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SEANAD ÉIREANN ON 16 FEBRUARY 2017

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

HELD IN DUBLIN CASTLE
ON WEDNESDAY, 30TH MAY 2018 - DAY 82

82

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Services certify the
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1 THE HEARING RESUMED, AS FOLLOWS, ON WEDNESDAY, 30TH MAY
2 2018:

3
4 MS. LEADER: The former Commissioner was being
5 cross-examined by Mr. O'Higgins. 10:00

6 CHAIRMAN: I thought there was an application for
7 representation.

8 MS. LEADER: Yes, by Mr. Kierans' solicitor. I don't
9 know if he's actually present, sorry, Chairman, at this
10 very minute. 10:05

11 CHAIRMAN: All right, we'll take it when he comes.

12 MR. CHRISTOPHER McCANN: Yes, Chairman. Christopher
13 McCann, McCann Fitzgerald Solicitors. I would like to
14 make an application for representation on behalf of my
15 client John Kierans. 10:05

16 CHAIRMAN: I'm sorry, I can't see you. Would you just
17 wave your arm? Just remind me who Mr. Kierans is please.

18 MR. CHRISTOPHER McCANN: Mr. Kierans is the
19 Editor-in-Chief of the Mirror, the Daily Mirror
20 operations in Ireland. 10:05

21 CHAIRMAN: And he's due to give evidence?

22 MR. CHRISTOPHER McCANN: In the morning session, I
23 understand. But as the Tribunal may be aware,
24 Mr. Kierans is being reinterviewed this morning, so I
25 think that that is going to push his calling into the
26 afternoon. So if the Tribunal is amenable, I can make
27 the application when he's called or -- 10:06

28 CHAIRMAN: All right. Application granted. Okay,
29 thank you, M. O'Higgins.

1 MR. LEHANE: Sorry, Chairman, I'm just applying, I have
2 an application for representation on behalf of Anne
3 Harris. Darren Lehane, instructed by Patrick F.
4 O'Reilly & Company Solicitors, Chairman.
5 CHAIRMAN: Yes, granted. All right, Mr. O'Higgins. 10:06
6 MR. MICHAEL O' HIGGINS: Good morning, Chairman.
7 CHAIRMAN: well, I don't do "good mornings",
8 Mr. O'Higgins. But anyway, let's carry on.
9 MR. MICHAEL O' HIGGINS: Chairman, late in the afternoon
10 yesterday you requested that we seek specific 10:06
11 instructions with regard to certain matters in the
12 judicial review papers, and I spent some considerable
13 time last night reading the papers and involved in
14 fairly lengthy conversations with my solicitor, who was
15 also liaising with Superintendent Taylor, and I'm 10:07
16 satisfied that this is quite a complex issue, it's not,
17 in my respectful submission, susceptible to a simple
18 one line "yes", two line "no".
19
20 You have raised a number of specific issues and 10:07
21 inquired as to whether Superintendent Taylor is
22 standing firm on those issues or whether he's
23 withdrawing them, and obviously the consequences in
24 respect of that for him, within the confines of this
25 hearing, could be quite serious. 10:07
26
27 Having read the judicial review papers and having
28 looked at some of the excerpts from the daily
29 transcripts and what was said by Superintendent Taylor

1 in evidence, it seems very clear to me that what
2 Superintendent Taylor was saying was that he had a set
3 of complaints about how he was treated within the
4 confines in respect of the matter for which he was
5 arrested. He has said in very clear and unadorned 10:08
6 terms 'I'm not suggesting that they' - these are the
7 people who were involved in the arrest - 'did anything
8 improper, I'm not impugning their integrity, I'm not
9 impugning their rights.'

10
11 And his complaint, succinctly summarised, in my 10:08
12 respectful submission, is as follows. Whether he be
13 right or wrong about this is immaterial, in my
14 respectful submission, but his state of mind is 'I was
15 a Garda superintendent. I was the first Garda 10:09
16 superintendent in the history of the State ever to be
17 arrested. It was not necessary to arrest me. I would
18 have attended for a voluntary interview'. As his
19 affidavit discloses, he did attend for a subsequent and
20 second interview, which was voluntary and passed off 10:09
21 without incident; that it was not necessary that he
22 should have his epaulets removed, his belt removed, his
23 laces removed and placed in a prison cell. And from
24 his perspective, that caused him, on a human level I
25 think very understandably, significant humiliation and 10:09
26 significant embarrassment. And that is his complaint.
27 But it seemed to me from the turn of events in the late
28 afternoon that, somehow or other, it was seen to be
29 suggested that his complaint was of a wider variety,

1 that despite the fact that it was made absolutely
2 crystal clear that the -- the fact that he was a
3 suspect was valid, the fact that he was arrested was
4 valid, i.e. there was a reasonable suspicion generated
5 to justify an arrest, that a detention was justified. 10:10
6 There seemed to be some undercurrent as to whether we
7 were somehow -- whether he was how saying that this was
8 Commissioner O'Sullivan's doing. It was not, and no
9 such case is being made.

10
11 So the position as of now is that, in my respectful
12 submission, the remarks in the Statements of Grounds,
13 which are subject to a verifying affidavit, are within
14 a particular narrow context, but mindful of the
15 potential serious outcome of this, I do want further 10:11
16 time so that my solicitor can sit down with Mr. Taylor,
17 if necessary with counsel and to go through the
18 affidavit line by line. I'm not familiar with the
19 case, I wasn't instructed in it and I'm going to need a
20 little bit of time to do that, so I'm going to ask you 10:11
21 for some time to do that.

22 CHAIRMAN: Mr. O'Higgins, the affidavit and the
23 judicial review papers were distributed in relation to
24 this module and have extensively been commented on in
25 the course of evidence, including by your client. Now, 10:11
26 it seems to me that there's somewhat of cross-purposes
27 going on here and it may help if I try to clarify
28 matters.

29 MR. MICHAEL O' HIGGINS: I would be obliged.

1 CHAIRMAN: The person in the witness-box was the
2 Commissioner of An Garda Síochána. David Taylor, when
3 he left the Press Office, in consequence of an order by
4 this witness, decided to cause immense trouble, inter
5 alia, by getting details of investigations and by 10:12
6 leaking them wholesale to the press - these included
7 murder and rape investigations - in circumstances where
8 those investigations could have been compromised -
9 underline could have been compromised.

10
11 When that investigation took place and when this 10:12
12 witness was the chief policeman/woman in the State,
13 David Taylor was justifiably arrested. He decided to
14 say nothing, as was his right, when questioned in
15 relation to these matters, but he has now admitted in 10:13
16 evidence some years later that of course, yes, he was
17 doing all of these things and he finds it regrettable.

18
19 But that's not the point. The point is this: There's a
20 core allegation made by David Taylor against Nóirín 10:13
21 O'Sullivan, which is that he actually went in and
22 actually discussed the campaign that he was running, he
23 says, on behalf of Commissioner Callinan against
24 Maurice McCabe with Nóirín O'Sullivan. No times, no
25 dates, no details, no surrounding circumstances are 10:13
26 supplied, but it is very definite, on his evidence,
27 that he discussed that with her and that she did not
28 demur or comment and it was a case, therefore, of tacit
29 acceptance. And there are circumstances where failing

1 to protest is equivalent to guilt. This would be one
2 of them.

3
4 Faced with the trouble of having been arrested and
5 having disciplinary charges coming against him, he took 10:14
6 an application in the High Court, which has been
7 distributed in the papers here over months, which has
8 been discussed in the transcripts here over months, and
9 in that he says, inter alia, the investigation was
10 biased because Commissioner O'Sullivan was behind it, 10:14
11 she put her husband into it. His wife says the husband
12 was there in order to get a charge against him, to make
13 that successful. He says as well that his phones were
14 seized, and the implication is, even though he has now
15 disavowed it, and what he apparently said to other 10:14
16 people - and whether that was said or not is something
17 on which I reserve my decision - that there were
18 incriminating texts flying between Martin Callinan as
19 Commissioner and him and reports flying from him to
20 Martin Callinan on the campaign that was being waged 10:15
21 against Maurice McCabe, which was copied to Nóirín
22 O'Sullivan.

23
24 He says further and said further to public
25 representatives and in his judicial review that his 10:15
26 phones were seized in order that the Garda would cover
27 up this campaign. Now, that is what he said to other
28 people. He now says something different, I agree, and
29 in that respect, as I said yesterday, that water is

1 under the bridge; he said there was nothing
2 incriminating that could be found should those phones
3 be recovered. He also said in the judicial review that
4 the phone, which it now appears was in his own house
5 and in the possession of his daughter or someone in his 10:15
6 household, was acting up and was apparently sending
7 messages or a message, even though it was out of
8 Commission and in consequence of that, the
9 investigation is fatally flawed.

10
11 All of this amounts to this, that somehow the Garda 10:16
12 Síochána decided to target him and use, to put it
13 mildly, unfair means in order to ensure that he was in
14 trouble, whether it be a conviction, possibility of a
15 charge or a disciplinary proceeding. 10:16

16
17 Now, why is this a fact in issue? why were these
18 papers distributed in the course of this hearing over
19 months? why has this been discussed in the witness-box
20 without me cutting it off? well, the answer to that is 10:16
21 pretty straightforward and simple: was David Taylor
22 bitter out of being moved out of the Press Office and
23 did he make a series of false claims in order to wreak
24 revenge against them who he responsible for his plight?
25 Chief amongst those is the former Garda Commissioner 10:17
26 Nóirín O'Sullivan, who is the witness in the
27 witness-box.

28
29 Now, I'm not asking for much - in fact all I'm asking

1 for is Browne v. Dunn - and, given that the matter has
2 gone on for several months, it's not too much to ask
3 that this be completed now. So the questions are:
4 Does he now say that Nóirín O'Sullivan in any way
5 interfered or caused someone to interfere with his 10:17
6 phone? Does he now say that Nóirín O'Sullivan put her
7 husband into the case in a leading role in order to
8 ensure that he was, to use a colloquialism, "got" in
9 some respect or had a charge in some respect put over
10 him? Did Nóirín O'Sullivan control the circumstances 10:17
11 of his arrest so that he was indeed arrested, had his
12 laces taken off and his belt taken off - circumstances
13 which are normal to every prisoner because of the risk
14 of suicide, unfortunately, in custody? Does he now
15 withdraw any allegation in relation to the seizure of 10:18
16 phones through, again it is said, Nóirín O'Sullivan, in
17 consequence of her being determined to ensure that
18 evidence against herself was covered up?

19
20 Now, the opportunity to ask those questions is now and 10:18
21 if you'd like to ask those questions, I'd be very happy
22 to receive the answers. But it seems to me that that
23 is all that it is about.

24
25 Now, I just want to say one further thing; why is it a 10:18
26 fact in issue? Why is this not just a matter of
27 credit? And I'm not saying "credibility", I'm saying
28 "credit", I've explained that earlier on what the
29 difference is and indeed I've even written a chapter of

1 a book where this is mentioned, if anyone cares to read
2 it. well, the answer is this: It is central to the
3 allegations being made in this case by David Taylor as
4 to what his motivation was, and if he is now saying
5 that he is blaming Nóirín O'Sullivan in vain or wrongly 10:19
6 or that he was emotional and perhaps said things he
7 shouldn't, well, that may well impact on the view that
8 I take in relation to the central allegations made by
9 David Taylor. It may also impact in relation to his
10 credibility vis-á-vis what, for instance, Maurice 10:19
11 McCabe reports him as saying, vis-á-vis what his wife
12 Michelle Taylor reports him as saying, vis-á-vis what
13 certain public representatives report him as saying.
14 But it's only a checklist, it's only one, two, three,
15 four, five, ask the questions, check it off, let's all 10:19
16 get on with it. And that's as much as I'm asking.
17 Now, if you're not prepared to do that --
18 MR. MICHAEL O' HIGGINS: I can deal with it now.
19 CHAIRMAN: Mr. O'Higgins, I don't want to listen to a
20 big speech from you. If you want to do it, carry on. 10:19
21 If you don't want to do it, that's fine.
22 MR. MICHAEL O' HIGGINS: I can deal with it now. In
23 answer to the first question, no. In answer to the
24 second --
25 CHAIRMAN: No, you ask the questions, Mr. O'Higgins, 10:20
26 please. Here is the witness, she can answer them.
27
28
29

1 MS. NOÍRÍN O' SULLIVAN CONTINUED TO BE CROSS-EXAMINED BY
2 MR. MICHAEL O' HIGGINS:

3
4 1 Q. MR. MICHAEL O' HIGGINS: Commissioner O'Sullivan, I'm
5 not making any case good, bad or indifferent - and I 10:20
6 thought I made this crystal clear yesterday - that
7 you'd had any hand, act or part directly or indirectly
8 with respect to my client's arrest with respect to the
9 Clerkin investigation. I think you're clear on my
10 position on that? 10:20

11 A. Well, Chairman, just on a point of clarity, I had
12 absolutely no involvement whatsoever in relation to the
13 arrest, the detention or the investigation in relation
14 to Superintendent David Taylor.

15 2 Q. And you understand I am putting negatively and 10:20
16 accepting that is the position?

17 A. I understand your point, Mr. O'Higgins.

18 3 Q. And you've heard the Chairman with regard to
19 orchestrating the arrest, with regard to putting your
20 husband in, with regard to the seizure of your 10:21
21 phones -- of his phones; you are clear that I am
22 clearly putting to you that it is not suggested you had
23 any part in that, directly or indirectly?

24 A. Well, I can confirm, Chairman, I had absolutely no
25 hand, act or part in it. And also, just on a point of 10:21
26 clarity that arose yesterday, my husband was not the
27 arresting officer in relation to the investigation.

28 4 Q. I accept that. And you're clear on what my position to
29 you on it is?

1 A. Yes, I am clear, Mr. O'Higgins.

2 MR. O'HIGGINS: Thank you very much.

3 CHAIRMAN: Any other questions? Mr. Gillane?

4 THE WITNESS WAS CROSS-EXAMINED BY MR. GILLANE:

5

10:21

6 5 Q. MR. GILLANE: Yes, thank you, Chairman. Commissioner
7 O'Sullivan, Sean Gillane. I appear for Mr. Reynolds
8 and RTÉ. Ms. Leader took you through your evidence
9 yesterday comprehensively, so I'll be literally 60
10 seconds I think. Can I just ask you to confirm,
11 yesterday you were shown a billing record in relation
12 to your official mobile phone and phone contacts, I
13 think, were contained therein in relation to
14 Mr. Reynolds?

10:21

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

10:22

16 6 Q. And I think you can confirm that that billing record
17 covers a two-year period from the middle of 2012 to the
18 middle of 2014?

19 A. I don't have it here in front of me, but yes, I agree,
20 I can recall it, yes.

10:22

21 7 Q. Yes. And if you need to see it, it's 1018, I think, in
22 volume 3. But I think in relation to that two-year
23 period, that, I think, indicates 20 points of contact
24 in relation to that billing period?

25 A. That would be correct, Chairman, yes.

10:22

26 8 Q. And I think of those 20 points of contact, I think
27 there are five telephone calls during that period?

28 A. Yes, Chairman, I believe that is correct, yes.

29 9 Q. Now, I think in relation to your evidence yesterday, I

1 think you were also asked questions about a story that
2 Mr. Reynolds published on the 24th February 2014?

3 A. Yes, Chairman, that's correct.

4 10 Q. And I think that story initially was published, I
5 think, at 14:28 on that day? 10:22

6 A. Yes, I agree, Mr. Gillane.

7 11 Q. And again, without wanting to repeat myself, I didn't
8 interrupt Mr. McDowell yesterday, I think he billed the
9 story to you as being a story where Mr. Reynolds had
10 suggested that Maurice McCabe had "failed to 10:23
11 cooperate". Those words in fact - and I think we had
12 agreed this last week - don't appear in the story in
13 fact?

14 A. Yes, I agree with your point, Mr. Gillane.

15 12 Q. And I don't know if you remember it but that phrase, 10:23
16 "failed to cooperate", in terms of this particular line
17 which was prevalent at that time, that phrase "failed
18 to cooperate" had originated in fact in 2013, when that
19 claim was made in Dáil Éireann. I don't know if you
20 remember that? 10:23

21 A. As I understand it, Mr. Gillane, yes.

22 13 Q. And I think just in relation to Mr. Reynolds, I think
23 he describes his relationship with you as professional
24 and personable. And is that a fair enough assessment
25 of the nature of that relationship? 10:23

26 A. Yes, I would agree with that assessment, Chairman, yes.
27 MR. GILLANE: Thanks very much, Commissioner.

28 A. Thank you, Mr. Gillane.

29

1 THE WITNESS WAS CROSS-EXAMINED BY MR. Ó MUIRCHEARTAIGH:

2
3 14 Q. MR. Ó MUIRCHEARTAIGH: Good morning, Commissioner. I'm
4 Fíonán Ó Muircheartaigh and I appear for the journalist
5 Alison O'Reilly. And I ask these questions of you 10:24
6 because in my client's account to the Tribunal, in
7 particular in relation to her conversations with Debbie
8 McCann, a journalist whom you knew, you are mentioned
9 and, therefore I want you to have an opportunity to
10 put -- to put those mentions to you. 10:24

11 A. Yes.

12 15 Q. So that you can comment on them. Her statement, I
13 don't think you'll need it, but her statement is at
14 pages 2329 -- 2834 of the Tribunal's documents. The
15 Tribunal sent a list of questions to people whom it 10:24
16 thought might be able to help them in relation to the
17 Tribunal and Alison replied in relation to two of
18 those, mentioning your name, and I'll read out the --
19 the first question, question 4 was seeking information:

20 10:24
21 "Have you any information regarding a campaign of
22 senior officers to discredit Sergeant McCabe?"

23
24 And Ms. O'Reilly states in her statement:

25 10:25
26 "I do not have any direct information. I was told by
27 my former colleague in the Irish Mail on Sunday, Debbie
28 McCann, between 2013 and 2014 that Superintendent Dave
29 Taylor and the then Acting Commissioner Nóirín

1 O' Sullivan told her Maurice McCabe abused a girl when
2 she was a child."

3
4 So I must put it to you, did you tell Debbie McCann
5 that Maurice McCabe abused a girl when she was a child, 10:25
6 at any stage?

7 A. No, Chairman, I never discussed Sergeant McCabe with
8 Ms. McCann ever.

9 16 Q. So does it follow then that either Debbie McCann was
10 mistaken or Ms. O'Reilly was mistaken in relation to 10:25
11 Debbie McCann's account?

12 A. Well, Chairman, I can only state the facts. In fact I
13 don't believe I had been introduced to Ms. McCann until
14 such time in mid-November 2014 and I most certainly
15 never spoke to her in relation to Sergeant McCabe. 10:25

16 17 Q. Thank you for that. Now, there are only two other
17 references, so I'm going to go through each of them.
18 The second reference that I think might be relevant is
19 in reply to question 15. This goes to your
20 relationship with Debbie McCann. If I can just get 10:26
21 question 15. I think it says:

22
23 "Have you any other information relevant to the
24 Tribunal?"

25
26 But we can come back to that. Anyway, the reply was:
27

28 "Debbie McCann told me she had Commissioner
29 O' Sullivan's number. She said Nóirín O' Sullivan

1 promised her an exclusive interview when she was
2 appointed Commissioner and she was to go through the
3 Press Office to make it look like they didn't know each
4 other. She told me Nóirín O'Sullivan did an interview
5 with her off the record because she was conscious of
6 doing an on the record conversation with a reporter
7 whom she knew in the first few weeks of her new job."

10:26

8
9 So that's what's in the statement. Would you make any
10 comment on that?

10:27

11 A. I'm sorry, Mr. Ó Muircheartaigh, I don't have the date
12 here in front of me that that references.

13 18 Q. It's on page 3829 of the Tribunal's documents.

14 A. But, Chairman, what I can do, I can go through, as I
15 went through yesterday, Ms. McCann had been seeking to
16 have an interview through the Garda Press Office with
17 me back in 2012, when I was Deputy Commissioner and
18 after I had received some award. That did not happen
19 and did not transpire. She had tried again in 2013,
20 asking for an interview with me and that had not
21 transpired. And subsequently to my appointment as
22 Garda Commissioner on 25th November 2014, Ms. McCann
23 made contact with me, provided me with a series of
24 questions, which I telephoned her back on in relation
25 to my -- where I wanted An Garda Síochána to go. And
26 it was succinctly in relation to those points. And the
27 article appeared, I believe, around 30th November.

10:27

10:27

10:27

28 19 Q. The last reference that I'd like to draw your attention
29 to is in paragraph L of her statement. And this

1 related to a conversation which Ms. O'Reilly had with
2 Debbie McCann in Herbert Park. You'll recall that
3 towards the end of 2013 and the beginning of 2014 the
4 evidence that has been given suggests that this matter
5 was becoming much more active; there was the PAC affair 10:28
6 and then there was the visit of Debbie McCann
7 immediately after that to Ms. D's home. And my client
8 was concerned that, put frankly, that Maurice McCabe
9 was being set up by somebody and she challenged Debbie
10 McCann in Herbert Park - this is what her statement 10:29
11 says - she challenged Debbie McCann on the truth of the
12 story that was going about in the rounds about Maurice
13 McCabe and that he was a paedophile, and I quote from
14 her statement:

15
16 "I asked her how she knew this story was true. She 10:29
17 said this story was coming from the top. I asked her
18 'was that your pal Noreen', and she said 'yes'."

19
20 would you like to comment on that? 10:29

21 A. Well, firstly, Chairman, I would not classify myself as
22 Ms. McCann's pal. Again it would've been a
23 professional interaction that I would've had with her.
24 And secondly, as I have previously stated, I have never
25 spoken to Ms. McCann, or indeed anybody else, in 10:29
26 relation to Sergeant McCabe and I've never used any, or
27 given anybody the indication of such a view of Sergeant
28 McCabe.

29 MR. Ó MUI RCHEARTAIGH: Thank you very much.

1 A. Thank you.

2

3

4

THE WITNESS WAS EXAMINED BY MR. DIGNAM:

5

10:30

6 20 Q. MR. DIGNAM: Thank you, Chairman. Ms. O'Sullivan, I
7 just want to ask you a few questions to cover some of
8 the ground that you've already covered with Ms. Leader,
9 Mr. McDowell and Mr. O'Higgins for the purpose of
10 clarifying some of the points that were discussed
11 yesterday, and then I want to discuss some of the
12 specific allegations or accusations that have been made
13 against you, both in the context specifically of this
14 Tribunal and in the public arena which have now fed
15 into this Tribunal.

10:30

10:30

16

17 Firstly, you said yesterday that you, at a certain
18 point in time, I can't remember the exact date, you
19 took over from Deputy -- you took over Deputy Rice's
20 role upon his retirement. When was that?

10:30

21 A. Deputy Commissioner Rice retired on 31st May 2013 and I
22 would have assumed his responsibilities at that stage.

23 21 Q. And from that point on, for a period of time you're
24 performing the role of both Deputy Commissioners, is
25 that right?

10:30

26 A. That would be right, Chairman. Up until I assumed the
27 additional role as Acting Commissioner.

28 22 Q. Now, you were also asked about the pre-PAC meetings,
29 beginning, I think, on 6th January. You weren't at

1 that meeting, but there was seen a series of meetings
2 between that and 23rd January when the PAC meeting took
3 place.

4 A. Yes, Chairman.

5 23 Q. And you described your recollection of those meetings, 10:31
6 I think, as being focused on comparing and contrasting
7 the Comptroller & Auditor General's report, which was
8 the subject of the PAC hearing, and the O'Mahony
9 report, is that right?

10 A. That's correct, Chairman, yes. 10:31

11 24 Q. You were then shown, and indeed you've had an
12 opportunity to see in advance, the notes from those
13 pre-PAC meetings?

14 A. Yes, Chairman, I did.

15 25 Q. And you indicated that you do not recall any discussion 10:31
16 of the Ms. D allegation taking place in your presence
17 whilst at those meetings, is that right?

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

19 26 Q. Now, I think you were very fairly saying that you've no
20 recollection of any such discussion. Are you 10:32
21 comfortable in going as far as to say that that those
22 discussions did not take place in your presence?

23 A. Yes, Chairman, those discussions did not take place in
24 my presence.

25 27 Q. Now, it was put to you by Ms. Leader that, even on 10:32
26 former Commissioner Callinan's account, there was some
27 discussion on 23rd January with certain individuals --
28 sorry, 23rd and 24th January, with certain individuals
29 of the allegations against Sergeant McCabe. And they,

1 obviously the circumstances of those discussions and
2 those references are very much in dispute - you'll have
3 read the evidence in relation to Deputy Deasy, Deputy
4 McGuinness, Mr. McCarthy and Commissioner Callinan's
5 account of those discussions. But it was put to you 10:33
6 that because, even on former Commissioner Callinan's
7 account, there were discussions on 23rd and 24th
8 January, that it would seem incredible that you didn't
9 have discussions with people around those dates. Now,
10 are you clear in your recollection as to whether or not 10:33
11 you had discussions about the allegations against
12 Sergeant McCabe around those dates or at any time?

13 A. No, Chairman, I never had discussions with any of the
14 individuals - I have read the evidence and read the
15 papers - with any of those individuals in relation to 10:33
16 Sergeant McCabe at that time or at any other time.

17 28 Q. Now, just to bring you on then to the evening of 23rd
18 January. You dealt with the letter, the proposal
19 letters, or the draft proposal letters if I might call
20 them that, and you indicated that you had some input 10:33
21 into their -- into them; I think they may have been
22 sent or copied to you. And you were then examined on
23 your knowledge as to what happened after that and
24 whether you were ever told what happened to them. You,
25 I think, said in your evidence that you've now become 10:34
26 aware that they weren't sent. Did you know at the time
27 whether or not they were sent?

28 A. No, Chairman, the draft letters would've been copied to
29 me by Mr. Ruane, from the best of my recollection, who

1 had been tasked by Commissioner Callinan with preparing
2 them and, thereafter, Commissioner Callinan would have
3 dealt with them. And I wasn't aware whether or not
4 they were sent, they would've been dealt with by the
5 Commissioner's office and I would've had no further 10:34
6 input or there was no further consultation with me in
7 relation to them.

8 29 Q. So to the best of your knowledge, they could well have
9 been sent. And the next you knew was that you were
10 told there was to be hearing -- that the decision had 10:34
11 been made there'd be a private hearing on Thursday,
12 30th January, is that correct?

13 A. That is correct, Chairman, yes.

14 30 Q. And you referred there to Commissioner Callinan dealing
15 with that issue; I think Commissioner Callinan, in his 10:35
16 evidence, made it clear that he was in fact on top of
17 this, if I might put it this way, so he was dealing
18 with this directly with the PAC and with the Clerk and
19 indeed Chairman of the PAC, is that right?

20 A. Yes, Chairman, that would be correct. 10:35

21 31 Q. Now, you were shown a set of phone records, or a
22 synopsis, I should say, of phone records yesterday
23 morning at 7424 and 7425. And these are the phone
24 records dealing with the allegations made by
25 Superintendent Taylor about Mr. Williams contacting him 10:35
26 about being in Ms. D's house and Superintendent
27 Taylor's allegations that he texted you and that you
28 phoned him back in relation to that issue. Now, I
29 think, as you know, what Superintendent Taylor says in

1 this regard is that he received a text from
2 Mr. Williams on 8th March, Saturday 8th March, that he
3 received a text to say something along the lines of
4 'Guess where I am? I'm in Ms. D's house'. Now, that's
5 me paraphrasing. But there was a text to say 'Guess 10:36
6 where I am? I'm in Ms. D's house'. The second step was
7 that he texted Commissioner Callinan and you to tell
8 you that news and that you immediately phoned him back,
9 okay, on 8th March?

10 A. Yes, Chairman. 10:36

11 32 Q. Now, the phone records, 7424, can you confirm from your
12 consideration - and obviously it's a matter for the
13 Tribunal - but can you confirm from your consideration
14 that those steps simply aren't evidenced in that
15 synopsis of the phone records on 8th March; in other 10:37
16 words, a text from Paul Williams to Superintendent
17 Taylor, a text from Superintendent Taylor to you and to
18 Commissioner Callinan and a phone call from you to
19 Superintendent Taylor?

20 A. There's no sequence of that sequence recorded here, or 10:37
21 no record of that sequence recorded here, Chairman.

22 33 Q. Yes. Now, Mr. Williams, as I understand what he says
23 is that he wasn't in touch with Superintendent Taylor
24 that day, but that he did phone him a couple of days
25 later to fact-check, I think, or to check out some 10:37
26 certain issues. Now, that being the case, on 7425 you
27 have the phone records for 10th and 11th March, and if
28 we disregard the specifics of Superintendent Taylor's
29 evidence of it happening on 8th March and say for the

1 sake of argument that it may have happened on 10th or
2 11th, is there any such sequence of telephone contacts
3 on either 10th or 11th March?
4 A. In fact, Chairman, there is no sequence, there is no
5 such sequence and I note there is no records of any 10:38
6 contact between myself or Superintendent Taylor on 10th
7 or 11th March.
8 34 Q. Yes. So there is no text from Mr. Williams to
9 Superintendent Taylor, a text from Superintendent
10 Taylor to you and a phone call from you to 10:38
11 Superintendent Taylor --
12 A. No, Chairman, there's not.
13 35 Q. -- on either of those dates? Now, you were also asked
14 about some phone contacts on, during February 2014.
15 Were there any other significant issues or 10:38
16 controversies involving An Garda Síochána in February
17 2014?
18 A. There were several, Chairman. There were several.
19 There was a number of very serious and high profile
20 issues ongoing at the time. 10:38
21 36 Q. Yes. And could you tell the Chairman what they were?
22 A. Yes, Chairman, in February 2014 one of the pressing
23 issues was the allegations of An Garda Síochána bugging
24 the GSOC offices and there was the -- Mr. Justice Cooke
25 had been appointed in around that time to do the 10:39
26 investigation. And then we also had a number of
27 ongoing issues in relation to the tapes issues, the
28 taping in Garda stations issues. And also we were
29 dealing with a number of Garda Inspectorate reports.

1 37 Q. Now, is it fair to say that there was media interest in
2 the GSOC bugging controversy, for example?

3 A. Yes, Chairman, if I was to pick what was the most
4 topical issue for the months of February, or the month
5 of February 2014, it was the GSOC bugging issue. 10:39

6 38 Q. Now, it was put to you yesterday that the phone records
7 showed that you had contacts with Mr. Williams,
8 relatively regular contacts with Mr. Williams up to
9 April 2013 and then there was a gap until February 2014
10 and you were asked what the contacts in February 2014 10:40
11 may have been about. I think you said very clearly
12 that they were not about Sergeant McCabe or Ms. D. Is
13 it possible - and I think you said you don't remember
14 what they were about, other than them not being about
15 Sergeant McCabe or the Ms. D allegations - but is it 10:40
16 possible that they were about one or more of these
17 controversies that were raging in February 2014?

18 A. Yes, Chairman, it's possible. And as I said yesterday,
19 there were other issues also that I had been dealing
20 with in relation to Mr. Williams of a personal -- his 10:40
21 personal security issues.

22 39 Q. If I could then just ask you to deal with the
23 correspondence that came in to your office about the
24 Tusla notification, this is the absolutely incorrect
25 notification that was received from Tusla. Now, is it 10:41
26 correct to say - and I think this was the substance of
27 your evidence yesterday - that you did not appreciate,
28 for whatever reason, you did not appreciate or identify
29 the difference between the allegation that was

1 contained in that notification and what you knew of the
2 2006 allegation?

3 A. Yes, Chairman.

4 40 Q. Yes. And is it also correct to say that you didn't
5 know that in fact, at local level, Chief Superintendent 10:41
6 Sheridan, who was involved in that issue, had
7 identified within a short number of days that this was
8 incorrect --

9 A. That's correct, Chairman.

10 41 Q. -- this notification was incorrect? 10:41

11 A. Yes.

12 42 Q. Now, it has been previously suggested that An Garda
13 Síochána were happy to let that allegation, the
14 incorrect notification or allegation sit there dormant
15 but percolating away to be used at some point in the 10:42
16 future perhaps. I think you've heard that suggestion
17 being put on previous occasions, have you? Or you've
18 read it?

19 A. That suggestion is absolutely untrue, Chairman.

20 43 Q. Yes. Now, just to be clear, that allegation, that 10:42
21 notification received from Tusla and the substance of
22 it, that was never communicated by you to anybody, is
23 that correct?

24 A. That's correct, Chairman. As I say, the only time that
25 was ever communicated was in February 2017, in response 10:42
26 to the questions that were raised by the Department.

27 44 Q. Yes. It was -- you have waived your privilege in
28 relation to your instructions to your legal team in the
29 O'Higgins Commission, and we don't want to go back to

1 the O'Higgins Commission, but you waived your
2 instructions in order to allow this Tribunal to do its
3 work in relation to that, to that issue and they have
4 seen all of the relevant documentation. But could you
5 confirm to the Tribunal that you did not instruct your
6 legal team in the O'Higgins Commission --

10:43

7 CHAIRMAN: Mr. Dignam, I really don't think we should
8 go to the O'Higgins thing. And, you know, it may be
9 there's just -- please correct me in the event that my
10 understanding is incorrect; I mean, the plain reality
11 is in May of 2014 the allegation of anal and vaginal,
12 digital penetration did go up from the Commissioner for
13 the Northern Region to headquarters. The plain reality
14 is, whatever happened in Headquarters - and I'll review
15 all the evidence, but there doesn't seem to be any
16 evidence that anyone did anything about it and it came
17 at a time when Commissioner Callinan was already gone
18 and there is nothing to suggest that he knew about it -
19 but it was simply left there uncorrected by the
20 Commissioner for the Northern Region, even though the
21 Commissioner for the Northern Region had that
22 allegation corrected to him by Chief Superintendent
23 Sheridan. Now, that is the state of the evidence as I
24 understand it. I don't know if you want to make
25 something, but --

10:43

10:43

10:44

10:44

26 MR. DIGNAM: No, I think that's a correct --

27 CHAIRMAN: Commissioner O'Sullivan is saying 'I didn't
28 notice the difference, A. And B, in any event, it was
29 just sitting there, it didn't affect me in any way'.

