

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

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1921, ON 17 FEBRUARY 2017

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

HELD IN DUBLIN CASTLE
ON THURSDAY, 31ST MAY 2018 - DAY 83

83

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

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1 THE HEARING RESUMED, AS FOLLOWS, ON THURSDAY, 31ST MAY,
2 2018:

3
4 GEMMA O' DOHERTY WAS CROSS-EXAMINED BY MR. MÍCHEÁL
5 O' HIGGINS: 10:01

6
7 MR. MARRINAN: Gemma O'Doherty, please.

8 1 Q. MR. MÍCHEÁL O' HIGGINS: Good morning, Ms. O'Doherty.
9 My name is Mícheál O'Higgins and I will be asking you
10 some questions, principally on behalf of former 10:09
11 Commissioner Martin Callinan, and also former
12 Commissioner Nóirín O'Sullivan.

13
14 Can I start with bringing you to some areas,
15 Ms. O'Doherty, where I think and I hope we will be in a 10:09
16 position to reach a level of agreement, or hopefully
17 full agreement and then I'll move away to some other
18 areas where we may be covering issues of dispute, and
19 I'll alert you to those and you'll have an opportunity
20 to deal fully with those. But first of all then to the 10:09
21 areas where I think we'll be able to reach an
22 accommodation. First of all, just a few general
23 matters; you worked for the Irish Independent for, was
24 it upwards of 20 years?

25 A. Approaching, yeah, I think it was probably about 16/17. 10:09

26 2 Q. Right. And, well, just I've lifted that guesstimate of
27 time from your own statement. It's more accurately,
28 it's 16 or 17, is it?

29 A. Yeah, approximately, yeah.

1 3 Q. And I think, am I correct in my understanding that
2 you're able to confirm - I think you've actually
3 already done this - but confirm that Superintendent
4 Taylor never negatively briefed you about Sergeant
5 McCabe? 10:10

6 A. No, he never negatively briefed me.

7 4 Q. He never did, all right. And the same goes, doesn't
8 it, for former Commissioner Martin Callinan; equally,
9 he never briefed you negatively about Sergeant McCabe?

10 A. I've never spoken to him. 10:10

11 5 Q. Right. And the same goes for former Commissioner
12 Nóirín O'Sullivan, isn't that right?

13 A. Correct.

14 6 Q. And am I correct in my understanding in fact that your
15 position is that no guard has ever in fact briefed you 10:10
16 negatively in relation to Sergeant Maurice McCabe?

17 A. I believe that to be correct.

18 7 Q. Right. The next matter that I want to cover that
19 hopefully again we can reach agreement on, and that is
20 an article that you wrote for the Sunday Times. And 10:11
21 I'll ask you to take a look at it, it's at page 2087
22 within, if you have it there, Ms. O'Doherty, it's
23 volume 8 of the papers. Do you have it there? Oh,
24 you're working off the screen, all right. And this is
25 an article written under your byline for the Sunday 10:11
26 Times in, on 23rd March 2014 is when it was issued,
27 when it appeared, isn't that right?

28 A. I don't have the full article in front of me, so I'd
29 need the full articles if we're going to discuss it.

1 8 Q. Would you prefer - whichever you're more comfortable
2 with - would you prefer looking at the hard copy? It's
3 in Volume 8 beside you there. That'll give you an
4 opportunity to look at the full thing.

5 A. I can put it up on my screen, I think, here, if that's 10:12
6 easier. I just can't confirm the date, because I can't
7 see the date.

8 9 Q. Certainly. Well, it's just at the very top above the
9 heading: "Gardaí, stop spying on my toddlers".

10 A. That looks correct. 10:12

11 CHAIRMAN: Ms. Herlihy, would you just mind fishing it
12 out please for Ms. O'Doherty? Thanks.

13 10 Q. MR. MÍCHEÁL O' HIGGINS: 2087. So just above the
14 heading there, I think it captures the date of the
15 article. And it's The Sunday Times, as we can see from 10:13
16 the top left-hand side and it is indeed 23rd March
17 2014, isn't that right?

18 A. Correct.

19 11 Q. And this is an article written by you, we see in the
20 paragraph underneath the headline. And just by way of 10:13
21 context, am I correct in my understanding this was an
22 article that you wrote criticising the breach of a
23 particular family's privacy and relating to the fact
24 that the names of two traveller children had been
25 placed on Pulse? Wasn't that the context, broadly 10:13
26 speaking, of it?

27 A. That's correct, yes. The context was that this lady
28 was bringing her children to a Garda station in Cork to
29 get their passports, she happened to be a traveller and

1 for some reason the children's names were logged on the
2 Pulse system.

3 12 Q. Right. And I'll bring you to just the more particular
4 context in a few moments when we look at some other
5 papers in the materials. But can I ask you, before we 10:14
6 do that -- well, first of all, you recall this story,
7 it was an important story that you broke, isn't that
8 right?

9 A. Yes, I broke it.

10 13 Q. And you had some degree of help or contribution, I 10:14
11 don't overstate it, from Deputy John McGuinness, who
12 was also very critical of the fact that the names of
13 children had been recorded on Pulse?

14 A. Correct.

15 14 Q. Right. And you're aware, aren't you, that the Garda 10:14
16 Síochána Ombudsman Commission, that's GSOC, had
17 directed an investigation should be carried out into
18 the matter on foot of the mother of the children making
19 a complaint; you were, broadly speaking, aware of that?

20 A. I am aware of it, and I'm also aware of the fact that 10:14
21 the children's names were removed from the Pulse
22 system.

23 15 Q. Yes.

24 A. As a result of the GSOC investigation.

25 16 Q. Right. And we can come to that in a few minutes. And 10:14
26 I think that you're aware that a Chief Superintendent
27 John McPolin was directed to carry out an investigation
28 under a particular provision of the Garda Síochána Act
29 of 2005, isn't that right?

1 A. I don't really -- my only real recollection of that is
2 that I was appalled at the fact that the Gardaí were
3 investigating the Gardaí in this case. And I know that
4 I got a call, I think, from this superintendent and I
5 made it very clear to him that I was not really willing 10:15
6 to cooperate with an investigation which was being
7 carried out by a senior Garda in relation to Garda
8 malpractice.

9 17 Q. Well, can I bring you to that just so you have an
10 opportunity to deal with it. I wonder if we could have 10:15
11 on the page 1988 of the materials. And just to
12 orientate yourself with this, Ms. O'Doherty, this is a
13 report compiled by Chief Superintendent John McPolin,
14 or a letter at least that he wrote to this Tribunal, to
15 Ms. Elizabeth Mullan, solicitor to the Tribunal on 3rd 10:16
16 November 2017, but it just helps to put matters in
17 context. Do you see there on the second paragraph down
18 where it says:

19
20 "On 22nd July 2014 I" - that's Chief Superintendent 10:16
21 McPolin - "was appointed as deciding officer by the
22 then divisional officer, Chief Superintendent M. A.
23 Finn, Cork City Division, in a supervised investigation
24 under SECTION 94(5) of the Garda Síochána Act 2005 in
25 respect of a complaint from Mrs. J" - address given in 10:16
26 Cork - "made at the Dublin office of the Garda Síochána
27 Ombudsman Commission on 28th March 2014 on behalf of
28 her two children."
29

1 Do you see that there?

2 A. I do, yes.

3 18 Q. And he continues:

4

5 "The complaint primarily concerned the allegation that 10:17

6 information relating to her children was recorded on

7 Pulse and that she had been provided with proof of such

8 by a member of the public, whom she subsequently

9 identified as being independent journalist Ms. Gemma

10 O'Doherty."

10:17

11

12 That's a reference to you and that is correct, isn't
13 it?

14 A. That is correct.

15 19 Q. Right. And if we go over the page then to page 1989, 10:17

16 the second paragraph down reads as follows, and I just

17 want to get your -- ask you to confirm this is correct

18 as well if you can:

19

20 "I established that Ms. Gemma O'Doherty, freelance 10:17

21 journalist, provided complainant Mrs. J with copies of

22 this Pulse material, which was confirmed by Mrs. J in

23 her written statement of complaint. Ms. O'Doherty

24 declined to cooperate with my investigation, but did

25 confirm to me during a telephone conversation that 10:18

26 she'd obtained the Pulse screenshots and relevant

27 information from Mr. John McGuinness TD and then

28 Chairman of the Public Accounts Committee. It is

29 believed that Sergeant McCabe provided this information

1 to Mr. McGuinness. This material was provided by Gemma
2 O'Doherty to Mrs. J on 22nd March 2014 and was subject
3 matter of The Sunday Times newspaper article penned by
4 Ms. O'Doherty on 23rd March 2014."

5
6 That's the article we've looked at. So can I just ask
7 you there -- well, can I put it this way: Can we take
8 it what you told chief superintendent McPolin was the
9 truth?

10 A. I'm going to claim privilege at this point. 10:18

11 CHAIRMAN: I don't know how you can possibly claim
12 privilege if you have a conversation with a garda
13 superintendent. I mean, did you have a conversation
14 with a garda superintendent or not?

15 A. I'd like to know how this statement made it into the 10:18
16 public domain. I made a private statement to GSOC.

17 CHAIRMAN: Look, you know, the Gardaí investigate
18 things on behalf of the people of Ireland and if you
19 make a statement to the Gardaí, that is a public
20 process, the likely result of which is that it will end 10:19
21 up perhaps in a Book of Evidence. But certainly if
22 there's any criminal prosecution, it simply has to be -
23 and I underline has to be - disclosed to the defence.
24 So I don't know why you're --

25 A. It's not a public statement, Chairman, at this point, 10:19
26 in my opinion, because --

27 CHAIRMAN: Sorry, let's just hang on a minute. Are you
28 refusing to answer the question?

29 A. I'm going to claim privilege at this point --

1 CHAIRMAN: No, that's --

2 A. Which I believe is my right as a journalist.

3 CHAIRMAN: To do what?

4 A. To claim journalistic privilege.

5 CHAIRMAN: Okay, well, give me the facts and 10:19

6 circumstances on which you're basing that then.

