 with the terms of reference, I take it that in the

1 event that there had been any information denigrating
2 Sergeant McCabe at all found on that computer that that
3 is information that you would consider relevant?
4 A. Yes, absolutely.
5 397 Q. And there was no such information? 12:30
6 A. No.
7 MR. DONAL MCGUINNESS: Thank you.
8 A. Yes.
9
10 CHAIRMAN: Have you any questions? 12:30
11 MS. LEADER: No.
12 CHAIRMAN: Just a couple of things. Obviously what we
13 couldn't supply you with was Superintendent Taylor's
14 phone of October 2013, I think you noted that
15 somewhere, that that was one of the things that is not 12:30
16 available. That is the first thing. Then I am
17 assuming from the tenor of your reports and from our
18 previous correspondence that you received the fullest
19 possible cooperation from the Gardaí?
20 A. Yes, absolutely. The help that we received was first 12:31
21 rate, yes.
22 CHAIRMAN: Yes. And just the same note of thanks to
23 you as to Ms. Strachan. It's been a great comfort to
24 know that you have done this job so thoroughly, so
25 thank you. 12:31
26
27 THE WITNESS THEN WITHDREW
28
29 MR. MCGUINNESS: Chairman, they are the two witnesses

1 that we had scheduled for today and we have got through
2 them a lot quicker and without any intensive
3 cross-examination, so that concludes the evidence that
4 we are scheduled to give today.

5 CHAIRMAN: Yes. So maybe you would just tell me, tell 12:32
6 us all about - I'm assumed to know, of course - about
7 tomorrow and Monday and Tuesday.

8 MR. MCGUINNESS: Tomorrow we have former Chief
9 Superintendent Peter Kirwan and Superintendent Brian
10 Brunton from Crime and Security, Headquarters. And 12:32
11 then next week we intend to commence the evidence of
12 Superintendent Taylor, commencing on Monday.

13 CHAIRMAN: Very good.

14

15 THE TRIBUNAL THEN ADJOURNED UNTIL FRIDAY, 11TH MAY 2018 12:32
16 AT 10:00AM

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