1 would that be a fair summary?
2 MR. DIGNAM: Yes, I think your summary of the evidence,
3 Chairman, that nothing further happened to it is
4 correct. And really the only -- and obviously the
5 Tribunal will have to make of that what it thinks 10:44
6 appropriate. But I simply wanted to deal with the
7 suggestion that has been put previously that the matter
8 was left, deliberately left percolate there for a
9 nefarious reason of some sort.
10 CHAIRMAN: well, yes, if that were to be the case, one 10:45
11 would expect it to be somehow circulated. And I don't
12 know if there's any evidence of that, I haven't seen
13 any so far.
14 45 Q. MR. DIGNAM: Thank you, Chairman. (To witness) Now, if
15 I could then bring you back, Ms. O'Sullivan, to 23rd 10:45
16 January to the PAC hearing and the conversations that
17 took place in and around that hearing. It was put to
18 you yesterday, I think by Mr. McDowell, and I think the
19 implicit point that he was putting to you was that it
20 was difficult to believe that you didn't hear the 10:45
21 remarks made by Commissioner Callinan, or allegedly
22 made by Commissioner Callinan to various individuals.
23 Now, you, as I understand it, you introduced
24 Commissioner Callinan to Deputy Deasy because you had
25 met Deputy Deasy previously, is that right? 10:45
26 A. That would be correct, Chairman, yes.
27 46 Q. And Deputy Deasy's evidence on that is that that took
28 place in the coffee dock immediately above the
29 Committee rooms; is that right?

1 A. That would be correct, Chairman. Just on the edge,
2 yes.

3 47 Q. And Deputy Deasy's evidence is that as he approached
4 you and the Commissioner, you touched Commissioner
5 Callinan on the arm to point Deputy Deasy out to him, 10:46
6 they then met and you stepped away. Is that right?

7 A. That would be correct, Chairman. There were a number
8 of people present and I would've rejoined the company
9 that we were originally in.

10 48 Q. And Deputy Deasy described the coffee dock, I think in 10:46
11 general, but certainly at that point in time as a noisy
12 place, is that your --

13 A. Yes, it would be a noisy and busy place. As all of the
14 various committee rooms and the attendees are meeting,
15 there would be a real buzz and it'd be a hub where 10:46
16 people would meet, yes.

17 49 Q. Now, Mr. McCarthy, the Comptroller & Auditor General,
18 describes the conversation he had with Commissioner
19 Callinan as having taken place between the two of them,
20 is that right? 10:46

21 A. Yes. I've read the evidence in relation to that,
22 Chairman, yes.

23 50 Q. Were you present for that conversation?

24 A. No, Chairman, I was not.

25 51 Q. Commissioner Callinan's recollection of it is that it 10:46
26 took place on the stairway down and then into the lobby
27 outside the Committee room. Mr. McCarthy's
28 recollection is that it took place in the lobby. But
29 wherever it took place, you weren't present for that

1 conversation?

2 A. No, Chairman, I was not.

3 52 Q. And Mr. McGuinness's evidence -- sorry, Deputy
4 McGuinness's evidence of the conclusion of the PAC is
5 that he approached a group of Gardaí, senior Gardaí. 10:47
6 But he also described the meeting room after a PAC
7 meeting as being a hubbub of activity where people are
8 meeting each other and exchanging pleasantries.

9 A. Yes, that would be correct, Chairman. It's an accurate
10 description. 10:47

11 53 Q. Now, you were asked about a text which is in the report
12 at 4644. I don't need you to open it, Ms. O'Sullivan,
13 but you were -- this was the text in relation to
14 removing Superintendent Taylor from the position of
15 Press Officer. And that text took place on 10th 10:48
16 October, you sent that text on 10th October 2016. And
17 there was some, I think, questioning of how you knew
18 that Superintendent Taylor was the person who had made
19 the protected disclosure. Do you remember when
20 Superintendent Taylor's name was first mentioned in the 10:48
21 media as being the discloser?

22 A. Well, Chairman, the immediate aftermath of the
23 protected disclosures, the two protected disclosures
24 being made, there was an enormous amount of media
25 coverage. To the best of my recollection, I think 10:48
26 there was an article on 7th October, and there may have
27 been something before that, but I believe there was a
28 newspaper article on 7th October which in fact named
29 Superintendent Taylor as the, as one of the disclosees.

1 54 Q. Now, just dealing with Superintendent Taylor as the
2 head of the Press Office, you were explaining to the
3 Chairman yesterday why you removed him and I think you
4 were describing your decision-making in relation to
5 various moves, but ultimately you said that you simply 10:49
6 didn't trust Superintendent Taylor, that you were going
7 to have to work closely with him and that you couldn't
8 see that happening, is that right?

9 A. Yes, Chairman.

10 55 Q. Now, just to put that in a slightly broader context so 10:49
11 the Chairman has all of that information, I think - and
12 you might correct me if I'm wrong on the number - I
13 think you moved 29 people pretty much at one time
14 around the time of moving Superintendent Taylor, is
15 that right? 10:49

16 A. That is correct, Chairman, yes.

17 56 Q. And presumably they were for various reasons, but the
18 underlying one was the one that you were conveying
19 yesterday of trying to shake things up, is that right?

20 A. Yes, that would be correct, Chairman. 10:50

21 57 Q. But the specific reason why Superintendent Taylor, why
22 you felt the need to move him was that you didn't trust
23 him, is that right?

24 A. Yes, Chairman. And I needed somebody in the Press
25 Office that I knew had my back and that I knew was 10:50
26 there and would be doing the job in the manner in which
27 I wanted them to do it.

28 58 Q. Now, you were then, you were asked yesterday then about
29 how an assistant commissioner - this is Assistant

1 Commissioner Michael Finn - attended at Sergeant
2 McCabe's uncle's house - as you know he had contacted
3 the Commissioner's office to make various complaints -
4 and you were examined or challenged as to why an
5 officer of such a high rank was dealing with that
6 matter. Could you explain how that came about to the
7 best of your knowledge?

10:50

8 A. Yes, Chairman, Mr. Bernard McCabe had contacted my
9 general administrative office, as a number of people
10 would do. The person that, the staff member that took
11 that call forwarded that on to the Deputy Commissioner
12 Operations because it was dealing with road traffic
13 matters, not specifically in relation to Sergeant
14 McCabe but violations of the road traffic enforcement.
15 It was sent to Deputy Commissioner Policing and
16 Security and that office would have nominated Assistant
17 Commissioner Finn, who had responsibility for roads
18 policing at that time and he was nominated to make
19 contact.

10:51

10:51

20 59 Q. Yes.

10:51

21 CHAIRMAN: It's still extremely weird that an assistant
22 commissioner goes down to talk about Maurice McCabe and
23 travels on the Erne and whether he's taking too many
24 foreign holidays and sheep and goats and cattle. It's
25 just really odd. And I don't know -- I mean, whatever
26 explanation there is about commissioners and offices
27 and all the rest of it, I still can't see how someone
28 beyond the rank of a sergeant was sent down there.
29 Maybe there is an explanation, I don't know,

10:51

1 Commissioner.

2 60 Q. MR. DIGNAM: That's the point I'm going to bring you
3 to, Commissioner. That explains how the matter came to
4 An Garda Síochána's attention, but I think the issue
5 that the Chairman is interested in is why an officer of 10:52
6 such serious rank is detailed to deal with it. But
7 just perhaps before you answer that, I think, as I'm
8 sure you now know, Mr. McCabe, Mr. Bernard McCabe had
9 in fact been previously in touch, making various
10 complaints and allegations. This contact, I think, was 10:52
11 in terms of people getting off with traffic offences,
12 is that right?

13 A. That would be correct, Chairman, yes.

14 61 Q. Now, you might then explain to the Chairman why an
15 officer of that rank -- 10:52

16 A. So, Chairman, so obviously at the time the issue of
17 people avoiding road traffic offences was a very big
18 issue. I can't speak for what the decision-making was
19 in the Deputy Commissioner's office, but it went to the
20 Assistant Commissioner Roads Policing, he went. But if 10:52
21 I could explain, Chairman, it's not unusual. A number
22 of people would ring the Commissioner's office making
23 complaints and usually they would have tried at local
24 level to maybe make contact with chiefs and assistant
25 commissioners and different people and not had any 10:53
26 satisfaction. And that is why we would send it through
27 the rank structure and then somebody would be appointed
28 to go and meet with them. So ordinarily, people that
29 would ring the Commissioner's office would be

1 dissatisfied with the level of interaction that they'd
2 had locally at a particular point.

3 62 Q. Now --

4 CHAIRMAN: well, I don't know about that. Look, it may
5 be somebody just wanted to get away from the office for 10:53
6 a day. I mean, I just, I'm still mystified as to
7 'Operation Squeeze', Bernard McCabe and I'm not going
8 to say any more, but presumably you've read the stuff.

9 A. Yes, I have read it Chairman. And maybe just to make
10 the point -- 10:53

11 CHAIRMAN: But I mean, how seriously would you take
12 that?

13 A. 'Operation Squeeze' only became, I only became aware of
14 it in the papers that were circulated and I had no
15 knowledge of it prior to that. 10:54

16 63 Q. MR. DIGNAM: Now, if we could then just turn to the
17 chronology document which has been referred to. And
18 this, the document that was given to you was found by
19 the FSNI when they were given access to the Garda
20 computers to do their work. I think you've had the 10:54
21 benefit of reading Superintendent Walsh's statement to
22 this Tribunal of 4th July 2017?

23 A. Yes, Chairman.

24 64 Q. And I think Superintendent Walsh endeavours to explain
25 what that document is as long ago as July 2017. 10:54

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

27 65 Q. And in fact he makes specific reference to that
28 document.

29 A. That's correct, Chairman.

1 66 Q. That's on page 3216. I'm sorry, it's page 3216 of an
2 earlier module. But what he says is that from an
3 initial -- so part of his function, I think, as private
4 secretary in the Commissioner's office is to manage the
5 confidential recipient, o is to have managed the 10:55
6 confidential recipient process, is that right?
7 A. That's correct, Chairman, yes.
8 67 Q. And what he says, halfway down that page, the main
9 paragraph on the page, is that:
10
11 "From an initial review of files at the Commissioner's
12 office I was aware that Sergeant McCabe had made
13 various reports on alleged wrongdoing by members of An
14 Garda Síochána and, in an effort to follow the trail of
15 correspondence, I had a chronology created of all file 10:55
16 entries with the first entry relating to 3rd December
17 2008. This file runs to approximately 3,500 pages and
18 the chronology was an effort to easily identify and
19 retrieve individual pieces of correspondence as
20 required. Chronologies were so created for all 10:55
21 confidential reports/protected disclosure files and
22 some other files that were very large, again with a
23 view to easily finding and reviewing any issues that
24 may arise. I am not aware of the actual date on which
25 this chronology was created. However, I understand it 10:56
26 was last modified on 12th June 2013. This chronology
27 was placed on the electronic file and staff were
28 requested to ensure that the chronology was updated
29 when any new item of correspondence, meeting notes or

1 telephone calls were made or received. Attached to
2 that chronology is a list of issues in relation to
3 Sergeant McCabe, one of which is a reference to an
4 incident involving a statement from a 14-year-old
5 female which allegedly occurred in 2006. There is a 10:56
6 second similar chronology document on file again
7 including reference to this allegation with the heading
8 'Reports on Sergeant Maurice McCabe'... and retired
9 Garda John Wilson and this report was last modified on
10 12th June 2013." 10:56

11

12 Now, I think you weren't involved in the preparation of
13 that chronology document?

14 A. No, Chairman.

15 68 Q. And indeed I take it that you're not involved in the 10:56
16 day-to-day administration function of the
17 Commissioner's office, or you weren't involved?

18 A. No, Chairman. And I wasn't Commissioner at that stage
19 either, so I wouldn't be involved on a day-to-day basis
20 on that, no. 10:57

21 69 Q. Yes. And is that -- are you familiar or are you aware
22 that these types of documents are prepared for complex
23 or lengthy files?

24 A. Yes, Chairman, a similar type of chronology or file
25 index would be created to cross-reference, for example, 10:57
26 complex operational or investigative files, complex
27 administrative files and there would be a routine ready
28 reckoner or aide-memoire on the cover of a file.

29 70 Q. Now, if I could then just turn briefly to the core

1 allegations and accusations that have been made in the
2 protected disclosure which led directly to the
3 establishment of this Tribunal and indeed that have
4 been repeated endlessly in public fora, both in
5 public -- in political commentary and in media 10:58
6 commentary. The first thing that I would like to ask
7 you, you've now heard Mr. O'Higgins, on behalf of
8 Superintendent Taylor, say this morning that there is
9 no case being made by Superintendent Taylor that you
10 interfered with the investigation of Superintendent 10:58
11 Taylor for the leaking of Garda information, that you
12 didn't appoint your husband, a detective
13 superintendent, to be on the investigation team, that
14 you didn't interfere with the investigation and that
15 you had no hand, act or part in it. Now, it had been 10:58
16 suggested that you had appointed your husband and it
17 had been suggested that the reason for doing that was
18 to essentially ensure that alleged evidence of alleged
19 wrongdoing could be wiped clean from phones. You've
20 heard those allegations, I'm sure? 10:59
21 A. Yes, Chairman, since 2015 those allegations have been
22 repeated several, umpteen times in public through the
23 media, I've been doorstepped at press conferences in
24 relation to it and I've had to constantly, since 2015,
25 defend those specific allegations. 10:59
26 71 Q. Yes. Now, if I could then just bring you to the events
27 or the two particular time periods which led to the, to
28 this Tribunal. Just to put that in context, we now
29 know, through the evidence, that in May 2016

1 Superintendent Taylor contacted Sergeant McCabe --
2 sorry, Superintendent Taylor contacted Mr. Clifford,
3 the well-known journalist, that in June/July 2016 he
4 had two meetings with Mr. Clifford, there was then some
5 contact between Superintendent Taylor -- sorry, between 11:00
6 Sergeant McCabe and Mrs. Taylor about meeting
7 Superintendent Taylor, and that eventually happened on
8 20th September 2016, and you'll have read the evidence
9 of -- in relation to that meeting.

10 CHAIRMAN: Yes, sure. But in between there was contact 11:00
11 between Sergeant McCabe and Mr. Clifford as well. But
12 anyway, it's only a detail.

13 72 Q. MR. DIGNAM: Yes. And there was then a further contact
14 on 21st September 2016 between Sergeant McCabe and the
15 Taylors in which Sergeant McCabe either sought 11:00
16 confirmation of what Superintendent Taylor had said
17 about the text messages or told the Taylors that he was
18 going to make a protected disclosure, there's a dispute
19 between them on that point. But we now know that on
20 Wednesday, 28th September 2016 Sergeant McCabe made a 11:01
21 protected disclosure which, in fairness to him, is
22 entirely based on what he was told by Superintendent
23 Taylor and two days later, Friday 30th September, a
24 protected disclosure was made by Superintendent David
25 Taylor. And we now know that Mr. Clifford met, says 11:01
26 that he met Superintendent Taylor again in early
27 October. And then on 3rd October, we know that
28 Sergeant McCabe met with Deputy Mick Wallace and deputy
29 Claire Daly at around lunchtime and Sergeant McCabe

1 told them what Superintendent Taylor had told him. And
2 they, quite correctly and appropriately, asked to meet
3 Superintendent Taylor and then made contact with
4 Superintendent Taylor and they had a meeting on the
5 evening of 3rd October.

11:02

6 A. Yes, Chairman.

7 73 Q. You've read that evidence?

8 A. Yes, I've read that evidence, yes.

9 74 Q. Now, do you recall an article then on 4th October on
10 the front page of the Examiner newspaper saying that
11 two Gardaí, including a senior officer, had made
12 protected disclosures in which they said that you and
13 former Commissioner Callinan had been involved in a
14 smear campaign against Sergeant McCabe?

11:02

15 A. Yes, Chairman, that was the start of what I would call
16 an explosion or a continuation of the vortex that was
17 going on since May '16, and it reopened the whole thing
18 again. But it was -- I remember that article very
19 well, yes.

11:02

20 75 Q. And do you recall that after that article there was
21 intensive media and political coverage of the
22 allegations and of the controversy flowing from those
23 allegations?

11:02

24 A. Yes, Chairman, there was a complete bombardment of
25 articles and the commencement of a whole pattern of
26 calls for my resignation and public polls about whether
27 I should continue in office or not and a constant
28 barrage of morning, noon and night media coverage, let
29 it be on TV, on newspapers and, as I say, various other

11:03

1 media as well.

2 76 Q. And I think you took the rather unusual step during
3 that period of time to issue a public statement denying
4 any wrongdoing, is that right?

5 A. Yes, Chairman, such was the public outcry of the nature 11:03
6 of the allegations that had been made against me, I had
7 to do that.

8 77 Q. Yes. And I think that followed a statement in the Dáil
9 by the leader of the Opposition in which it was
10 described as a character assassination attack on 11:03
11 Sergeant McCabe, and Superintendent Taylor I think was
12 also included in that?

13 A. That's correct, Chairman, there was a number of debates
14 in the Dáil and a number of comments under Dáil
15 privilege in both Houses in relation to the matters. 11:04

16 78 Q. And I think there were also some radio interviews, I
17 think Deputy Daly gave an interview on Morning Ireland,
18 isn't that right, on 5th October?

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

20 79 Q. And I think that is one of the occasions on which you 11:04
21 were called to resign, isn't that right?

22 A. Yes, Chairman.

23 80 Q. And I think it followed that radio interview that you
24 issued your public statement or your press statement
25 denying the wrongdoing that was being alleged against 11:04
26 you?

27 A. Yes, Chairman. And what I found particularly difficult
28 was, because of the protected disclosures legislation,
29 I was trying to observe that and at the same time

1 respond to allegations which I hadn't seen. And also
2 at that stage I didn't even know who the people that
3 were making the allegations against me were.

4 81 Q. And is it your view, Ms. O'Sullivan - and obviously
5 it's ultimately a matter for the Tribunal - but is it 11:05
6 your view that that coverage and that controversy
7 flowed directly from the story which reported that the
8 protected disclosure, particularly by Superintendent
9 Taylor, had been made?

10 A. Yes, Chairman. 11:05

11 82 Q. Now, on 7th October 2016 the Minister for Justice of
12 the day, Minister Fitzgerald, announced that
13 Mr. Justice O'Neill would carry out an initial inquiry
14 into the protected disclosures.

15 A. That's correct, Chairman, yes. 11:05

16 83 Q. And Judge O'Neill reported on 17th December 2017 and
17 the Minister announced she was considering the matter.
18 And then on 7th February -- sorry, I might just ask
19 you, in the intervening period was there ongoing media
20 and political commentary or it had abated to some 11:06
21 extent?

22 A. No, Chairman, from that point forward there was
23 constant and repeated calls for my resignation,
24 coverage, and erroneous coverage in my view, of the
25 allegations that had been made against me, the 11:06
26 continuation of the allegations made around the Taylor
27 investigation and it was ongoing, constant and, as I
28 say, morning, noon and night.

29 84 Q. Now, I think during that October period you were also,

1 you appeared in front of the Justice and Defence
2 Committee and these matters were raised with you also,
3 is that right?

4 A. That's correct, Chairman. I had a meeting, or an
5 appearance on 12th October and these matters were put 11:06
6 to me and again the issues in relation to the
7 whistleblowers and the specific allegations that are
8 contained in the protected disclosures.

9 85 Q. Yes. And I think is it correct to say that on that
10 occasion you were challenged, you were even challenged 11:06
11 on having appointed a friend, in fact your bridesmaid,
12 but having promoted her, is that right?

13 A. That's correct, Chairman, and surrounding myself with
14 people - so the allegation, succinctly, was nepotism -
15 but that I had surrounded myself with people that were 11:07
16 close to me and in particular that I had promoted my
17 bridesmaid.

18 86 Q. Yes. And I think that was made in the context that it
19 was made by Deputy Wallace, I think, at the Justice and
20 Defence Committee -- 11:07
21 CHAIRMAN: Did you have only one or was there more than
22 one?

23 A. I was going to say I had none, Chairman. But I didn't
24 promote any.

25 87 Q. MR. DIGNAM: Yes. And when you say you had none, what 11:07
26 do you mean?

27 A. I had no bridesmaid that was promoted, or no bridesmaid
28 from An Garda Síochána.

29 88 Q. Now, that was made in the context, I think, of a

1 criticism being levelled at you by Deputy Wallace that
2 you were -- that you had promoted people against whom
3 complaints had been made, is that right?

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

5 89 Q. And is that true? 11:07

6 A. No, Chairman, not at all.

7 90 Q. Now, then moving forward to February. I think on 7th
8 February Minister Fitzgerald announced that the
9 Chairman, Judge Charleton, was going to conduct a
10 commission of inquiry at that stage? 11:08

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

12 91 Q. And on 8th February the terms of reference, or draft
13 terms of reference for that Commission were published.
14 And I think there was then a significant intervention
15 by Deputy Howlin in the Dáil, do you remember that? 11:08

16 A. Yes, Chairman, I remember that very well.

17 92 Q. And what was the substance of that?

18 A. The substance of that was that Deputy Howlin, under
19 Dáil privilege, claimed that he had been contacted by a
20 journalist who had direct knowledge of me passing 11:08
21 smears in relation to Sergeant McCabe - and I may be
22 paraphrasing - but passing directly to journalists
23 allegations of smears against Sergeant McCabe. And I
24 found myself having to come out and defend that on that
25 day, which would be most unusual, but such were the 11:08
26 seriousness of the allegations, I found myself with no
27 choice.

28 93 Q. Yes. And just to deal with the substance of those
29 allegations - we'll be hearing from Deputy Howlin - but

1 to deal with the substance of those allegations - and
2 Mr. Ó Muirheartaigh has already asked you - had you
3 had direct contact or any contact with journalists to
4 smear Sergeant McCabe?

5 A. Absolutely not, Chairman. And what was, I suppose, 11:09
6 very hurtful from that particular one was the newspaper
7 articles and the commentary that started appearing
8 linking me with a sex smear.

9 94 Q. I think there were several newspaper articles, both I
10 think in this -- sorry, newspaper and media articles, I 11:09
11 think both in this country and indeed in Britain
12 linking you with a smear campaign, is that right?

13 A. Yes, Chairman. And I constantly had people referring
14 to them.

15 95 Q. Now, just to bring you on then very briefly; I think it 11:09
16 was also on 9th February Deputy Howlin went on Morning
17 Ireland and then later that evening Prime Time revealed
18 the Tusla notification and allegation that had been
19 made incorrectly, is that right?

20 A. That's correct, Chairman. Yes, Mr. Howlin, Deputy 11:10
21 Howlin went on Morning Ireland, repeated the
22 allegations on Morning Ireland and he -- then on that
23 evening there was a Prime Time programme, which covered
24 the Tusla allegations and linked me to a meeting in
25 relation to the false allegation made in relation to 11:10
26 Sergeant McCabe.

27 CHAIRMAN: what meeting are we talking about?

28 A. It was a meeting that was supposed to have taken place,
29 I believe, in 2014 and which I was supposed to have

1 attended.

2 CHAIRMAN: was this the car park meeting?

3 A. No, Chair, it was in relation to the Tusla allegation.

4 CHAIRMAN: I don't get it. What -- sorry, explain a
5 bit more if you wouldn't mind. 11:10

6 A. So the allegation, Chair, was that Sergeant McCabe had
7 been made aware of information from Tusla and that
8 contained in that information was a reference to a
9 meeting that was to be held with the Commissioner - I
10 just can't recall the date, but I can confirm the date 11:11
11 - in 2014 and the suggestion was that that meeting was
12 with me. And as it transpired, it wasn't with me at
13 all, but the suggestion was that it was to be with me
14 and, as such, tried to, attempted to link me with the
15 false allegation made against Sergeant McCabe. 11:11

16 CHAIRMAN: well, there's no procedure for the social
17 workers to contact the Commissioner of An Garda
18 Síochána, it's direct reporting to the local Garda
19 station.

20 A. Yes, Chairman, I -- 11:11

21 CHAIRMAN: was that the allegation that --

22 A. No, the allegation was that the local superintendent,
23 Superintendent McGinn, had informed a social worker
24 that he was to have a meeting with the Garda
25 Commissioner in 2014. And as it transpired, the 11:11
26 Commissioner was actually, the assistant commissioner
27 was in his region was Assistant Commissioner Kenny.
28 But that was never clarified.

29 96 Q. MR. DIGNAM: There was then, I think, obviously the

1 revelation of this Tusla notification was a huge source
2 of commentary and controversy, correctly so, and that
3 then dominated the airwaves and the print media, I
4 think, for a period of time. I think on 10th February
5 RTÉ's Six-One News also revealed a story about another 11:12
6 whistleblower, who we now know to have been Keith
7 Harrison. And then I think over the weekend of
8 Saturday 11th and 12th February it raged then as a
9 political controversy. Do you remember that?

10 A. Yes, I remember that. 11:12

11 97 Q. I don't want to get into the politics of it, but do you
12 remember it being a political controversy?

13 A. Yes, I remember being right in the eye of the storm.

14 98 Q. And I think then on Monday 13th, Sergeant McCabe and
15 Mrs. McCabe issued a public statement calling for a 11:12
16 public inquiry rather than a private commission. Do
17 you remember that?

18 A. Yes, Chairman, I do remember that.

19 99 Q. And I think then on Tuesday 14th this Tribunal was
20 announced. 11:13

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

22 100 Q. And do you remember on the Six-One News that evening
23 that Deputy Wallace said that everybody in Headquarters
24 knew about the campaign against Sergeant McCabe?

25 A. Yes, Chairman. 11:13

26 101 Q. And were there any further calls for your resignation
27 around that time?

28 A. Yes, Chairman. As I say, there were constant and
29 repeated calls for my resignation. The intensity of

1 these polls and whether I was fit to stay in office or
2 not, the Dáil debates in relation to it, it was just
3 constant and never ending and it just continued right
4 up to -- I suppose if I put it this way, Chairman: It
5 continued and was so intense all the way through 2017 11:13
6 that I found myself in October 2017, for the sake of
7 the well-being and health of my family and myself and
8 in the interests of An Garda Síochána, such was the
9 impact on An Garda Síochána, that I retired.

10 102 Q. Now, do you consider -- sorry, this Tribunal, I think, 11:14
11 as a matter of fact this Tribunal came about because of
12 the protected disclosure of Superintendent Taylor.
13 It's obviously looking at other issues also, but came
14 about because of the protected disclosure of
15 Superintendent Taylor. We've just looked at two 11:14
16 particular periods of time where the allegations made
17 by Superintendent Taylor were front and centre in the
18 national airwaves, print media and political
19 commentary. Does it give you any comfort to be told
20 today, 30th May, that in fact much of what was being 11:14
21 said is now no longer being maintained by
22 Superintendent Taylor?

23 A. Absolutely none, Chairman, absolutely none, when I bear
24 in mind the impact that it has had on, as I say,
25 myself, my family and, most importantly, public 11:15
26 confidence in An Garda Síochána.

27 103 Q. Now, Superintendent Taylor has, still maintains the
28 case that you were involved, through knowledge rather
29 than, I think, through activity, in an alleged smear

1 campaign that he was directed to carry out in respect
2 of Sergeant McCabe. You make the point in your first
3 ever statement to this Tribunal that you have no,
4 you've been given no details by Superintendent Taylor
5 of your involvement or your awareness or knowledge of 11:15
6 that alleged smear campaign. Was it your hope, coming
7 to the Tribunal, that if that allegation was true, that
8 Superintendent Taylor would at least be able to give a
9 minimal amount of detail of his allegations against
10 you? 11:16

11 CHAIRMAN: well, whether true or not, that there would
12 be some -- the detail that has been given, Mr. Dignam,
13 is to the effect that on occasion he walked into your
14 office and spoke to you directly about it and you
15 didn't demur. He doesn't give any reaction in terms of 11:16
16 you looked shocked or you sat down or you said 'Isn't
17 that great?' Nothing like that. Simply that you had
18 with him a face-to-face conversation, at least one,
19 probably, on his evidence, more, but it's hard to say,
20 to the effect where he was telling you that this was 11:16
21 what was going on. That is the allegation. Now,
22 whether true or not, that's the allegation. Whether
23 surrounded by detail or not, that is the allegation.

24 A. well, Chairman, it's absolutely and totally untrue.
25 And anybody that knows me knows that I do not not react 11:16
26 when I'm told something, or in response to something I
27 will always react. And I would react in a very
28 forthright way.

29 104 Q. MR. DIGNAM: For good or bad?

1 A. Good or bad, yes, Chairman.

2 105 Q. Just one final point. I think you referred yesterday
3 to only having one phone at any particular time. I
4 think you've seen the technical information or the
5 reports. I think is it correct to say that in fact you 11:17
6 did have a second phone in operation at a point in time
7 but it wasn't being used as a phone, it was tethered to
8 your iPad, is that right?

9 A. Yes, Chairman, that's correct. What I meant was I had
10 one phone for calling and texting only ever at one 11:17
11 time, but there was another device which was used for
12 data attached to an iPad.

13 106 Q. Yes. And that information was disclosed to the
14 Tribunal?

15 A. Oh, yes, Chairman. 11:18

16 MR. DIGNAM: Okay, thank you.

17 A. Thank you, Mr. Dignam.

18

19 THE WITNESS WAS RE-EXAMINED BY MS. LEADER:

20 11:18

21 107 Q. MS. LEADER: Just to clear up the issue with the
22 phones, if page 4494 could be brought up on screen
23 please. Now, during the relevant time period, I think
24 you had six phones in all, is that correct?

25 A. That's correct, Chairman, yes. 11:18

26 108 Q. And one of those phones was used mainly by one of your
27 family members and was made available to the Tribunal
28 for forensic analysis, isn't that right?

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

1 109 Q. And that's the Apple iPhone 4?
2 A. Yes, Chairman.

3 110 Q. And in relation to the other five phones, you were
4 unable to locate those phones?
5 A. Yes, Chairman. 11:18

6 111 Q. Yes. And searches were made in Garda Headquarters and
7 in your own home for those phones?
8 A. That's correct, Chairman, yes.

9 112 Q. Now, in relation to other phones, you made available to
10 the Tribunal an iPad, isn't that correct? 11:19
11 A. That's correct, Chairman, yes.

12 113 Q. And I think there was a second iPad which couldn't be
13 operated because it was beyond repair?
14 A. That's correct, Chairman, yes.

15 114 Q. And there were two other phones which came outside the 11:19
16 terms of reference, both Samsung phones, which you made
17 available to the Tribunal and offered them without
18 being asked, isn't that right?
19 A. Yes, Chairman.

20 115 Q. And they're both Samsung Edge phones, I think. And 11:19
21 they were operable in 2016?
22 A. That's correct, Chairman, yes.

23 116 Q. Now, in relation to those two phones, they're the
24 subject of the Forensic Science of Northern Ireland
25 looking at them, they refer to them as SM12 and SM13. 11:19
26 Now, you've been referred to certain texts to Paul
27 Reynolds which a claim of privilege exists over them,
28 but you're aware of the contents of those texts, isn't
29 that right?

1 A. Yes, Chairman, I am.

2 117 Q. Now, they're not relevant to the terms of reference,
3 isn't that right?

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

5 118 Q. But in relation to the tone of those text messages, 11:20
6 your relationship, if I can put it that way, with
7 Mr. Reynolds is described as personable, isn't that
8 right?

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

10 119 Q. And I think that's correct to say the tone of those 11:20
11 texts are personable in nature?

12 A. Yes, Chairman.

13 120 Q. If I could turn to you a text exchange with Mr. Brett
14 which is at 4645 of the materials please. It'll come
15 up on screen. This is just by way of putting a date on 11:20
16 an exchange. Mr. Brett has told us that he inquired
17 with you was his phone under surveillance or being
18 listened to by the guards, isn't that right?

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

20 121 Q. And you told him that it wasn't. And we see at 11:20
21 no. 21 --

22 A. That's correct, Chairman.

23 122 Q. -- and 23 that he's running something by you. And at
24 text no. 23, on 12th November 2016, what he's saying
25 is: 11:21
26

27 "Nóirín, RTÉ are planning on running that item tomorrow
28 and this week. They say it's not a big piece but may
29 be mentioned. I have given the statement below. Can

1 you keep this text between you and I. Thanks, Noel B."

2

3 And then the statement is:

4 "While it may have been informally suggested that I

5 needed to be careful in my interactions with

11:21

6 whistleblowers when I was not working of CAO of the

7 Road Safety Authority, I am totally satisfied that my

8 telephone was not intercepted and I did not deem it

9 necessary to change my phone number, phone provider or

10 telephone usage behaviour."

11:21

11 A. Yes, Chairman, that's correct.

12 123 Q. So do you think it was around that time that you

13 checked the matter out for Mr. Brett?

14 A. Yes, Chairman, it would've been.

15 124 Q. Around November 2016?

11:21

16 A. Yes, Chairman.

17 125 Q. All right. Now, in relation to your dealings with
18 journalists, if page 921 could be brought up on screen.