7 A. I'm basing it on the fact I'm not going to go into the

8 details of who my journalistic sources are in this

9 particular instance.

10 CHAIRMAN: I'm not asking you to, and counsel wasn't 10:19

11 asking you to.

12 A. Well, I think that that paragraph would suggest, and I

13 think the question suggests that you are asking me to.

14 And I'm not in a position to do that.

15 CHAIRMAN: It didn't, it said simply did you speak, did 10:20

16 you speak to Chief Superintendent McPolin, first of

17 all?

18 A. I did speak to him. And I expressed the fact that I

19 was not willing to cooperate with a GSOC investigation

20 which was being carried out by a senior member of An 10:20

21 Garda Síochána, because I don't believe that the Gardaí

22 should be allowed to investigate the Gardaí.

23 CHAIRMAN: well, sometimes they do a very good job, you

24 know. But the question --

25 A. There's very little evidence of that. 10:20

26 CHAIRMAN: well, I know, but you're entitled to your

27 views -- maybe we could have me not under interrogation

28 please with the spotlights. Thank you very much. The

29 question asked by counsel was very simple: Did you

1 confirm during a telephone conversation with Chief
2 Superintendent McPolin that you'd obtained the Pulse
3 screenshots and relevant information from John
4 McGuinness TD, the Chairman of the Public Accounts
5 Committee? That's the question.

10:20

6 A. And the answer is I'm claiming journalistic privilege.

7 CHAIRMAN: well, you're not answering the question.
8 Did you tell that to the superintendent, that's the
9 question, not who was your source. Did you tell him
10 that?

10:21

11 A. I think by answering that question I may be in a
12 position to reveal my source, and I'm not willing to do
13 that.

14 CHAIRMAN: Your source for what?

15 A. My source for this story.

10:21

16 CHAIRMAN: well, I'm not asking you your source for
17 this story, I'm simply asking you whether what is
18 written there is correct or not. It's in front of you,
19 it's in front of me.

20 A. I return to my original answer.

10:21

21 CHAIRMAN: what's the point of this, Mr. O'Higgins?
22 Look, I mean, there's no point in having a big row
23 about journalistic privilege over something that's
24 trivial, it has to be something that's important, it
25 has to be something that relates to the point and it
26 has to be essential for my decision. Now, we have
27 veered off into a discussion in relation to members of
28 the Irish traveller community and, for all I know, if
29 what happened happened, obviously it would be wrong.

10:21

1 But where are we going with this?

2 MR. MÍCHEÁL O' HIGGINS: well, I think it's really quite
3 relevant, Chairman, in a number of respects. It was a
4 matter already in fact canvassed with John McGuinness
5 during his cross-examination, it is a matter obviously 10:22
6 which the relevant reports have been circulated within
7 the materials, including the article and it's relevant
8 to, at a minimum, the level of interaction between this
9 witness and Deputy McGuinness, and also it's relevant
10 to issues of credit with respect to this witness and 10:22
11 also Deputy McGuinness.

12 CHAIRMAN: well, are you trying to undermine the credit
13 of Deputy McGuinness vis-á-vis the fact that - and I
14 don't believe it was put to him, but perhaps it simply
15 passed over my head; was it put to Deputy McGuinness 10:22
16 that he was the source of the information which
17 eventually appeared in The Sunday Times in relation to
18 two traveller --

19 MR. MÍCHEÁL O' HIGGINS: Yes.

20 CHAIRMAN: And what did he say? 10:23

21 MR. MÍCHEÁL O' HIGGINS: It was, this very passage was
22 read out.

23 CHAIRMAN: And what did he say?

24 MR. MÍCHEÁL O' HIGGINS: He denied that.

25 CHAIRMAN: All right, okay. well, fine, he denied it. 10:23

26 MR. MÍCHEÁL O' HIGGINS: Pardon?

27 CHAIRMAN: well, fine, he denied it. what's it got to
28 do with me and the terms of reference and whether
29 senior members of the Garda Síochána were briefing

1 Maurice McCabe negatively or not?
2 MR. MÍCHEÁL O' HIGGINS: well --
3 CHAIRMAN: Because if it's a matter of credit and John
4 McGuinness, why can't I apply the ordinary rule?
5 Answers as to credit are final. You don't seem to 10:23
6 think they're final, you seem to think you're able to
7 explore it further. Now, it's not a criticism,
8 Mr. O'Higgins, I'm trying to move forward.
9 MR. MÍCHEÁL O' HIGGINS: I appreciate that, and I wasn't
10 proposing to spend unduly long period of time on this. 10:23
11 But just at a very basic level, Chairman, I'd
12 respectfully suggest that if, on foot of an answer this
13 witness properly gives, you were to form the view that,
14 for instance, the answer that had been given previously
15 by Deputy McGuinness was incorrect or, for instance, 10:23
16 untruthful, I think that would be a relevant matter and
17 that would be a legitimate matter to pursue.
18 CHAIRMAN: All right. well, what Ms. O'Doherty is
19 saying is 'I'm not giving you information in relation
20 to my source on the issue of the traveller children and 10:24
21 the passport application and the appearance of members
22 of the Irish traveller community for no reason on
23 Pulse', that's what she's saying to you.
24 20 Q. MR. MÍCHEÁL O' HIGGINS: Yes. well, can I then rephrase
25 the question? And perhaps it'll be the same response, 10:24
26 but can I ask you this: Can you at least confirm that
27 you do not demur from what is said there by Chief
28 Superintendent McPolin as to what you said to him?
29 A. My original statement to you stands. I am not in a

1 position to discuss my sources on this story.

2 CHAIRMAN: Okay, well, there you are. I mean, you're
3 in a position, Mr. O'Higgins, where you're saying,
4 okay, I should think less of Mr. McGuinness, Teachta
5 Dála, by reason of something that is reported by Chief 10:25
6 Superintendent McPolin as having been said by
7 Ms. O'Doherty, and Ms. O'Doherty is nearly -- neither
8 confirming nor denying what she said that is in the
9 middle of that page. If she confirms it, she is
10 confirming herself as someone who is a journalist who 10:25
11 reveals her sources to members of the Garda Síochána
12 and if she denies it then you'll have to make an
13 application to me as to whether you wish to call Chief
14 Superintendent McPolin. But at the moment and in all
15 seriousness, Mr. O'Higgins, I'm just not interested. 10:25
16 I'd rather deal with what we're actually trying to deal
17 with here.

18 MR. MÍCHEÁL O' HIGGINS: All right, Chairman, I'll move
19 on from that.

20 CHAIRMAN: In other words, I'm not making a ruling on 10:25
21 journalistic privilege, because I just don't see the
22 point at the moment. There may be other occasions
23 where I do, but I don't. And that's no disrespect to
24 you. I do understand what you're about and I respect
25 the process, but at the moment I'm not going to be 10:25
26 reporting on this - indeed there's a lot of one
27 journalist contradicting another and saying another
28 journalist is lying that I am not going to form a view
29 on. Why should I? It's none of my business.

1 MR. MÍCHEÁL O' HIGGINS: Very well, Chairman, I propose
2 then not to deal with the other areas within Chief
3 Superintendent McPolin's report where he treats further
4 of this issue as to what was said to him by this
5 witness, on his case.

10:26

6 CHAIRMAN: well, it may be that there's a point here
7 that I'm missing and I don't want to stop you making
8 that point. And I appreciate that cross-examination is
9 a series of questions leading to a point. But perhaps
10 it is the case, Mr. O'Higgins, that if you think there
11 is a good point here - and I certainly would like to
12 hear it - you'd simply put the point to Ms. O'Doherty
13 and let's see where we stand on it.

10:26

14 21 Q. MR. MÍCHEÁL O' HIGGINS: well, perhaps if we approach it
15 this way, Ms. O'Doherty: would it be fair to say that
16 from time to time you have had a number of interactions
17 with Deputy McGuinness?

10:26

18 A. I've had a number of interactions with Deputy
19 McGuinness. Deputy McGuinness, in my opinion, is one
20 of the most honest TDs in our parliament and I have the
21 height of respect for him, he's a champion when it
22 comes to standing up against Garda malfeasance and
23 defending victims.

10:27

24 CHAIRMAN: All right, okay, I'm going to stop again.
25 Look, I've said it three times - and you're not
26 following the transcript, I know you're not following
27 the transcript, and why should you follow the
28 transcript after all? But I've stopped people
29 giving -- granting encomiums to Leo Varadkar, TD, in

10:27

1 relation to the way he behaved, I've stopped
2 ex-Minister Shatter making political statements, and
3 similarly, you're not going to make political
4 statements either. Whether he's a wonderful man or not
5 a wonderful man is neither here nor there, I'm judging 10:27
6 him on the basis of what he said in the witness-box.
7 So let's carry on.

8 22 Q. MR. MÍCHEÁL O' HIGGINS: And I think it's the case, just
9 before we move off this area, Ms. O'Doherty, am I
10 correct that Deputy McGuinness has assisted you with a 10:27
11 number of your different campaigns as a crusading
12 journalist?

13 A. I wouldn't say he has assisted me, nor am I a crusading
14 journalist. He certainly stands up for victims who
15 have had -- citizens who have had problems with An 10:28
16 Garda Síochána.

17 23 Q. He assisted you with your Mary Boyle campaign, is that
18 right?

19 A. He met the identical twin sister of Mary Boyle in Dáil
20 Éireann, along with many other TDs. 10:28

21 24 Q. And I think you were tweeting about this issue in March
22 of 2016, that John McGuinness had raised the issue at a
23 Fianna Fáil parliament party meeting, isn't that right?