19 And I don't think you need to look at it in detail,

20 Ms. O'Sullivan, but I think you can confirm in open

11:22

21 hearing to the Tribunal that on 20th April 2017 you

22 signed a waiver confirming to the Tribunal that you

23 don't claim and have not claimed any privilege should

24 you be identified as the source of any information,

25 briefing, allegation or belief communicated to

11:22

26 journalists in the print, broadcasting or other media

27 directly or indirectly relating to Sergeant Maurice

28 McCabe.

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

1 126 Q. And that still is the position --
2 A. Yes, Chairman.
3 127 Q. -- is that correct? Now, I want to bring you to your
4 contacts with Mr. Williams in February 2014. Now, as I
5 understand it, these contacts have now been explained 11:22
6 yesterday by reference to security matters; I think
7 that was your evidence yesterday?
8 A. Yes, some of those contacts, Chairman, yes.
9 128 Q. Yes. And in relation to those security matters, as I
10 understand it they're security matters concerning 11:23
11 Mr. Williams' personal security, is that right?
12 A. Yes, that would be correct, Chairman, yes.
13 129 Q. All right. And this morning, in answer to Mr. Dignam,
14 you said they may have been in relation to pressing
15 Garda matters as well, in particular the GSOC bugging 11:23
16 issue?
17 A. Yes, Chairman, there -- yes.
18 130 Q. All right. Okay. So if we look at those contacts.
19 First of all we have the February ones on 21st, two on
20 21st, one on 24th. Then we have the March ones, one on 11:23
21 22nd March, which is a month later, and 31st March, and
22 then the ones at the beginning of April. I'm sorry, I
23 don't have the page.
24 CHAIRMAN: We can get it on the screen. 1019, is that
25 it? 11:23
26 MS. LEADER: 1019, I beg your pardon.
27 CHAIRMAN: Okay. Thank you.
28 131 Q. MS. LEADER: It's volume 3 I think.
29 A. Yes.

1 CHAIRMAN: Sorry, do you want to go through it again?
2 MS. LEADER: Yes.
3 A. Yes, Chairman, I have that here.
4 132 Q. Sorry, I'll just go through them again. So we have the
5 February contacts which begin at page -- at line 24. 11:24
6 A. Yes.
7 133 Q. So prior to that, the last contact was April 2013. You
8 see that?
9 A. That's correct, Chairman, yes.
10 134 Q. Then we have the February 2014 ones, which are 21st, 11:24
11 21st, 24th February. Then we have the march ones,
12 22nd, which is after the Ms. D interview, because the
13 interview was on 8th March as I understand it. Sorry,
14 so we've March, 22nd March and 31st March. And then we
15 have 4th April, three contacts and on 12th March a 11:25
16 text, which is the day the Ms. D interview appears on
17 the Independent.
18 A. Yes, Chairman.
19 135 Q. Now, I may be slightly incorrect about this, but as I
20 understand it, yesterday in your evidence you said 11:25
21 those contacts were in connection with security issues
22 dealing with Mr. Williams' personal security?
23 A. Yes, Chairman, the February contacts, certainly there
24 was ongoing reviews of Mr. Williams' security
25 arrangements. 11:25
26 136 Q. Mr. Williams's security?
27 A. Yes.
28 137 Q. And this morning, and maybe -- my understanding of it
29 is you explained those contacts by reference to the

1 bugging of GSOC. Am I correct in that?

2 A. Chairman, what I was saying was that one of the

3 pressing issues for the month of February was the

4 bugging, was the alleged bugging of the GSOC offices.

5 138 Q. Yes. 11:26

6 A. And what I said is that perhaps some of the contacts

7 may have been to do with that. But I am pretty certain

8 that the February contacts were to do with a review

9 that was happening at that time.

10 139 Q. A review of Mr. Williams' -- 11:26

11 A. Yes.

12 140 Q. -- personal --

13 A. Yes, Chairman.

14 141 Q. -- security matters? Now, what I want to ask you about

15 that is, when you were asked about that last year, 11:26

16 which is November 2017, by our investigators - and it

17 can be brought up on the screen in front of you - at

18 page 846 of the materials, at line 858 the question is:

19

20 "I have now been referred to billing records pertaining 11:26

21 to my contacts with Mr. Williams in the relevant

22 period. Specifically it has also been brought to my

23 attention that my contact with Mr. Williams in this

24 period included telephone calls made by me to him of

25 varying duration, including calls of 20 minutes' 11:27

26 duration. I have therefore been asked to explain my

27 telephone contacts with him in February, March and

28 April 2014."

29

1 And your answer to that is:

2

3 "A. At this remove in time I have no recollection.
4 However, as previously stated, I have never had any
5 contact with journalists, including Mr. Williams, in 11:27
6 relation to the terms of reference of the Tribunal.
7 Any contacts were strictly in a professional capacity."
8

9 So, I'm now asking you what caused you to remember what
10 those contacts were about? 11:27

11 A. Chairman, there was something in my mind at the time
12 after I made the statement to the Tribunal
13 investigators that there were security issues happening
14 in and around that time, there was a general review of
15 security issues on individuals, and I caused inquiries 11:27
16 to be made with my former office just to make sure that
17 I was correct in my own memory. And, yes, I am correct
18 in my memory.

19 142 Q. All right. Because it's not something that's put
20 forward either by Mr. Williams as an explanation for 11:28
21 those phone contacts, if you understand what I'm
22 saying?

23 A. Yes, Chairman. But as I say, I would know Mr. Williams
24 for over 30 years, so I would again, no more than
25 Mr. Reynolds, we would have, I'll call them personable 11:28
26 contacts. But in relation to that -- because what
27 struck me was the gap between 2013 and 2014. And
28 that's what -- I knew there was something happening
29 that would have triggered that and that's what I

1 believe it was.

2 143 Q. You see, well, that's what I was going to ask you
3 about; in view of the gap, it might've been immediately
4 obvious to you when you were asked about it in November
5 last year, what caused the sudden contact with 11:28
6 Mr. Williams, it's something maybe that would've been
7 immediately available to you as a reason for those
8 contacts?

9 A. No, Chairman, I didn't recall it at the time and I had
10 no recollection. And it's a long time ago, I just had 11:28
11 no recollection. But as I say, I caused inquiries to
12 be made and that's what I discovered.

13 144 Q. Okay. Did you have any responsibility for security
14 matters at that time?

15 A. Yes, I would've had responsibility as the deputy 11:29
16 commissioner in charge of operations.

17 145 Q. In February of two thousand and?
18 A. Fourteen, yes, Chairman.

19 146 Q. And in relation to the April 2014?
20 A. April 2014, I can't say definitively what April 2014. 11:29
21 To the best of my recollection it would have been -- it
22 could've been an ongoing issue, the security
23 arrangements were an ongoing issue. But I can't say
24 definitively for the other calls. The other thing that
25 would've been going on in April 2014 is, as we would 11:29
26 call it, conference season, so there would be a lot of
27 GRA, AGSI conferences and various different things.
28 But I cannot say definitively, because I just can't
29 recall at this remove.

- 1 147 Q. And just in relation to the amount of contacts in
2 February and March, were security issues not something
3 which you might perhaps delegate to a superintendent
4 and chief superintendent?
- 5 A. Not in relation to the -- if people had concerns, as I 11:30
6 explained earlier, if people had understandable
7 concerns about their own personal security arrangements
8 and particularly if arrangements had been reviewed,
9 they may wish to have contact. And that is
10 something -- and again, as I say, I also would've known 11:30
11 Mr. Williams and I would've felt that we had somewhat
12 of a duty of care to him in terms of security
13 arrangements as well.
- 14 148 Q. All right. So just bringing you to the publication
15 then on 12th April 2014 in relation to Mr. Williams' 11:30
16 interview with Ms. D. This was something, I think, in
17 your evidence yesterday that you would've seen and
18 wondered about it from an organisational point of view
19 insofar as it was saying something wasn't properly
20 investigated because it was a member of An Garda 11:31
21 Síochána who was under investigation. Keeping in mind
22 that you had recently begun to communicate with
23 Mr. Williams again after maybe almost a year's gap and
24 that you had been in relatively frequent contact with
25 him since the month -- two months before, is it not 11:31
26 something you would have discussed with him as to what
27 was he writing about this at this time for now?
- 28 A. No, Chairman --
- 29 149 Q. In the natural course of events?

1 A. No, Chairman. I would have absolutely respect for
2 Mr. Williams as a journalist, but we would have
3 professional boundaries and it's not something that I
4 would discuss with him. And I wouldn't discuss it, as
5 I say, with anybody.

11:31

6 150 Q. Yes, but I suppose you speak about professional
7 boundaries there, but Mr. Williams was able to pick up
8 the phone to you, or you to him, in relation to his
9 personal security matters which maybe other people
10 wouldn't have been comfortable in doing so. What I'm
11 suggesting to you it would be a natural thing for you
12 to ask Mr. Williams 'How come you are writing this
13 story at this time?'

11:32

14 A. No, well, Chairman, I didn't. And a number of people
15 that I would know for a very long period of time, I
16 would be open to people ringing me if they had concerns
17 and, yes, sometimes I would delegate it down and as
18 would happen in the ordinary course of events, there
19 would be local people assigned to maintain contact with
20 individuals. But I would have no problem with
21 individuals that I know, if they had a concern, picking
22 up the phone and ringing me and speaking to me about
23 issues.

11:32

11:32

24 151 Q. I want to ask you about something Superintendent Taylor
25 says he told you about, and that is the visit of
26 Ms. McCann and Ms. Murray to the D household, we think
27 in late February/early March 2014. And what
28 Superintendent Taylor, as I understand it, says about
29 that visit is that he was aware he was -- they were

11:32

1 going up there, he didn't discourage it at the time and
2 that he was told that they called to the house in
3 relation to both of the visits by Ms. Murray and
4 Ms. McCann and that he would have texted the former
5 commissioners to update both of you in relation to the 11:33
6 visit to the D household from Eavan Murray and Debbie
7 McCann.

8 A. That absolutely never happened, Chairman.

9 152 Q. When did you find out about that visit?

10 A. I would say at the start of these proceedings. I 11:33
11 didn't know anything about Ms. McCann or Ms. Murray
12 having attempted to interview Ms. D.

13 153 Q. Now, in relation to the Gerald Kean matter and his
14 presence on the Marian Finucane show in late January
15 2014, did former Commissioner Callinan ever discuss 11:34
16 that matter with you?

17 A. No, Chairman, never.

18 154 Q. When did you become aware of his discussions with
19 Mr. Kean and his subsequent drafting of letters?

20 A. During these proceedings, Chairman. 11:34

21 155 Q. Okay. And did Mr. Walsh ever mention it to you?

22 A. No, Chairman, never.

23 156 Q. And were you aware of the correspondence that was held
24 in Garda Headquarters in relation to that matter?

25 A. No, Chairman, the first I became aware about it, my 11:34
26 counsel asked me had I any knowledge of it when it had
27 been discovered.

28 157 Q. All right. Now, just generally, Ms. O'Sullivan, in
29 relation to the evidence that the Tribunal has heard in

1 relation to former Commissioner Callinan, on one view
2 of it it would appear that former Commissioner Callinan
3 was very happy to tell anybody who would listen any --
4 the negative story about Sergeant McCabe, that being
5 that he had been investigated in relation to an 11:35
6 allegation of child sexual abuse or sexual abuse, if we
7 put it -- take the child part out of it. So that is
8 the evidence that the Tribunal has heard. The Tribunal
9 has also heard evidence that those rumours were common
10 currency around Leinster House, with the exception of 11:35
11 the former Minister, Mr. Shatter, who didn't hear them.
12 So what I'm suggesting to you is that you knew about
13 those rumours, that you knew they were coming from the
14 Gardaí, that you suspected, if not knew, that former
15 Commissioner Callinan was putting that story out there 11:35
16 and that the -- that Superintendent Taylor knew about
17 that and you didn't approve of it and didn't want
18 anything to do with it -- of it -- with it, but, at the
19 same time, it wasn't within your power to stop it.

20 A. That's not correct, Chairman. I never heard the 11:36
21 rumours in relation to Sergeant McCabe. My knowledge
22 is as I have set out to this Tribunal, when I became
23 aware and what I became aware of it. I would not
24 condone and I would not support and I would certainly
25 react to any campaign that I became aware of or any 11:36
26 such rumours being circulated in the manner in which
27 it's described.

28 158 Q. All right. Well, when it comes to the Tusla
29 notification, we know you didn't react to that,

1 although you have an explanation for that?

2 A. Well, Chairman, as I say, I would react -- if I knew
3 something or if I saw something, I know I would react.

4 159 Q. All right. Now, when you took on the job of Acting
5 Commissioner at the end of March 2014, you were 11:37
6 determined to do things differently, isn't that right?

7 A. Yes, Chairman.

8 160 Q. You have spoke of your commitment to government, isn't
9 that right?

10 A. Yes, Chairman. 11:37

11 161 Q. And we know from material that has been retrieved from
12 your iPad that you discussed the matter openly with
13 Ms. Prone in respect of your vision for An Garda
14 Síochána?

15 A. I would have discussed the matter with a number of 11:37
16 people, including my own management team and generally
17 within the organisation and with a number of people,
18 including a number of public conferences, yes.

19 162 Q. Yes. And we don't need to go into it in detail, but
20 the exchange with Ms. Prone appears from page 4755 of 11:37
21 the materials in Volume 17.

22 A. Yes, Chairman.

23 163 Q. And you see that you've extensively set out your vision
24 for the organisation and the changes you were going to
25 make to the organisation? 11:38

26 A. Yes, Chairman.

27 164 Q. And that is a reasonably long email. And in relation
28 to what seems to be the beginning of those exchanges on
29 30th March 2014, days after you were made Acting

1 Commissioner, at page 4758 of the materials --

2 A. Yes, Chairman.

3 165 Q. -- you see you say:

4

5 "Terry, my initial thoughts --" 11:38

6

7 And in relation to your initial thoughts on being made

8 Acting Commissioner.

9

10 "-- at this point, don't specifically mention coalition 11:38

11 exercise or Maurice McCabe issue so as not to make it

12 the big issue."

13

14 But certainly it was a big issue and you were going to

15 change the organisation but not specifically mention 11:39

16 Sergeant McCabe, isn't that right?

17 A. Yes, Chairman, that's right.

18 166 Q. Yes.

19 A. Yes.

20 167 Q. And that's what you set about doing? 11:39

21 A. Yes, Chairman.

22 168 Q. And you took a number of steps in relation to Sergeant

23 McCabe, in relation to the Pulse matter, which was

24 undoing something the former Commissioner had put in

25 place in relation to Sergeant McCabe's access to Pulse, 11:39

26 isn't that right?

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

28 169 Q. You also set about meeting Sergeant McCabe, which, in

29 the former Commissioner's evidence to the Tribunal, he

1 didn't think would be helpful to the situation.

2 A. Yes, Chairman.

3 170 Q. All right. And all of that was working through the
4 system. And you also appointed Chief Superintendent
5 O'Brien specifically to deal with the Sergeant McCabe 11:39
6 issues?

7 A. Yes, Chairman, and to address any of Sergeant McCabe's
8 concerns that he had.

9 171 Q. So you were dealing with a matter differently from the
10 former Commissioner Callinan. 11:40

11 A. Yes, Chairman. And not just in relation to Sergeant
12 McCabe, as I said in my previous evidence to the
13 Tribunal, it was to set the tone from the top in terms
14 of making sure that people were encouraged to speak up
15 and to bring forward their issues. 11:40

16 172 Q. So into the middle of that process the Tusla
17 notification arrives in the Commissioner's office?

18 A. Yes, Chairman.

19 173 Q. Now, I just want to refer you to a little bit in
20 relation to what Frank Walsh says about that, and I 11:40
21 think you have a copy of his statement in front of you.

22 A. Yes, Chairman, I do.

23 174 Q. So the first thing that arrives into the Commissioner's
24 office is the notification itself; yes?

25 A. Yes. 11:40

26 175 Q. Superintendent McGinn's summary of it, and his
27 suggestion that the investigation into Sergeant McCabe
28 in relation to the Ms. D allegation be reviewed?

29 A. That's correct, Chairman.

1 176 Q. That is the next document.
2 A. Yes.
3 177 Q. And then we have Chief Superintendent Sheridan's letter
4 to you recommending that matters should play out with
5 Micheál Martin and the Garda Síochána Ombudsman 11:41
6 Commission before a review of the investigation took
7 place?
8 A. That's correct, Chairman, yes.
9 178 Q. All right. And what Superintendent Walsh says about
10 bringing that to your attention, and it's set out at 11:41
11 page 3218 of the materials, is that:
12
13 "On that day, the Commissioner was available --"
14
15 I don't know if you have it in front of you? 11:41
16 A. Yes, I have it here.
17 179 Q. You have it in front of you.
18
19 "-- and I brought the file to her attention. As per
20 usual practice, I would have given the Commissioner the 11:41
21 actual file to read while giving a synopsis of its main
22 contents orally."
23
24 Do you see that?
25 A. Yes, I see that. 11:41
26 180 Q. So two things would have been going on at the same
27 time: you were reading the matter and he would have
28 been summarising the matter to you, but you don't have
29 a memory of that --

1 A. No, Chairman, I do not.

2 181 Q. -- is that right? He didn't understand that the
3 notification was different from the original
4 allegation, you see that from the statement?

5 A. Yes, I see that. 11:42

6 182 Q. And then what he says:
7
8 "Following on from showing that to you, he wrote back
9 to the assistant commissioner of the Northern Region
10 stating that the content had been noted by the 11:42
11 Commissioner and it was noted that you were considering
12 this matter and that you will keep the Commissioner
13 informed of developments."

14 A. Yes, Chairman, I see that.

15 183 Q. So yesterday in your evidence, you suggested, as I 11:42
16 understand your evidence, that the matter went in to
17 some sort of automatic procedure of reminders
18 thereafter, is that --

19 A. I would imagine so from the type of reminder that was
20 generated, yes, Chairman. 11:42

21 184 Q. All right. So when it comes to the reminder of the
22 17th July, what you have had at this stage in your
23 office is a letter from Mr. Kenny, Assistant
24 Commissioner, saying he's considering how to deal with
25 the matter and he will keep you informed of the 11:42
26 developments?

27 A. Yes, Chairman.

28 185 Q. That is lying there in your office. And what Mr. Walsh
29 says then is, he sent a reminder on the 17th July and

1 he doesn't specifically remember consulting you about
2 that reminder?

3 A. Yes, Chairman, and that would be normal, if there was a
4 reminder to be sent from the office, yes.

5 186 Q. So you may not have had an input into that particular 11:43
6 reminder?

7 A. Yes, Chairman, that would be normal practice.

8 187 Q. So as a result of the reminder, which is on the 17th
9 July, Mr. Kenny writes in on the 28th July saying what
10 will happen in relation to the matter, that Mr. Ruane 11:43
11 will be consulted, and thereafter there is -- and
12 liaison with the HSE, which never actually happened?

13 A. Yes, Chairman, I see that.

14 188 Q. So you are given an answer to that query. And in
15 reply, what Mr. Walsh says is that he brought that to 11:43
16 your notice and that he didn't recall having any issues
17 with the update, didn't recall you having any issues
18 with the update, "other than to seek a further report
19 once these consultations was completed".

20 11:44

21 So his evidence is that you asked him to get a further
22 report once the consultations was -- were completed,
23 and that is what he did, he wrote on the 31st July and
24 he said:

25 11:44

26 "Please report further following consultation with the
27 head of legal affairs and the HSE."

28 A. Sorry, Ms. Leader, where is that?

29 189 Q. I beg your pardon. 887. And it's at the very bottom

1 of Mr. walsh's statement at page 3218.

2 A. 3218, yes.

3 190 Q. 3218.

4 A. Yes, Chairman, I see that here.

5 191 Q. Okay. Yes, you see that? 11:44

6 A. Yes.

7 192 Q. And so --

8 CHAIRMAN: It's not what is coming up on the screen, by

9 the way. This is clearly a radio interview.

10 MS. LEADER: 887 is the actual reminder, and 11:45

11 Mr. walsh's statement isn't on the system because it

12 forms part of the Tusla materials.

13 CHAIRMAN: Oh, yes. I get you.

14 193 Q. MS. LEADER: So if there were a system of automatic

15 reminders, one would expect one to follow on from that, 11:45

16 if that was actually the case, but it never did?

17 A. Yes, Chairman, I would expect that would happen.

18 194 Q. But it never did?

19 A. I understand from Superintendent walsh's evidence it

20 never did. 11:45

21 195 Q. Yes, yes. So what I'm suggesting to you is, in view of

22 you wanting to make a change and deal with the Sergeant

23 McCabe issues differently, all right, and that's what

24 you were doing at this very time, it was at a time when

25 you were going to be meeting Sergeant McCabe the week 11:45

26 after all of this, isn't that right?

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

28 196 Q. That you were happy, maybe because too much attention

29 had been given to the D investigation and the

1 allegation of sexual assault made against Sergeant
2 McCabe, to leave this matter sit there for the time
3 being because that potentially would mean that you
4 would be associating yourself with the Tusla -- with
5 the old investigation into the D allegations, and that 11:46
6 is something that would possibly cause problems in you
7 building bridges and reaching out to Sergeant McCabe
8 next week or into the future?

9 A. That is not correct, Chairman. I would never shy away
10 from anything that was put in front of me. I would 11:46
11 always deal with it, irrespective of what else was
12 happening, so that is not true and I completely reject
13 that assertion.

14 197 Q. Okay. But in one way it has the appearance of being
15 dealt with because the matter is being left with the 11:46
16 head of legal affairs and leaving it with the HSE, but
17 you were going along dealing with Sergeant McCabe in
18 relation to building bridges or reaching out to him; as
19 you have said, you were going to change the way matters
20 were dealt with? 11:47

21 A. Yes, Chairman, but I would still deal with matters that
22 were in front of me, and, as I said in my evidence
23 yesterday, if this had been brought to my attention in
24 the way it is suggested, I know that I would have
25 actioned it. 11:47

26 198 Q. Okay. And is there any sense, I will have to suggest
27 to you, that you were aware that maybe a wrong had been
28 done in relation to spreading this story about Sergeant
29 McCabe and you didn't want to be any part -- have any

1 part in that wrong?
2 A. Absolutely not, Chairman. If I was aware that any
3 wrong was done to Sergeant McCabe, I would be telling
4 the Tribunal about it and I would have actioned it long
5 before this. 11:47
6 MS. LEADER: Thank you very much.
7 A. Thank you, Ms. Leader.
8
9 MS. O' SULLIVAN WAS QUESTIONED BY THE CHAIRMAN:
10 11:47
11 199 Q. CHAIRMAN: I just have a couple of questions for you.
12 The first is, why was the David Taylor discipline
13 investigation stopped/dropped?
14 A. I have no knowledge of that, Chairman. It happened
15 after my retirement. 11:48
16 200 Q. CHAIRMAN: well, was it just pressure of circumstances,
17 he was coming out ostensibly as a whistleblower and the
18 bad Garda Síochána Headquarters were taking action
19 against him and that just didn't sit with whatever
20 PR -- 11:48
21 A. I imagine that may have a bearing, Chairman, but the
22 disciplinary proceedings were still pending while I was
23 serving Commissioner.
24 201 Q. CHAIRMAN: All right. I just want to go back to the D
25 allegations, and I just want to make it -- something 11:48
26 absolutely clear: I'm not entitled to reach a view one
27 way or the other as to whether there was an encounter
28 on the couch fully clothed, et cetera. But in the
29 course of your career as a detective, you dealt, I

1 presume, with a number of sexual assault, rape cases
2 and --

3 A. Yes, Chairman.

4 202 Q. CHAIRMAN: Yes. And there was certainly a time when, I
5 think in the '80s to '90s, when women were being 11:49
6 recruited more and more to the Garda, that -- and they
7 were becoming more and more involved in those kinds of
8 investigations and indeed made a big contribution in
9 that regard?

10 A. Yes, Chairman, that's correct. I was personally, 11:49
11 probably only had minimal involvement with sexual
12 investigations because I was working in a different
13 area, but, yes, that would be very true.

14 203 Q. CHAIRMAN: I don't know whether you ever -- you are
15 possibly aware of the fact that, it is almost an 11:49
16 ideological thing, but if I lay my cards on the table,
17 I think that the vast, vast majority of allegations of
18 sexual abuse, rape, are, in fact, correct, that would
19 be my experience?

20 A. Yes, Chairman. 11:49

21 204 Q. CHAIRMAN: But there may well be a very small number
22 where they are not. I don't know if you have a view,
23 because, I mean, the plain reality of it is that there
24 is a view out there, women will not complain unless
25 there has been an offence, and then there is another 11:50
26 view, which was certainly more prevalent in the 1970s,
27 and indeed appears in forensic textbooks, that the
28 majority of allegations of sexual assault or rape are,
29 in fact, invented. Now, what is your view, I mean,

1 sensibly, from working as a police -- in the police,
2 having at least a knowledge of these, discussing them
3 with colleagues, as to whether false allegations can
4 occur?

5 A. I think, Chairman, in my experience, the majority of 11:50
6 who come forward to make complaints, and particularly
7 with the supports that are in place through the Rape
8 Crisis Centre and other agencies, the majority of
9 people who come forward to make complaints of sexual
10 violence and sexual assaults in previous days are 11:50
11 genuine cases and they genuinely feel that something
12 has occurred which has interfered with their integrity
13 in some way. I think there are a number of people who
14 come forward and they do make vexatious complaints, let
15 that be because something has either happened that they 11:51
16 may have consented to and then changed their minds, or
17 whatever, but I do think that the vast majority of
18 people who come forward are genuine cases and, as I
19 say, particularly with the supports that are in place
20 through the NGOs, that is actually a system that works 11:51
21 very well because people feel they are supported.

22 205 Q. CHAIRMAN: Yes. So, I mean, there are vexatious
23 complaints. I mean, we know, just historically looking
24 at it, there was a case in Cyprus involving Irish
25 soldiers; there was a case which I think went as far as 11:51
26 the Court of Appeal, involving an allegation where
27 there was a dispute between families in relation to
28 land. But in the course of your career, I presume
29 through conversations, and this is perfectly proper to

1 discuss and to share knowledge, you would have come
2 across perhaps others?

3 A. Yes, Chairman, we would have come across some vexatious
4 cases and, as I say, yes, there would be the majority.
5 But from An Garda Síochána's point of view, we always 11:52
6 ensure that the case is investigated thoroughly to get
7 to the truth of the matter.

8 206 Q. CHAIRMAN: No, and I appreciate all that and I am
9 taking that as a given. But when you first, therefore,
10 heard about the D allegation which was going back to 11:52
11 2008, because of the summary made in relation to a
12 whole load of things by Chief Superintendent Terry
13 McGinn up in Donegal, did you have a view one way or
14 the other? Did you say -- and clearly you are not
15 deciding this, I am not deciding this, but did you look 11:52
16 at it in any detail and say, what is this? what is the
17 background? How strong is this? Even in terms of
18 strength, on a scale of one to ten how strong would
19 this -- strongly would this come over if it were to be
20 ventilated in a court or -- 11:52

21 A. No, Chairman, as I said, the -- the extent of my
22 knowledge of it was the synopsis that was provided by
23 Chief Superintendent McGinn. What guided me in my
24 thinking in relation to that, having read the file, was
25 that the DPP had directed there was no basis for a 11:53
26 prosecution and, as such, to my mind, that meant that
27 the case was closed, this had been investigated,
28 directed upon and, therefore, Sergeant McCabe had no
29 case to answer.

1 207 Q. CHAIRMAN: Yes. You never read, though, as I
2 understand it, the Cunningham file?
3 A. No, Chairman.

4 208 Q. CHAIRMAN: which was a very thorough job and which was
5 pretty strong in its recommendations. And nor did you 11:53
6 read the State solicitor's recommendations, sending the
7 file to the DPP?
8 A. I have since, Chairman, in the proceedings for the
9 O'Higgins Commission, yes.

10 209 Q. CHAIRMAN: And you never read the DPP reply, which was 11:53
11 pretty strong again?
12 A. Yes, Chairman, and indeed, from my knowledge of the
13 papers for the O'Higgins Commission, Inspector
14 Cunningham at the time had recommended no prosecution
15 and the DPP had directed no prosecution. 11:53

16 210 Q. CHAIRMAN: Yes. There is a reason for me asking these
17 in terms of preliminary questions, because it is
18 curious, and Ms. Leader has asked you about this. So,
19 in 2008, you had the Terry McGinn summary, and then
20 in -- I think it's the 17th May 2014, you had the Tulsa 11:53
21 thing. Now, did you actually hold in your mind all
22 through those years, so we are talking about six years,
23 what exactly the nature of the detail was? Are you the
24 kind of person who kind of holds details particularly
25 in relation to something we would all find very 11:54
26 difficult, as in a lot of crime, to internalise, to
27 remember? Do you actually hold those kind of details
28 in your head?
29 A. No, Chairman, what I would have held in my head in

1 relation to that in the intervening period was the fact
2 that an allegation had been made against Sergeant
3 McCabe but the DPP had directed no basis for a
4 prosecution, so in my head there would have been a
5 historic allegation and there was no basis for a 11:54
6 prosecution. That would have been the sum total of it.

7 211 Q. CHAIRMAN: Yes. But, you see, here there has been a
8 lot of emphasis, and indeed I have emphasised it
9 myself, between, if you take the Professor O'Malley
10 formulation in relation to sexual abuse, the ladder, 11:54
11 the ten steps, or whatever, and how bad things get, and
12 indeed that is a principle of sentencing as well, as
13 you will know, but is it possible that when -- if
14 someone had drawn your attention to the fact that this
15 was digital penetration or, going even further, digital 11:55
16 penetration, alleged, of the vagina and anus of this
17 14-year-old girl, that it wouldn't have jumped out at
18 you and you wouldn't have said, well, that is not what
19 was alleged in 2008, or would you have been able to
20 make that comparison on the basis of your limited 11:55
21 information?

22 A. I think, Chairman, if I had seen the document, I
23 would -- as I said, I would have contacted Assistant
24 Commissioner Kenny to see why this is being raised now.

25 212 Q. CHAIRMAN: No, I think the point I am trying to ask you 11:55
26 about is alarm bell. So somebody says, six years ago,
27 that what happened was an encounter on a couch, fully
28 clothed, one person behind the other, went on for a
29 number of minutes, somebody walks down the corridor,

1 and then six years later somebody says what happened
2 was clearly there had to be some clothing removed,
3 probably a lot of clothing removed, digital
4 penetration, okay, of orifices, it's all very
5 unpleasant, but would you have remembered what was 11:56
6 alleged in 2006 in such detail as if, in fact, you read
7 the stuff coming from the HSE and if the superintendent
8 had, in fact, summarised it to you in May of 2014,
9 would you have remembered it to such an extent that an
10 alarm went off in your head and you said to yourself, 11:56
11 oh, there is something odd here, why is this suddenly
12 different? why is this a completely different step on
13 the ladder?

14 A. Yes, Chairman, I think an alarm bell would have gone
15 off in my head, because such was the gravity of the 11:56
16 offence that was alleged in the 2015 paperwork, that it
17 would have been so different and I would have -- the
18 alarm bell that would have gone off in my head is, has
19 some new evidence come to light or why did the DPP say
20 no basis for prosecution in such a serious case? And 11:56
21 that is the type of alarm bell. So I would have
22 actioned it in a different way.

23 213 Q. CHAIRMAN: Is it possible that you simply don't like
24 this kind of stuff, it was a natural human reaction,
25 and when someone starts to talk to you about it you 11:57
26 kind of close down your mind? I know I am accused of
27 that at home, zeroing in and zeroing out of
28 conversations. Do you understand what I mean?

29 A. No, Chairman, I very seldom zero, but certainly in

1 terms of investigations and investigative practice, I
2 have dealt with far more gruesome issues than this very
3 serious type of issue. But, no, so I don't shy away --
4 214 Q. CHAIRMAN: I know that. But, you see, the strange
5 thing about it is that you actually sat across the 11:57
6 table from the man against whom this was alleged and
7 actually shook his hand the following week. And given
8 that a reasonable person, and you are clearly a
9 reasonable person, would be of the view that, you know,
10 the vast majority of sexual assault allegations are 11:57
11 true, this is a very serious sexual assault allegation
12 and it has been drawn to your attention the previous
13 week, so surely you would have held it in your mind,
14 would have been reacting to him or at least being
15 wondering about things? 11:58
16 A. Chairman, I have absolutely no memory whatsoever of
17 Superintendent Walsh showing me the file, the Tusla
18 allegation file at all.
19 215 Q. CHAIRMAN: So when you met Sergeant McCabe, it was,
20 this is Sergeant McCabe, and the worst you could have 11:58
21 thought about him was possible allegation of possible
22 encounter on a couch, fully clothed, all of -- it's
23 about 12 years ago, actually, at that stage?
24 A. Yes, Chairman. And as I say, the historic issues were
25 the historic issues and the purpose of the meeting with 11:58
26 Sergeant McCabe was to move on, but, yes, that was the
27 sum total of my knowledge in relation to Sergeant
28 McCabe.
29 216 Q. CHAIRMAN: Did it run through your mind when you were

1 reading meeting him at all?

2 A. The previous allegation?

3 217 Q. CHAIRMAN: Yes.

4 A. No, Chairman.

5 218 Q. CHAIRMAN: Okay. Did you ever ask yourself the 11:58
6 question, and, you know - well, maybe a preliminary
7 question might be useful; what was your reaction when
8 you read the O'Higgins Report?

9 A. I was extraordinarily disappointed. It didn't come as
10 a surprise because, as I said, we had the Guerin Report 11:59
11 prior to it and we'd also had the Garda Inspectorate's
12 report, so it mirrored a lot of those findings. I was
13 extremely disappointed that here again An Garda
14 Síochána was being criticised, but I was also confident
15 that we had started taking steps to address the 11:59
16 deficiencies and the failings in the investigation. I
17 was also confident that the measures we had taken would
18 be seen to be that and that is why I was able to accept
19 the findings.

20 219 Q. CHAIRMAN: Anyway, nowadays, unfortunately, in every 11:59
21 walk of life, there is a great deal of emphasis on
22 public relations, and, really and truly, what actually
23 is happening matters more than telling people that
24 things are wonderful. So, I mean, your reaction was
25 you were disappointed because the Gardaí were being 11:59
26 criticised, or were you saying, well, we are being
27 criticised but it's completely justifiable and we have
28 got to do an awful lot better than this kind of
29 nonsense?

1 A. Completely, Chairman. What I was -- what we had done
2 in the intervening period, particularly around -- the
3 striking thing for me was in relation to our failure --
4 failing to service victims appropriately and that
5 victims had felt left down and let down by An Garda 12:00
6 Síochána.

7 220 Q. CHAIRMAN: well, they didn't just feel it. They were.
8 A. They were. Oh, no, they absolutely were, and that was
9 the disappointment.

10 221 Q. CHAIRMAN: I mean, there wasn't effectively a police 12:00
11 service at all in relation to these matters. It was
12 messing and it was lack of attention to detail, it was
13 lack of attention to duty and it was sheer and utter
14 laziness, and, as a commanding officer, clearly you
15 would have had to deal with that during your time? 12:00

16 A. Yes, Chairman.

17 222 Q. CHAIRMAN: well --
18 A. And what we had done was, what was very clear to me in
19 the O'Higgins Report, we had let down victims of crime.
20 What I was confident we had done was, we had actually 12:00
21 started to take measures to listen to victims of crime.

22 223 Q. CHAIRMAN: well, yes, listening is fine, but getting
23 people to do their job is the basic role of any manager
24 of any kind, whether you are a sergeant or anything
25 else? 12:01

26 A. Yes, and the supervisory aspects. What we had done,
27 Chairman, in relation to the victims of crime in the
28 intervening period between the Guerin Report and the
29 O'Higgins Report, was worked with the NGOs about

1 setting up victim services offices and putting in
2 measures in place --

3 224 Q. CHAIRMAN: I mean, all of that is touchy-feely, and
4 that is fine. But the plain reality, someone reports a
5 crime, it should be investigated and investigated 12:01
6 properly?

7 A. Yes.

8 225 Q. CHAIRMAN: Now, if it's investigated properly and the
9 person who does it is sent to jail, is an awful lot
10 better than touchy feely stuff with victims. I mean, 12:01
11 that is the plain reality of it.

12 A. But, Chairman, I think --

13 226 Q. CHAIRMAN: Both may be important, Commissioner, but the
14 police have to do their job.

15 A. Yes. And in relation to the supervisory function in 12:01
16 terms of investigating crime, we were addressing that
17 as well. But if I can just say, I felt it was much
18 more than touchy-feely. It was actually, particularly
19 with the Victims' Directive and the Istanbul
20 Convention, it was absolutely imperative that we would 12:02
21 have systems and structures in place to make sure that
22 we were dealing with victims of crime and giving them
23 the service, including, of course, having their
24 investigation investigated properly, thoroughly and
25 appropriately. 12:02

26 227 Q. CHAIRMAN: Yes. No, I do see your point. And in the
27 event that victims are involved and are aware of the
28 steps that are being taken, well then the police may
29 well be more likely to do a proper job and get on with

1 things?

2 A. Yes, Chairman.

3 228 Q. But were you a bit shocked then by the Paul Reynolds
4 reports that I am required to investigate into? would
5 you not have thought that maybe, and I am not saying 12:02
6 this at all, that maybe the tone might have been
7 something like, yet again the Garda Síochána have let
8 us down, as opposed to, if only there was an inspector
9 in place none of this would have happened? I mean,
10 what was your attitude? Did you think it was good from 12:02
11 a PR point of view? Did you think anything of it from
12 the point of view of where the truth actually lay in
13 terms of informing the people of Ireland? And again, I
14 am taking no view; I want your view.

15 A. Okay. well, Chairman, I will give you my view. My 12:02
16 immediate reaction to hearing Mr. Reynolds' report on
17 the 9th May was to know where did this come from,
18 because I didn't think it was doing An Garda Síochána
19 justice insofar as my view was that we needed to
20 apologise to the victims of crime, we needed to 12:03
21 apologise to the community and we needed to do, as I
22 have said, reassure them. So my approach would have
23 been very much different and is evidenced in my
24 subsequent statements that I issued, not just in
25 relation to the fallout but making sure that we 12:03
26 reassured people that we were doing something. I felt
27 that the focus of Mr. Reynolds' article -- not
28 articles, media coverage, was actually giving the wrong
29 tone and not the tone that I would have wanted to give

1 in terms of accepting our failings and our wrongdoing.

2 229 Q. CHAIRMAN: why did you think Sergeant McCabe was at
3 what he was at? I mean, basically, what did you
4 actually think during all this time dealing with all
5 this stuff, it escalating? Okay, it's more and more 12:03
6 trouble, there is more and more firefighting, but why
7 did you think he was at what he was at?

8 A. I think Sergeant McCabe was genuinely motivated to
9 bring forward cases that he felt and issues that he
10 felt were not being dealt with. I think it was very 12:04
11 difficult at times because for the simple reason is
12 that when Sergeant McCabe would bring forward issues,
13 they would be dealt with, but then what we found was
14 that we would have to deal with them not just
15 internally but they would be dealt with in a particular 12:04
16 forum and they would escalate into big political issues
17 that actually made it very, very difficult then to deal
18 with. But I feel that Sergeant McCabe was genuinely
19 motivated in bringing forward the issues. I think his
20 desire was to improve policing practices. I think 12:04
21 that, in my experience, a lot of Sergeant McCabe's
22 issues led to a lot of improvements in the FCPN but
23 also in policing practices in Bailieboro and other
24 issues, and I have publicly acknowledged Sergeant
25 McCabe in terms of even the contribution to the victim 12:04
26 service offices, that wouldn't have happened except for
27 what Sergeant McCabe brought forward to Guerin.

28 230 Q. CHAIRMAN: So you didn't think he was a bit windy, as
29 you say, within the police force?

1 A. No, Chairman, no.

2 231 Q. CHAIRMAN: Okay. The last thing I wanted to ask you
3 about was this: Look, if you look at the video of
4 Martin Callinan before the Public Accounts Committee,
5 it's clear that at a particular point he becomes upset. 12:05
6 Now, he says the two of you travelled back to Garda
7 Headquarters together after that. Now, you seem not to
8 be able to remember that. But I would have thought
9 that that would be an opportunity for him maybe to pour
10 out his heart to you, or maybe he would just simply 12:05
11 stare out the window like in a French film and say
12 absolutely nothing, I don't know. But did you go back
13 to Garda Headquarters with him?

14 A. I have been trying to recollect that. It's quite
15 possible, Chairman. We would often travel back 12:05
16 together and then on occasion -- but it is quite
17 possible we travelled back together, yes.

18 232 Q. CHAIRMAN: Yes. But, I mean, did you ever kind of take
19 him aside and say, look, you are getting too upset
20 about the Maurice McCabe issues and the plain reality 12:06
21 is, if we deal with them, if we keep the train on the
22 tracks and if we keep moving forward we'll get to the
23 end of them, so, you know, go home, relax, dig the
24 garden, play a game of golf, or whatever, we need to
25 get you in a proper state of mind? Did you ever have 12:06
26 any such conversation with Martin Callinan?

27 A. I would have had conversations with Commissioner
28 Callinan around exactly what you say, look, let's focus
29 on the positives, and indeed it's recorded in some of

1 the minutes of the meeting, let's focus on the
2 positives, let us make sure that we are actually
3 addressing the issues and let us make sure -- and I
4 would have advised Commissioner Callinan on occasions
5 not to be so immersed in some of the issues that were 12:06
6 just constantly bombarding all of us and -- but
7 Commissioner Callinan wouldn't be -- the relationship
8 we had, he wouldn't be pouring out his inner feelings
9 to me, but I would have advised him, from my
10 observations, that it was necessary that we just step 12:07
11 back from everything that was going on for a while to
12 deal with the issues, and that is what I felt, to be
13 fair, that we were doing, we were dealing with all of
14 the issues and trying to fix, for example, the penalty
15 points system and trying to make sure -- and for his 12:07
16 own sake -- I do recall that he used to spend very,
17 very long hours in the office, he would be very
18 immersed in all of the very finite detail of all of the
19 reports of all of the day-to-day issues that were going
20 on but particularly in relation to these matters, and I 12:07
21 felt he needed to step back from it.

22 233 Q. CHAIRMAN: Yes, but he clearly took a view, on no
23 matter what view of the evidence you take that has been
24 given, and there is various possibilities in terms of
25 the way things might be decided, but he clearly was of 12:07
26 the view that Maurice McCabe, whatever, whether he was
27 right or wrong, was going about things the wrong way;
28 you go to your commanding officer, you go to O'Mahony,
29 you follow up the structures. You don't take a whole

1 load, a big box-load of Pulse printouts and deliver
2 them over to various public representatives or
3 interested parties; you do things in accordance with
4 the book, and that seems to have been the main source
5 of upset. Was -- did you actually talk about that, 12:08
6 that Maurice McCabe was, as far as Martin Callinan was
7 concerned, was going about things completely and
8 utterly the wrong way?

9 A. Yes, Chairperson, we did, and Commissioner Callinan was
10 very concerned, and I would say legitimately concerned, 12:08
11 about the manner in which particularly information in
12 relation to citizens was being put into the public
13 domain. He absolutely expressed that, loudly and
14 clearly. He went so far as to get advices from the
15 Data Protection Commissioner and the Attorney General 12:08
16 in relation to it, and he was very open about his views
17 on that, and I have to say, it's a view that I shared;
18 it was something completely new to An Garda Síochána.
19 You know, we take our responsibilities around
20 information in relation to citizens very, very 12:09
21 seriously, and here we had something that we were --
22 that we did not have control of in terms of the manner
23 in which this information was being put into the public
24 domain, and I know for a fact that Commissioner
25 Callinan was very concerned about that. 12:09

26 234 Q. CHAIRMAN: The last thing I wanted to ask you was this:
27 I mean, it may be that there has been overemphasis on
28 this, it may be that a particular line is being
29 followed to create a particular impression, but just

1 looking at the evidence, but looking at evidence that
2 is independent of David Taylor, it would seem that he
3 was in and out of the Commissioner's office an awful
4 lot and that they were terribly close to one another
5 and having long conversations about this, that and the 12:09
6 other. I mean, what was the nature of the
7 relationship, as you saw it? And the second question:
8 You clearly thought there was something unhealthy about
9 David Taylor and you wanted him moved as soon as you
10 got in, so maybe you'd tell me your impression of that 12:10
11 time and the relationship between the two of them,
12 please?

13 A. I think that my observations were that Commissioner
14 Callinan and Superintendent Taylor did indeed work very
15 closely together. I wouldn't have thought that they 12:10
16 had a personal relationship, but they certainly had a
17 very close working relationship. My observations were
18 that I felt that Superintendent Taylor, to use a
19 phrase, inserted himself in around Commissioner
20 Callinan, Commissioner Callinan came to rely on him 12:10
21 quite a lot, but that is understandable because the
22 role of Press Officer and Commissioner is a very close
23 role; you have to be able to interact on a daily basis,
24 there are always things that have to be done. So I
25 felt, yes, that they had a close working relationship, 12:10
26 but I would never have thought that they had a personal
27 relationship at all, but they were closely working
28 together. In relation to my concerns in relation to
29 David Taylor, I did not feel comfortable in his

1 presence. I felt that he, at times, to me, appeared to
2 be a divisive individual. I certainly felt that he was
3 not, from my observations, respecting the role of
4 Mr. McLindon as the director of communications and
5 respecting his professional expertise and opinion, and 12:11
6 I also sensed, even though I had never worked in the
7 Press Office, but I sensed that there was division and
8 I sensed that the office wasn't working well together,
9 and I felt that it was very important to be able to
10 build on that and to be able to have a media, a 12:11
11 strategic communications and media unit that would work
12 well together and, most importantly, that would work
13 well together with the operational field and that we
14 would be able to --

15 235 Q. CHAIRMAN: I will take all of that as a given. I mean, 12:11
16 that is a given. You were uncomfortable as a woman, is
17 that what you are saying, around David Taylor, or what?
18 I don't know what you are saying.

19 A. Well, as a person, I just -- I didn't like his style.
20 I felt that -- I don't -- I can't put my finger on it, 12:12
21 I just was not comfortable in his presence. It wasn't
22 just as a woman. There are people -- just as a person,
23 I didn't feel comfortable in his presence. I felt
24 that, as I say, that his -- he was undermining not just
25 Mr. McLindon but me as well, and I felt that he was 12:12
26 not -- I mentioned a phrase earlier, he did not have my
27 back. And I felt that, for those reasons, I could not
28 see myself working with him in the capacity as Press
29 Officer.

1 236 Q. CHAIRMAN: But you would rather not have him working
2 around you at all?
3 A. Yes, Chairman.
4 237 Q. Or in Headquarters?
5 A. Yes, Chairman. 12:12
6 238 Q. CHAIRMAN: And that is woman's instinct but it's not
7 more than that?
8 A. I think I would say it was intuitive, that I felt that
9 I would prefer that he was working some place. I also
10 would prefer that he was working with somebody who was 12:13
11 an experienced chief superintendent and that there was
12 an appropriate structure in place that he could work in
13 and contribute to.
14 CHAIRMAN: Thank you very much.
15 A. Thank you very much, Chairman. 12:13
16
17 THE WITNESS THEN WITHDREW
18
19 MS. LEADER: The next witness, sir, is Ms. Anne Harris.
20 Her interview with the Tribunal investigators is in 12:13
21 volume 14 at page 3543 of the materials.
22
23 MS. ANNE HARRIS, HAVING BEEN SWORN, WAS DIRECTLY
24 EXAMINED BY MS. LEADER:
25 12:14
26 239 Q. MS. LEADER: Ms. Harris, I think you are now a
27 freelance journalist, is that correct?
28 A. That's right.
29 240 Q. If you'd outline your career path to date to that

1 position, please.

2 A. well, Chairman, I began as a freelance journalist, and
3 for most of my adult life I have been a journalist, and
4 for 30 years I worked for Independent News & Media,
5 where I was various editors - features editor, deputy 12:14
6 editor and, finally, editor. For the last -- for the
7 three years from the beginning of 2012 to the end of
8 2014, I was editor of the Sunday Independent.

9 241 Q. And I think you were appointed to the post of editor on
10 the 3rd February 2012? 12:15

11 A. That's correct.

12 242 Q. And you left at the end of 2014?

13 A. Yes, I had a three-year contract and I served it out.

14 243 Q. All right. Now, if you would explain the structure and
15 reporting line of the Sunday Independent, please, as 12:15
16 you have set it out to the Tribunal investigators
17 earlier on.

18 A. well, in my time, the three-year time, there were two
19 basic reporting structures. The first one was a very
20 traditional editor in charge of a title. In -- all of 12:15
21 the titles in INM were standalone titles, Chairman,
22 like the Irish Independent had its own editor, the
23 Evening Herald had its own editor, the Sunday world had
24 its own editor and the Sunday Independent had. So, for
25 the first 18 months that I was there, that was the 12:15
26 structure, and so I had a team that had been recruited
27 specifically for the Sunday Independent, who reported
28 directly to me as editor of the Sunday Independent.
29 And then sometime -- or exactly halfway through, at the

1 end of June 2013, the structure was changed, an
2 editor-in-chief was appointed. If I could describe it
3 as it was shown to me, I was shown a pyramid, and at
4 the top of the pyramid was an editor-in-chief and at
5 the bottom of the -- the baseline of the pyramid was a 12:16
6 number of group editors who were about to be appointed
7 at that point, and there among that group was a person
8 called the masthead editor, and I said, 'what exactly
9 is that?' And they said that is actually traditionally
10 the editor. So from -- basically from -- the structure 12:16
11 changed, but I had to be very clear that I was always
12 the editor, despite the now-different structure. So
13 what the structure then entailed after that was, that
14 there was a -- the staff who and my team who had been
15 hired specifically for the Sunday Independent was then 12:17
16 sort of dismantled and spread across a number of
17 titles, so that meetings, editorial meetings were
18 slightly changed after 2013.

19 244 Q. All right. So before June 2013, you reported to the
20 board of the Independent? 12:17

21 A. No, I reported to the CEO.

22 245 Q. CEO, the Chief Executive Officer?

23 A. Yes, yes.

24 246 Q. And after June 2013, you reported to an
25 editor-in-chief? 12:17

26 A. Yes.

27 247 Q. And that editor-in-chief was?

28 A. Stephen Rae.

29 248 Q. All right. Now, in relation to the journalists who

1 contributed to the newspaper, I wonder could you
2 explain their terms of appointment or engagement with
3 the newspaper?

4 A. Well, newspapers are made up of staff journalists, who
5 are hired and in permanent and pensionable positions, 12:18
6 and freelance journalists, who generally attach to one
7 particular title because they, as their careers
8 continue, they serve that title very well, their
9 identities are close to the identity of the title, they
10 would be reliable, reputable people with good 12:18
11 reputations, long-standing journalists associated with
12 newspapers, and they would form a part of the team as
13 well, even though they would not be -- they would not
14 be in permanent and pensionable situations with
15 Independent Newspapers. 12:18

16 249 Q. All right. And in terms of numbers of journalists
17 reporting to you, I wonder could you assist the
18 Tribunal about how many there would be?

19 A. The Sunday Independent was always a very tight ship.
20 It had quite a small staff and a very small core team, 12:18
21 and I suppose you would have about a dozen who would
22 consist of reporters and -- as the years went on and
23 cutbacks happened, the number of reporters, you know,
24 decreased, and the number of freelances increased, and
25 then you would have people with specific areas of 12:19
26 interest in a newspaper. The correspondents, you would
27 have political correspondents and a political editor,
28 crime correspondents, security correspondents,
29 mainly -- well, obviously a lot of sports

1 correspondents and features people. But politics and
2 business and crime and security were sort of core areas
3 in any newspaper, Chairman.

4 250 Q. And in your interview with the Tribunal investigators,
5 you say that during the relevant time period, that is 12:19
6 2012 to when you --

7 A. Retired.

8 251 Q. -- retired, there were about a dozen journalists that
9 you would have had dealings with?

10 A. On a regular basis, roughly about a dozen journalists. 12:20
11 And then, of course, outside that, as in other
12 newspapers, like The Irish Times, you would have a
13 number of analysts and columnists who would write
14 regularly, and indeed you would talk to them every week
15 but they would never come into the office. It's -- I 12:20
16 think that is just -- they would be leader writers or
17 opinion op-ed page writers, and generally they would be
18 commissioned, because there is very few of them that
19 just decide what they are going to write about by
20 themselves every week. So if you have a theme or a 12:20
21 topic on the newspaper on any given week, you might
22 speak to one of the columnists and ask if they would
23 have something to contribute on that particular debate.

24 252 Q. All right. Just in very general terms, leaving
25 Sergeant McCabe out of the picture just for the minute, 12:20
26 I wonder could you explain to the Tribunal how the
27 business of the newspaper comes about, how a story gets
28 published in a newspaper.

29 A. Well, Chairman, the first thing to remember is that

1 journalists only know things because people tell them
2 things. Information doesn't come out of a tap, so
3 somebody has to have told a journalist something first
4 before they can even put in a Freedom of Information
5 request. So somebody has to have said something that, 12:21
6 you know, tweaked their curiosity and made them want to
7 take a story further. So I can only speak about a
8 Sunday newspaper because I worked in a Sunday newspaper
9 for 30 years. Daily newspapers would have different
10 routines and different rhythms. So, in the Sunday 12:21
11 newspaper, the first thing, every week, was a very big
12 editorial conference, to which all of the reporters
13 came, and that particular conference had to be a place,
14 in my view it had to be a safe place where journalists
15 could bring anything they had heard, rumour and 12:22
16 innuendo, ephemera, no matter what it was, they had to
17 be able to bring this into the editorial conference,
18 secure in the knowledge that this would not go any
19 further, because if you think about it, and even
20 anybody thinks back, the number of urban myths we have 12:22
21 all heard over the years, of stories that people swore
22 were true, which were absolutely not true, and if these
23 stories had progressed out of editorial conferences,
24 well it would have been disastrous. But at the same
25 time, if journalists weren't free to come to editorial 12:22
26 conference and say that they had heard something and
27 they thought it was worth investigating, then you would
28 have no newspapers, if journalists didn't feel that
29 they could come to conference and talk about anything

1 they had heard, Chairman.

2 253 Q. All right.

3 A. So the first thing that happened was, you would have a
4 conference and it would be a loud and kind of important
5 discussion where everything is discussed. Now, so much 12:23
6 so was the sort of in lodge part of this editorial
7 conference, unofficially regarded, that sometimes at
8 conference you would call a lawyer. We had regular
9 libel lawyers on hand all the time, and you might call
10 one for a bit of advice on how you might progress a 12:23
11 story, and how you might proceed with a certain story.
12 Those lawyers would know, and can confirm, that they
13 could be called in to discuss a detail and then they
14 might be asked to leave immediately because it would
15 not be for their ears, the rest of what was being 12:23
16 discussed at the conference. And then --

17 254 Q. So various journalists would come to the conference at
18 the beginning of the week with ideas?

19 A. With ideas, yes.

20 255 Q. Or looking for guidance. And what would happen 12:23
21 thereafter?

22 A. They come with their ideas and I come with my ideas,
23 and obviously we are all in the news business, and so,
24 Chairman, people have -- people are wanting to take the
25 stories that are in the news of the day, progress them 12:24
26 further on that week. Also, they will have new things.
27 Above all, in a Sunday newspaper, you will want to be
28 following your own inquiries about things, you want
29 something different for the Sunday, not just a

1 summing-up of the week, so journalists bring stories to
2 the editorial conference first thing, and the first
3 editorial conference of the week is a big one.
4 Sometimes, but very rarely, a columnist might attend.
5 It's mainly journalists with ideas seeking to find out 12:24
6 how they can take these ideas further and develop them
7 as news stories. They speak to you in lodge, in
8 confidence, and, by the end of that meeting, which
9 usually took a few hours, you would have sort of an
10 agenda for the week, just rough notes might be taken. 12:24
11 There were -- this was an internal matter, they weren't
12 minuted; these meetings couldn't be minuted because it
13 was entirely for the purpose of just doing the
14 newspaper on the week, and, if you think about it, the
15 newspaper itself was the record of what had taken place 12:25
16 at the big editorial meeting, because what had been
17 worth proceeding and what had been found to be
18 verifiable would appear in the paper, fully legaled,
19 not defaming anybody, one hopes, and that was the
20 record that you needed. So those meetings were never 12:25
21 minuted. And that is how the paper was first shaped
22 up. The week followed with meetings most days. If you
23 want me to --

24 256 Q. And journalists would develop their stories?
25 A. Well, you would develop you stories. You would have 12:25
26 catch-up meetings as the week went on. Wednesday was
27 usually a day for talking to columnists, seeing that
28 there was a shape coming to the paper, that there would
29 be possibly, and particularly in the Sunday Independent

1 there was very often a theme to the week and columnists
2 would be commissioned along those lines. The Thursday
3 meeting was invariably what is called a dummy meeting;
4 I don't know if this is the slightest interest to the
5 Chairman, but it's a meeting where production people 12:26
6 and department heads come and the newspaper has a
7 template --

8 257 Q. It would be put together?

9 A. It's put together. The pages -- you learn to imagine
10 the pages and decided orders of priority, what matters, 12:26
11 what is working out, what is to be discarded, and it's
12 just very much -- it's more than a technical meeting,
13 it's because in the -- the shape, very often, as
14 everybody in this business knows, a shape can dictate a
15 story, and so the shape of the paper -- the paper is 12:26
16 shaped, by and large, on a Thursday, and you also know
17 that if you are not really well dug into your stories
18 by Thursday, you are not going to be at the races. And
19 Friday afternoon was always a very big meeting, news
20 meeting again, to go over what had worked out, what 12:26
21 hadn't worked out, again -- and emphasising page 1,
22 pages 1 to 5 would be the big topics on Friday, again
23 bringing in lawyers at that stage to see what is
24 working out and what isn't and more news meetings on a
25 Saturday morning. 12:27

26 258 Q. Right. Okay. Now --

27 A. Lawyers might have more involvement on a Saturday
28 morning.

29 259 Q. Okay. So to those meetings did any journalist come

1 with stories about Sergeant McCabe?
2 A. Another thing that happens in newspapers, Chairman, is
3 that journalists, I won't say they take ownership of
4 stories, but they do need to know and be familiar and
5 fluent with certain stories in order to be sure that 12:27
6 you are getting -- that they will be familiar with them
7 and not fall into traps, or anything. So we had some
8 reporters who were well-versed in Maurice McCabe's
9 concerns about Garda malpractice, and on May the 5th in
10 2013 we had a story by Philip Ryan, who was one of 12:28
11 those journalists who always faithfully followed the
12 Maurice McCabe stories. He was always accurate, a
13 reputable, reliable journalist with a -- and he -- and
14 he was very good on following these stories, and he had
15 a story, which was to the effect that subsequent to 12:28
16 Sergeant McCabe's reporting on the quashing of penalty
17 points, that some of those people who had had penalty
18 points quashed had gone on to commit fatal accidents,
19 and so this was a story that we had and it was given
20 prominence in the Sunday Independent. And immediately 12:28
21 subsequent to that, at one of the next big editorial
22 conferences on a Tuesday morning, a freelance
23 journalist raised the issue of Maurice McCabe to the
24 effect that I didn't really know the whole story, and
25 proceeded to give me a different story about Sergeant 12:29
26 Maurice McCabe and that story was the well-worn one
27 about the -- about -- what was given to me was that
28 there was a colleague of Sergeant McCabe's who was
29 driving along with his daughter in the car and she

1 said, 'daddy, daddy, that's him, that is the man'. And
2 her father looked and saw that it was Sergeant Maurice
3 McCabe, and she was referring to something that had
4 happened in 2006 when she was much younger and it was
5 vague what had happened, but the inference was that it 12:29
6 was something to do with a child, inappropriate
7 behaviour. So I was -- I didn't like that kind of
8 thing being raised --

9 260 Q. If I could just stop you there. Was that the first
10 time you heard it? 12:30

11 A. That was the first time I heard it.

12 261 Q. Yes. All right.

13 A. So I thought about it and I -- since we had continuous
14 coverage of Sergeant McCabe and his, what I thought
15 very important and in the public interest concerns 12:30
16 about malpractice in the Gardaí, I decided I should
17 find out, Chairman, if these -- if there was anything
18 to this. So I used my own sources and I set about
19 inquiring what -- if this had ever reached any sort of
20 further currency or further -- if there had been 12:30
21 anything further on it, and I discovered that the DPP
22 had looked into it and had discovered that this matter
23 had been groundless. So I was satisfied with this and
24 I was more than happy to continue with the -- with just
25 proper, appropriate and prominent coverage of Sergeant 12:31
26 Maurice McCabe's concerns.

27 262 Q. All right. Just in relation to your own inquiries made
28 in relation to the story you had heard from the
29 freelance journalist, did you get any of that

1 information from either Superintendent Taylor, former
2 Commissioner O'Sullivan or former Commissioner
3 Callinan?

4 A. No, no, Chairman, I never had any dealings with any
5 of -- either Taylor or Commissioner O'Sullivan or 12:31
6 Commissioner Callinan.

7 263 Q. Do you know them?

8 A. Only through media. I have never met any of them, I
9 have never spoken to any of them.

10 264 Q. All right. Now, did anybody else come to you with that 12:31
11 story in relation to Sergeant McCabe; was it one
12 journalist or was it more than one journalist?

13 A. That story was raised one more time by the same
14 journalist, but this time I shut it down and said that
15 I had investigated it and I had -- now knew that it had 12:32
16 been groundless and I didn't want to hear it any more
17 in my office, and that journalist never raised it
18 again.

19 265 Q. Okay.

20 A. And I am not 100 percent sure, Chairman, but I think 12:32
21 that the purpose in raising it was never to try to get
22 the Sunday Independent to publish anything of that
23 order, because, just basically, it would have been so
24 difficult, in my view, anyway, to publish anything like
25 that, but I think it was intended as a warning, a sort 12:32
26 of a chilling thing to think twice about this
27 particular -- the complaints of this particular
28 sergeant.

29 CHAIRMAN: All right. Ms. Leader, you probably want to

1 get away before lunch, but I am sorry, I have to take a
2 break, and in an hour's time we will continue. Thank
3 you.

4
5 THE HEARING ADJOURNED FOR LUNCH

13:10

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1 THE HEARING RESUMED AS FOLLOWS AFTER THE LUNCHEON
2 ADJOURNMENT:

3
4 MS. LEADER: Ms. Harris, please.

5 266 Q. Now, before lunch, Ms. Harris, you were telling the 13:33
6 Tribunal about information that was given to you by a
7 journalist in the Irish Independent in relation to
8 Sergeant McCabe.

9 A. Yes.

10 267 Q. And as I understand it, that information came to you 13:34
11 following publication of an article on the 5th May
12 2013?

13 A. That's right.

14 268 Q. Yes. And it was presented to you in the way that 13:34
15 there's another side to this story, is that right?

16 A. That's right, Chairman.

17 269 Q. And also, as I understand it, it wasn't presented to
18 you as a story you should yourself publish, is that
19 right?

20 A. No, it wasn't, Chairman. It was just, I felt, a 13:34
21 warning.

22 270 Q. A warning?

23 A. Yes.

24 271 Q. Now, I just want to be clear about this; was it one 13:34
25 journalist or more than one journalist that was coming
26 to you with this information in relation to Sergeant
27 McCabe?

28 A. At that time it was one journalist, but that was May
29 2013.

1 272 Q. May 2013.
2 A. And it was the first I heard of this.
3 273 Q. Okay.
4 A. But thereafter, I have to say that you would hear quite
5 a lot of this nudge-and-wink stuff around the place. 13:35
6 274 Q. Okay. Well, if we can go back to the first journalist
7 that told you about it; how many -- you said before
8 lunch that they came to you a second time in relation
9 to the same story, is that correct?
10 A. That's right. 13:35
11 275 Q. And was there a repeat again by the same journalist of
12 the matter after the second time?
13 A. Never again after the second time.
14 276 Q. All right. And can you pin that down in terms of time
15 in any way? 13:35
16 A. It was in the same timeframe, I think, around May and
17 June of 2013 --
18 277 Q. Right.
19 A. -- that it was repeated.
20 278 Q. Okay. 13:35
21 A. But I think that it was given up after that.
22 279 Q. All right. Now, and that related to the story of the
23 confrontation in the town --
24 A. That's right.
25 280 Q. -- in relation to Sergeant McCabe? 13:35
26 A. Yes.
27 281 Q. Was there any variation in that?
28 A. There was slight variation in the telling of the story.
29 In one version, the alleged incident had taken place at

1 a children's party, and in the other version it was
2 vaguely something to do with babysitting. But I
3 suppose some people would see a children's party as a
4 babysitting, do you know, so it wasn't a huge
5 difference in detail.

13:36

6 282 Q. And was that variation coming from the same person?

7 A. Yes, it was.

8 283 Q. All right. So thereafter, you think you heard
9 murmurings, am I correct, or echoings of that general
10 story?

13:36

11 A. Yes, you would hear it around the corridors. It was
12 pervasive in the offices of INM, I think it's fair to
13 say. People talked about it without actually talking
14 about it, if that sounds strange. They would sort of
15 talk about, you know the thing, or there was sort of a
16 lot of innuendo. I never engaged in conversations with
17 it and I generally shut it down, but it was quite clear
18 that it was talked about. And then you'd meet people
19 from the political spectrum and it would be, you know,
20 you would hear the same sort of -- it was rumour and
21 innuendo, and all of this rumour and innuendo, as far
22 as I could see, had one purpose, which was to detract
23 from the character of a man who was doing something
24 which had the explicit purpose of bringing something to
25 the public interest which largely affected the public.

13:36

13:37

13:37

26 284 Q. Okay.

27 A. Garda malpractice.

28 285 Q. Did you know the source of this information that that
29 journalist gave to you?

1 A. No, I didn't know. I asked for it several times, but I
2 didn't get the information.

3 286 Q. Okay. Did you get as far as establishing was it a
4 Garda source or another source?

5 A. I didn't ever manage to establish the source, but I 13:38
6 suppose I just formed the view that it probably was a
7 Garda source. It seemed to -- you know, when you look
8 at what purpose a particular rumour is serving and cui
9 bono and it definitely seemed that the purpose of this
10 was to stop Sergeant Maurice McCabe, to stop him 13:38
11 raising these concerns, to stop media from covering his
12 concerns. So I myself, but with no specific
13 information, just formed the view that it probably was
14 emanating from the Gardaí.

15 287 Q. Now, in relation to other rumours that were in the 13:38
16 corridors, it wasn't something that was being spoken
17 about every day, was it, or was it?

18 A. No, it wasn't spoken about every day. But what struck
19 me about it, Chairman, was the casual nature of it. It
20 was careless talk, it was casual calumination, it was 13:39
21 just: doesn't everybody know this about Sergeant
22 Maurice McCabe?

23 288 Q. And that talk, was it amongst other journalists or was
24 it other editors or other employees of the newspaper?
25 Can you specify that? 13:39

26 A. I never discussed it with other editors, and, yes, it
27 would have been with other journalists.

28 289 Q. Okay. And was there anything specific in that other
29 talk in relation to the rumours that were being spoken

1 about?

2 A. No, nothing specific. No more specific than I have
3 already said.

4 290 Q. Okay. Was it a version of the same story about a
5 confrontation in the street with Sergeant McCabe? 13:39

6 A. In as far as I ever discussed it. But, you see, I
7 always shut it down and I always said, I looked into
8 this and there is no basis for it, so I always shut the
9 conversation down. And after those two incidents at
10 the editorial conference, I didn't really allow it to 13:40
11 be raised at an editorial conference, because, as far
12 as I was concerned, it wasn't true, we shouldn't be
13 discussing it and we shouldn't be wasting our time
14 discussing stuff that has no basis in truth, Chairman.

15 291 Q. All right. Now, if we can go forward to 2014. You 13:40
16 said in your second statement to the Tribunal that the
17 talk became more specific, and I wonder could you
18 elaborate on that, please?