24 A. I believe he has raised the issue on a number of
25 occasions, yes. 10:28

26 25 Q. Well, no, I'm asking you specifically, you were
27 tweeting about this in March 2016, that John McGuinness
28 had raised the issue and had asked Micheál Martin to
29 meet with a relative of Ms. Boyle, isn't that right?

1 A. Again, I don't really see the relevance of that. If I
2 tweeted it, I imagine it is correct. I know that
3 Deputy McGuinness has raised this case on a number of
4 occasions.

5 26 Q. Well, are you aware, for instance, that Deputy 10:29
6 McGuinness appears to be a frequent retweeter of your
7 tweets?

8 A. A lot of people retweet my tweets. You know, I'm not
9 sure, I don't know, I'd imagine he does.

10 27 Q. You are quite a prodigious user of Twitter, isn't that 10:29
11 right? You have a number of followers?

12 A. I use Twitter, yes, because it's a means, since I lost
13 my job at the Independent, it's a means of getting
14 important information out.

15 28 Q. Yes. And you've used Twitter for, amongst other 10:29
16 things, getting out information to criticise former
17 Commissioner Martin Callinan, isn't that right?

18 A. Oh, yes.

19 29 Q. Yes. And that pattern or that practice of yours of 10:29
20 availing of Twitter to criticise parties, including
21 former Commissioner Callinan, has continued right up
22 until the present time, including over the last number
23 of weeks, isn't that so?

24 A. Correct.

25 30 Q. And I think you also use Facebook, isn't that right, to 10:30
26 propagate your views and theories?

27 A. I use social media.

28 31 Q. Yes.

29 A. Like a lot of journalists do. There's nothing unusual

1 about that.

2 32 Q. Right. And as recently as 24th March you shared on
3 your own Facebook page a particular post concerning
4 certain allegations against Nóirín O'Sullivan, isn't
5 that right? Do you recall that? 10:30

6 A. I don't know what you're referring to, you'll have to
7 be more specific.

8 33 Q. All right. Well, can I ask you to look at page 7464 of
9 the materials? If we go from the top for a moment,
10 just to -- if we go back up, sorry, to the beginning of 10:31
11 the document. And this is a posting on Facebook made
12 by a gentleman called Shekleton that as I understand it
13 you riposted on your Facebook page on 24th March?

14 A. You'll have to show it to me. It doesn't look
15 familiar. 10:31

16 CHAIRMAN: But it's there. I wonder would you mind
17 opening the page?

18 A. I don't repost on Facebook as a rule. So I'm very
19 surprised --

20 CHAIRMAN: Well, I suppose there's a point here. Look, 10:31
21 we're spending our entire time, this is getting like a
22 fencing match, you know, and it's not helping me at
23 all. And it's not your fault, Mr. O'Higgins, but we're
24 getting irrelevant answers and I'm tending to wonder
25 what's the point of this thing? Let's go for the 10:31
26 point, if you wouldn't mind, please. And the point is
27 something like, for instance, I'm noticing here "my
28 dear friend Superintendent Dave Taylor", I'm not
29 reacting to it. But if you're saying this is something

1 to do with Ms. O'Doherty and it helps me in some way,
2 well, let's hear about it.

3 MR. MÍCHEÁL O' HIGGINS: All right. Well, just, it
4 requires, Chairman, just looking briefly at the
5 contents of this communication. And it reads that -- 10:32

6 MR. HARTY: Sorry, Chairman, I question the
7 appropriateness of putting to my client a statement
8 which is not proven by anybody, there's no question of
9 the author being called -- I don't know where this
10 comes from, my client doesn't acknowledge or doesn't 10:32
11 recognise it, has indicated she didn't put it on her
12 Facebook page. So putting the detail to it -- of it to
13 her, I question the appropriateness of that. I
14 appreciate that there's a looseness with the Rules of
15 Evidence, but this appears to come out of nowhere. 10:32

16 CHAIRMAN: Mr. Harty, first of all, I understand your
17 point and I do take your point. If someone puts a
18 passage from War and Peace to this witness and says
19 'Now, isn't that something to do with you?', she's
20 perfectly entitled to say 'No, it was written by Leo 10:33
21 Tolstoy in 1878'. So let's see where we're going. And
22 I'm fully alive to that possibility.

23 MR. MÍCHEÁL O' HIGGINS: And it reads:

24

25 "According to very reliable and extremely serious 10:33
26 information I've obtained tonight, the Disclosures
27 Tribunal has been unable to recover text messages sent
28 and received by my dear friend Superintendent David
29 Taylor, the former Garda Press Officer, as his phone

1 was wiped clean or lost by Garda Headquarters after it
2 was taken when he was wrongly accused by the poisonous
3 dictators of An Garda Síochána.

4
5 Even though they knew Dave was innocent, it didn't stop 10:33
6 them arresting him, holding him in a cell, stripping
7 him of his uniform and wedding ring, taking his phone
8 and wiping it clean of evidence or making sure they
9 conveniently lost it. These corrupt dirtbags also
10 wrongly suspended Superintendent Taylor from work for 10:33
11 two years with his pay receiving a huge cut and put his
12 wife and children through a horrendous two-year ordeal
13 that was undoubtedly premeditated by the Garda
14 dictatorship, who are trying to cover up this corruption
15 and criminality that they, in my opinion, are guilty of 10:34
16 themselves. Isn't it strange that the exhibit officer
17 in charge of that phone was none other than chief
18 superintendent Jim McGowan, who is the adoring husband
19 of the toxic ex-Garda Commissioner Nóirín O'Sullivan
20 (both pictured below). 10:34

21
22 This story is starting to unravel and the truth is
23 being exposed rapidly. I have never had any doubt that
24 Dave Taylor is a completely innocent victim in all
25 this, but I have always said that in my personal 10:34
26 opinion O'Sullivan and her husband are completely
27 responsible for what Dave, Michelle and their family
28 have been put through and that both O'Sullivan and
29 McGowan are guilty of corruption, tampering and

1 spoilation of evidence and professional misconduct at
2 the very least, and this will be proven to be the case
3 in the very near future."
4
5 Now, you, as I understand it, reposted that on your 10:34
6 Facebook page.
7 A. I -- if one were to -- first of all, I don't use
8 Facebook that often. I rarely repost, I do my own
9 posts and --
10 CHAIRMAN: No, you were asked -- 10:35
11 A. -- I don't believe that I did.
12 CHAIRMAN: Ms. O'Doherty, please, could I --
13 A. But that is all I can say. I'd be surprised --
14 CHAIRMAN: I'll control my own microphone if you don't
15 mind. Okay, can I get a word in edgeways? You're 10:35
16 asked a very simple and straightforward --
17 A. well, I was answering, Chairman.
18 CHAIRMAN: well, you weren't actually. You were asked
19 a very simple and straightforward question. There's
20 this thing, it reads to me like something out of 10:35
21 Private Eye and a column that used to be written,
22 certainly when I used to read Private Eye, by a man
23 called Dave Spart. But the question you're asked,
24 whether this is sane or insane or sensible or
25 non-sensible is did you retweet this or did you post it 10:35
26 up on your Facebook?
27 A. well, I certainly didn't retweet it. I don't believe
28 that I did.
29 CHAIRMAN: All right. Okay, well, that's the answer

1 then.

2 A. I would be --

3 CHAIRMAN: That's the answer, we don't to hear any

4 more.

5 A. -- amazed if I did. But if it is there, well, I don't 10:36

6 know.

7 CHAIRMAN: Can we go on, Mr. O'Higgins, then please?

8 34 Q. MR. MÍCHEÁL O' HIGGINS: All right. well, just --

9 A. I would be amazed if I did.

10 35 Q. -- I don't wish to test the Chairman's patience in any 10:36

11 way, but I am looking at what I understand to be your

12 website?

13 CHAIRMAN: well, Mr. O'Higgins, I'm not sue I

14 appreciate that remark very much. But can we carry on?

15 36 Q. MR. MÍCHEÁL O' HIGGINS: I'm looking at your Facebook 10:36

16 page and it, in front of my eyes, includes a post on

17 4th -- on 3rd April of this particular communication --

18 sorry, I beg your pardon, 24th March, of this

19 particular communication. And it's really quite

20 simple, this is quite a standout sort of communication, 10:36

21 it contains quite serious allegations --

22 A. Are you talking about Christopher whatever his name is,

23 Shekleton?

24 37 Q. well, have you ever seen this before?

25 A. I possibly have seen it. But I don't believe that I 10:37

26 reposted it.

27 CHAIRMAN: well, look, Mr. O'Higgins --

28 A. That is my honest answer. That is my honest answer.

29 CHAIRMAN: -- whether I'm trying your patience or not,

1 and let that water go under the bridge, I'm being very
2 patient here. Now, maybe you would be so kind as to
3 actually just pass up the computer and say 'Look, is
4 this your Facebook page' or whatever we're talking
5 about on social media 'and is Mr. Shekleton's diatribe 10:37
6 reproduced on it?' So there's the evidence, if you
7 like, Ms. O'Doherty. (Computer shown to witness). And
8 the question is straightforward: Did you in fact put
9 that on your page?

10 A. That doesn't mean anything to me, sorry. 10:37

11 CHAIRMAN: well, what's the answer then?

12 A. My honest answer, Chairman, is that I don't believe I
13 did. I'm not in favour of using terms like "corrupt
14 dirtbags", that's not my style.

15 CHAIRMAN: No, I appreciate it's not your style, you're 10:37
16 a serious person and that's not the kind of language
17 that bears any resemblance to anything that you've
18 written that I'm aware of certainly. But the point
19 made by counsel to you is, look, did you take this and,
20 for whatever it's worth, like a photograph that you 10:38
21 like, did you put it on some form of social media as
22 coming from you to your followers, perhaps on the basis
23 that it's either ridiculous or it's worth reading or
24 whatever? Did you simply repost it?