19 A. Yes, well, a lot had happened in relation to Sergeant
20 McCabe -- 13:40

21 292 Q. Yes.

22 A. -- over that year, and, in particular, I'm thinking
23 about February 2014, when Mary Lynch went very public
24 with the fact that she considered that Sergeant -- Mary
25 Lynch was the woman who had been abducted and assaulted 13:40
26 by a man called Jerry McGrath, who had been released
27 from Bailieboro, I think, Garda Station, and he had
28 gone on to abduct a child and murder a woman in a hotel
29 in Limerick. And Mary Lynch, who was the victim of

1 this abduction and assault, had apparently been told
2 that Maurice McCabe was the sergeant who had released
3 him to commit these other terrible crimes. So she came
4 out in February 2014, I think it was around the 21st
5 was the date of the publication, and she wanted to 13:41
6 vindicate Sergeant Maurice McCabe and she wanted to say
7 that she felt he'd been scapegoated and she had
8 subsequently discovered that he had not released the
9 criminal and she had been told and she had held for a
10 long time very negative feelings about Sergeant McCabe, 13:41
11 and now she found out they weren't true and she wanted
12 -- so all of this we covered extensively, and other
13 matters. And also, there was the Sean Guerin
14 investigation in that period, the GSOC bugging. And so
15 there was quite a lot going on. Then in September of 13:42
16 that year, when the Dáil reconvened, we had -- things
17 go quiet in the summer, the Dáil is calm or there's
18 nothing going on and the newspapers become slightly
19 different in the summer. And in September it's all
20 back again. Late September, the Dáil has reconvened. 13:42
21 Alan Shatter, of course, had gone before that summer
22 recess and he -- so the Dáil has reconvened, Sergeant
23 McCabe is being discussed again with the new Minister
24 for Justice, the Guerin Report is now the subject of
25 some controversy with the Garda sergeants complaining 13:42
26 through the Garda, through their representative body
27 and through their review, that they felt they didn't
28 get a fair crack of the whip from Seán Guerin, and the
29 GSOC, the investigation into the bugging and the Sunday

1 Times leak is being published and there's a great deal
2 of talk about Garda matters and Sergeant Maurice McCabe
3 in late September 2014. Am I making --

4 293 Q. Yes.

5 A. Painting a picture. 13:43

6 294 Q. You are putting it in context, yes.

7 A. So editorial discussions would concentrate on these
8 matters.

9 295 Q. All right.

10 A. And one -- after one particular editorial conference, 13:43
11 where we had been talking about Sergeant McCabe and
12 where we had determined how we would cover these
13 matters, the conference finished and, by that time, the
14 structure of the Sunday Independent had changed and we
15 had now group editors present. And the group political 13:43
16 editor was Fionnan Sheahan, with whom, at that stage, I
17 have to say, I had an excellent working relationship.
18 I respected him hugely as a political commentator. He
19 had encyclopedic knowledge of politics. When I look
20 back over what he was doing, he was alert to the 13:44
21 grumblings about Enda Kenny, the leadership bids of Leo
22 Varadkar. He was writing about the fact that an
23 abortion referendum would be in the offing. So he was
24 incredibly alert and a political editor whom you would
25 respect, whom I respected. 13:44

26 296 Q. Yes.

27 A. I make no secret of the fact that we had difficulties
28 at the beginning. I was the editor, nonetheless, and
29 Fionnan Sheahan was the political group editor. I

1 commissioned him to write a great number of articles in
2 that period. Between the end of August and the
3 beginning of October he had five major articles in the
4 Sunday Independent. They would not have been there, I
5 cannot emphasise this enough, they would not have been 13:44
6 there had I not commissioned them, and there were also
7 features which he suggested, he had ideas for features,
8 and I commissioned those as well. So I had a very good
9 working relationship with him.

10
11 At the end of the conference, towards the end of
12 September, everybody had left, he'd gone out the door,
13 he turned back, came to the office and said, because
14 the last conversation had been about, at the
15 conference, had been about Sergeant Maurice McCabe and 13:45
16 he said he's a paedophile, McCabe's a pedophile. And I
17 was -- I was shocked.

18 297 Q. All right.

19 A. Because up until then there had been a year of talk,
20 all vague, all in typical Irish euphemisms, all talk 13:45
21 about, you know, interfering with children or
22 inappropriate or -- it was always said like that, an
23 inappropriate interest in children. It was never said
24 like that before. And so it was -- the scale had
25 suddenly upped and accelerated. 13:45

26 298 Q. All right. Now, when --

27 CHAIRMAN: Yes, I was wondering when that was?

28 A. All I can do is, Chairman, is date it to my
29 recollection of matters associated with it. So at the

1 end of September we had features about the Dáil
2 resuming and all of those things that I mentioned, the
3 GSOC inquiry, the Guerin, the Garda sergeants and the
4 Guerin Report and Alan Shatter's interaction with
5 Frances Fitzgerald, they were all in the paper. And 13:46
6 that was on the 21st September, I think. And there was
7 one other thing which I can date it to and associate it
8 with and it might sound ephemeral and inconsequential
9 to the Tribunal, Chairman, but I'll mention it because
10 it is an associative thing for me. As I said, a 13:46
11 measure of how well I got on with Fionnan Sheahan at
12 that time was, he had an idea for a feature. Now,
13 features were nowhere near his interests, but he'd
14 suggested a feature on men marrying up, and he said
15 it's a new phenomenon, men marrying up, George Clooney 13:47
16 has married up, Amal, she's a great kind of catch for
17 George Clooney.
18 CHAIRMAN: Do you mean men marrying women who are much
19 more intelligent than they are?
20 A. Exactly, that is the point he was making, you've got 13:47
21 it, Chairman.
22 CHAIRMAN: Is that what it's called?
23 A. It's called men marrying up.
24 CHAIRMAN: I did that.
25 A. Lucky you. And so that feature appears in the Sunday 13:47
26 Independent on October the 5th. So I know that it was
27 in that timeframe that Fionnan Sheahan said that.
28 That's the best I can do with dating it.
29 CHAIRMAN: And was this all about poor George Clooney

1 or --

2 A. It was lucky George Clooney.

3 CHAIRMAN: I am afraid I don't get the nuances of these

4 things, but anyway, that's --

5 A. It was that, yeah, that George Clooney would be 13:48

6 considered a huge catch himself. And so the idea was,

7 actually, and people might think she is, but Fionnan's

8 idea, and it was a good one and he had other -- and

9 there were other examples used, was that, in fact, he

10 was the lucky one. And if you were looking at the 13:48

11 royal wedding, you would see that he was.

12 CHAIRMAN: I'm sorry, we're now rowing our canoes in

13 waters that are unfamiliar to me, but there you go.

14 299 Q. MS. LEADER: Okay. So it was between the end of

15 September 2014 and the beginning of October 2014? 13:48

16 A. I would say around the third week in September, yes.

17 300 Q. All right, that that conversation took place?

18 A. Took place, yeah.

19 301 Q. Now, you've referred earlier on to conversations in the

20 line of gossip and in that type of vein in relation to 13:48

21 Sergeant McCabe. Did you think Mr. Sheahan was

22 gossiping with you, or what did you think the purpose

23 of all of this was?

24 A. I absolutely did not think he was gossiping.

25 302 Q. Yes. 13:49

26 A. I thought that it was a sort of a gesture of

27 collegiality, that he thought because we had been

28 discussing Sergeant McCabe, I think he thought that

29 perhaps I'm a bit naive, she doesn't really know the

1 score and that he was tipping me off.

2 303 Q. Okay.

3 A. And that was what I thought at that time. And because

4 I was quite familiar with that particular approach and

5 even though I was very shocked at the use of the word, 13:49

6 because I had never, ever heard it used in relation to

7 Sergeant Maurice McCabe before, I thought that Fionnan

8 Sheahan is trying -- is doing what many others have

9 sort of done, which is trying -- to other people,

10 tipping people off, because that's usually how it was 13:49

11 represented: you should know there's another story

12 here. That's really how it was represented. And I

13 thought that Fionnan had chosen the most extreme word

14 so that I could know how serious it was. But I

15 certainly saw it not as gossiping; he never was a 13:50

16 gossip, actually. Now, he was very good at political

17 interchange and all that, you know, he knew a lot. He

18 had knowledge -- I used to call him a latter day Ted

19 Nealon, which gives my age. But he was extremely

20 knowledgeable about every nook and cranny of the 13:50

21 country in politics, and he didn't -- he wasn't one for

22 gossiping.

23 304 Q. All right. Well, you are aware that Mr. Sheahan denies

24 that he said that about Sergeant McCabe?

25 A. Yes. 13:50

26 305 Q. And he also said you weren't on good terms at the time.

27 But he is represented here today and will -- his

28 representation will be able to deal with that. But

29 saying the conversation took place from your point of

1 view, did you ask him many questions about it?

2 A. No, I didn't. But in relation to my working
3 relationship with him, I want to emphasise that I was
4 the editor. People weren't in -- the group editors
5 generally attended my meetings for the purpose of 13:51
6 taking notes of what I was doing. The journalists
7 attended to pitch notes, to do stories, you know, they
8 had ideas, they wanted to get them into print, they
9 were in the business of -- the group editors attended
10 and they took notes of what I was saying. They didn't 13:51
11 normally contribute in the way that the journalists
12 present, be they staff or freelance, they didn't
13 contribute in that way, except for Fionnan. He was
14 quite -- he became -- as time went on, he became very
15 enamoured, I think, of the Sunday Independent, because 13:51
16 I think he published more articles there, if you
17 consider -- pro rata, if you consider that it is only a
18 once-a-week publication. As I said, from the last week
19 in August to the first week in October he had five
20 articles in the Sunday Independent. Now, that could 13:52
21 only have happened with my agreement and my total
22 respect for him, because I could stop, I could -- I
23 didn't have to take articles from Fionnan Sheahan. He
24 was a group political editor, he was responsible for
25 other titles and he liked to bring some of his ideas to 13:52
26 the Sunday Independent, and I liked to accept them,
27 because I thought they were good. And that is the
28 measure of respect.

29 306 Q. All right.

1 A. And also, as I said, the fact that he had feature ideas
2 accepted as well.

3 307 Q. Yes. So just going back to the question, did you ask
4 him anything else --

5 A. No, I didn't. 13:52

6 308 Q. -- about that?

7 A. No. I have to say I was taken aback and I didn't.

8 309 Q. And did you challenge him in any way about it?

9 A. No, I didn't, because this was the currency for a
10 long -- at this stage, this had been the currency in 13:52
11 INM for a long time. You know, they had -- I mean, the
12 Paul Williams articles could hardly have been published
13 without there having been a certain amount of chat --

14 310 Q. Yes.

15 A. -- do you know, in the corridors. And it just stands 13:53
16 to reason that they would have been, and I'm not saying
17 anything out of the ordinary in that. So it was the --
18 and the worry about it from my point of view was and
19 the reason that I felt it was worth talking to the
20 Tribunal was that journalists are relied upon to bring 13:53
21 the truth to the people, but if they are talking about
22 this in their own corridors internally and perhaps
23 outside, then it gives credence and currency to it
24 outside of the court -- the -- it's not just the talk
25 on corners in the newspaper office; it becomes more 13:53
26 than that.

27 311 Q. Okay. Well, maybe if I could just contrast what you
28 did in relation to the journalist telling you about the
29 story, you went off and did your own research and cut

1 the talk off?

2 A. Yes.

3 312 Q. And in relation to Mr. Sheahan saying, using the word
4 'paedophile', you not cutting it off at all, can you
5 just explain that? 13:54

6 A. Oh, he just said it and left the office.

7 313 Q. Yes.

8 A. It was over in a flash.

9 314 Q. Okay.

10 A. There wasn't really time to say anything. 13:54

11 315 Q. All right.

12 A. And I had repeated at many editorial conferences that,
13 you know, that there's no substance to this so we're
14 not going to talk about this.

15 316 Q. All right. Have you spoken to Mr. Sheahan about it 13:54
16 since?

17 A. No, no. I left on the 21st December 2014. I had
18 finished out my contract and I had, I thought,
19 acquitted myself there and I was very happy to leave at
20 that stage. I was a happy editor. 13:54

21 317 Q. Yes.

22 A. Yes.

23 318 Q. All right. Now, in relation to anybody else talking
24 about Sergeant McCabe, there's one other person you
25 have named in your statement and I wonder could you 13:54
26 tell the Tribunal about those exchanges, please?

27 A. Again, it was less of an exchange. You're talking
28 about Ian Mallon --

29 319 Q. Yes.

1 A. -- who was group news editor. He came in -- very busy,
2 and came in and out of meetings, usually to give some
3 message and then out again. And we were talking about
4 McCabe and it was -- it wasn't a very big Tuesday
5 conference, it was a different one, to the best of my 13:55
6 recollection, and he just said the same sort of thing,
7 he said: oh, you know, we have to bear in mind that
8 he's -- that there's more to this than -- there's more
9 to Sergeant McCabe than meets the eye. And that's all
10 that was. 13:55

11 320 Q. All right.

12 A. And I did think long and hard about that.

13 321 Q. All right. So did he go further in saying there was
14 more to Sergeant McCabe than --

15 A. He said, you know about McCabe and children. 13:55

16 322 Q. And children?

17 A. Yeah.

18 323 Q. And was that on one occasion or more?

19 A. Just one occasion, yeah.

20 324 Q. All right. 13:56

21 A. Because I think I did manage to get out before he left
22 the room, that I didn't -- I knew it wasn't true.

23 325 Q. And you said you reacted to it on that occasion?

24 A. Yes. That's my recollection.

25 326 Q. Yes. Can you time this at all, year or time of year, 13:56
26 part of year?

27 A. Just that it would have been 2014.

28 327 Q. 2014?

29 A. Yes.

1 328 Q. Well, for instance, was it before or after the Paul
2 Williams articles which were published, first of all,
3 on the 12th April 2014, can you remember?
4 A. I would say almost certainly after.
5 329 Q. After. Because we know Mr. Mallon had some sort of 13:56
6 role in bringing those to the newspaper in the very
7 end?
8 A. Yes, yes. I mean, I would say I had no role and very
9 little knowledge of that.
10 330 Q. Yes. 13:56
11 A. I just read it in the papers, in the Irish Independent.
12 And I just -- I would consider, though, definitely, my
13 memory is that it was after that.
14 331 Q. All right. So he was -- he may have been repeating to
15 you something which he found out via Mr. Williams as 13:57
16 far as -- do you think that was possible?
17 A. It was possible. Well, it's possible and likely.
18 332 Q. Okay. Do you have any information to give as to any
19 other source he may have had for that piece of
20 information? 13:57
21 A. No, absolutely not. And I found about Ian Mallon, that
22 he was -- he had many of the attributes of the hungry
23 reporter about him, and he, if he found there was a
24 story, that he was -- he was generally on the business
25 of being a group news editor, but he was, I think -- he 13:57
26 and a colleague in the Irish Independent, Michael
27 Brennan, who left after the restructuring, they managed
28 to track down the garda who had stopped Alan Shatter
29 for the famous breath test which -- and I think every

1 newspaper in the country was trying to track down that
2 garda to ask about the breath test, and Ian Mallon
3 actually did it.

4 333 Q. Yes.

5 A. So he was -- that was a fairly intrepid reporting job, 13:58
6 Chairman.

7 334 Q. All right. And I just want to correct myself slightly.
8 I think what Mr. Mallon says is, his first knowledge
9 that any accusation concerning Sergeant McCabe in
10 relation to an alleged sexual assault was in March 2014 13:58
11 and he said he had no role in making the arrangements
12 for the interview, but he found out about it --

13 A. Yes.

14 335 Q. -- in or around the Paul Williams interview.

15 A. Yes, yeah. 13:58

16 336 Q. And you think it was after that he said something to
17 you?

18 A. Yes, I do, I'd be fairly certain it was after that.

19 337 Q. And it was on one occasion?

20 A. Yes. 13:58

21 338 Q. All right.

22 A. Exactly, yes.

23 339 Q. Now, you've named Mr. Mallon and Mr. Sheahan as people
24 who have been speaking about Sergeant McCabe in
25 relation to paedophile and a sexual assault and you 13:59
26 haven't named any journalist, and I just want you to
27 explain why you have treated those two categories of
28 people differently.

29 A. Well, for a start, I have explained that I do sincerely

1 believe that an editor -- I said it in my first letter
2 to the Tribunal, that I believed that certain, and I
3 have no knowledge of any kind of legal phraseology, but
4 that I felt that editorial conferences had to be what
5 you call in lodge, that there had to be some sort of a 13:59
6 privilege attached to them. If there wasn't, you
7 really would have no newspapers, because people -- as I
8 said, journalists only know things because people tell
9 them things from there, and it's at that point that
10 journalists bring stories to an editorial conference, 13:59
11 it's at the point at which they are -- journalists
12 don't go off and look for Freedom of Information before
13 an editorial conference; Freedom of Information costs
14 money, they have to get it, permission from their
15 editor. Everything is consequent on the first bringing 14:00
16 of it to conference. And as I said, it can be rumour,
17 it can be anything, it's ephemeral. They have to be
18 prepared to bring everything, because the smallest
19 things, you know -- sometime, 25 years ago, some woman
20 in a diocese in Ferns said a child was probably abused, 14:00
21 and everybody thought this was awful, or somebody
22 brought to a conference that a cabinet minister was
23 gun-running to the North, and it sounded crazy and it
24 took a lot of time to stand it up. This is the nature
25 of editorial conference. You have to be sure that it 14:00
26 won't go beyond the four walls of that conference, that
27 is the point of it. So, in the first instance, the
28 freelance who brought that story was at editorial
29 conference. I didn't -- I shut it down as quickly as I

1 could. I established the facts to the best of my
2 ability and I stopped that talk. So that is one of the
3 things. The second time was not at editorial
4 conference, Fionnan Sheahan was not at editorial
5 conference. But having said that, I do believe it was 14:01
6 said to me to warn me about taking -- being too
7 innocent in the coverage of Sergeant Maurice McCabe.
8 They would have seen a kind of a naivete about me and
9 wanted to -- and there was different -- the Irish
10 Independent and the Sunday Independent were taking, 14:01
11 clearly, two very different approaches to Sergeant
12 Maurice McCabe. So it was more important, therefore,
13 for the group editors to try to warn me, because we
14 were giving a lot of coverage --

15 340 Q. Yes. 14:01

16 A. -- to Sergeant Maurice McCabe. So there were two group
17 editors who brought it, one of them a very casual
18 remark, that's Ian Mallon, and the other one a very
19 stark remark, and that one was not at an editorial
20 conference, Ian Mallon was. But as I said, the group 14:02
21 editors were not there to give stories; they were there
22 to take notes.

23 341 Q. All right.

24 A. So I sort of felt that it was important to say they
25 were also people in positions of power with, in INM, 14:02
26 group editors in INM, they are powerful people, they
27 have -- they are in a position to influence other
28 people, and contrast that with a freelance who is
29 pitching stories, living from hand to mouth. It's a

1 very important distinction. It might not sound -- to
2 me, it's an important distinction. But the biggest
3 point was that one was at editorial conference and the
4 Fionnan Sheahan remark wasn't.

5 342 Q. Okay. Now, in relation to naming anybody after an 14:02
6 editorial conference, do you think that would have any
7 consequences for the way papers do their business and
8 journalists come to editors with stories if you named
9 the journalist? Do you think it would have
10 consequences for that process? 14:03

11 A. For that journalist?

12 343 Q. Well, for the process itself?

13 A. I don't really understand.

14 344 Q. For the procedure?

15 A. If I had named the journalist? 14:03

16 345 Q. Yes, yes.

17 A. Yes, I do think so, yes.

18 346 Q. Okay. And would those consequences be good or bad
19 consequences and damaging or not damaging?

20 A. It depends. Everything is context. And I think that 14:03
21 for a freelance journalist to be named, it would be
22 very dire consequence. But for somebody in a position
23 of power, it would be less so.

24 347 Q. All right. Now, finally, Ms. Harris, the Tribunal
25 investigators asked you to offer an opinion to the 14:03
26 Tribunal, given your background, in relation to whether
27 or not it is appropriate for journalists, broadcasting
28 personnel, media personnel, to invoke journalistic
29 privilege over their contacts and, therefore, not to

1 co-operate with the Tribunal in circumstances where
2 some sources have waived journalistic privilege and
3 asked that there's -- that people co-operate with the
4 Tribunal.

5 A. Well, I think to answer that, you go to the Press Code. 14:04
6 I mean, there's a principle in the Press Code which
7 says that journalistic sources are confidential and
8 sacrosanct and must be protected. But there is also a
9 principle in the Press Code which says that every
10 individual has a constitutional right to their good 14:04
11 name. And I think that when you know that somebody's
12 good name is being calumniated and detracted from and
13 you know that journalists have been used, or appear to
14 have been used, because this talk has to have come from
15 somewhere, there has to have been an original cause of 14:05
16 it, and I came to the conclusion that journalists were
17 being used to spread these rumours and innuendo. And
18 so therefore, when journalists are being used for
19 nefarious purposes and to take from somebody's
20 constitutional right to their good name, to my mind 14:05
21 that, in itself, is an abuse of journalistic privilege.
22 And to use sources in that manner and to claim
23 privilege is -- I think it's wrong.

24 MS. LEADER: All right. If you would answer any
25 questions anybody else might have for you, Ms. Harris. 14:05

26 MR. McDOWELL: No questions, Chairman.

27 MR. FANNING: Chairman, I have a number of questions if
28 none of my other colleagues who are ahead of me in the
29 sequence do.

1
2 MS. HARRIS WAS CROSS-EXAMINED BY MR. FANNING:

3
4 348 Q. MR. FANNING: Ms. Harris, my name is Rossa Fanning and
5 I appear on the instructions of Independent News &
6 Media, and for the purposes of your evidence I also
7 represent the interests of Fionnan Sheahan, who is
8 currently the editor of the Irish Independent
9 newspaper, and Ian Mallon, who is a former executive
10 with INM also.

14:06

14:06

11
12 If I could just first ask you, Ms. Harris, I think I'm
13 correct in saying that your initial contact with this
14 Tribunal was by your letter of the 11th March 2017, and
15 we could perhaps have that up on the screen at 3571.
16 You're familiar with this letter, I'm quite sure,
17 Ms. Harris?

14:06

18 A. Yes.

19 349 Q. And can I ask you an initial question about it. What
20 prompted you --

14:07

21 A. It's not up on my screen.

22 350 Q. What prompted you to write to the Tribunal on the 11th
23 March 2017?

24 A. The request by the Chairman for information in relation
25 to any smear campaign.

14:07

26 351 Q. Yes. But the height of your evidence at the end of the
27 day, Ms. Harris, is that, as a newspaper editor, you
28 heard certain rumours amongst journalists about
29 Sergeant McCabe, but you were unaware of their source,

1 and that, I want to suggest to you, would have placed
2 you in a category of a large group of people. There
3 was nothing distinct that you could tell the Tribunal.
4 A. To the best of my knowledge at that time, in March
5 2017, there were not a lot of people coming forward to 14:07
6 say that there was -- that certain places in the, shall
7 we say, media and political classes were crawling with
8 rumour and innuendo about Maurice McCabe. I didn't
9 know of anybody else who was going to say so and I felt
10 it should be said. 14:08

11 352 Q. All right. And having made the decision, therefore, to
12 contact the Tribunal, you caused that letter to be sent
13 to the Tribunal. Can I just ask you, how was that
14 letter prepared? Did you type it yourself?

15 A. I did. 14:08

16 353 Q. And did much care go into the preparation of your
17 letter, or was it, for whatever reason, a somewhat
18 rushed job?

19 A. I don't think it was a rushed job, but on re-examining
20 of it I spotted a typo. 14:08

21 354 Q. Yes, you misspelled the Chairman's name, for instance,
22 in the first line of the final paragraph.

23 A. Yes.

24 355 Q. And presumably, as a newspaper editor, you place a
25 premium generally on the accuracy in writing? 14:08

26 A. Yes, I would place a premium.

27 356 Q. And that's something, it's a trivial point and it
28 doesn't go to anything that the Tribunal is
29 investigating, but I suppose in a letter that doesn't

1 extend to one full page, a misspelling of the Tribunal
2 Chairman's surname is not something you'd be
3 particularly proud of?

4 A. I'm afraid I don't think it's a hanging offence. I
5 hope that the Chairman doesn't think so. 14:09

6 CHAIRMAN: I suppose the misspelling isn't 'charlatan',
7 is it?

8 MR. FANNING: It doubtless --

9 A. I accept that I misspelled it, and for which I am
10 sincerely sorry. 14:09

11 357 Q. MR. FANNING: So did you read the letter over before
12 you sent it to the Tribunal?

13 A. Yes, I did. I did, yeah.

14 358 Q. And were there any other errors in the letter that
15 doesn't extend to one page that you sent to the 14:09
16 Tribunal on the 11th March?

17 A. No, I'm not aware of other errors. If you mean did I
18 reconsider and have thought about the letter
19 subsequently, I think all human beings consider and
20 reconsider their actions and it's a part of the 14:09
21 ordinary process of trying to do the right thing.

22 359 Q. Sorry, I'm going to ask you the question again,
23 Ms. Harris; are there any other errors in the letter,
24 apart from the misspelling?

25 A. Not that I'm aware of. 14:10

26 CHAIRMAN: well --

27 360 Q. MR. FANNING: So in the middle of the page, in a
28 two-line paragraph which says:
29

1 "In 2014, the allegation that Sergeant McCabe was a
2 paedophile was stated in my office by senior
3 executives --"

4
5 And I emphasise the plural form of the word
6 "executives" used in your letter.

14:10

7
8 "-- from the wider group editorial hierarchy of
9 Independent Group newspapers."

10
11 That's what you said in your letter of the 11th March.

14:10

12 A. Yes.

13 361 Q. Is that accurate or inaccurate?

14 A. I would like to explain that this is something that I
15 went to some considerable trouble to correct with the
16 investigators, that there was -- the group editors had
17 presented a certain line, culminating in Fionnan
18 Sheahan's remark on paedophiles, and I lumped them
19 together in that, and, on recollection and on examining
20 everything, I went to some considerable effort to
21 correct it with the investigators, to say that, in
22 fact, I was wrong to attribute the word "paedophile" to
23 Ian Mallon and I took that back, and it's very clear in
24 my statement that I did.

14:10

14:11

25 362 Q. Yeah. So is that a long way of saying that you agree
26 with me that you were in error insofar as you used the
27 plural form of the word "executives" in your letter of
28 the 11th March 2017?

14:11

29 A. I suppose it is.

1 363 Q. So apart from misspelling the Chairman's name and apart
2 from attributing the use of the phrase "paedophile" to
3 a plurality of persons, which was a more significant
4 error than a misspelling, are there any other errors in
5 that letter that does not extend to one full page? 14:11
6 A. Not that I'm aware of.

7 364 Q. So when you say in the first paragraph that certain
8 journalists, also emphasising the plural there, came to
9 your office to warn you off Sergeant McCabe, how many
10 journalists are you referring to in that paragraph? 14:12
11 A. Three.

12 365 Q. Three?
13 A. Yes. Because --

14 366 Q. Three other than Ian Mallon and Fionnan Sheahan?
15 A. No, Ian Mallon and Fionnan Sheahan are journalists as 14:12
16 well as being group editors.

17 367 Q. I see. So the certain journalists that are referred to
18 on the fourth line of the first substantive paragraph,
19 we are to take as meaning three people: Fionnan
20 Sheahan, Ian Mallon and one other person who you are 14:12
21 not minded to identify, is that the position?
22 A. That's the position.

23 368 Q. Now, we can agree that in your letter of 11th March
24 2017 you don't identify any of those persons. As a
25 matter of fact, you don't mention any names of any 14:13
26 journalists or editors in that letter. We can agree on
27 that, presumably, Ms. Harris?
28 A. Yes.

29 369 Q. why?

1 A. Because that's how it is.

2 370 Q. Well, I know it's how it is, but why did you make the
3 decision, when initially writing to the Tribunal on
4 11th March, not to name anybody?

5 A. Because an interaction between this Tribunal and an 14:13
6 editor is an evolving situation and there was a
7 deadline that the Chairman had created for witnesses to
8 volunteer and to do so before a certain time, and I
9 made the decision that I would volunteer and be a
10 witness. And therefore, that first letter was a clear 14:14
11 indication that I felt that I had something to say to
12 the Tribunal. I wasn't trying to aggrandise it. All I
13 knew, I explained very carefully I had no -- in my
14 second letter, that I had no evidential proofs. All I
15 knew was that if you have -- there is a thing called a 14:14
16 smear campaign and then there is the product of a smear
17 campaign, and the product is rumour and innuendo,
18 careless talk and constant careless talk. I knew that
19 that existed and I knew very little more and all I
20 wanted to do in that initial letter was to indicate 14:14
21 that I was willing to testify to that. I was very well
22 aware that I did not have much to contribute other than
23 the fact that I had witnessed a great deal of careless
24 talk.

25 371 Q. An educated person and an informed person reading your 14:14
26 letter of the 11th March, which refers to senior
27 executives from the wider group editorial hierarchy of
28 Independent Newspapers would be able, by the use of
29 that fairly well-defined phrase, to narrow the

1 potential field down to a relatively small number of
2 people, isn't that so, Ms. Harris? That phrase
3 couldn't have referred to that many people?
4 A. That's right, it couldn't.
5 372 Q. So it pointed any reader of that letter towards a 14:15
6 defined number of senior people within Independent
7 Newspapers, isn't that so?
8 A. Well, I don't know what circulation you thought at that
9 time that letter was going to receive.
10 373 Q. Well -- 14:15
11 A. It was a letter --
12 374 Q. -- it was going to receive circulation to the Tribunal,
13 which was going to conduct public inquiries, and in
14 your letter you made an allegation that the word
15 "paedophile" was used in your office by senior 14:15
16 executives, plural, from Independent Newspapers. And
17 you must have known, Ms. Harris, that that was
18 something that was going to excite the attention of the
19 Tribunal and something that was going to cause further
20 investigation? 14:16
21 A. But then I did proceed to name the -- to narrow it down
22 by naming the senior executives.
23 375 Q. You did, and I'll be coming to that. But before we
24 come to your decision and the rationale of your
25 decision as to who to name and who not to name, I want 14:16
26 to suggest to you that as of the date that you penned
27 this letter, 11th March 2017, the senior executives
28 from the wider group editorial hierarchy that are
29 referred to by status but not by name was a group of

1 people that you were not enamoured with?

2 A. On 11th March of 20 --

3 376 Q. As of the date that you wrote that letter, these
4 weren't people that you were enamoured with,
5 Ms. Harris. 14:17

6 A. No, that's not true.

7 377 Q. That's not true?

8 A. No.

9 378 Q. In your evidence already to Ms. Leader and in your
10 statement to the Tribunal investigators, which appears 14:17
11 at page 3545 of the Tribunal's reference, you describe
12 a change in the group structure in June 2013 where you
13 went from a situation where you were, as editor of the
14 Sunday Independent, answerable to nobody at an
15 editorial level, to a situation where you were 14:17
16 answerable to an editor-in-chief, Mr. Rae, and you were
17 on a par with group editors like Mr. Sheahan, isn't
18 that so?

19 A. First of all, I was never answerable to nobody, but --

20 379 Q. That you were never answerable to anybody at an 14:17
21 editorial level, you were answerable to the CEO?

22 A. Yes.

23 380 Q. And now, after the restructuring in June of 2013, you
24 were answerable to Mr. Rae as editor-in-chief across
25 the group and you were on a par with people like 14:18
26 Mr. Sheahan, who was a group editor, and you resisted
27 and objected to that restructuring at the time it was
28 implemented, you have said so in your statement?

29 A. Yes. And the key words are "at the time".

1 381 Q. Yeah.

2 A. And the fact of the matter is that I continued to work
3 for 18 months of -- the second half of my contract,
4 with these people. My priority and focus at all times
5 was the Sunday Independent and to produce a good 14:18
6 newspaper. I am not going to be disingenuous and
7 pretend that it was easy at the beginning. I don't
8 know of anybody who would actually hold down a position
9 where they are autonomous and a structure is imposed
10 over and around them to remove that autonomy, when they 14:18
11 are, in fact, doing a good job, that they would welcome
12 it. However, I intended to make it work, and I did
13 make it work, and I grew, actually, to like Ian Mallon
14 and Fionnan Sheahan and I worked with them. So in the
15 beginning maybe -- of course I disputed it in the 14:19
16 beginning, because I had to work out a chain of
17 command. It was entirely new to Independent
18 Newspapers. They had never had this structure before.
19 They themselves were learning. They didn't even know
20 how they were going to implement it. I intended to be 14:19
21 the editor, to keep my authority and autonomy, and I
22 did my best to do so, and ended up working very
23 successfully with both Fionnan Sheahan and Ian Mallon.

24 382 Q. As of 11th March 2017 when you wrote to the Tribunal, I
25 want to suggest to you that your relationship with 14:19
26 Independent News & Media had concluded and by that time
27 you were a critic external to the institution and you
28 were happy to make the statement that you made in your
29 letter of 11th March 2017 if it had negative

1 consequences for senior editorial executives still in
2 the newspaper?

3 A. That is absolutely without foundation. I had no beef
4 with Fionnan Sheahan or Ian Mallon. I have texts on my
5 phone, cordial texts between myself and Fionnan Sheahan 14:20
6 subsequent to my departure. You can see them if you
7 like. And I have not got a bitter relationship with
8 INM. I cannot countenance that you would say that I
9 wanted to do those people down afterwards. I was very
10 proud of the fact that I succeeded in navigating 14:20
11 through very difficult waters when that structure was
12 imposed on me. It took a lot of negotiation,
13 understanding of other people's ordinary humanity and
14 the desire to do a good job, to succeed in working well
15 in that structure, and I did. And in the end, I had a 14:21
16 new CEO, Robert Pitt, with whom I had an excellent
17 relationship, and he made my last months there very
18 happy, as did my good working relationship with some of
19 the group editors.