25 A. My original answer stands. My honest answer to you is 10:38
26 that I don't believe I did.

27 CHAIRMAN: All right. well, could I see the computer,
28 if you wouldn't mind, Mr. O'Higgins? This, as I
29 understand, is something that's available on the line

1 right today, this particular second?

2 MR. MÍCHEÁL O' HIGGINS: That's my understanding,
3 Chairman, yes.

4 CHAIRMAN: Yes, okay. (Computer shown to Chairman)
5 Okay, it's coming up as Gemma O'Doherty timeline, you 10:39
6 have a number of friends and there's a number of
7 comments and then there is, Christopher Shekleton is
8 smiley face with a raised eyebrow, "feeling determined"
9 with Eddie Smith and 17 others. And it says, and it
10 goes on if this is, if I presumably use this -- 10:39

11 A. If it helps the Tribunal --

12 CHAIRMAN: Just please let me ask the question if you
13 wouldn't mind. It seems exactly the same as the text
14 that's on the screen that was put to you. It's your
15 Facebook page. You know, there it is. 10:39

16 A. I will have to look at it myself.

17 CHAIRMAN: Anyone who's in the room now is perfectly
18 entitled to look up their phone, if they have access to
19 Facebook, or their computer device --

20 A. And they will see that I rarely, if ever repost. 10:40

21 CHAIRMAN: -- and it seems to be there. So that seems
22 to be demonstrated to my satisfaction, unless you want
23 to say something else about it?

24 A. Well, I'd like to make two points. (A) --

25 MR. HARTY: Sorry, Chairman, I wonder if I could 10:40
26 interrupt at this stage? There is also a facility by
27 which somebody can tag somebody on Facebook to an
28 article that they have placed up and that can therefore
29 be linked back to that person's page. I haven't seen

1 this, it's been revealed as of now --

2 CHAIRMAN: well, you can use your computer and have a
3 look at it if you wish, Mr. Harty.

4 MR. HARTY: well, it isn't simply a matter -- simply
5 because an article references somebody's a Facebook 10:40
6 page doesn't mean that they put it on their Facebook
7 page.

8 CHAIRMAN: All right, okay. well, thank you very much.

9 A. And that is correct.

10 CHAIRMAN: well, did you put it on your Facebook page? 10:40

11 A. I genuinely don't -- my honest answer is I genuinely
12 don't believe I did.

13 CHAIRMAN: I don't think you need to say "genuinely"
14 and "honest" with every answer you make. You know, did
15 you or did you not? 10:40

16 A. I don't believe I did. But --

17 CHAIRMAN: It's not a criminal offence to do so, by the
18 way. I mean, you could be putting it up for the
19 amusement of the world.

20 A. No, I know. And, you know, these are the sentiments of 10:41
21 a citizen --

22 CHAIRMAN: Sorry, it's a straightforward question: Did
23 you or didn't you?

24 A. I don't believe that I did. I don't use Facebook very
25 often, I don't actually understand really how it works. 10:41

26 CHAIRMAN: All right, okay, that's your answer, the
27 answer is no. So would you continue, M. O'Higgins?

28 A. My answer is I don't believe that I did. But I would
29 like to say, if it helps the Tribunal, the general

1 thrust of this, you know, there probably is some truth
2 in it. But I don't believe that I reposted it on my
3 page.

4 38 Q. MR. MÍCHEÁL O' HIGGINS: And insofar as you indicate
5 there probably is some truth to it, to what are you 10:41
6 referring?

7 A. Well, I can understand the anger within it and, you
8 know, I can understand that maybe a lot of Irish
9 citizens feel like this about the treatment of
10 Superintendent Taylor. But I'm not willing to go any 10:41
11 further than that.

12 39 Q. Yes. You see, I'm not sure if you're --

13 MR. HARTY: Sorry, Si, I just want to interrupt again.
14 I've looked at Ms. O'Doherty's Facebook page --

15 CHAIRMAN: Look, M. Harty, this is not going to become 10:42
16 like the Mad Hatter's tea party. If there's a question
17 that's being asked that's improper, I will rule on it.
18 But you've intervened now four times and we're making
19 about as much progress as a snail travelling between
20 Cork and Dublin. So can we -- 10:42

21 MR. HARTY: I'll deal with it in re-examination.

22 CHAIRMAN: -- carry on please? Yes, that's a good way
23 of doing it.

24 40 Q. MR. MÍCHEÁL O' HIGGINS: Do you take the view that it is
25 fair to Nóirín O'Sullivan and her husband for this sort 10:42
26 of material to be spread around social media?

27 A. This particular post?

28 41 Q. Yes.

29 A. I believe -- well, it is my job, and I can only talk

1 about what my job is, which is to hold power to
2 account. That is my job. Nóirín O'Sullivan is well
3 able to defend herself, as is Martin Callinan.

4 42 Q. Just, you may not, in fairness to you, you may not be
5 fully aware of the state of play in relation to some of 10:43
6 Superintendent Taylor's allegations. All right? He
7 has now withdrawn a number of the allegations that are
8 contained here. And I'm not saying that he made all of
9 the allegations that are contained here, but he
10 certainly made some of them. And they're now 10:43
11 withdrawn, all right? So, armed with that information,
12 can I ask you do you think it is unfair to Nóirín
13 O'Sullivan and her husband for this sort of allegation
14 to be circulated widely?

15 A. Well, I'm not going to speak about her husband. But 10:43
16 certainly any dealings that I had with Nóirín
17 O'Sullivan were always negative. She certainly
18 presided over scandal after scandal within the force
19 and I'm afraid that if there is a lot of public
20 disapproval of her, she has brought it all upon 10:44
21 herself.

22 43 Q. I see. So does that mean the answer to my question is
23 it's not unfair that this was put about social media,
24 even though it contains allegations that have now been
25 withdrawn? 10:44

26 A. Well, I'm not responsible for what is put on social
27 media. I'm only responsible for what I say about
28 Nóirín O'Sullivan. And I stand over everything I have
29 said about her.

1 44 Q. Yes. Can I ask you just to move, to try and make some
2 progress in matters, can I ask you to --
3 CHAIRMAN: well I wonder, M. O'Higgins, could you bear
4 in mind that the witness has said nothing about Nóirín
5 O'Sullivan to me? 10:44
6 MR. MÍCHEÁL O' HIGGINS: I will, Chairman, yes.
7 CHAIRMAN: So --
8 MR. MÍCHEÁL O' HIGGINS: well, save, Chairman, that
9 you'll appreciate, and I know you do appreciate there
10 are contained within widely distributed materials 10:45
11 allegations against Ms. O'Sullivan and against Martin
12 Callinan and also there are contained within statements
13 that have been quite properly distributed by this
14 Tribunal in the statements provided certain allegations
15 that equally have been withdrawn, with respect, to, I 10:45
16 think, both persons --
17 CHAIRMAN: No, I know that and I've been here all the
18 way through. But what I --
19 MR. MÍCHEÁL O' HIGGINS: I do take what the Chairman is
20 saying. 10:45
21 CHAIRMAN: That's fine.
22 MR. MÍCHEÁL O' HIGGINS: And I'll try and move on from
23 that. I'm so, just while it's in my mind, Chairman,
24 can I just indicate it may be that you misheard me
25 earlier on in relation to trying patience -- 10:45
26 CHAIRMAN: well, look, M. O'Higgins, seriously, we've
27 all been together a very long time and I'm a human
28 being and I understand other people are human beings as
29 well. So let the water flow out into the ocean now and

1 let's carry on. And I'm not looking for anyone to
2 deliver some kind of an elaborate apology, because
3 let's go on.

4 45 Q. MR. MÍCHEÁL O' HIGGINS: well, I wasn't proposing to do
5 that, I'll just ask you to look at the transcript
6 perhaps later on. (To witness) Now, Ms. O'Doherty, can
7 we move then to --

10:46

8 CHAIRMAN: I'll look at it when I have to,
9 Mr. O'Higgins. For the moment I'm listening.

10 46 Q. MR. MÍCHEÁL O' HIGGINS: Can we move to the
11 allegations -- the article you had written about Martin
12 Callinan's penalty points being cancelled? And I want
13 to bring you to what you said yesterday with respect to
14 that, and it was in your evidence yesterday, all right?

10:46

15 A. Mm-hmm.

10:46

16 47 Q. And this is what you said, and it's at page 171 of
17 yesterday's transcript. You said that:

18
19 "I came into possession" - line nine - "I came into
20 possession of a Pulse document suggesting that a person
21 called Martin Callinan had had his speeding points
22 terminated. The source believed that this was the
23 Garda Commissioner. That would not have satisfied my
24 lawyers, our lawyers at the time in INM and so I had to
25 be absolutely clear that Martin Callinan on the Pulse
26 document was Martin Callinan the Garda Commissioner.
27 Obviously this was a very -- a story of significant
28 public interest."

10:46

10:46

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And then you say:

"Because the man with overall responsibility for oversight of our road safety laws appeared to be abusing them for his own personal gain."

10:47

All right?

A. Correct.

48 Q. And that's how you put it at that point in time, and this is now at a point in time where you've come into possession of the document, but you haven't yet arrived out to Mr. Callinan's home. All right? And what I wish to canvass with you is, you appear to have excluded from the outset the possibility that Martin Callinan, or indeed anybody else for that matter who'd applied to have penalty points cancelled, you appear to have excluded the possibility they may have validly and legally cancelled a fixed charge notice, you excluded that from the off.

10:47

10:47

A. I did. Because there were no details written in the space where the termination is placed. And I believe, under Garda regulations, that there needs to be an explanation put into the space. If you refer back to the Pulse document, you will see that the space which states "Termination" is left blank. And there needs to be an explanation there.

10:48

10:48

49 Q. Yes. You see, I'm suggesting to you that that is something of a prejudgment, in that, merely armed with the Pulse printout, you appear to have formed the view

1 that he appeared to be abusing the laws for his own
2 personal gain is how you put it. And I'm suggesting to
3 you that was a prejudgment and it was unfair to start
4 from that premise before you'd gone about gathering
5 together the facts. Do you understand the point I'm
6 making? 10:49

7 A. No, the facts are that the blank space on the
8 termination box indicated that there was a flaw there
9 and that he had not -- the person who terminated the
10 points for him had not given an explanation as to the 10:49
11 reason for the termination. And that suggested to me
12 that there was something improper about it. But apart
13 from that, he did personally gain from this, it was a
14 personal gain - he did not receive penalty points on
15 his licence. And he has yet to answer a number of 10:49
16 questions which were asked to him and which were also
17 asked of the Minister for Justice. And those questions
18 remain unanswered.

19 50 Q. You see, I wish to suggest to you that there appears to
20 be something of a pattern here with the way you go 10:49
21 about doing things; for instance, you had to be stopped
22 yesterday in repeating allegations you had made in the
23 papers concerning the D family, a member of the D
24 family. And I'm not going to go into that
25 specifically, but you made certain allegations in 10:50
26 relation to the D family member who aren't present or
27 represented here.

28 A. Which I stand over.

29 51 Q. All right. Well, we needn't go into that. But you did

1 that -- really the point I'm seeking to make is this:
2 You made, in the papers, allegations against a member
3 of the D family without ever even speaking to a member
4 of the D family or hearing their point of view, or
5 still less putting to them the allegation that you were 10:50
6 going to put out there. And I'm suggesting to you
7 that's an unfair modus operandi, it's an unfair way of
8 going about things.

9 A. I utterly dispute what you're saying.

10 52 Q. The door-stepping of, to use that colloquialism, of 10:50
11 Martin Callinan's home, the e-mail correspondence that
12 was opened yesterday by Mr. Fanning, counsel for
13 Independent News and Media, appears to show that you
14 accepted you were in the wrong and that you accepted
15 you had failed to comply with the company's guidelines 10:51
16 or protocols on such matters. Would that be fair?

17 A. My understanding of that - and it is five years ago -
18 is that I was not aware that such protocols existed.
19 Mr. Rae had just become editor, there was a completely
20 different culture within the newspaper and certainly my 10:51
21 previous editor, Gerry O'Regan, would have
22 congratulated me for a story like that and said -- and
23 would have been very critical of me if I had not
24 checked my facts and checked that Martin Callinan lived
25 at that address and was the Garda Commissioner. 10:52

26 53 Q. Can I ask to you look at page 7450 of the materials
27 please? And this is two e-mails, one from Stephen Rae
28 and your reply to Stephen Rae. So if we just -- if we
29 could scroll down slightly. This is your response. If

1 we go down a small bit more we just get the date of
2 this communication -- if we go up a small bit more,
3 sorry. So this is from Gemma O'Doherty, yourself,
4 dated 12th April 2013 at 13:51 to Stephen Rae. And
5 Stephen Rae then, what position did he occupy at that 10:52
6 point?

7 A. Editor.

8 54 Q. Right. And this is your response to his what was
9 suggested to you yesterday was a rather temperate and
10 reasonable e-mail, this was your response: 10:53

11
12 "Thanks very much, Stephen. The only reason I went to
13 the house was to confirm the address so I had my
14 information correct before I started discussing the
15 story publicly and blaming anybody in the wrong. My 10:53
16 error."

17
18 what --

19 A. Yes, and if you continue reading you will see that I
20 said: 10:53

21
22 "This protocol has not been brought to my attention
23 until now."

24 55 Q. well, we might do that:

25 10:53

26 "My error. The story only came to me at about 7 p.m.
27 and I felt it was urgent to pursue it before other
28 media got it. Unfortunately Ian, Peter and Cormac were
29 at the advertising evening and I didn't want to disturb

1 them, so I took it on my own bat to see if this
2 sensational story stood up. I absolutely note your
3 comments below and many thanks for informing me of
4 same. I contact prominent people all the time about
5 potential exclusives that may or may not stand up, but 10:53
6 don't like to be pestering you guys every time I do.
7 The protocol has not been brought to my attention until
8 now and I was not aware of it. I am now, so many
9 thanks, and obviously I will take it on board in
10 future." 10:54

11
12 All right? So, my question to you, do you see where it
13 says in the second line "my error"; what was your
14 error?

15 A. I don't believe I committed any error. I was saving 10:54
16 the company from a massive libel if I'd got my
17 information wrong. At the time I had been spoken to in
18 outrageous terms and, you know, following my visit to
19 Martin Callinan's house I had been treated despicably.
20 I know that I was probably very anxious when I wrote 10:54
21 that e-mail, because I had never been treated that way
22 before by senior management in INM.

23 56 Q. Yeah, and perhaps we won't --

24 A. That's my answer.

25 57 Q. -- we won't trespass into your dispute, which appears 10:54
26 to be quite bitter, with INM. But I just simply want
27 to ask you what error were you referring to there?
28 It's your e-mail, your words.

29 A. I don't believe I committed any error. This e-mail was

1 written after a very, very disturbing series of events.
2 And I'm not going to rerun my defamation action against
3 INM, which I was successful in. And I note that the
4 apology has been issued to the Tribunal.

5 58 Q. There's no defamation here, this is your communication, 10:55
6 your words.

7 A. This is all part of my defamation action.

8 59 Q. The e-mail that you wrote?

9 A. All of the -- all -- I mean, most of the correspondence
10 is, of course, yes. 10:55

11 60 Q. All right. We might move on from that. Your statement
12 of 13th March 2017 appears to be a request to the
13 Tribunal to call you as a witness. Would that be fair?
14 That was your desire, to be called as a witness into
15 this Tribunal, you wanted that? 10:55

16 A. Oh, it was my desire. Because I believe I lost
17 livelihood for supporting the work that Maurice McCabe
18 was doing.

19 61 Q. So effectively this was something of a pitch you were
20 making to be involved in this Tribunal; you desired 10:56
21 that for a particular purpose?

22 A. Well, I believed it was important that the public heard
23 my evidence.

24 62 Q. Yes. And would it be fair to say you were anxious to
25 make yourself relevant to this Tribunal and to, if 10:56
26 you'll forgive this reasonably strong language, to
27 insert yourself into the whole narrative of the
28 Tribunal?

29 A. I believe it is hugely relevant when a journalist is

1 silenced in the course of her work by a police
2 Commissioner when she is holding him to account.

3 63 Q. And you instructed your solicitors, didn't you, to send
4 a communication with 34 bullet points to the Tribunal,
5 and that was on 18th May 2017? 10:56

6 A. I'd like to see that, but --

7 64 Q. We'll come to that in due course. And I think also
8 your solicitor, on your instructions, requested a right
9 of representation in their own communication, and
10 that's also in the materials. I'm not saying there's 10:57
11 anything untoward about that, but this was all part of
12 your request --

13 A. I believe I am entitled to representation.

14 65 Q. Yes. And it was all part of your desire and request to
15 be involved in the Tribunal and to be perhaps centre 10:57
16 stage, would that be fair?

17 A. Absolutely not.

18 66 Q. Why do you say absolutely not?

19 A. I certainly did not want to be centre stage, that was
20 not my intention at all. My desire was for the facts 10:57
21 to be presented as they were connected to me before the
22 Tribunal. I know that justice Charleton has requested
23 that journalists come forward if they have information
24 that may assist the Tribunal and that is what I have
25 done. 10:57

26 67 Q. Yes, and if they're willing to answer questions,
27 doubtless. So before then committing your position to
28 paper and arranging for your bullet points to be sent
29 off to the Tribunal, can I take it that you checked

1 through the document for accuracy to ensure the
2 Tribunal was being given accurate and reliable
3 information?

4 A. What point are you making at this stage?

5 68 Q. It's a question; did you check through your bullet 10:58
6 points document to ensure that it was accurate?

7 A. Well, I'd like to know the point you're making. I'm
8 sure I did, but I would like to know exactly what point
9 you're making.

10 69 Q. Well, do you -- 10:58

11 A. Because if you're suggesting there is an inaccuracy
12 there, well, then show it to me.

13 70 Q. My question is: Did you check through it for accuracy?

14 A. I imagine I did. But I -- until such time as you
15 expand on what you're saying -- 10:58

16 71 Q. Well would it be your practice --

17 A. -- I find it hard to answer that question.

18 72 Q. Would it be your practice to check through
19 documentation that you're putting your name to, to
20 ensure, so far as you can, that it's correct; would 10:58
21 that be your normal practice?

22 A. That would generally be my practice, yes.

23 73 Q. So it would generally be?

24 A. It would be my practice to check information that my
25 name is going on. But I don't -- you know, I'm in the 10:59
26 dark as to what point you're trying to make.

27 74 Q. So on what occasions would it not be your practice, if
28 it's only generally your practice?

29 A. I think you know the answer that I'm giving.

1 75 Q. I don't, that's why I'm asking the question. If it's
2 generally your practice, on what type of occasions
3 would it not be your practice to do that, to check it?
4 A. It would rarely not be my practice to do that. But I
5 mean, as I say, I'm in the dark as to the point you're 10:59
6 trying to make.