20 383 Q. Now, I'm going to ask you to turn now to the second 14:21
21 letter that you wrote to the Tribunal on 21st May,
22 which is at page 3572, and this was a follow-up to your
23 first letter. And the Tribunal sought, in effect,
24 further details from you arising out of what you'd said
25 in your letter of 11th March. Do you follow me? 14:21

26 A. Yes.

27 384 Q. And you provided some information.

28 A. Yes.

29 385 Q. You said you had no evidential proofs to offer. You

1 said that what you could offer was evidence of the
2 product of a whispering campaign and careless talk
3 among editorial executives in INM. That's another
4 phrase that's critical of senior editorial executives
5 without naming them, Ms. Harris? 14:22

6 A. Is that a question?

7 386 Q. Yes.

8 A. What was the question?

9 387 Q. That's another phrase that's deliberately critical of
10 senior editorial executives in INM, I want to suggest 14:22
11 to you?

12 A. No, it's a statement. I've explained the three people
13 and two of them were group editors.

14 388 Q. Yes, and I'll come to what Mr. Mallon says about that 14:22
15 momentarily. In your letter of 21st May you then
16 corrected the statement in your letter of 11th March
17 when you'd referred to executives in the plural as
18 having referred to Sergeant McCabe as a paedophile; now
19 you refined that allegation to one individual and you
20 elected to name that person, Fionnan Sheahan, isn't 14:23
21 that correct?

22 A. That's correct.

23 389 Q. And then in the final paragraph of that letter you
24 said:
25 14:23
26 "Ian Mallon, the then group news editor, now with the
27 FAI, referred on other occasions" -- plural -- "to
28 serious allegations involving a child."
29

1 Now, when Ms. Leader asked you about Mr. Mallon's
2 conversations with you, I understood you to refer to a
3 singular occasion only.

4 A. Yes, I did refer to a single occasion, because, to be
5 honest, I could only be certain of a single occasion. 14:23

6 390 Q. Well, if you could only be certain of a single
7 occasion, why then in your second letter to the
8 Tribunal of 21st May did you refer to Ian Mallon having
9 referred on other occasions, plural, to serious
10 allegations involving a child? 14:23

11 A. It just was an impression I had, and I -- when I
12 thought about it, I thought hard and I thought I can
13 only say once. And that's my position, I can only say
14 once.

15 391 Q. I see. So we now have a situation where, on 11th 14:24
16 March, your position to the Tribunal is that multiple
17 executives have described Sergeant McCabe as a
18 paedophile. You've corrected that recollection on 21st
19 May; on 21st May you've attributed comments to
20 Mr. Mallon on a number of occasions and that's also 14:24
21 incorrect and you're now narrowing that down to a
22 single occasion, is that the position?

23 A. That's absolutely correct.

24 392 Q. Well, let's talk about the conversation with 14:24
25 Mr. Sheahan, of which you have given us an account this
26 afternoon. By October 2014, when you met with the
27 Tribunal's investigators, you had narrowed down the
28 supposed statement of Mr. Sheahan that Sergeant McCabe
29 was a paedophile, to November 2014, isn't that correct?

1 A. Yes.

2 393 Q. Now, why didn't you say September 2014 in your letter
3 of the 11th March?

4 A. Well, I just wasn't being cross-examined about it or
5 being asked about it. I was writing a letter. 14:25

6 394 Q. Why didn't you say September 2014 in your letter of
7 21st May?

8 A. Because I didn't actually -- I wasn't giving that level
9 of detail. I was interested -- I was answering the
10 questions put to me by the solicitor for the Tribunal. 14:25
11 I got a letter from the Tribunal asking me just for the
12 names, not asking me for any details of times and
13 dates, nor indeed asking me for any detail of the
14 freelance that I had mentioned. In my second letter, I
15 simply answered the questions I was asked. 14:25

16 395 Q. And doing your best now, Ms. Harris, as I understand
17 your answer to Ms. Leader earlier this afternoon, you
18 believed that the disputed conversation with
19 Mr. Sheahan took place perhaps in the third week of
20 September of 2014, is that your recollection? 14:25

21 A. It's my best recollection. I didn't note it.

22 396 Q. You didn't note it?

23 A. Yeah.

24 397 Q. And would it be fair to say that the third week of
25 September 2014 would have been the week that culminated 14:26
26 in the edition of the Sunday Independent of Sunday,
27 21st September 2014? That is precisely the 21st day of
28 the month, the 21st September, and it fell as a Sunday,
29 so I want to suggest to you that that's the end of the

1 third week of the month.

2 A. I just want to be quite clear that that was -- I want
3 to give you an honest recollection, so I am not saying
4 that it was exactly pegged to that Sunday; it could
5 have just as easily been pegged to the following week, 14:26
6 with discussions of the previous Sunday. So I am
7 not -- I cannot be specific.

8 398 Q. Yeah. Well, in the edition of the Sunday Independent
9 of 21st September 2014 there were articles about
10 Sergeant McCabe -- 14:27

11 A. Yes, there were.

12 399 Q. -- penned by Philip Ryan?

13 A. Yes.

14 400 Q. And that would appear to make it likely, I want to
15 suggest to you, that Sergeant McCabe was a topic of 14:27
16 discussion at editorial meetings in the week leading up
17 to that edition; does that follow?

18 A. No, it doesn't. He could have been -- all that that
19 means is that the articles appeared in print, were
20 stood up on that week, that things succeeded in getting 14:27
21 to the paper on that week. There is every likelihood
22 we discussed him the week before that and the week
23 after.

24 401 Q. Well, do you think it's possible, therefore, that the
25 discussion with Mr. Sheahan took place in the second 14:27
26 week of September?

27 A. I have said several times that my recollection is that
28 it was the second half of September, but I think I have
29 explained that I have done my best to use associative

1 things to remember it.

2 402 Q. Yes. You see, Ms. Harris, in circumstances where
3 Mr. Sheahan does deny the conversation, it would be
4 helpful if we could pin you down to a date, because we
5 could compare the date of the supposed conversation 14:28
6 with Mr. Sheahan's diary. Do you understand the
7 significance of that?

8 A. Yes, I do. He has a diary note of it, has he?

9 403 Q. He does not have a diary note of a conversation that he
10 never had, but his diary does note where he was on 14:28
11 various days, Ms. Harris. So, for instance, the
12 conversation couldn't have happened in the second week
13 of September because he was out of the jurisdiction on
14 vacation.

15 A. But I didn't say it happened in the second week of 14:28
16 September.

17 404 Q. No. And the main editorial meeting of the Sunday
18 Independent takes place, as I understand it, on a
19 Tuesday, Ms. Harris, as of that time?

20 A. Usually -- yes, it does take place on a Tuesday. But 14:28
21 there are other editorial meetings.

22 405 Q. There are other editorial meetings. But the central
23 editorial meeting that takes place in your office, and
24 you say the words were spoken in your office --

25 A. They were. 14:28

26 406 Q. -- normally takes place on a Tuesday, isn't that so?

27 A. No, I have outlined that there are four editorial
28 meetings a week and the biggest one is Tuesday.

29 407 Q. Yes. And on Tuesday, 16th September, the Tuesday in

1 the third week of September, Mr. Sheahan made an
2 appearance as a pundit on RTE's Today with Sean
3 O'Rourke programme, and he was then in White's Hotel in
4 Wexford at the Labour Party think-in before the
5 beginning of the Dáil term the following day. So he 14:29
6 wasn't in attendance at the main editorial meeting on
7 the Tuesday prior to the third edition of the Sunday
8 Independent --

9 A. But I have not --

10 408 Q. -- of September 2014. 14:29

11 A. But I have not said anywhere that this conversation
12 took place after the Tuesday meeting. I have explained
13 to the Tribunal that there were other meetings. There
14 were four meetings a week.

15 409 Q. Yes. 14:29

16 A. And it could have been after any of those. I have not
17 said it was a Tuesday.

18 410 Q. Yeah. And in the fourth week of September, Ms. Harris,
19 I want to suggest to you that a contemporaneous review
20 of the newspapers that were published suggested that a 14:30
21 cronyism row over the Seanad nomination of a man called
22 John McNulty had emerged and was dominating the agenda,
23 and there was nothing about Maurice McCabe or penalty
24 points in the Sunday Independent on 28th September
25 2014. 14:30

26 A. Yes.

27 411 Q. Do you have any reason to doubt me on that?

28 A. No, no. I know that was a fact. So what is the
29 question?

1 412 Q. The question is, in the absence of you being able to
2 pin the conversation down to a particular date, it's
3 difficult for Mr. Sheahan, or for me on his behalf, to
4 disprove the possibility of a conversation, but if you
5 were able to offer us a date, it might be possible that 14:30
6 Mr. Sheahan wasn't even in the office on the day in
7 question.

8 A. But I haven't offered a date.

9 413 Q. Yes.

10 A. And all I know is that he said it. And it brings me no 14:31
11 joy to say so.

12 414 Q. All right. well, let's turn then to a slightly
13 different issue. You have already agreed with me that
14 your initial letter of 11th March deliberately elected
15 not to name anybody, it protected the identities of all 14:31
16 the journalists involved, and you've explained this
17 concept of the discussions in editorial meetings as
18 being in lodge and attracting a type of informal
19 privilege, and that appears to be an important
20 principle to you, Ms. Harris? 14:31

21 A. Yes.

22 415 Q. And you've chosen to protect the identity of the third
23 journalist even though you're not a journalist that
24 that person is a source for. But for the purposes of
25 giving evidence in this Tribunal, you have elected not 14:31
26 to reveal the identity of the third journalist.

27 A. In my first letter, I explained that I believed that
28 the editorial conversation is in lodge, and I remember,
29 in the preamble to the Chairman, asking for people to

1 come forward. He did discuss the concept of privilege
2 and journalistic privilege and I made -- and I know
3 that main witnesses here have waived their privilege,
4 and I -- in that very first letter, I addressed the
5 question of this conference and that it was in lodge 14:32
6 and that I felt a certain, Chairman, a certain form of
7 privilege could attach to the meeting. And as a matter
8 of interest, the response that I got from the Tribunal
9 did not ask me to name the journalist that I mentioned
10 at the conference, it did not ask me to name that 14:32
11 journalist; it asked me to name the other two. And so
12 I merely addressed the issue of the letter and answered
13 the letter.

14 416 Q. But it's very clear from your statement to the Tribunal
15 investigators that you've made a decision not to 14:33
16 disclose the identity of the other journalist because
17 you believe that the revelation of their identity would
18 be detrimental to their career and you believe that, as
19 a freelancer, they would be more vulnerable than an
20 editor, that appears to be your justification for 14:33
21 naming Mr. Sheahan and Mr. Mallon and withholding the
22 identity of the third journalist?

23 A. It's an indisputable fact that freelancers have a very
24 hard life, live from hand to mouth, have difficulty
25 getting paid and rely on the grace and favour of 14:33
26 editors. That is a freelancer's lot. It would be
27 difficult to name one, especially when I made it clear
28 I did not want any more discussion of this nature. I
29 checked out what they had said. The thing that

1 impressed me most about that freelance, about Fionnan
2 Sheahan and about Ian Mallon, was that something had
3 persuaded those three good people of the truth of this
4 rumour, and that was the reason that I brought it to
5 the Tribunal, and that was the only reason. They 14:34
6 believed it. I believed they believed it. I don't
7 think any one of them was spreading gossip for the sake
8 of it. And so I thought the purpose of this Tribunal
9 is to find out what made them believe it and so --
10 that's all. So I wasn't asked to name that journalist 14:34
11 in the original correspondence, and I didn't.

12 417 Q. But you have justified your decision to withhold the
13 name of that journalist on the basis of the adverse
14 potential consequences for that journalist if you did
15 name them. 14:34

16 A. It is not my entire justification; it is a part of my
17 consideration that a freelance has a difficult life and
18 that people in positions of power as group editors do
19 not have difficult lives. So I know that sounds -- it
20 gives you opportunity for questions, but that is my 14:35
21 position and I think actually it is a legitimate
22 position.

23 418 Q. Ms. Harris, the consequences for Mr. Sheahan of your
24 evidence to the Tribunal that he described Mr. McCabe
25 as a paedophile, are reputationally potentially very 14:35
26 serious; I presume you agree with that?

27 A. No, I don't. I thought Mr. Sheahan could have come to
28 this Tribunal and explained how he heard it. And that
29 would not be detrimental to his reputation, because I

1 don't believe -- I think if journalists know something
2 and the thing that they know is damaging to the
3 reputation of somebody else and they choose not to
4 tell, then that is a cover-up, and I don't think
5 journalists, any journalist should be a part of any
6 cover-up. 14:35

7 419 Q. Ms. Harris, you've elected to name certain journalists
8 in your evidence to the Tribunal and you've elected to
9 withhold the identity of at least one other journalist
10 in your evidence to the Tribunal, and that's an editing 14:36
11 decision that you've made; you have chosen whose
12 reputations to protect and you've chosen who to put in
13 the firing line.

14 A. Yes, I have chosen to protect one person, a pretty
15 vulnerable journalist, I have chosen to protect them. 14:36

16 420 Q. All right. Now, in relation to Mr. Mallon, I might
17 just put to you what Mr. Mallon says, if we could go to
18 page 5314, volume 19, and that's Mr. Mallon's
19 statement. And I think the screen might need to move
20 onto the second page of the statement in relation to 14:37
21 the whispering campaign. Yes, if we just go to the top
22 of that page, where it's said that:

23
24 "Ms. Harris seems to imply that I was part of those who
25 were muttering or were part of a culture of careless 14:37
26 talk."

27
28 Mr. Mallon says that this is entirely untrue and he
29 will set out the facts further in his statement. And,

1 in essence, Mr. Mallon says in his statement that the
2 identification of him with a whispering campaign or a
3 muttering campaign about Sergeant McCabe is nonsense,
4 as there was no muttering campaign about Sergeant
5 McCabe in Independent News & Media. There was an 14:38
6 allegation of child sexual abuse that was well known,
7 because Paul Williams had written an article about it,
8 albeit that it had not named Sergeant McCabe, and he
9 says in his statement that your evidence that you were
10 involved in shutting down a whispering campaign is 14:38
11 untrue because, firstly, there was no whispering
12 campaign, it was openly known and openly spoken about,
13 and secondly, he never saw or heard any instance of you
14 shutting it down, and that's his evidence to the
15 Tribunal. Do you want to comment on that? 14:38

16 A. Yes, I will deal with the second half first, because it
17 arose in the period prior to the restructuring of the
18 Sunday Independent and Ian Mallon would not have been
19 at any of those meetings for some considerable months
20 after that happened. That's the answer to that one. 14:38
21 So I do believe Ian Mallon never -- was never present
22 at a meeting at which I said I've checked this out,
23 it's not true, I don't want any more conversation about
24 it. So that's the answer to that one; he didn't, he
25 wasn't there. I believe him. 14:39

26
27 And secondly, I note that he says there was no
28 allegation -- there was no rumour and innuendo. He's
29 actually saying it was explicit. So that's the answer

1 then. So it was explicitly talked about, because Paul
2 Williams had mentioned it. To me, that's actually not
3 acceptable either, that just because this was the
4 subject of an article wherein the victim is anonymised
5 and the sergeant is -- or the garda in question is 14:39
6 anonymised, and yet this is supposed to be something
7 that is spoken about without rumour and without
8 innuendo, strikes me as absolutely astonishing that it
9 was spoken about explicitly.

10 421 Q. Well, why is it astonishing, Ms. Harris? 14:39

11 A. Well, to me it is rumour and --

12 422 Q. But Sergeant McCabe was a name in the public domain at
13 the time.

14 A. These were the not name --

15 423 Q. And this was a story that was, to use your phrase, 14:40
16 already the currency.

17 A. It's astonishing that somebody who was not named in an
18 article, it is astonishing that Ian Mallon is stating
19 that this was not rumour and innuendo, it was quite
20 explicit. So that -- I have to say it's the first time 14:40
21 I have seen this and I'm quite amazed.

22 424 Q. I see. In the case of Mr. Mallon, your statement to
23 the Tribunal investigators at page 3547 says that your
24 initial description of his comments, that was the
25 description that you provided in your letter of 21st 14:40
26 May 2017, was disproportionate - that was your word -
27 as he did no more than say something that was common
28 currency.

29 A. That's right. As I said, I thought --

1 425 Q. You see where you say:
2
3 "At paragraph four of my additional statement I feel
4 that my comment in respect to Ian Mallon may be
5 disproportionate as he was no more talkative about 14:41
6 Sergeant McCabe at that time, late September 2014, than
7 anybody else."
8
9 Now, who did you mean by "anybody else"?
10 A. I meant the people in the corridors who would be 14:41
11 very --
12 426 Q. Which people?
13 A. No, I'm just talking about, there are a lot of people
14 in INM, the name, you could be having a cup of coffee,
15 a cup of tea, not in an editorial meaning, not with the 14:41
16 intention of publication, not even with the intention
17 of the thing going any further. It was just the casual
18 talk over the coffee in the kitchen.
19 427 Q. Well --
20 A. That's all. 14:41
21 428 Q. How many people did you have this casual conversation
22 with?
23 A. Over the space of 18 months, I didn't have them with
24 anybody because I didn't go into it, but I could hear
25 them. 14:41
26 429 Q. How could you hear them?
27 A. You can -- well, you can hear people when they are
28 having their coffee, chatting.
29 430 Q. So you overheard conversations between other people in

1 Independent News & Media about Sergeant McCabe --

2 A. Yeah --

3 431 Q. -- is that correct?

4 A. Over -- in a casual calumination, I call it, careless
5 talk. You don't spend your life picking up every 14:42
6 little thing that you hear, challenging it. You can't.
7 I had dealt with it with my team, the people who worked
8 with me. It wasn't something to be brought up.
9 Independent Newspapers is a large organisation with
10 lots of titles, lots of people coming and going, 14:42
11 different areas and everything. You would hear it over
12 the coffee. And you know exactly what I mean.

13 432 Q. Right. So just to summarise then in respect of
14 Mr. Mallon, having initially identified Mr. Mallon by
15 reference perhaps as one of the senior editorial 14:42
16 executives amongst whom a plurality had described
17 Sergeant McCabe as a paedophile in your letter of 11th
18 March, you, by the time you made your statement to the
19 Tribunal investigators, were absolving Mr. Mallon of
20 doing anything different from anybody else in 14:43
21 Independent News & Media. So why was he ever named at
22 all by you in your statement?

23 A. I --

24 433 Q. Why didn't you name all the people in the corridors?

25 A. I -- you couldn't. I am a journalist, and one of the 14:43
26 things that journalists sign up to is freedom of
27 speech. One of the things that comes with that is the
28 right to be wrong. We get things wrong. I
29 acknowledged in my statement to the Tribunal that I got

1 it wrong about Ian Mallon, that what -- I had
2 overstated the case. I was at pains to correct it.
3 That is my duty as an editor and as a journalist. And,
4 yes, it does present as something that is not
5 absolutely perfect in my statement, far from it. But I 14:44
6 am admitting that I was wrong and I set out to correct
7 it in my statement, and there is no more that I know
8 that I can do.

9 434 Q. All right. What about Mr. Mr. Sheahan then; why is
10 your memory to be trusted in respect of the 14:44
11 conversation that you believe you had with Mr. Sheahan
12 when you've been proven to be inaccurate about what you
13 have said about Mr. Mallon and you have been proven to
14 be inaccurate in other ways?

15 A. Because it was a very startling thing. At the time, I 14:44
16 just want to emphasise this, at the time, while I
17 registered that the comment had now escalated and gone
18 from euphemism and innuendo to the very stark word
19 "paedophilia", I put it to the back of my brain,
20 actually, because it was something that was a continuum 14:44
21 in INM. And then when I saw the Prime Time programme
22 in February 2017 where the whole story of the false
23 allegation in the Tusla file was covered and I saw --
24 and as it unfolded, that story, over 2017, about the
25 journey and the trajectory of that file and how it went 14:45
26 from the HSE and Tusla on a journey through various
27 superintendents, finally ending up, as I understand it,
28 in the office of the Commissioner, whether she saw it
29 or not, it ended up in the office, is my understanding,

1 and I thought -- so that's why Fionnan used that word,
2 and suddenly it was a sort of a ping in my head,
3 because it had troubled me, because, as I said before,
4 Fionnan Sheehan was not a gossip and he was not a
5 person who was given to detracting. And I thought why 14:45
6 did he use the explicit word? And suddenly, I might be
7 totally wrong and I have no evidence for this, but I
8 thought here is that very allegation, a very serious
9 allegation of this form of penetration which is
10 graphically described in that file and I thought is it 14:46
11 possible that, somewhere along that journey, that
12 custodial chain, is it possible that somebody who
13 shouldn't have seen that file, somebody outside of the
14 HSE and the Gardaí, somebody in media perhaps had seen
15 the file and it occurred to me that that is -- could 14:46
16 possibly be the reason why he used the word, because it
17 was out of character, Chairman.

18 435 Q. Is that speculation that you've no evidence to subtend?

19 A. No, I know that. I am explaining why.

20 436 Q. I see. But you're portraying the statement of 14:46
21 Mr. Sheehan that Sergeant McCabe was a paedophile as
22 being some sort of a dramatic revelation or a dramatic
23 statement that left you shocked, when, in fact, when
24 one looks closer at your statements to the Tribunal,
25 all that Mr. Sheehan was saying, if he said it, on your 14:47
26 evidence, at all - and he denies saying it - is
27 something that people have been saying to you in
28 different ways for 18 months. So why were you so
29 shocked?

1 A. Because --

2 437 Q. Was it the use of the word "paedophile"?

3 A. Yes, you may be different, but the word "paedophile"
4 has a shocking connotation.

5 438 Q. I see. And can we just turn --

14:47

6 A. It is completely shocking, and we all know perfectly
7 well the kind of laws and everything that pertain to
8 "paedophilia" and the word is used --

9 439 Q. I see. So can we turn to page 3557 of your statement,
10 please, to the Tribunal investigators. When you were
11 asked the question of why this had lodged with you, you
12 offered a particular explanation, and I just want to
13 ask you if you still stand by this explanation. It's
14 page 3557. You said:

14:47

15

14:48

16 "I confirm that person is Fionnan Sheahan. The reason
17 I thought it was significant is that it moved from
18 euphemisms to the very specific crime of paedophilia,
19 which, to my mind, is amongst the gravest of crimes."

20

14:48

21 Now, is that your explanation as to why the phrase
22 lodged in your mind?

23 A. Yes.

24 440 Q. And do you stand over that as being an accurate
25 statement?

14:48

26 A. Yes.

27 441 Q. Do you believe paedophilia is a crime?

28 A. Yes.

29 442 Q. As distinct from a condition or a tendency?

1 A. When it's acted upon, as these rumours and allegations
2 were implying, it is a crime.

3 443 Q. I see. Now, if I understand --

4 A. It is also -- it is also a condition and --

5 444 Q. If I understand you correctly, Ms. Harris, your 14:48
6 evidence to the Tribunal is that when Mr. Sheahan used
7 the phrase that Sergeant McCabe is a paedophile in
8 September 2014, you were shocked by it, that's correct?

9 A. Yes.

10 445 Q. You told absolutely nobody about it? 14:49

11 A. I have explained that.

12 446 Q. Is that correct or incorrect?

13 A. That is correct.

14 447 Q. You made absolutely no note about it?

15 A. No, I made no note about it. 14:49

16 448 Q. You sent no e-mail to anybody about it?

17 A. I sent no e-mail to anybody about it, that's correct.

18 449 Q. So there is no contemporaneous record of something that
19 you thought was shocking that, in effect, motivated you
20 to come forward to this Tribunal? 14:49

21 A. I've explained several times that I didn't note it,
22 and, in fact, I note that the Tribunal itself has to
23 deal a great deal with hindsight and I am just saying
24 that this was -- my recollection is correct; I felt it
25 was something that should be reported for the reasons 14:50
26 that I felt that it had come from somewhere. The
27 specificity of the word I felt was important after --
28 specifically after I saw the Prime Time.

29 450 Q. And when Mr. Sheahan said to you that Sergeant McCabe

1 was a paedophile, did you believe him to be expressing
2 his considered view on the matter or for him to be
3 simply articulating something that he had heard
4 elsewhere?

5 A. I felt that he was stating what he believed to be a 14:50
6 fact.

7 451 Q. And if Mr. Sheahan believed that to be a fact, can you
8 point to a single article that was ever written by
9 Mr. Sheahan or commissioned by him as a political
10 editor or as a newspaper editor that was critical of 14:50
11 Maurice McCabe?

12 A. He generally didn't write articles about Maurice
13 McCabe. He --

14 452 Q. Can you answer my question? Can you point to a single
15 such article that was critical of Maurice McCabe? 14:51

16 A. I know of no article that was critical of Maurice
17 McCabe that appeared in the Sunday Independent.

18 453 Q. Do you know of any article that was critical of Maurice
19 McCabe that Mr. Sheahan had any involvement in the
20 editing of that appeared in any other Independent 14:51
21 newspaper?

22 A. Well, I wouldn't be able to give you a comprehensive --

23 454 Q. I want to suggest to you that there's none, Ms. Harris?

24 A. Well, if you say so, I accept that.

25 455 Q. Mr. Sheahan will say to this Tribunal that 15 years in 14:51
26 Leinster House has taught him to treat rumours with
27 great scepticism before accepting them to be true, and
28 you yourself in your evidence have said that he wasn't
29 a person who dealt in rumour.

1 A. That's correct.

2 456 Q. And you're hardly suggesting to the Tribunal,
3 Ms. Harris, I take it, that Mr. Sheahan conducted his
4 own investigation that would have led him to the view
5 that Sergeant McCabe was a paedophile; you're not 14:51
6 suggesting that, I take it?

7 A. No, I'm not suggesting that at all. I --

8 457 Q. So how could he have held the view --

9 A. I'm merely telling you --

10 458 Q. -- as distinct from articulated a rumour? 14:52

11 A. Sorry, could you repeat that question?

12 459 Q. There are two different possibilities when he says
13 Sergeant McCabe is a paedophile. One is he's offering
14 you his own view, and one is he's repeating something
15 that's in the ether as a rumour. Do you follow me? 14:52
16 Those are two different concepts, and I'm asking you to
17 elect for which one you believe it was.

18 A. So you're asking me whether he was repeating a rumour
19 or he had somehow formed the view --

20 460 Q. Yes. 14:52

21 A. -- that it was -- well, what I have said is that I
22 believe that Fionnan Sheahan believed that he was
23 stating a fact.

24 461 Q. And how do you think he believed that?

25 A. I've no idea. 14:52

26 462 Q. Well, he wasn't a crime journalist or a Garda
27 journalist, a security journalist.

28 A. He was part of the group structure of INM, and clearly
29 there were discussions of Maurice McCabe at the group

1 structure. I'm not saying how Fionnan Sheahan came by
2 this information, but he did have a life outside of the
3 Sunday Independent as group political editor, there
4 were articles in the Irish Independent, I don't know
5 what his level of involvement with those was. A 14:53
6 separate opinion seems to have been formed in the Irish
7 Independent; Ian Mallon himself says the conversations
8 were explicit, not rumour and innuendo. Fionnan was
9 part of that structure. I have no idea how, but I
10 certainly formed the opinion that Fionnan Sheahan 14:53
11 believed it to be true.

12 463 Q. Ms. Harris, I just want to put to you Mr. Sheahan's
13 version of the matter. Firstly, Mr. Sheahan says he
14 never had that conversation with you.

15 A. Yes. 14:53

16 464 Q. Secondly, he wasn't prone to peddling in rumour and he
17 had learned to disregard rumours, many of which he had
18 heard over the years as a political correspondent in
19 Leinster House. And thirdly, he never at any stage
20 formed the view that Maurice McCabe was a paedophile, 14:54
21 he never conducted any investigation or made any
22 inquiry that could have led him to have held that view.
23 And he will tell the Tribunal that in explaining why he
24 is satisfied that he never articulated such a view to
25 you. 14:54

26 A. And I am sure he will tell it very well. I am just
27 stating what I know.

28 465 Q. And he will also point to the fact that there's not a
29 single article that he was ever associated with the

1 writing of or the editing of or the commissioning of
2 that is in any way critical of Maurice McCabe, which
3 is, of course, completely inconsistent with the notion
4 that he held the view that Maurice McCabe was a
5 pedophile.

14:54

6 A. Well, actually it's not completely inconsistent with
7 the view, because it would be very hard to publish such
8 a thing. He would not have been writing articles
9 stating such a fact, I have to tell you.

10 466 Q. Mr. Sheahan says in his statement to the Tribunal at
11 paragraph 6 that you and he had a very strained
12 relationship and he disagrees with your evidence to the
13 Tribunal that you'd a very good working relationship
14 with him. And he says in his statement that you have
15 made this allegation to try and deliberately damage his
16 reputation.

14:55

17 A. I have no desire to damage Fionnan Sheahan's
18 reputation. I have stated clearly, Chairman, that I
19 admire him as a political journalist. I would not do
20 that. We did have a good working relationship. We
21 succeeded in having an excellent working relationship,
22 in my view, and the evidence is in the newspaper. And,
23 I mean, it's of no interest to anybody here in the
24 Tribunal, but one time I had a very bad cough and
25 Fionnan brought me Olbas Oil and hot water. Is that
26 the action of somebody who has a very strained
27 relationship with you? I put it to you that it's not.
28 I'm sorry to have to deal, Chairman, with this, things
29 at this level. I did not have a strained relationship

14:55

14:55

14:55

1 with him in 2014, certainly the latter half of it.

2 467 Q. It's my unhappy obligation to put to you, Ms. Harris,
3 that your evidence about Mr. Sheahan calling Sergeant
4 McCabe a paedophile is tainted by an improper motive,
5 that you're a bitter person, you bear a grudge towards 14:56
6 Mr. Sheahan and toward your former employer,
7 Independent Newspapers?

8 A. I bear absolutely no grudge to Fionnan --

9 468 Q. And that that grudge is to be seen in op-ed columns
10 that you have written in the Sunday Times newspaper and 14:56
11 the Irish Times newspaper about various issues in
12 Independent Newspapers and its shareholders.

13 A. I am now three-and-a-half years retired. In
14 three-and-a-half years, I have written two articles
15 about INM, both of them for quite compelling reasons. 14:57
16 One was in June 2015, when the Chairman, Leslie
17 Buckley, at the AGM, said Denis O'Brien had never
18 interfered in anything to do with INM. I personally --
19 my only concerns at all times are editorial. I had
20 personal evidence that this was not the case. I had 14:57
21 chapter and verse of editorial interference. The
22 Sunday Times could not publish that if they had not
23 been able to stand it up, and they did. So that was
24 one of the articles that I wrote.

25 14:57

26 The second one was in the Sunday Business Post recently
27 when the question of data breaches came up. I
28 personally had data-breached in INM and I wrote an
29 article about that. In three-and-a-half years,

1 three-and-a-half years, during which I am asked, almost
2 on a weekly basis, or very regularly, by television
3 programmes, radio programmes and various other
4 platforms to come and talk about life in INM and life
5 under Denis O'Brien, I turn them all down, the reason 14:58
6 being that I had actually a very proud and happy time
7 in INM.

8 469 Q. Ms. Harris --
9 A. I know, I just want to finish this, if you don't mind.
10 I am the least bitter person. I bear no grudge. I am 14:58
11 not disgruntled. I left my job having worked at it for
12 30 years extremely happily and left a very, very safe
13 paper behind me.

14 470 Q. Ms. Harris --
15 A. Yes? 14:58

16 471 Q. In your article in the Sunday Business Post on 8th
17 April you said that:
18
19 "Every news meeting I held was noted furiously by men
20 with big swinging titles." 14:58
21
22 That's a direct quote from your article in the Sunday
23 Business Post.

24 A. Yes, it is.

25 472 Q. Who are these men with the big swinging titles? 14:58
26 A. The men with the big swinging titles were the group
27 editors and --

28 473 Q. Yes, including Mr. Sheahan. And that's a statement
29 that is demonstrative, I want to suggest to you, out of

1 your own pen last month, in April, in a different
2 Sunday newspaper, that testifies eloquently towards
3 your animus towards Mr. Sheahan.

4 A. No, it doesn't. I can say that without having any
5 animus. It was actually a fact that they did note 14:59
6 furiously everything -- everything I was saying. The
7 concentration and their purpose was largely watching
8 the news lists to see what I might be planning to do.
9 They reported up the line on what the editor of the
10 Sunday Independent was planning. It is a fact. Okay, 14:59
11 the phrase "men with big swinging titles" is
12 undoubtedly one that perhaps, you know, it's a kind of
13 a colourful phrase, and I'm a journalist and I write as
14 colourfully as I possibly can. They did note
15 furiously, but I have to say that does not denote 14:59
16 animosity; it was a fact.

17 MR. FANNING: Thank you, Ms. Harris.

18 MR. LEHANE: Mr. Chairman, if nobody else has any
19 questions other than the Tribunal legal time, I just
20 have a couple of questions for Ms. Harris. 15:00

21
22 MS. HARRIS WAS EXAMINED BY MR. LEHANE:

23
24 474 Q. MR. LEHANE: Ms. Harris, just arising out of your
25 cross-examination, are you involved in a negative 15:00
26 campaign against Fionnan Sheehan and Ian Mallon?

27 A. No, absolutely --

28 CHAIRMAN: Maybe you'd just explain who you are, first
29 of all, so we all know where you stand in particular.

1 Ms. Harris hasn't been here that much.

2 MR. LEHANE: Sorry, Chairman.

3 CHAIRMAN: Not that you -- I am not requiring you to be

4 here if you don't want to be here, you appreciate that.