7 76 Q. Well, if we could look at the document please at page
8 3665, which I think is your bullet points
9 communication. Just to help you, it's in Volume 14,
10 Ms. O'Doherty. And it actually starts at page 3663. 11:00
11 And it is enclosed under a cover letter from KRW Law
12 Solicitors dated 18th May 2017, where your solicitors
13 indicate in the third paragraph down that:
14
15 "We herewith enclose a copy of our client's 11:00
16 instructions in relation to the queries raised by the
17 inquiry in your previous correspondence of 27th March
18 '17. To that end, we would ask that the inquiry will
19 now consider granting Ms. O'Doherty representation."
20 11:00
21 That's fine, we can pass from that. So in any event,
22 the enclosure with this represents your instructions,
23 isn't that right? Isn't that right?
24 A. That letter was written by my solicitor.

25 77 Q. Yes. And behind it -- 11:01
26 A. I didn't write that letter. It was in the hands of my
27 lawyers at that stage.

28 78 Q. Yes, but they have enclosed a copy of your
29 instructions, isn't that right? Is there any doubt

1 about that?

2 A. I don't -- I mean, I imagine -- I'm not familiar with
3 this letter as far as I know.

4 79 Q. well, just -- I don't intend --

5 A. what point are you trying to make? 11:01

6 80 Q. This isn't intended as any sort of, just in case you're
7 concerned, this isn't some sort of catch-out session.
8 Just the letter indicates that your solicitor is
9 enclosing "a copy of our client's instructions in
10 relation to the queries raised." All right? And then 11:01
11 behind that there is a document of a few pages
12 containing numbered paragraphs 1 to 34 and that, as I
13 understand it, these represent your instructions. So
14 just to take it in stages, do you recall sitting down
15 with your solicitor to write down your instructions to 11:02
16 your solicitor?

17 A. I instructed my solicitor.

18 81 Q. Right. Did you -- were you aware --

19 A. Could we get to the point though?

20 82 Q. You see, how this works is I ask the questions and you 11:02
21 answer them, or that's normally how it works.

22 A. I'm not really able to answer these questions until I
23 know the point that you're trying to make.

24 83 Q. Does this document, paragraphs 1 to 34, have you seen
25 it before? 11:02

26 A. Yes.

27 84 Q. Does it represent, as your solicitor's letter
28 indicates, does it represent your instructions?

29 A. well, I can't see the whole letter.

1 85 Q. All right. If we move to page --
2 CHAIRMAN: well, you can, you can see the whole letter,
3 because it's been put out in front of you and you can
4 simply turn the page.
5 A. well, do you want me to read the entire letter? 11:02
6 CHAIRMAN: You know, you're a literate person, so am I,
7 and taking the trouble of taking out the volume,
8 opening it at the right page, it's there right in front
9 of you, so you can see the whole letter and all of the
10 bullet points. 11:03
11 A. when was the letter written again?
12 CHAIRMAN: well, all you've got to do is cast your eye
13 down and you'll see a date on it no doubt.
14 A. well, it was written more than a year ago, so I would
15 like to read it in full before I answer any questions. 11:03
16 But to save the Tribunal's time, if you'd like to get
17 to the actual point that you're trying to establish,
18 I'd be more than happy to answer it.
19 86 Q. MR. MÍCHEÁL O' HIGGINS: Are you in any doubt as to
20 whether this represents the normal process whereby a 11:03
21 solicitor takes instructions from a client and then
22 commits them to paper, are you in any doubt about that?
23 A. I don't understand the question.
24 87 Q. All right, could you look at page 3664? There is a
25 number of paragraphs 1 to 10, do you see that? 11:03
26 CHAIRMAN: Ms. O'Doherty, look, it may help if I
27 explain. You kindly wrote to the Tribunal and you said
28 'Look, I've got something to offer' and you said,
29 perfectly properly, 'I want representation, because if

1 I'm going to be a witness and I'm going to say things
2 then I may be attacked as to my character, the Tribunal
3 may take a negative view'. That's all perfectly
4 proper, there's nothing wrong with that and thank you
5 for your help. But enclosed with the letter is a 11:04
6 statement of fact. It reads a bit like an affidavit.
7 So you say 'One, I am a journalist; two, here is my
8 relationship with Maurice McCabe', all of that kind of
9 stuff. And all that counsel has been asking you about
10 for the last while is were you the author of this 11:04
11 document that is actually now in front of you?
12 A. And I'm asking, given that this letter was written more
13 than a year ago, that I have permission to read the
14 entire letter before I agree to answering the question.
15 CHAIRMAN: well, you know, part of the reason, 11:04
16 Ms. O'Doherty - and indeed I had this yesterday and the
17 day before - that you're represented is you have a
18 lawyer, they have the papers, we distribute them, you
19 have the opportunity to consult, the people of Ireland
20 are going to be given a big bill for all of that in due 11:04
21 course and I expect anyone who's coming in to actually
22 know their case, to have read their papers beforehand.
23 Now, it would be nice if Mr. O'Higgins put what he says
24 the point is, but I am taking it as a fact as of this
25 moment that you did write to us in this letter, that 11:05
26 you were seeking representation, that you were seeking
27 to cooperate and that you enclosed a statement of
28 facts. Now, if Mr. O'Higgins would come to the facts
29 that are there, the rest of it, as far as I'm

1 concerned, is primary school stuff and I'm going to
2 take it on board.

3 88 Q. MR. MÍCHEÁL O' HIGGINS: Paragraph 14 on page 3665,
4 Ms. O'Doherty, your letter of instruction says the
5 following:

11:05

6
7 "The Garda Commissioner Nóirín O'Sullivan launched a
8 book of his" - that's Paul Williams - "and they appear
9 to have had a close relationship. It's my
10 understanding that the same firm of solicitors
11 represents Paul Williams, INM and the woman who was
12 purportedly behind the allegations of sexual abuse
13 concerning Sergeant McCabe."

11:05

14
15 If we just concentrate on the first sentence, the first
16 line I should say, the Garda Commissioner Nóirín
17 O'Sullivan launched a book of Paul Williams.

11:06

18 A. I've clarified this for the Tribunal. Nóirín
19 O'Sullivan attended his book launch.

20 89 Q. Yes. It may be a trivial point, but I'm just wondering
21 did you check through paragraph 14 prior to sending in
22 what I think you now accept was inaccurate, providing
23 the Tribunal with actually factually wrong information?

11:06

24 A. I don't think so. I mean, I think the fact that she
25 was at his launch you could you interpret, you know,
26 that she was part of the launching. She attended his
27 launch.

11:06

28 90 Q. Yes. Well, did it suit your cause perhaps that it
29 would, to the innocent reader, it would suggest a

1 closer relationship perhaps between the two if she'd
2 actually launched the book? Is that why you went a
3 little bit further than perhaps the truth?

4 A. I don't think there's any dispute about the close
5 relationship between Nóirín O'Sullivan and Paul
6 Williams. 11:07

7 91 Q. Do you wish to --

8 A. You don't need me to prove that.

9 92 Q. That actually wasn't my question. My question was --
10 well, first of all, did you knowingly make that error? 11:07

11 A. I don't think it is a particular error. I mean, she
12 was part of the launch of his book. There were
13 photographs distributed fairly widely of the two of
14 them together at the launch. So technically was she
15 the person who launched his book? No. And I made the 11:07
16 Tribunal aware of that.

17 93 Q. So why did the -- so can I take it from that you accept
18 that is an error?

19 A. Well, I accept that she did not technically launch his
20 book, and I corrected the record on that. But I do 11:07
21 stand over the fact that I believe, you know, she was
22 part of the launch.

23 94 Q. Right. So you accept it was something that required to
24 be corrected. Why did you include an incorrect version
25 in your document? 11:08

26 A. I corrected the record on it. And the point that I was
27 making here was a relevant point, in that it showed the
28 close nature of the relationship between Paul Williams
29 and Nóirín O'Sullivan, which I know has been

1 established before this Tribunal already.

2 95 Q. Has it -- do you bother yourself with -- you don't
3 appear really terribly troubled by you provided
4 factually incorrect information; that's not a concern
5 for you, is it? 11:08

6 A. As I have said, I corrected the record on this.

7 96 Q. Right. But I'm simply asking you, are you saying the
8 error occurred inadvertently or did you make that error
9 deliberately?

10 A. Well, given that there were pictures of the two of them 11:08
11 together smiling at the book launch, it probably was my
12 understanding that she was the person who launched the
13 book. But as soon as I became aware of the fact that
14 she had just attended the launch and had not actually
15 technically launched it, I corrected the record. 11:09

16 97 Q. Yes.

17 A. But I don't really see how relevant this is. It is
18 all -- this particular point proves the close
19 relationship between Paul Williams and Nóirín
20 O'Sullivan. 11:09

21 98 Q. Well, just while we're on that, do you happen to listen
22 to Newstalk radio?

23 A. No.

24 99 Q. You don't, all right. And you're not aware that Nóirín
25 O'Sullivan was the subject of considerable criticism 11:09
26 over a period by Paul Williams? You weren't aware of
27 that, were you?

28 A. I'm not in a position to go into that. I don't really
29 have an awful lot of time for Paul Williams'

1 journalism, as I stated yesterday.

2 100 Q. No, but you're happy to bandy about the motion that the
3 two of them are tight. And I'm suggesting --

4 A. That is my belief.

5 101 Q. -- I'm suggesting to you that's not borne out by 11:09
6 actually objective facts and anybody listening to
7 Mr. Williams' communications on radio about N6ir6n
8 O'Sullivan, simply not borne out by the facts.

9 A. Well, I believe that this Tribunal has heard that a
10 significant number of telephone calls were made between 11:10
11 N6ir6n O'Sullivan and Paul Williams.

12 102 Q. Let's move to paragraph 19, Ms. O'Doherty:
13
14 "Rumours circulated that a copy of a Garda file had
15 been given to Paul Williams." 11:10
16
17 Is that factually correct, that a file had been given
18 to Paul Williams?

19 CHAIRMAN: Can I just stop for a minute? It would
20 help, Ms. Ni Gowan has taken the trouble of taking out 11:10
21 the volume and putting it in front of you now --

22 A. Okay. I've an awful lot of volumes here in front of
23 me.

24 CHAIRMAN: well, it's the very top one, which was
25 handed to you personally just a few minutes ago and 11:10
26 it's there. And one of the problems which witnesses
27 may have is a particular paragraph is quoted and you
28 may need to see what the context is, the paragraph
29 before and the paragraph after --

1 A. I understand.

2 CHAIRMAN: -- so it's a wise thing to do to actually
3 look at the hard copy. So if you'd like to look at the
4 hard copy. But if you don't, that's your own issue.

5 A. I can see here, yeah, thank you. Thank you, Chairman. 11:10

6 103 Q. MR. MÍCHEÁL O' HIGGINS: Paragraph 19, you appear to be
7 conveying the message, albeit with the language
8 "rumours circulated", you're conveying the message that
9 a Garda file had been given to Paul Williams, isn't
10 that right? That was something you were giving the 11:11
11 Tribunal to understand?

12 A. I state very clearly that rumours circulated to that
13 effect.

14 104 Q. Well, you go further:
15
16 "Rumours circulated that a copy of the Garda file had
17 been given to Paul Williams and that it revealed that
18 Sergeant McCabe was under investigation for child
19 sexual abuse."
20 A. Mm-hmm. 11:11

21 105 Q. "I knew that files were sometimes given to INM. When I
22 heard the allegations, I contacted Sergeant McCabe."
23
24 So insofar as the reader of that paragraph was given to
25 understand that a copy of the Garda file had been given 11:11
26 to Paul Williams, do you now accept that that's wrong?

27 A. No, I stated that rumours circulated that a copy of the
28 Garda file had been given to Paul Williams. That's
29 what I stated. Is it my belief that Paul Williams was

1 given details of the Ms. D file? Yes.

2 106 Q. well, can I ask you, I mean, is that normal
3 journalistic practice, to float the notion, a
4 particular allegation and to seek cover by suggesting
5 'I didn't say it, I merely said that rumours indicated 11:12
6 that'; is that normally -- is that normal practice and
7 is it fair?

8 A. well, that is my belief. But it is also my belief, as
9 I stated yesterday, that the new INM management under
10 Stephen Rae seemed to be in possession of Garda files. 11:12
11 Because Stephen Rae was in possession of the Garda file
12 pertaining to the Father Niall Molloy murder.

13 107 Q. You see, we were over this yesterday, or at least you
14 were, with the Chairman in fact and I had understood
15 you to downgrade your position to a recollection. Do 11:13
16 you remember that exchange?

17 A. Can you expand on that?

18 108 Q. well, perhaps I'll move actually -- sorry, I'm perhaps
19 jumping ahead of myself in an effort to move things on.
20 could we move to paragraph 26: 11:13
21

22 "Garda Wilson also informed me that a reporter named
23 Debbie McCann who worked for the Irish Daily Mail and
24 whose father was a senior garda was allegedly one of
25 the journalists that was putting the word out that 11:13
26 Sergeant McCabe was a child sex abuser.

27

28 27. He said that she called him a pedo".
29

1 All right?

2 A. I stand over that.

3 109 Q. Well, do you stand over that? I had understood you to,
4 in exchanges with the Chairman yesterday, downgrade
5 your position to a mere recollection? 11:14

6 A. Yes, my recollection is that Garda John Wilson told me
7 that he had heard that Debbie McCann was spreading
8 rumours that Maurice McCabe was involved in child
9 sexual abuse.

10 110 Q. And you declined to withdraw the suggestion, even 11:14
11 though you're now aware that Debbie McCann has said she
12 never spoke with John Wilson nor met him?

13 A. And I did not say that.

14 111 Q. I beg your pardon?

15 A. I did not say that John Wilson had spoken to her. 11:14

16 112 Q. But you see, again --

17 A. Has Debbie McCann disputed this?

18 113 Q. -- I'm suggesting to you that the way it's phrased here
19 in paragraphs 26 and 27 again would entitle the reader
20 to think that you're saying -- the reader to think that 11:14
21 Garda Wilson had in fact spoken to Debbie McCann.

22 A. That's not my understanding.

23 114 Q. And are you suggesting that isn't a reasonable
24 construction from paragraphs 26 and 27?

25 A. No. But I would like to know, if you can assist in 11:15
26 this regard, does Debbie McCann dispute the fact that
27 she called Maurice McCabe a pedo?

28 115 Q. Yo usee, I'm suggesting you --

29 A. "Pedo" is the word that was used. I don't like to use

1 that word.

2 116 Q. -- this is all part of a pattern again, Ms. O'Doherty,
3 of you making allegations against people and,
4 specifically on behalf of my clients, you making
5 allegations against Martin Callinan and Nóirín
6 O'Sullivan that are unfounded and are really quite
7 wild.

11:15

8 A. Absolutely incorrect.

9 117 Q. I'm suggesting to you that you've no difficulty
10 throwing out, or sometimes repeating allegations
11 against persons with whom you believe you are in
12 dispute.

11:15

13 A. Again, absolutely incorrect.

14 118 Q. Your first main allegation, as I understand it, is that
15 Martin Callinan somehow procured your dismissal or
16 redundancy from INM, you blame him for the fact you
17 were made redundant?

11:16

18 A. I do.

19 119 Q. Right. The way you put it in your document is that:

20

11:16

21 "Martin Callinan brought considerable pressure to bear
22 on INM and that such pressure ultimately resulted in my
23 being wrongfully dismissed."

24

25 That's the end of paragraph 8 of your bullet points.

11:16

26 And that is your claim. Isn't that right?

27 A. I'd like an opportunity to read point 8.

28 120 Q. Certainly. It's on page 3664.

29 A. Yes, I'm reading it now.

1 121 Q. The last line of it:
2
3 "I met significant resistance in my newspaper when it
4 came to getting my story published concerning the
5 former Garda Commissioner and I have reason to believe 11:17
6 that he brought considerable pressure to bear on INM
7 and that such pressure ultimately resulted in my being
8 wrongfully dismissed".
9
10 Do you see that there? 11:17
11 A. I'm not in any doubt about that.
12 122 Q. Yes. Even though it has been indicated to you through
13 counsel for INM that the decision was objectively
14 based, a lot of people were made redundant, you were
15 the only one who didn't accept the proposals and that 11:17
16 in fact it had nothing to do, contrary to your
17 insistence, with any pressure from any guard or Martin
18 Callinan; you heard him say that?
19 A. This has all been decided in the High Court and my
20 apology stands. I would like to take the opportunity 11:17
21 to read my apology from INM into the record of the
22 Tribunal if I may?
23 123 Q. I think we can be saved that, there's no need to do
24 that now. I want to just ask you to stick with the
25 questions. You appear to have -- you're insisting on a 11:18
26 position because it is no more than your belief; that
27 appears to be your position, isn't that right?
28 A. It is my belief, yes.
29 124 Q. Can I ask to you move then to your own interview

1 statement with the Tribunal and go to page 3684, which
2 is in the same volume, volume 14? And on page 3684,
3 towards the bottom of the page, line 168 you make the
4 following, if I may say, rather sweeping statement.
5 Towards the end of the line of page 168 you say the 11:19
6 following:

7
8 "Just in that timeframe from April 2013 I believe that
9 all hell came down on Maurice McCabe, especially
10 regarding the Tusla allegations. I believe this was 11:19
11 because Martin Callinan" -- do you see it there?

12 A. Yes.

13 125 Q. Well, are you following what I'm saying?

14 A. I am, yes.

15 126 Q. "I believe this was because Martin Callinan was named 11:19
16 as a person abusing the fixed penalty notice system.
17 It became personal for him."

18
19 So you've posited a belief there that Martin Callinan
20 was responsible, or partly responsible for the Tusla 11:19
21 allegation.

22 A. The point I am making here is that it is my belief that
23 the smear campaign against Sergeant McCabe intensified
24 following the exposure of Martin Callinan's penalty
25 points being wiped. And I'd like to expand on that if 11:20
26 I could be given the opportunity.

27 127 Q. Certainly. Can I ask it this way, to give you that
28 opportunity: Can you point to the Chairman please any
29 evidence to justify your belief that all hell came down

1 on Maurice McCabe, especially regarding the Tusla
2 allegation and your belief this was because Martin
3 Callinan was named as a person abusing the FCPN? What
4 is the evidence for that, not your belief now, what is
5 the actual evidence for that?

11:20

6 A. I believe that in the weeks following my exposé on
7 Martin Callinan's points being wiped the Ms. D
8 allegations emerged. I believe that the Tusla file was
9 created in August of 2013. But going back even closer
10 to that, I know that my former colleague Anne Harris
11 yesterday testified to the fact that the information
12 that she heard in relation to the allegations against
13 Maurice started to emerge as early as May of 2013. We
14 also know that 'Operation Squeeze' apparently was
15 launched shortly after my story. This was the
16 catalogue of bad news stories which Garda Headquarters
17 seemed to be digging up against Sergeant McCabe. Then,
18 not long afterwards, in January 2014 we had the
19 "disgusting" comment from Martin Callinan, which was a
20 clear expression of his real views towards Garda Wilson
21 and Sergeant McCabe. So I'm not in any doubt about the
22 fact that the campaign against Sergeant McCabe
23 intensified after my story was published.

11:21

11:21

11:21

24 128 Q. Again you might just focus on my question; do you have
25 any evidence that you can point the Tribunal to for
26 what appears to be your belief that Martin Callinan was
27 somehow behind the Tusla allegation? Do you have any
28 evidence for that?