5 MR. LEHANE: Sorry, Chairman, my name is Darren Lehane. 15:00

6 I appear for Ms. Harris.

7 475 Q. So, Ms. Harris, are you using this Tribunal to advance

8 a personal vendetta against Fionnan Sheehan and Ian

9 Mallon?

10 A. No, in no way. 15:00

11 476 Q. Ms. Harris -- and I wonder if page 3649 could be put up

12 on the screen. Ms. Harris -- or actually the preceding

13 page first, please, 3648. Ms. Harris, this is a letter

14 that was sent to the Tribunal by Fanning Kelly

15 solicitors, solicitors acting for Fionnan Sheehan and 15:01

16 Independent News & Media, on 24th November 2017. And

17 if you could turn to the second page now, please, you

18 will see there, Ms. Harris, in the second-last

19 paragraph:

20 15:01

21 "For the record, the statement made by you concerning

22 Mr. Sheahan being false and untrue is not protected by

23 any form of privilege against defamation under statute

24 or common law. "

25 15:01

26 Have you received or been served with any defamation

27 proceedings by Mr. Sheahan?

28 A. No.

29 CHAIRMAN: well, it's not defamatory to say that

1 somebody said about somebody else that they were a
2 paedophile.

3 MR. LEHANE: well --

4 CHAIRMAN: It's defamatory if the person about whom
5 it's said decides to take an action, but not if you 15:02
6 repeat it from A to B.

7 MR. LEHANE: The point is, Mr. Chairman --

8 CHAIRMAN: well, is it a good point, do you think,
9 Mr. Lehane? Because there's not much point in a bad
10 point. 15:02

11 MR. LEHANE: I know that, Chairman. But I am saying
12 there is a threat here and I am just asking has she
13 received any proceedings, and the answer she has given
14 is no.

15 CHAIRMAN: Yes. All right. No, we'll carry on then. 15:02

16 MR. LEHANE: Thank you very much.

17 A. No, I didn't receive any proceedings.

18 MR. LEHANE: Thank you very much.

19 MS. LEADER: I have no questions.

20 CHAIRMAN: Thank you very much. 15:02

21 MR. MÍCHEÁL O' HIGGINS: Chairman, I just have one or
22 two questions.

23 CHAIRMAN: Oh, yes, you do. All right.

24 MR. MÍCHEÁL O' HIGGINS: I will be quite brief.

25 15:02

26 MS. HARRIS WAS CROSS-EXAMINED BY MR. MÍCHEÁL O' HIGGINS:

27

28 477 Q. MR. MÍCHEÁL O' HIGGINS: Ms. Harris, my name is Mícheál
29 O'Higgins. I am going to ask you some brief questions

1 re -- by reference to your statement to the Tribunal on
2 behalf of An Garda Síochána. I think you have told us
3 that you were the editor of the Sunday Independent
4 from, I think it was the beginning of 2012 until the
5 end of 2014, so nearly a three-year period? 15:03

6 A. Yes.

7 478 Q. And you provided -- you were interviewed by the
8 Tribunal investigators, and your statement -- your
9 interview is in the materials that have been
10 circulated. Just for your benefit, can I ask you to 15:03
11 take a look at page 3553, which is part of your
12 statement of interview. Do you see there in line 165
13 you were asked by the investigators whether any
14 journalist told you that a senior member of An Garda
15 Síochána, including the former commissioners Martin 15:03
16 Callinan, Nóirín O'Sullivan and/or Superintendent David
17 Taylor asked him or her, that's the journalist, to
18 print a particular story against Sergeant Maurice
19 McCabe, and, if so, you've been asked to detail what
20 you know of this. And I think you confirmed that never 15:04
21 occurred?

22 A. I did confirm that.

23 479 Q. And you're standing over that, I take it?

24 A. Yes.

25 480 Q. Right. And I think just the next question down, 15:04
26 Ms. Harris, you might just confirm this remains your
27 position as well, you were asked to "identify from
28 where the negative briefing and/or derogatory story
29 against Sergeant McCabe was emanating and/or what the

1 journalist reported to me on this respect". And you
2 were asked to be as specific as you could and you were
3 asked whether you've any contemporaneous notes of this
4 matter. And I think the answer is recorded as being:

15:04

5
6 "I do not know from where the negative briefing was
7 emanating."

8
9 And I think that remains your position?

10 A. Yes.

15:04

11 481 Q. And then perhaps if you turn over then to page 3554,
12 please. Again, you were asked another question at the
13 top of that page:

14
15 "Whether you have any knowledge of the former
16 Commissioners Callinan or O'Sullivan promoting mere
17 gossip or details of derogatory stories in relation to
18 Sergeant McCabe."

15:05

19
20 And I think you answered "no" to that question as well?

15:05

21 A. Yes.

22 482 Q. And again you stand over that position, isn't that so?

23 A. Yes.

24 483 Q. And then if you wouldn't mind going to page 3563.
25 You're asked on page 3563, halfway down line 328,
26 you're asked if you've any information or evidence
27 about an orchestrated campaign directed by senior
28 officers of An Garda Síochána to discredit Sergeant
29 McCabe by spreading rumours about his professional and

15:05

1 personal life other than the matters detailed
2 previously. And you answered no to that, isn't that
3 so?

4 A. Yes.

5 484 Q. And then the next question is really what I wanted to 15:05
6 bring you to. You were asked if you were contacted by
7 Superintendent David Taylor in relation to Sergeant
8 Maurice McCabe and, if so, to provide details. And you
9 confirmed that you were not at any point?

10 A. Correct. 15:06

11 485 Q. Isn't that so?

12 A. Yes.

13 486 Q. And similarly, you were never briefed negatively by
14 superintendent Taylor with respect to Sergeant McCabe,
15 isn't that right? 15:06

16 A. No, never.

17 487 Q. And then, lastly, could I ask you to turn over to page
18 3556, which concerns An Garda Síochána as well. And on
19 page 3566 you were asked, the second line down, the
20 following question: 15:06

21
22 "I have been asked to detail any contact as may have
23 been had by me directly with Gardaí as to the
24 character, real or supposed, of Sergeant Maurice McCabe
25 and the detail and provenance thereof." 15:06

26
27 And I think you indicated you had no such contacts of
28 any nature?

29 A. That's right.

1 488 Q. And that remains the position?

2 A. Exactly.

3 MR. MÍCHEÁL O' HIGGINS: Thank you very much.

4 MS. LEADER: Nothing arising, sir.

5 CHAIRMAN: Thank you.

15:06

6 A. Thank you.

7 MR. MARRINAN: The next witness, sir, is Gemma
8 O'Doherty, please.

9
10 MS. GEMMA O' DOHERTY, HAVING BEEN SWORN, WAS DIRECTLY
11 EXAMINED BY MR. MARRINAN:

15:07

12
13 489 Q. MR. MARRINAN: Now, I think you're an investigative
14 journalist, isn't that right?

15 A. That's right, yes.

15:07

16 490 Q. And will you just tell the Chairman about your career
17 to date?

18 A. I began working in the Irish Independent around 1996
19 and worked there until 2013. I was appointed to the
20 role of chief features writer about probably six or
21 seven years prior to that, and I was the chief writer
22 within my department in the Irish Independent and was
23 responsible for writing a number of features every
24 week, and I would write about all topics, be it from
25 health, education, crime, and whatever the big story of
26 the week was, I would generally be responsible for
27 writing about it in our Saturday review.

15:08

15:08

28 491 Q. I think that you left Independent Newspapers in 2013,
29 and we'll come to that in a moment. But since 2013,

1 where have you been working?

2 A. In -- after 2013, I freelanced a little bit for the
3 Sunday Times, the Daily Mail, and then I made my first
4 documentary in 2016 about the murder of Mary Boyle, who
5 is our longest and youngest missing person. I also 15:09
6 write for village magazine.

7 492 Q. And I think your solicitors have pointed out to us in a
8 letter that you are also a recipient of a journalistic
9 award, is that right?

10 A. Yes, during my time at Independent Newspapers I won a 15:09
11 number of awards: campaigning journalist of the year;
12 I won an award for work that I had done on cancer
13 research, medical journalist of the year; and shortly
14 before my unlawful dismissal I was nominated for crime
15 and security reporter of the year and features writer 15:09
16 of the year. I've won a number of awards since
17 departing Independent Newspapers as well.

18 493 Q. So I think on 13th March 2017 you wrote to the
19 Tribunal. If you have volume 14 there, you can look at
20 it, your statements are contained in that, or you can 15:10
21 look at the screen in front of you, the relevant
22 portions will be brought up, whichever you find more
23 convenient. But anyway, you wrote to the Tribunal on
24 13th March of last year. Your letter is at page 3656
25 of the materials. And you see there, if we can scroll 15:10
26 down about 10, 11 lines in, you say:

27

28 "I worked for the Irish Independent for almost 20 years
29 where I was chief features writer specialising

1 primarily in stories about the criminal justice system
2 and An Garda Síochána. In 2012, I was contacted by
3 Sergeant McCabe's father, who informed me about his
4 son's attempts to expose corruption in the Gardaí and
5 asked if I could help." 15:11

6
7 I think that that's by way of just introducing us to
8 the circumstances in which you came to be originally in
9 contact with Sergeant McCabe, is that right?

10 A. Yes, Chairman, I might explain that around -- in 2010, 15:11
11 I became involved in the case of Fr. Niall Molloy, who
12 was murdered in 1985 in County Offaly. I'm not going
13 to run through the case, but that was a story that
14 opened my eyes to what I believe is widespread
15 malfeasance and corruption within our police force. 15:11
16 And I had been working on that case for a number of
17 years. It was eventually reopened by An Garda Síochána
18 as a cold case on foot of my investigation and was
19 described in the Oireachtas as the biggest cover-up in
20 the history of the State following my investigation. 15:12

21
22 On foot of my investigation, I was approached by a
23 number of bereaved families who had lost loved ones
24 through homicide and who believed that they had been
25 justice by the State and were alleging grave 15:12
26 malfeasance on the part of An Garda Síochána, and it
27 was around this time that I was approached by the
28 father of Sergeant McCabe. I have to say I was very
29 relieved that this was the case, because up until then

1 I had only been dealing with citizens who were victims
2 of Garda malpractice, but now, for the first time, a
3 serving member, a very senior member of the force was
4 also making these allegations and I felt vindicated and
5 very relieved that at last a whistleblower within the 15:13
6 force had had the courage to come forward and express
7 what -- you know, a lot of what I had been writing
8 about in terms of wrongdoing within An Garda Síochána.

9 494 Q. And I think that, in consequence of being contacted by
10 Sergeant McCabe's father, you came into contact with 15:13
11 Sergeant McCabe himself and also Garda John Wilson, is
12 that right?

13 A. I did.

14 495 Q. And I think that over a period of many months you met
15 them, and you describe them as being decent, honest 15:13
16 officers, who had battled for a long time to expose
17 what appeared to be grave abuses of the criminal
18 justice system, is that right?

19 A. That's right.

20 496 Q. And you also, I think, indicate that you found the 15:13
21 evidence that they were presenting as being highly
22 credible and also of public importance. Now, I think
23 that part of your investigations arising out of your
24 contact with Sergeant McCabe and Garda John Wilson was
25 into the penalty points scandal, as it became known, is 15:14
26 that right?

27 A. Yes, that's right, yes. I began to investigate
28 allegations that there was widespread abuse of our
29 fixed penalty notice system and what appeared to be

1 happening was that members of the elite were having
2 speeding points wiped. They didn't appear to be
3 ordinary citizens; they were judges, State solicitors,
4 crime reporters and people who would have a certain
5 amount of influence within Irish society, and that was 15:14
6 the reason why I felt it was really in the public
7 interest that this be exposed. It was quite clear to
8 me that our motoring laws were being abused by the
9 people who were supposed to be implementing them.

10 497 Q. Now, I think in consequence of your investigations, you 15:15
11 discussed a story that you had in relation to
12 Commissioner Martin Callinan on 13th April 2013 and you
13 discussed the story with an editor, is that right,
14 within INM?

15 A. What timeframe are you talking about, sorry? 15:15

16 498 Q. I'm talking about April 13th, 2013.

17 A. I don't believe I discussed it with an editor on that
18 particular date.

19 499 Q. All right.

20 A. I can discuss the chronology of that particular story. 15:15

21 500 Q. Well, no, we don't need to go into it in any great
22 detail; we have already heard from Commissioner
23 Callinan and there doesn't seem to be any dispute in
24 relation to this. I think that you were -- you came
25 into possession of a snapshot of a Pulse record in 15:16
26 relation to the former Commissioner, and you, as part
27 of your investigation, went to the address that was on
28 the Pulse record and you made an inquiry, as it turned
29 out, of Mrs. Callinan, in a courteous way, and there

1 doesn't seem to be any issue in relation to that; I
2 think you point out in your statement to the Tribunal
3 that you also found her very courteous. But you
4 inquired as to whether or not it was the home of the
5 Garda Commissioner, in case there was some error in 15:16
6 relation to the identity of the Callinan that resided
7 at that address whose penalty points had been
8 cancelled, isn't that right?

9 A. Yes, I came into possession of a Pulse document
10 suggesting that a person called Martin Callinan had had 15:16
11 his speeding points terminated. The source believed
12 that this was the Garda Commissioner. That would not
13 have satisfied my lawyers, our lawyers at the time in
14 INM, and so I had to be absolutely clear that the
15 Martin Callinan on the Pulse document was Martin 15:17
16 Callinan, the Garda Commissioner. Obviously this was a
17 very -- a story of significant public interest, because
18 the man with overall responsibility for oversight of
19 our road safety laws appeared to be abusing them for
20 his own personal gain. So, I mean, I saw this as a 15:17
21 story of huge public interest, the public had a right
22 to know about it and so I pursued it vigorously. Yes,
23 I did, to make sure that I had the correct person, as
24 is normal in news reporting, I checked the address and
25 I had a very civil, very short conversation with a 15:17
26 woman who I believe was Mrs. Callinan. I was probably
27 there at the door for about 10 or 20 seconds and I
28 jumped back into my cab. I didn't mention penalty
29 points. I asked if the Garda Commissioner lived at the

1 house. I said who I was and I left.

2 501 Q. I think you point out in your statement that later that
3 evening you received a phone call from the senior
4 editor at INM. Who was that?

5 A. That was Ian Mallon. 15:18

6 502 Q. Yes. And just will you tell us about the conversation
7 that you had with him, please?

8 A. Yes, I was having dinner with my husband in O'Connell's
9 restaurant in Donnybrook and my phone rang. I had been
10 discussing the story about Martin Callinan with my 15:18
11 husband and realising, you know, that it was a story of
12 huge public interest and I was really looking forward
13 to breaking it and to, you know, making sure that the
14 story got into the public domain as I felt it was very
15 important. And then I received a phone call from Ian 15:18
16 Mallon, who was in a very serious temper. He alleged a
17 number of things during that phone call; one, that I
18 had been harassing the Commissioner. He told me that
19 RTE would be in contact with me. He alleged that I had
20 ruined everything. I subsequently believe that that 15:19
21 was a reference to the Anglo tapes and their
22 distribution by INM. And he was extremely angry on
23 behalf of Martin Callinan. I had never in my entire
24 career at INM been spoken to like this. I had only
25 ever received praise from management for the work that 15:19
26 I was doing, and I was utterly taken aback at the way I
27 was being spoken to.

28 503 Q. Were you informed how angry the Garda Commissioner was
29 in relation to this incident?

1 A. I was.

2 504 Q. And over the following days, how were things at work?

3 A. Hard to describe. I mean, I felt that I was being
4 completely ostracised. I was very keen to get my story
5 published. There didn't seem to be any urgency in that 15:20
6 regard. I was told that I would have to have a
7 debrief, a debrief by management. That was a term that
8 I had never heard within the newspaper industry in the
9 years that I had worked there. And I was severely
10 reprimanded. And there didn't seem to be any -- I 15:20
11 mean, I think in a normal newspaper for journalists who
12 have a story like that which would bring, you know --
13 which would have raised serious questions about the
14 integrity of the chief of police, that would normally
15 receive, you know, praise. I was basically ostracised, 15:20
16 I felt I was being ostracised. Over the course of the
17 following days I was called a rogue reporter, I was
18 described as being cack-handed, I was told that the
19 Commissioner was extremely angry and that the
20 Commissioner had thought I was a renegade republican 15:21
21 calling to his door, despite the fact that there was no
22 security presence at his home, which surprised me. And
23 I was also informed that a number of executives had
24 been called to Garda Headquarters to explain how it had
25 could to pass that this story had emerged. It is my 15:21
26 belief that my visit to Martin Callinan's home had
27 nothing really to do with his anger; it was more to do
28 with the fact that I had uncovered a story about him,
29 about which serious questions remain and have not been

1 answered by neither him or the Minister for Justice,
2 and these questions are in the public interest.

3 505 Q. The following Friday, 19th April - and this has just
4 been circulated - two articles that were penned by you
5 were written and published in the Irish Independent. 15:22
6 And if we could have page 7467 on the screen, please.
7 You see there on the front page:
8
9 "Commissioner had penalty points erased whilst on
10 duty." 15:23
11
12 And all the details of it are set out there in your
13 article. It says:
14
15 "The incident occurred in Finglas, County Dublin, when 15:23
16 Mr. Callinan was travelling in his own Renault car to a
17 high-level security meeting. He was clocked driving at
18 83 kilometres per hour in a 60 zone."
19
20 And then if you go on, it continues in -- on the -- I 15:23
21 think that's the second page, page 2. And then if you
22 just look at the second column in, the third -- fourth
23 paragraph, and then you point out that independent TDs
24 have also named several well-known figures -- sorry:
25 15:23
26 "Independent TDs have already named several well-known
27 figures alleged to have had traffic offences quashed."
28
29 And then you go on and point out that -- individuals

1 concerned. One of those, I think it's important to
2 highlight just at this juncture, was Paul Williams, the
3 journalist, isn't that right?

4 A. That's right.

5 506 Q. And then if we could just look at the same day in the 15:24
6 Evening Herald, and this is at page 7466.

7

8 "Garda chief had points written off."

9

10 And you're the co-author of that with Niall O'Connor, 15:24
11 isn't that right? It would appear that your story was
12 published on Friday the 13th, isn't that right?

13 A. It's not the story that I would have published.

14 507 Q. Or, sorry, Friday the 19th, should I say. Well, you're 15:24
15 down as having penned it, it's attributed to you. It
16 appears to be full of most of the salient facts and
17 details surrounding the incident, does it not?

18 A. Well, I was instructed over this period to deal
19 directly with Dave Taylor on this story and I was
20 ordered not to speak to anybody else about it. You'll 15:25
21 note that there's a time-lag of a week.

22 508 Q. Yes.

23 A. A week is a very long time in journalism, whatever
24 about in politics. This story should have been turned
25 around in a matter of days. So there was a long delay, 15:25
26 during which time I was being severely reprimanded and
27 being treated despicably by management in INM.

28

29 I had asked Dave Taylor a number of questions that I

1 believe -- in relation to this termination, that I
2 believe were in the public interest and were not
3 answered, and rumours continue to this day about
4 allegations regarding the incident itself and whether
5 Martin Callinan was actually driving the car that had 15:26
6 the penalty points terminated from at the time or
7 whether somebody else was driving that car. There were
8 many aspects of the termination that didn't make sense.
9 Martin Callinan was Deputy Commissioner at the time.
10 He claims he was going to meet a source. I have asked 15:26
11 to see the records for that. For some reason, he chose
12 to drive his family car to this meeting. He would have
13 had a State car at his disposal. And on the Pulse
14 document, where the detail is given in relation to the
15 termination, there's no explanation for the 15:26
16 termination.

17
18 Now, I discussed this with the head of the Garda
19 Inspectorate shortly after this, Bob Olsen, a very
20 respectable, honest individual, and he thought that it 15:26
21 was most unusual. So at the time in the UK, of course,
22 there was another scenario unfolding whereby an MP,
23 Chris Huhne was actually coming before the courts in
24 relation to penalty points, and I think the optics of
25 that, you know, may have played a part. But I 15:27
26 certainly was not satisfied that the Gardaí gave me the
27 full facts around this. So this is not the story I
28 would have published.

29 509 Q. All right. well, I suppose the relevance of this and

1 these two articles are that in your letter at page 3658
2 to the Tribunal you say:

3
4 "Some days later I was told that I was to be made
5 compulsorily redundant. I was the only journalist in 15:27
6 INM to suffer such a fate at that time."

7
8 And that you were forced to take three legal actions
9 against INM to clear your name and that that had taken
10 an enormous toll on you and your late husband, is that 15:28
11 right? You point out that he was an executive at INM
12 and he resigned as a result of you being made redundant
13 in the circumstances that you were made redundant.

14
15 Now, I suppose the importance of that is that you feel 15:28
16 that you were made redundant because you had published
17 an article -- or that you had, first of all, I suppose,
18 in the first instance, that you had shown an interest
19 in the penalty points scandal as it related to the
20 Commissioner of An Garda Síochána. And am I correct in 15:28
21 thinking that you believe that he would have been aware
22 of the fact that Sergeant McCabe was probably the
23 source of your information and, if not him, the other
24 whistleblower, John Wilson; is that the point that you
25 wish to make? 15:29

26 A. Well, could you just clarify what you're asking me,
27 sorry?

28 510 Q. Well, I'm trying to explore the -- in your letter to
29 the Tribunal, you seem to be attributing you being made

1 redundant and being victimised, being bullied at work
2 in the manner in which you set out, to the fact of the
3 incident that you had called to Commissioner Callinan's
4 home and that you had shown an interest in the
5 cancellation of his penalty points.

15:29

6 A. Well, basically, I mean, the background was, I had been
7 holding the Gardaí to account in relation to a number
8 of very serious cases, mostly homicide, and so I was a
9 thorn in the side of the Gardaí; I've no doubt, you
10 know, that that was how I was perceived. But I didn't
11 get my stories from the Gardaí and I didn't really have
12 any sources within the Gardaí. At the time of my
13 unlawful dismissal, I had -- my Fr. Molloy case had
14 just been reopened by An Garda Síochána, management
15 were singing my praises effectively, I had been
16 nominated and had won a number of awards in that
17 timeframe and, you know, I was perceived within the
18 company to be doing my job very well and, you know, I
19 was used in advertising campaigns by the paper and then
20 suddenly I was out the door as what I know is a direct
21 result of my support for what Maurice McCabe, Sergeant
22 McCabe was trying to expose in the public interest.

15:29

15:30

15:30

23 511 Q. You then go on to assert at page 3658, you say:

24
25 "I am also well aware of the whispering campaign
26 against Sergeant McCabe, and when I was informed about
27 the allegations of child sexual assault against him, I
28 put them to him."
29

15:31

1 when did you become aware of, as you put it, the
2 whispering campaign?

3 A. well, in relation to the whispering campaign, when you
4 work in a newspaper there's always a lot of gossip
5 going around the corridors. I had got to know Sergeant 15:31
6 McCabe well and his family and John Wilson and I knew
7 that all -- their only motivation was to improve the
8 quality of the force and to expose wrongdoing, and I
9 knew that they had absolutely no other motivation. So
10 when I heard these scurrilous rumours, I pretty much 15:31
11 dismissed them. I knew that, you know, people who took
12 on the Gardaí - I myself had been a victim of it in the
13 Molloy case - were blackened, their names would be
14 blackened and things would be said about them. So this
15 came as no big surprise to me and -- 15:32

16 512 Q. well, where did you hear these scurrilous things?

17 A. I believe it was John Wilson who may have told me
18 first. I believe that he may have called me and said,
19 you won't believe what they're saying about him now.
20 And actually, I believe at the time thinking I think I 15:32
21 know what this is going to be.

22 513 Q. well, did you hear them from any other quarter?

23 A. I did hear, yes, I did. But I have to stress, because
24 I knew the calibre of the man Sergeant McCabe was, I
25 didn't give them any credence. But I did speak to 15:32
26 Maurice about them.

27 514 Q. well, you're aware of the fact that the Tribunal are
28 interested in finding out who was putting these rumours
29 about. Had you any interaction at all with

1 Superintendent Taylor?

2 A. Not in relation to this.

3 515 Q. Had you otherwise?

4 A. I was ordered by INM in relation to my story about
5 Martin Callinan to speak to Superintendent Taylor and 15:33
6 nobody else. That was, I believe -- now, I probably
7 had dealings with him, I mean I would have dealt with
8 the Garda Press Office on numerous occasions; I never
9 got any answers from them, I was always stonewalled by
10 them in my questions, so I didn't expect to get answers 15:33
11 from them in relation to my Martin Callinan story. I
12 don't believe I --

13 516 Q. Has he ever mentioned Sergeant McCabe to you?

14 A. No. I don't believe so.

15 517 Q. So what other quarter were these rumours emanating 15:33
16 from?

17 A. Within journalistic circles.

18 518 Q. Could you be more specific?

19 A. John Wilson was aware of them.

20 519 Q. No, but can you be more specific? 15:33

21 A. No, I can't really, because I had no time for anyone
22 who was suggesting this. I knew it to be utterly
23 untrue. I did my own background research on Ms. D and
24 her father and was really deeply concerned about what I
25 learned and felt that this was clearly a vendetta 15:34
26 against Sergeant McCabe, and I believe that Ms. D is
27 being used to this effect, and has been used.

28 CHAIRMAN: well, at the end of the day, I mean, you are
29 expressing views and you are absolutely entitled to

1 have views, but I am bound by certain standards and the
2 fundamental standard I'm bound by is that I am to
3 investigate what I am told to investigate. Now, you
4 may have a view to that effect, but you're ventilating
5 it in circumstances where all it does effectively is 15:34
6 bring people into things on the basis of what you think
7 as opposed to on the basis of what the facts may be.
8 Now, if I allow it to go any further, I mean, the
9 situation is that I would have to ask the D family to
10 come back and to consider those matters, but I don't 15:35
11 actually have jurisdiction to do that and I think there
12 comes a point in life where enough is enough and you
13 leave things behind. So I'm interested in what you
14 have to say in relation to what I am obliged to inquire
15 into, which is where did these stories come from, how 15:35
16 did they spread and who was putting them around. But,
17 you know, the other stuff, in particular in relation to
18 people who, whether they were right or whether they
19 were wrong, have actually not been through the most
20 pleasant of times, should just be left aside. 15:35
21 A. Well, Chairman, in response I would say that --
22 CHAIRMAN: well, I don't think you need to respond.
23 That's actually a ruling, and I'm in charge here, and
24 that's it.
25 520 Q. MR. MARRINAN: If we could just turn to page 3664 of 15:35
26 the materials, paragraph 9. This is the second
27 statement that you made to the Tribunal. It's in the
28 form of bullet-points that you set out and it's dated
29 23rd May 2017. And some of it is a repetition from

1 paragraph 1 to 9, and we come to the relevant portion
2 here. You say:

3
4 "It was in 2013 that I first became aware that Sergeant
5 McCabe was being associated with an allegation of child 15:36
6 sexual assault. Rumours about this were circulating in
7 a number of Dublin newsrooms at the time."

8
9 You can't pin that down, you've told us. Having heard
10 the rumours, you then made your own inquiries, you say, 15:36
11 in relation to Ms. D and her family, and you also
12 satisfied yourself from talking to John Wilson and then
13 subsequently to Sergeant Maurice McCabe that there was
14 no truth in the rumours, isn't that right?

15 A. Yes. 15:37

16 521 Q. And then you go on to say:

17
18 "It is in my understanding that a copy of the Garda
19 file concerning the allegations had been provided to
20 Mr. Paul Williams (special correspondent) by senior 15:37
21 Gardaí in Garda Headquarters and that is how the word
22 got out."

23
24 That's in relation to the allegation made by Ms. D.
25 Can you assist us any further in relation to this 15:37
26 aspect of the information that you brought to the
27 Tribunal?

28 A. Well, I think it's well known in journalistic circles
29 that Mr. Williams gets the bulk of his material from

1 Garda Headquarters, his Garda sources. His boss at the
2 time, Stephen Rae, my former editor, had been editor of
3 the Garda Review and he himself actually had been in
4 possession of the Fr. Molloy file, the Garda file,
5 so -- and they also came into possession of the Anglo 15:38
6 tapes in or around this timeframe, and it's quite
7 astonishing that they would have gone ahead and
8 published those tapes, which I believe they were found
9 in contempt of court for publishing without the
10 permission of An Garda Síochána, because obviously 15:38
11 that -- the publication of those tapes could have
12 severely damaged one of the most important trials in
13 the history of the State. So as far as my
14 understanding --
15 MR. FANNING: Chairman, I am not sure -- I am sorry to 15:38
16 interject, but I am not sure as to the basis upon which
17 this evidence is being adduced. It clearly goes well
18 beyond anything that the Tribunal is seeking to
19 investigate.
20 CHAIRMAN: Yes, Ms. O'Doherty, I actually value what 15:38
21 you are saying, and I obviously respect you as a
22 person, but one of the problems that I have is, I have
23 to keep things on the rails. It's a very, very, very
24 different exercise than is involved, for instance, in
25 investigative journalism where you are seeing where 15:39
26 perhaps the stones lie on the beach and whether they
27 make a pattern. I am using that as an analogy.
28 Now, appreciating that you have views, and I would say
29 your views are always interesting, I am tasked, on the

1 other hand, with looking at facts and looking at --
2 A. well, I am coming to that, yes.
3 CHAIRMAN: Yes. And looking at particular pieces of
4 evidence from which I can infer a fact. Fact is often,
5 and quite often, not a direct fact. Now, I'm not sure 15:39
6 where we had strayed into, I am actually just a wee bit
7 lost, but I think what Mr. Marrinan was, in fact,
8 asking you about was -- I'm just going to have to go
9 back, I'm sorry, I'm tired. Yes, the allegation that,
10 and indeed I wrote it down, you believe that Paul 15:40
11 Williams had some kind of special relationship with the
12 Gardaí. You're entitled to believe that, obviously.
13 But specifically you understood, and that's the word I
14 wrote down, that he had got a copy of the file of the
15 Ms. D investigation case from someone, presumably in 15:40
16 Garda Headquarters.
17 A. well --
18 CHAIRMAN: And what Mr. Marrinan was asking you about
19 was how do you justify that? In other words, what are
20 the facts that you put together to say that? Do you 15:40
21 know it directly? And if you don't, you are inferring
22 it from A, B, C and D, but what are the A, B, C and D?
23 Mr. Marrinan, is that a fair characterisation of the
24 question?
25 MR. MARRINAN: Yes. 15:40
26 522 Q. And indeed paragraph 19 might help you in this regard,
27 if we go to page 3665. Because what you say is:
28
29 "Rumours circulated that a copy of a Garda file had

1 been given to Paul Williams and that it revealed that
2 Sergeant McCabe was under investigation for child
3 sexual abuse."

4
5 So it would appear that your understanding was based on 15:41
6 a rumour that you had heard, is that right?

7 A. Well, no, just in relation to my earlier evidence, I
8 believe that is important background to explain the
9 nature of the relationship between Mr. Williams and
10 Garda management. In relation to the Ms. D file, I 15:41
11 believe, and I believe he has actually alleged this
12 himself, that information was given to him about the
13 Ms. D case, which had been dealt with by the DPP and
14 who the DPP had said that there was nothing to pursue.

15
16 So it's my understanding -- I mean, I would like to
17 know how Mr. Williams found out where Ms. D lived, for
18 example, and other details pertaining to the case.

19 CHAIRMAN: well, I've heard all the evidence in
20 relation to that, and I can tell you that, actually, 15:41
21 now. I can also tell you what he got from Garda
22 Headquarters because he rang Superintendent David
23 Taylor. But there is a dispute as to who said what and
24 in what circumstances. But the focus of the question
25 is, look, do you have any evidence that he was given 15:42
26 the file? Now, there's a problem, because if you
27 actually read the file, and I have read the file, it's
28 a scrupulous file and it's not favourable to any notion
29 that there ever was an assault. That's what the file

1 says. So in having the file is not actually going to
2 help an anti-McCabe case. There's a problem. But what
3 Mr. Murrinan is asking you, and if you wouldn't mind
4 focusing on that, is, do you have any facts upon which
5 you base your understanding that Paul Williams got a 15:42
6 copy of the Ms. D file from somebody in the Garda, it
7 seems Garda Headquarters or someone in authority? That
8 is the question, if you wouldn't mind just focusing on
9 that.

10 A. Yes, I have made it clear, Chairman, that I cannot 15:42
11 state that he was handed a hard copy of the file,
12 despite the fact that I was aware that hard copies of
13 Garda files were in possession of INM management. But
14 it certainly is my understanding that information was
15 provided to him in relation to Ms. D by An Garda 15:43
16 Síochána. That is my belief.

17 523 Q. MR. MARRINAN: I think that there is quite a
18 substantial issue as between you and Mr. Williams,
19 because Mr. Williams gave evidence to the Tribunal, and
20 you became aware of the evidence from reading the 15:43
21 transcripts and his statement to the effect that he
22 didn't know of you as a journalist and then went on to
23 say that he believed that you had some agenda with INM.
24 Would you like to comment in relation to both those
25 matters? 15:43

26 A. Well, Chairman, I mean, that in itself displays
27 contradiction. I mean, if he did not know who I was,
28 how did he know or how could he allege that I had some
29 sort of an axe to grind with INM? Mr. Williams, I will

1 strongly claim, knew exactly who I was. I was the
2 chief features writer in the Irish Independent at a
3 time when he had been brought back in by Stephen Rae.
4 I spoke to him on a number of occasions in relation to
5 my Fr. Molloy investigation because he himself in some 15:44
6 of his writing had written about the Fr. Molloy case
7 and had written about a Garda deal that had been done
8 with Martin Cahill and John Traynor, the well-known
9 criminals, in relation to the stolen Fr. Molloy file,
10 and Mr. Williams had alleged that charges had been 15:44
11 dropped against one of these two individuals in
12 exchange for the stolen file. I spoke to Paul Williams
13 about that on a number of occasions and I also remember
14 texting him. But Mr. Williams would also have known me
15 because I wrote about him in the story that was 15:45
16 published.

17 524 Q. On the 19th April, yes.

18 A. Yes, about Martin Callinan's penalty points. Because
19 Mr. Williams too had been availing of terminations and
20 had had a number of sets of penalty points terminated 15:45
21 from his licence, I believe four or five sets. I would
22 like to know exactly how many.

23 525 Q. If we could go then to paragraph 25, which is at page
24 3666 of your statement. You say:

25
26 "Since coming into contact with both Sergeant McCabe
27 and Garda Wilson I have heard from both fellow
28 journalists and some politicians of attempts being made
29 to blacken their good names and reputations."

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Can you assist us any further in relation to that as to the identity of the journalists and/or politicians of those attempts to blacken the names of Sergeant McCabe in particular?

15:46

A. Well, I don't think I'd go any further than point 26, where I refer to the fact that John Wilson had informed me that Debbie McCann was making these allegations about Sergeant McCabe. I was aware of the fact that her father was a senior Garda and, you know, that didn't surprise me that she might be making those allegations. Other than that --

15:46

526 Q. Well, if you just deal with paragraph 25 in the first instance: "Since coming into contact with both Sergeant McCabe and Garda Wilson, I have heard from both fellow journalists", plural. Can you say who the journalists were that were --

15:46

A. No, I really -- no, I don't think I can and I don't think I want to. And I know at the time my attitude was very much, you know, these rumours are utterly scurrilous, vile and the worst thing you can say about a man. My focus was on exposing what Sergeant McCabe was trying to expose and to continue with my work.

15:47

527 Q. Well, you'll appreciate, I'm sorry to interrupt you, but you'll appreciate that our focus is on trying to find out who it is that is saying these things about Sergeant McCabe. Can you tell us who the politicians were who were saying these things to you?

15:47

A. No, I'm going to claim privilege on that point.

1 528 Q. All right. well --

2 A. I did make it clear, Chairman, when I did my original,
3 when I made my original statement to your two
4 colleagues that I didn't really want to go into any
5 detail in relation to the scurrilous rumours about 15:47
6 Sergeant McCabe, because I did dismiss them.

7 529 Q. well, that's fine if you think it's in circumstances --

8 A. It took me away from the work I wanted to do and, you
9 know --

10 530 Q. If you think it's said in circumstances of privilege in 15:48
11 relation to what politicians said to you as a
12 journalist --

13 CHAIRMAN: I know, but Mr. Marrinan, I mean, we're in a
14 situation, I mean there's a difference between -- we've
15 had it from so many people saying 'Look, this was being 15:48
16 discussed, A is talking to B, B is talking to C, it's
17 over coffee, you can't really say who it is'. And the
18 fact that a politician is aware of a rumour or mentions
19 a rumour is not the same thing as a politician being
20 the agent of a rumour or the author of the rumour or 15:48
21 riding the rumour in order to destroy somebody. So I
22 mean, the fact that people know, that people are
23 talking isn't, frankly, anything against them,
24 unfortunately. The real story perhaps is why is nobody
25 finding out where it comes from and quashing the 15:48
26 rumour?

27

28 So I don't know why you're asserting a privilege in
29 relation to that, because it actually doesn't help or

1 doesn't put us anywhere and it doesn't seem to be
2 anything that would in any way be against a politician
3 to say that someone was discussing it. Sure I've had
4 three or five of them in here saying they'd heard it
5 and people were talking about it.

15:49

6 A. But, Chairman, at the time I was very focused on the
7 work that I was doing in trying to expose a number of
8 murders that had been allegedly covered up by An Garda
9 Síochána and assisting in exposing the very serious
10 work that Maurice McCabe and John Wilson were doing.
11 And, you know, there were no shortage of journalists,
12 I'm sure, who were looking into these outrageous
13 allegations against Sergeant McCabe. I didn't see it
14 as my role to do that, I was too busy --

15:49

15 CHAIRMAN: No, I think we've gone a wee bit off the
16 point, and it's entirely my point for directing it in
17 that way. Look, the fact that politicians are talking
18 about the matter, it has been admitted here that
19 politicians were talking about the matter, that there
20 were rumours, that they were talking about it, that it
21 was current in Leinster House, it was current in Garda
22 Headquarters, it was probably current in other places,
23 probably people who read the articles by Paul Williams,
24 some of them in any event in the right quarters
25 would've identified the alleged assailant, the alleged
26 person who was allegedly assaulted. And, you know, I
27 don't think it's going to help me anyway whether you
28 claim privilege or not, because I know the rumours were
29 there. So it doesn't matter, we can just pass on.

15:49

15:50

15:50

1 531 Q. MR. MARRINAN: Just in relation to paragraph 21 of your
2 statement at 3665, this is when you say that you
3 approached Sergeant McCabe:

4
5 "I asked him if he knew what was being said about him 15:50
6 and invited him to explain his version of events, as I
7 believed that he was entitled to know that these
8 rumours were in circulation."

9
10 There's no issue in relation to that. 15:51

11
12 "I told him that certain journalists were attempting to
13 interview the alleged victim and that it was intended
14 by them to publish the story."

15 15:51
16 Then if we go over the page to paragraph 26, you say
17 that Garda Wilson had informed you that a reporter
18 named Debbie McCann, who worked for the Irish Daily
19 Mail and whose father was a senior garda, was allegedly
20 one of the journalists that was putting the word out 15:51
21 that Sergeant McCabe was a child abuser. We know from
22 other evidence and the evidence of Ms. D that she was a
23 journalist who doorstepped Ms. D in February, late
24 February of 2014. Are you in a position to help us and
25 assist the Tribunal in relation to what you say at 15:51
26 paragraph 21: "I told him that certain journalists were
27 attempting to interview the alleged victim"? Do you
28 know the identities of the journalists who were
29 attempting to interview Ms. D?

1 A. No, I will claim privilege there also, because --
2 CHAIRMAN: On what basis?
3 A. -- I know it to be the case, but --
4 CHAIRMAN: So on what basis are you claiming privilege?
5 I mean, you seem to be the one who's saying 'I want to 15:52
6 uncover conspiracies, I want thing to be known' and
7 here you are in front of a public Tribunal saying 'I'm
8 not going to tell you anything'.
9 A. Well, I have to state once again, Chairman, that these
10 rumours, these scurrilous, vile rumours about Sergeant 15:52
11 McCabe didn't occupy a big space in my mind. I know
12 that within journalistic circles they were swirling
13 around. I didn't give them any credence. I had a
14 conversation with Maurice about them. When Maurice
15 explained to me the situation, that, for me, really was 15:52
16 the end of it and --
17 CHAIRMAN: All right. Well --
18 A. -- I didn't record --
19 CHAIRMAN: No, no, no --
20 A. I don't have specific dates, I didn't record -- 15:53
21 CHAIRMAN: All right --
22 A. -- who said what about it.
23 CHAIRMAN: -- Ms. O'Doherty --
24 A. And I wouldn't be able to expand upon that.
25 CHAIRMAN: Okay, it's the same -- no, that's a 15:53
26 different thing. Because it seems to be then, look,
27 you knew they were rumours and journalists had rumours.
28 But that's a different thing to claiming a source. A
29 source is something which is the source of a fact.

1 A. No.

2 CHAIRMAN: All right. Well, we know about three, but
3 you are not adding to that number?

4 A. No.

5 MR. MARRINAN: That's fine. Thank you very much. 15:55
6 would you answer any questions?

7 MR. McDOWELL: No questions.

8 MS. BURNS: No questions, Chairman.

9 MR. McDOWELL: Sorry, there is one question.

10 CHAIRMAN: Oh, yes. 15:55
11

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

14

15 534 Q. MR. McDOWELL: Just would you confirm please that 15:55
16 Sergeant McCabe was not the source of the Callinan
17 story, this Callinan speeding story?

18 A. I can confirm that.

19 MR. McDOWELL: Thank you.

20 MR. FANNING: Chairman, I think Mr. Keeley wants to go 15:55
21 next.

22

23 THE WITNESS, WAS CROSS-EXAMINED BY MR. KEELEY AS
24 FOLLOWS:

25 15:55

26 535 Q. MR. KEELEY: Ms. O'Doherty, my name is Michael Keeley
27 and I'm the solicitor for Debbie McCann, to whom you've
28 made reference, so I just want to ask you a few
29 questions in relation to her. Have you ever spoken

1 with Debbie McCann?

2 A. No, I don't believe so.

3 536 Q. Have you ever met her?

4 A. I don't believe so.

5 537 Q. You're aware of her evidence to the Tribunal that she's 15:56
6 never spoken with nor met with John Wilson; do you
7 accept that?

8 A. I can't -- if that is what she says.

9 538 Q. But you won't challenge that in any way?

10 A. You know, I accept if that is what she says, but -- 15:56

11 539 Q. Okay. But according to your evidence before the
12 Tribunal, the only evidence that you have that she was
13 apparently involved in some kind of campaign against
14 Sergeant McCabe and called him a "pedo" comes from
15 Mr. Wilson. 15:56

16 A. What is your question?

17 540 Q. Do you have any other evidence other than what
18 Mr. Wilson is alleged to have told you that Debbie
19 McCann was involved in a campaign against Sergeant
20 McCabe and called him a "pedo", as you have alleged in 15:56
21 your statement?

22 A. I don't believe so, but --

23 541 Q. So you've no evidence?

24 A. I don't believe that I have. But I mean, certainly
25 since the Tribunal began, I think there have been other 15:57
26 suggestions made that she did make those comments.

27 542 Q. What is that evidence?

28 A. Well, I believe that may be before the Tribunal. But
29 I'm not in a position to expand on what I was told.

1 543 Q. You've indicated to Mr. Marrinan, in relation to the
2 statement in your initial letter, through your
3 solicitors, to the Tribunal that you do not wish to
4 name any of the journalists or any of the politicians
5 who were making attempts to blacken the good names and 15:57
6 reputations of Garda Wilson and Sergeant McCabe. And
7 you've given a reason for doing that. If that is the
8 case, why have you included Debbie McCann's name in
9 this?

10 A. Well, because I distinctly remember Debbie McCann's 15:57
11 name being brought up as one of the journalists that
12 were making these allegations.

13 544 Q. By Mr. Wilson. And you've no evidence whatsoever for
14 that?

15 A. I believe that what Mr. Wilson said was accurate. 15:58

16 545 Q. Okay. So you will recall subsequent to your letter --
17 CHAIRMAN: I'm sorry, Mr. Keeley, could I just clarify
18 something? Ms. O'Doherty, you never spoke to John
19 Wilson, is that right?

20 A. I never spoke to him? 15:58

21 CHAIRMAN: No, you did speak to him, that's as I
22 understand.

23 A. Yes.

24 CHAIRMAN: You never spoke to Debbie McCann?

25 A. No, I have never spoken to her. As far as I know, I 15:58
26 haven't, no.

27 CHAIRMAN: Yes, okay. But you also are not challenging
28 the fact that John Wilson never spoke to Debbie McCann?

29 A. If that is what Debbie McCann is saying. It's my

1 recollection that John Wilson told me that. But I have
2 to stress that in relation to these vile rumours that
3 were made against Sergeant McCabe, I do not want to -
4 and I stressed this at the time of my statement - go
5 into any details about who said what, when they said it 15:59
6 and how they said it, because I dismissed them pretty
7 much immediately. So as far as my allegations in
8 relation to Debbie McCann are concerned, I can only
9 tell you what is in my statement and I can't expand on
10 that. 15:59

11 CHAIRMAN: All right. But I mean, just so as I can be
12 clear - and I'm sorry for interrupting, Mr. Keeley -
13 but are you still saying that John Wilson said to you
14 that Debbie McCann said to him that Sergeant McCabe was
15 a pedophile? 15:59

16 A. That is my recollection. But I do have to stress that
17 I completely dismissed these rumours --

18 CHAIRMAN: No, no, no, I appreciate that.

19 A. So I didn't log everything in my head in relation to
20 them, I was much more focused on the work that I was 16:00
21 doing in assisting Sergeant McCabe.

22 CHAIRMAN: No, but are you --

23 A. So I'm just, I'm not in a position --

24 CHAIRMAN: But even so, it's a simple question; you had
25 a conversation, do you say, with John Wilson where he 16:00
26 said 'Debbie McCann has said to me that Sergeant McCabe
27 pedophile'?

28 A. That is my belief. I believe the first time I heard
29 Debbie --

1 CHAIRMAN: Belief is metaphysical --

2 A. That's my understanding.

3 CHAIRMAN: Belief is metaphysical, above the physical,

4 all right? Something that happens to you, you know

5 about. Now, did you have a conversation with John 16:00

6 Wilson where he said 'I have been told by Debbie McCann

7 that Maurice McCabe is a pedophile' or you did you not?

8 A. That is my understanding of what happened. It is my

9 understanding that the first time --

10 CHAIRMAN: Well, you're using language in a different 16:00

11 way to me, I'm sorry. But an understanding of

12 something is a different thing. There's a flag, right?

13 It may be your understanding that there's a flag in

14 every court in the Four Courts, but you'd in fact be

15 wrong, there's one only in Supreme Court as far as I 16:01

16 know. That's an understanding: There it is, it's

17 there, you know it's there. Now, do you know or do you

18 not know that you had a conversation with John Wilson

19 in which he said 'Debbie McCann has told me that

20 Maurice McCabe is a pedophile'? 16:01

21 A. I'll say it again: It's my understanding that the first

22 time --

23 CHAIRMAN: All right.

24 A. -- I heard Debbie McCann's name was through John Wilson

25 and that he alleged that she was spreading these 16:01

26 rumours. And that is as far as I can go, Chairman.

27 CHAIRMAN: All right. Okay, I understand.

28 MR. KEELEY: Chairman, I have no further questions.

29 CHAIRMAN: Yes.

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THE WITNESS, WAS CROSS-EXAMINED BY MR. FANNING AS
FOLLOWS:

546 Q. MR. FANNING: Ms. O'Doherty, Rossa Fanning is my name 16:01
and you may have heard from earlier questions that I
appear for Independent News and Media. Now, there are
just a few issues of concern I want to address with
you. I might ask Mr. Kavanagh, the registrar, to bring
us to page 7444. And just to put this in context for 16:02
you, Ms. O'Doherty, it's agreed that you called to the
Callinan household on the evening of Thursday, 11th
April 2013 and Mr. Callinan, after you spoke to his
wife, made representations in relation to that and
there was contact between you and people senior in the 16:02
INM as to what you were doing at the Callinan
household. That's all agreed.

Now, at 7444 there's an e-mail sequence. If we scroll
down to the bottom of the page, the most -- the first 16:02
e-mail in the sequence is at the bottom of the page.
And the first e-mail is from you at 50 minutes past
midnight on the morning of Friday, 12th April, if you
follow me. So that's late in the night on Thursday, as
it were, or, technically, early on Friday morning and 16:02
it's an e-mail from you to Michael Denieffe, who was
the managing editor at the time. And it was important
from your point of view that he was in possession of
the facts, because he had sent you a text and you

1 described the story about six lines down in that e-mail
2 as a "cracking yarn". Do you see that phrase?

3 A. Mm hmm.

4 547 Q. And that was your description of the penalty points
5 story about Martin Callinan. Do you see the "cracking
6 yarn" phrase? 16:03

7 A. Mm hmm.

8 548 Q. Because I just want to track that phrase through the
9 e-mails. And you explained what you did, I don't need
10 to go through it with you, you explained the discussion 16:03
11 you had with Mrs. Callinan and you said that you were
12 polite and friendly and that you didn't harass anybody.
13 Now, Mr. Denieffe's response the next morning at 8:37
14 is:

15 16:03

16 "Gemma, thanks for this. Apologies for not seeing your
17 call last night. This certainly is a cracking yarn. I
18 think a real issue here is that when the reaction to
19 your visit to his door starting coming in, no one
20 seemed to be in a position to confirm it was actually 16:03
21 you, so a security hoo-hah started. Did you tell
22 anyone or discuss with anyone that you were going to
23 call to the door of the Garda Commissioner? If not, in
24 practice it would better idea to do so so that we are
25 prepared for the inevitable flack. Michael." 16:04

26

27 Now, that's Mr. Denieffe, the managing editor,
28 e-mailing you the following morning. I just want to
29 suggest to you that that's a temperate and measured

1 response from him to your explanation of what you'd
2 been doing the previous night.

3 A. Well, why then did I receive a comprehensive apology
4 from INM --

5 549 Q. Ms. O'Doherty -- 16:04

6 A. -- sometime afterwards, which I would like to be read
7 into the record of this Tribunal?

8 550 Q. Ms. O'Doherty, I wonder could you answer the question
9 that I asked? I've asked you about an e-mail sent by
10 Michael Denieffe at 8:37 on Friday, 12th April and I've 16:04
11 suggested to you that that's a temperate and measured
12 e-mail. Now, do you ask the Tribunal to form a
13 different view of that e-mail?

14 A. Okay, well, I would like to state first of all, are we
15 going to do a rerun of my High Court defamation -- 16:04

16 551 Q. -- we are absolutely --

17 A. -- action?

18 552 Q. We are absolutely not going to do that.

19 CHAIRMAN: No, I'm going to intervene. Look, the
20 system works as follows: Counsel ask questions based on 16:05
21 their instructions and I intervene in the event that
22 things are going off the rails or I don't understand or
23 in the event that I don't have an understanding of
24 actually what their case is. That's what it's about.
25 16:05

26 Now, I'm optimistic that we're not going to rerun
27 whatever cases you've been through - and I'm sorry you
28 have had to be in a position of going through cases -
29 but I think the best thing to do, and honestly it is

1 the best thing to do, is to listen to the questions
2 asked by Mr. Fanning and to answer just those
3 questions. Now, can I add a rider to that, which is
4 this: I understand you're represented, isn't that
5 right? 16:05

6 A. Pardon?

7 CHAIRMAN: You're represented?

8 A. Yes.

9 CHAIRMAN: well, you may have worries as to whether
10 things are left out and you're entitled to tell your 16:05
11 own lawyers 'Look, I want you to examine me at the
12 end', and that is your entitlement, 'and I want you to
13 bring out the following points, A, B, C and D, which I
14 also think are important'.
15 16:06

16 So please trust to the system and maybe just try and
17 answer the questions. I know there are other things on
18 your mind, I'm sympathetic to people who have things on
19 their mind, but please just trust to the system and try
20 and answer Mr. Fanning. And there is that safeguard 16:06
21 that your own lawyers can bring out other material.
22 And they have the last word, by the way, apart from
23 re-examination by Mr. Marrinan. And please just trust
24 to them --

25 A. Well, Chairman, I would say that this is not hugely 16:06
26 relevant to the Tribunal.

27 CHAIRMAN: I know. But unfortunately, I'm the one who
28 has to make those decisions and, you know, these things
29 --

1 A. Well, these actions --

2 CHAIRMAN: No, no, I'm sorry, look, I may come across
3 as the biggest crank on earth and eventually I will
4 turn into Judge Judy, as I've said before, but look, I
5 have to keep things on the rails and if people are 16:06
6 determined to put them off the rails, well then I'm
7 going home and I am going to do my garden. Now, would
8 you please answer Mr. Fanning, that's what I'm asking
9 you to do.

10 553 Q. MR. FANNING: I'll put the question again, 16:07
11 Ms. O'Doherty. I've read out a short e-mail from
12 Michael Denieffe to you on the morning of 12th April
13 and I've suggested to you that that's a temperate and
14 measured e-mail in response to your account of
15 attending at the Callinan household the previous night. 16:07
16 Do you agree or disagree?

17 A. That may be temperate, but --

18 554 Q. So you agree --

19 A. -- certainly the overall response was far from
20 temperate. 16:07

21 555 Q. All right. Well -

22 A. Because I lost my job shortly afterwards.

23 MR. HARTY: Sorry, Chairman, I act for Ms. O'Doherty
24 and if Mr. Fanning is going to ask her questions, he
25 should permit her to answer the questions. 16:07

26 MR. FANNING: I'd only be delighted if she would answer
27 the questions I'm putting to her, as opposed to --

28 CHAIRMAN: Well, I'm just wondering now is it time to
29 pull up the stumps? Let's please carry on for about the

1 next --

2 MR. FANNING: I'm hoping to conclude with Ms. O'Doherty
3 in a relatively short period of time.

4 CHAIRMAN: Yes, let's try and carry on for the next 15
5 minutes and see how we get on please. 16:07

6 MR. FANNING: Very good.

7 CHAIRMAN: I'm conscious, by the way, Mr. Harty, of the
8 point you're making and I'll try and ensure that
9 everything is all right. But so far I'm failing
10 miserably, that's the plain reality of it. But let's 16:08
11 carry on.

12 556 Q. MR. FANNING: Ms. O'Doherty, your response to
13 Mr. Denieffe is there at the top of the page:

14

15 "Thanks Michael. Sorry for not forewarning. I knew 16:08
16 the lads were all at the advertising do and I didn't
17 want to disturb Peter or Stephen. But I went about my
18 business in such a way as to ensure no hoo-hah or upset
19 anybody. It was purely to clarify that it was his
20 address and go. I'm astonished that he'd put in a 16:08
21 complaint, but then again nothing would surprise me
22 about our police force these days. I presume I've the
23 go-ahead to write the story."

24

25 So that was your response. And I don't need to put a 16:08
26 question in relation to that. If we could turn forward
27 to 7447, there's a short e-mail sent from you the same
28 morning to Ian Mallon, with who you say you had an
29 intemperate phone call the previous evening.

1 Mr. Mallon, incidentally, will say he told you on the
2 call the previous evening that there was a correct way
3 of going about things that that doorstepping the
4 Commissioner or attending without warning on your own
5 at his doorstep was not the correct way of going about 16:09
6 things. But however intemperate that phone call was,
7 it wasn't so intemperate that you couldn't e-mail him
8 at 9:40 the following morning saying:

9
10 "Morning Ian. I've discussed the Callinan matter with 16:09
11 Michael Denieffe and he agrees it's a cracking yarn.
12 So my next step is to ring the Garda Press Office to
13 put it to the Garda Commissioner. I will tell them
14 we're going to press tomorrow. Can you confirm this is
15 okay? If we don't act speedily, I would worry that the 16:09
16 story will get out elsewhere. Many thanks, Gemma."

17
18 So it's clear from that I want to suggest,
19 Ms. O'Doherty, that you weren't at all deterred and
20 that you pressed on by putting the content of the story 16:09
21 to the Garda Press Office with a view to getting the
22 story published, isn't that so?

23 A. Well, I would like to think that I acted like a
24 professional at all times. I was very frightened at
25 this point, I didn't understand why management were 16:09
26 coming down on me like a tonne of bricks for getting
27 what I would call a story of huge public interest. And
28 I was determined that that story was going to be
29 published, be it in the Irish Independent or wherever.

1 It was a story that the public needed to know.

2 557 Q. Very well. And if we could turn forward then to page
3 7450. At 7450, from the bottom of the page, you'll see
4 that you'd sent a similar e-mail to Stephen Rae, the
5 Editor in Chief, at five minutes past noon on the same 16:10
6 day, Friday, 12th April. That was a similar e-mail to
7 the e-mail you'd sent to Mr. Denieffe the previous
8 night:
9

10 "Just so you're correctly informed about the events of 16:10
11 yesterday, please see below."
12

13 And you set out the detail. Mr. Rae responds:
14

15 "Gemma, thanks for your note below. I do, however, 16:10
16 need to set out a number of clear guidelines. All news
17 stories that any journalist is working on require to be
18 coordinated with the news executive or senior manager.
19 Where approaches are made to individuals, particularly
20 doorsteps, they must also be cleared/coordinated with 16:10
21 the news desk. Moreover, where a reporter is
22 approaching a prominent official it's even more of a
23 priority to coordinate and clear with the news desk.
24 Irrespective of the merits of a story, I cannot have
25 journalists operating outside the accepted news 16:11
26 management chain. As you all know, we're all motivated
27 journalists who delight in generating exclusive
28 stories. Nonetheless, we all have to operate within
29 the news structure that is in place and that means

1 operating to the news desk or the editor. I've no
2 problem with holding prominent people to account, but
3 that clearly has to be done within the guidelines
4 outlined above. I hope this clarifies the matter. I
5 also believe that a debrief with the operations editor 16:11
6 and managing editor is in order in this case."
7

8 And your response, 7450, is:

9
10 "Thanks very much Stephen. The only reason I went to 16:11
11 the house was to confirm the address so I had my
12 information correct before I started discussing the
13 story publicly and blaming anybody in the wrong. My
14 error. The story only came to me at about 7 p.m. and I
15 felt it urgent to pursue it before other media got it. 16:11
16 Unfortunately, Ian, Peter and Cormac were at the
17 advertising evening and I didn't want to disturb them,
18 so I took it on my own bat to see if this sensational
19 story stood up. I absolutely note your comments below
20 and may thanks for informing me of same. I contact 16:12
21 prominent people all the time about potential
22 exclusives that may or may not stand up, but don't like
23 to be pestering you guys every time I do. The protocol
24 has not been brought to my attention until now, I was
25 not aware of it. I am now, so many thanks and 16:12
26 obviously I will take it on board in future. I stress
27 again I behaved with impeccable manners and
28 professionalism at all times during the 20 or 30 second
29 encounter. Would it be okay to send on those questions

1 now? I'm anxious the story is going to break elsewhere.
2 It's becoming known that the Indo have it. I have a
3 few more good lines on it too. Sorry again for any
4 hassle caused to you, that was never my intention."

16:12

5
6 And ultimately, one more e-mail I want to show you.
7 7457 is a short e-mail now a few days later from
8 Stephen Rae to you on 18th April:

9
10 "Gemma, just to reiterate, it's a cracking yarn no
11 doubt. I just want to give it the best show on our
12 biggest circulation day. I hope you understand this
13 and please convey this to your source. Very best, SR."

16:12

14
15 And we've seen, because Mr. Marrinan put it to you
16 already, that an article was published on the front
17 page of the Irish Independent on Friday, 19th April and
18 it was continued on the second page. And arising out
19 of all of that, Ms. O'Doherty, I want to suggest that
20 your version of this to the Tribunal that INM came down
21 on you like a tonne of bricks or that you were treated
22 despicably by management is not borne out by the
23 objective sequence of events, the objective sequence of
24 events is that you were sent measured and temperate
25 e-mails indicating a concern with the method by which
26 you approached Mr. Callinan, but that you were
27 supported with the story, which two senior executives
28 agreed was a cracking yarn and it was published on the
29 front page a week later. Isn't all of that clear?

16:13

16:13

16:13

1 A. All that is clear is that I was unlawfully dismissed
2 from my post of 16 years within a matter of weeks after
3 that. And the High Court has read into the record a
4 significant apology from INM and I received substantial
5 compensation for the loss of my job. 16:14

6 558 Q. All right. And I'll deal with that directly now.
7 Because you've said on a number of occasions that you
8 were unlawfully dismissed, both in oral evidence to the
9 Tribunal this afternoon and in your various statements.
10 I want to put to you a number of matters of public 16:14
11 record. Firstly, it's a matter of public record that
12 INM has heavily indebted in 2013, that it sold its
13 South African business to pay down debt, it raised
14 money from its existing shareholders and it formed a
15 cost-cutting plan for a redundancy programme which was 16:14
16 announced in a circular to all staff by the then Chief
17 Executive of Independent News and Media, Vincent
18 Crowley, on 26th April 2013. That's a matter of public
19 record, it was a publicly quoted company and this was
20 reported on at the time. So it was a round of 16:15
21 redundancies that was publicly announced on 26th April
22 2013. And ultimately, my instructions are that there
23 were 43 job losses in INM, 29 of which were editorial
24 and six of which were initially non-voluntarily, but
25 alone of the 43, you were the only person affected who 16:15
26 did not reach an amicable agreement and you challenged
27 the redundancy as an unfair dismissal.

28
29 Now, those are the facts. 29 journalists on the

1 editorial side lost their job, six of them non-amicably
2 initially. You have told the Tribunal today and in
3 your statement that you were the only journalist to
4 suffer such a fate and I want to suggest to you that
5 that's demonstrably untrue. 16:15

6 A. Well, all I know is that my relationship with
7 management prior to me taking up the story about Martin
8 Callinan was excellent, I was spoken to in glowing
9 terms consistently by management. So why they would
10 come along and make me the only person compulsorily 16:16
11 redundant makes absolutely no sense. And I go back to
12 the High Court apology issued to me by INM.

13 559 Q. Yeah. And just to put that to you, you entered into a
14 settlement with INM on 22nd December 2014, under which
15 settlement you compromised an employment claim, a 16:16
16 defamation claim and a personal injuries claim. And
17 you accept that the terms of settlement are
18 confidential? That's what it says, isn't that so,
19 Ms. O'Doherty?

20 A. Em -- 16:16

21 560 Q. You entered into a confidential settlement?

22 A. Well, I -- you know, I mean, you're the person that is,
23 you're bringing this up. I don't want to do a rerun
24 of, that's not why I'm here, of my High Court action.

25 561 Q. Very well. 16:16

26 A. The reason I am here is because I believe that INM may
27 have been instructed by Garda management to relieve me
28 of my duties and the reason I am here is to show how my
29 support for the work that Sergeant McCabe was doing

1 brought about my unfair dismissal.

2 562 Q. Do you have any evidence whatsoever in support of the
3 suggestion you've just made to the Tribunal that your
4 dismissal or redundancy in INM was influenced by Garda
5 management? 16:17

6 A. Well, I know that INM management were hauled down to a
7 meeting in the days after my exposure of Martin
8 Callinan's penalty points and I know that --

9 563 Q. But they supported you --

10 A. -- Martin Callinan was extremely angry about that, 16:17
11 that's on the record of the Disclosures Tribunal. And
12 I know that the tone of management completely changed
13 towards me after that story and after I made it clear
14 that I was not going to be silenced in my work. And
15 INM will be well aware that they put a proposal to me 16:18
16 to take me off stories about Garda corruption and to
17 focus on other stories of less public interest and I
18 turned that opportunity down.

19 564 Q. Ms. O'Doherty, the fact is that the newspaper
20 subsequently published your story on the front page. 16:18
21 And the Tribunal can form its own view of that. Now,
22 one final issue that I want to address with you is in
23 relation to the issue about Mr. Williams and the rumour
24 that Mr. Williams obtained the Garda file on Ms. D.
25 Can you just tell me why you saw fit to pass that 16:18
26 rumour on to the Tribunal when it is now clear that
27 there is no factual basis underpinning your knowledge o
28 awareness of it?

29 A. Well, I mean, I believe that the Tribunal needs to

1 inquire into how Mr. Williams found out about the Ms. D
2 case.

3 CHAIRMAN: well, we have.

4 A. well, we also need to look at, or at least I believe
5 the Tribunal needs to look at the way in which 16:19
6 Mr. Williams facilitated meetings between Ms. D and
7 Mícheál Martin, I believe Alan Shatter also. I also
8 believe that --

9 CHAIRMAN: But I've had days of evidence about all this
10 stuff by the way. And I mean -- 16:19

11 A. well, I support it.

12 CHAIRMAN: -- I repeat to you, you may not think this
13 is significant, but actually practically the first
14 thing I did in February of last year when I was asked
15 to do this job was to get the Ms. D file and to read 16:19
16 it. So it doesn't help any case against Maurice
17 McCabe, that file, in any way.

18 A. well, I don't think we would be here --

19 CHAIRMAN: well, I've read it, you haven't.

20 A. -- today if it wasn't for that file. 16:19

21 565 Q. MR. FANNING: Ms. O'Doherty, do you have an adverse
22 professional view of Mr. Williams?

23 A. I wouldn't have the healthiest professional view of
24 Mr. Williams, no.

25 566 Q. Have you described him as a Garda puppet, a Garda hack, 16:20
26 as a purveyor of depraved work and have you called for
27 a boycott of INM simply for employing Mr. Williams in
28 various tweets? Would you dispute any of those comments
29 as being comments that you have tweeted into the public

1 domain?

2 A. I would generally agree with that, yes. I think he
3 does a great disservice to Irish journalism and to the
4 public interest in his work.

5 567 Q. In which case, Ms. O'Doherty, I would put it to you 16:20
6 that the wild and baseless rumour that you saw fit to
7 propagate about Mr. Williams having access to the Garda
8 file was based upon your animosity towards Mr. Williams
9 and not based on any factual underpinning.

10 A. I don't bear any personal animosity towards 16:20
11 Mr. Williams. I believe he does a great disservice to
12 my profession and to himself in the stories that he
13 often puts out in relation to the Gardaí.

14 MR. FANNING: You can take it that Mr. Williams will
15 disagree with that if he comes again to give evidence, 16:21
16 which he is scheduled to do in the coming weeks. But I
17 don't think I need to explore that with you any
18 further. Chairman, I've no further questions for
19 Ms. O'Doherty.

20 CHAIRMAN: That's fine. Well, was there anything? 16:21

21 MR. MÍCHEÁL O' HIGGINS: Chairman, I just see the hour.
22 I had --

23 CHAIRMAN: what did you say?

24 MR. MÍCHEÁL O' HIGGINS: I had proposed to --

25 CHAIRMAN: Sorry, you said something. 16:21

26 MR. MÍCHEÁL O' HIGGINS: Sorry, Chairman, I see the time
27 of day. I was going to suggest, Chairman, I might be
28 shorter if I was allowed an opportunity overnight. But
29 I think it would take quite a bit of time at the moment

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if we continued at this hour.

CHAIRMAN: Okay. Do you think you have much, Mr. Harty?

MR. HARTY: I think I have five minutes approximately.

CHAIRMAN: Yes, all right, okay. No, we'll have to come back tomorrow. And thank you very much for coming here today. 16:21

THE HEARING WAS THEN ADJOURNED UNTIL THURSDAY, 31ST MAY 2018 AT 10:00 16:22

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