11:22

29 A. My belief is that the campaign against Sergeant McCabe

1 by Garda Headquarters intensified after my story about
2 Martin Callinan.

3 129 Q. You see, this would appear, again returning to what I'm
4 suggesting is a pattern, this appears to be further
5 evidence of a pattern of you making baseless and wild 11:22
6 allegations, perhaps to catch a populist wave, when it
7 suits you, to make allegations against persons whom you
8 feel you're in dispute with. I'm suggesting to you you
9 are again -- this is further proof of wild allegations
10 not grounded in actual facts. Do you understand the 11:22
11 point I'm making?

12 A. I repeat that the Tusla file was created in August
13 2013. The Ms. D allegations emerged at that point,
14 very shortly after my story about Martin Callinan. I'm
15 not in any doubt about any of this. And I'm also not 11:23
16 in any doubt that Paul Williams, who facilitated this
17 smear campaign, was another person who personally
18 gained from the abuse of our -- the penalty points
19 system, in that he had a number of penalty points wiped
20 from his licence. And he was the facilitator in 11:23
21 relation to putting stories about Ms. D into the public
22 domain.

23 130 Q. Can I finish by asking you, Ms. O'Doherty, from your
24 experience as an investigative reporter, as you
25 describe yourself, do you have any view on whether it 11:23
26 is necessary for an investigative reporter, before
27 forming opinions that they share with the wider world,
28 that there's any necessity to ascertain basic facts to
29 ground such opinions? Do you have any view on that, or

1 is there a freedom to simply publish one's opinion
2 unsupported by objective facts?
3 A. My journalism stands for itself. And I always tell the
4 truth as I see it and make sure that the facts are
5 checked before I put anything into the public domain. 11:24
6 MR. MÍCHEÁL O' HIGGINS: Thanks very much.
7 CHAIRMAN: Was there any further questions for
8 Ms. O'Doherty, apart from her own counsel? No. All
9 right, Mr. Harty.
10 11:24
11 THE WITNESS WAS EXAMINED BY MR. HARTY:
12
13 131 Q. MR. HARTY: Ms. O'Doherty, perhaps if we can start with
14 that final question; in relation to the article about
15 Commissioner Callinan's penalty points, did you publish 11:24
16 your initial concerns without checking the facts?
17 A. No, I checked the facts, as I always do.
18 132 Q. You were in fact in contact with the Garda Press Office
19 in relation to those, weren't you?
20 A. Yes, I was. 11:25
21 133 Q. And you sought as much information as you possibly
22 could, isn't that correct?
23 A. Very limited information was given to me and the
24 questions that I asked, by and large, were not
25 answered. 11:25
26 134 Q. In relation to the other steps that took place on that,
27 in relation to that story, the protocols which were put
28 to you yesterday or referred to in the e-mails
29 yesterday, is it the case that those protocols had

1 never been brought to your attention before?

2 A. I wasn't aware of any such protocols. The only
3 protocols were that you were not to get the company
4 sued. And that's what I was doing in that position.

5 135 Q. All right. In relation to the question of the Facebook 11:25
6 page, I've taken the opportunity read through your
7 Facebook page and certainly there is no post from a
8 Christopher Shekleton between 1st March of this year
9 and today's date, which would suggest that it couldn't
10 have been put on your Facebook page. And do you accept 11:26
11 that that is the case, that you never --

12 A. Well, thank you for clarifying that. And I would like
13 the Tribunal to make sure that that is put into the
14 record.

15 136 Q. You can be tagged on somebody else's Facebook postings, 11:26
16 isn't that correct? So somebody can add your Facebook
17 to tag you into it, isn't that correct?

18 A. I believe so. I don't use Facebook sufficiently to
19 understand how it works, but I don't believe that I
20 reposted that particular post. 11:26

21 137 Q. And if you were publishing about somebody wild
22 allegations about what they're saying about somebody,
23 would you make sure to check your facts before you put
24 questions to them in relation to it?

25 A. I always check my facts before I put information into 11:26
26 the public domain.

27 138 Q. Yes. And the facts in this case is that you had not in
28 fact published that piece on your Facebook page, isn't
29 that correct?

1 A. Well, that is my belief.

2 139 Q. The situation in relation to what occurred afterwards,
3 after you published your story, you say that your
4 relations with Independent News & Media deteriorated
5 rapidly, that even though you were one of -- you had 11:27
6 been in the company for 17 years, you were the only
7 person who was targeted for compulsory redundancy,
8 isn't that correct?

9 A. That's my belief.

10 140 Q. That you did bring proceedings before the EAT in 11:27
11 relation to that and High Court proceedings, isn't that
12 correct?

13 A. Correct.

14 141 Q. And they were settled in a blunderbuss settlement to
15 cover both sets of proceeding -- three sets of 11:27
16 proceedings in fact?

17 A. Three sets, personal injury as well.

18 142 Q. And in relation to that, Independent News & Media, on
19 13th January 2015, counsel on their behalf read out an
20 apology to you in relation to the manner in which you'd 11:28
21 been treated. And could you -- I think you have a copy
22 of that in front of you and in fairness to you, you
23 should be allowed to read that.

24 CHAIRMAN: well, I think we have it in the papers as
25 well, Mr. Harty, don't we? 11:28

26 MR. HARTY: we do have it in the papers.

27 CHAIRMAN: yes. well, can we get it on the screen
28 then, because for no other reason than I've become
29 fascinated by this apology.

1 MR. MARRINAN: It's volume 27, 7470.

2 143 Q. MR. HARTY: Thank you, I'm obliged. (To witness) If
3 you'd like to read that?

4 A. "Independent Newspapers wish to acknowledge the
5 exceptional work of multi-award winning investigative 11:29
6 journalist Gemma O'Doherty for the Irish Independent
7 during the course of a lengthy career. Independent
8 Newspapers accept that Gemma O'Doherty has acted at all
9 times in a professional and diligent manner and in the
10 best interests of Independent Newspapers. Independent 11:29
11 Newspapers unreservedly apologises to Ms. O'Doherty for
12 the stress and hardship caused to her and her husband
13 as a result of its actions. Independent Newspapers
14 have agreed to pay to Ms. O'Doherty unclosed damages
15 and to indemnify her in relation to her legal costs". 11:29

16 144 Q. In relation to that, your evidence was yesterday that
17 you were told that you could remain in Independent
18 Newspapers if you continued with the Travel Editor
19 position, isn't that correct?

20 A. That's correct. The then-CEO, during -- in the 11:30
21 aftermath of me being told that I was to lose my job,
22 approached me and said that there had been a change of
23 heart when they saw that I wasn't going to go quietly
24 and he put it to me that if I was willing to give up
25 the stories and the work that I was doing on Garda 11:30
26 malfeasance and focus on other less controversial work
27 that I would be invited back to the company. And I
28 declined.

29 145 Q. Were any measures put in place in relation to the

1 publishing of -- in relation to stories in relation to
2 the Garda Síochána?

3 A. Pardon?

4 146 Q. Were there any measures put in place in relation to
5 publishing stores by the Independent News, by you, in 11:30
6 relation to stories about An Garda Síochána; were
7 protocols put in place at that stage?

8 A. No, my unlawful dismissal went ahead because I refused
9 to agree to their proposal that I stop writing about
10 issues within An Garda Síochána. 11:31

11 147 Q. Yes. The circumstances whereby it's been suggested to
12 you, even by Mr. O'Higgins there, that you describe
13 yourself as an investigative journalist, what do you
14 say about somebody suggesting that you're simply
15 describing yourself as an investigative journalist? 11:31

16 A. Well, that is my role, I investigate. That's my job.

17 148 Q. And in relation to Mr. Williams, Mr. Paul Williams, in
18 evidence on day 11, suggested that some people have an
19 agenda for describing that he has too close a
20 relationship with An Garda Síochána. If we go to day 11:31
21 11, the evidence of Mr. Williams, at page -- at
22 question 410 please. Page 88 of the transcript.

23 A. Which volume?

24 149 Q. I think the registrar will bring it up now. It's day
25 11 of the transcript. I'll read it out. The first 11:32
26 thing Mr. Williams says about you is that:
27
28 "If she is a journalist, I don't know her, I never
29 worked with her."

1 what do you say about that?

2 A. well, I say that that is incorrect. Because I spoke to
3 Mr. Williams at least twice by telephone and I also
4 texted him, and I wrote about the fact that he had his
5 penalty points wiped. 11:32

6 150 Q. He then goes on to say:

7

8 "I don't know her, I never worked with her. She may
9 have an axe to grind with Independent News & Media."

10 11:33

11 what do you say about that?

12 A. I did work with Paul Williams. We worked for the same
13 company. So that's incorrect. I certainly don't have
14 any axe to grind with Independent Newspapers, but I do
15 have an axe to grind with journalists who appear to 11:33
16 have very close relationships with powerful people -
17 police Commissioners, politicians, et cetera - which
18 are damaging to the public good.

19 151 Q. well, perhaps we can come to that. But then he goes on
20 to say: 11:33

21

22 "In terms of the wider picture, an allegation, a
23 narrative started about ten years ago in this business
24 between certain politicians, criminals, subversives,
25 there is a whole group of them, not altogether in 11:33
26 uniform, but all separately where a narrative was
27 created that all crime journalists are in the pockets
28 of the guards."
29

1 Now, in relation to that, can you just confirm for the
2 Tribunal that you're not a politician?

3 A. No, I'm not a politician.

4 152 Q. Can you confirm to the Tribunal you're not a criminal?

5 A. No, I am not a criminal. 11:34

6 153 Q. And just for the record, would you perhaps confirm to
7 the Tribunal that you're not a subversive?

8 A. No, I am not a subversive.

9 154 Q. What is your view of the relationship between Paul
10 Williams and An Garda Síochána? 11:34

11 A. It's my belief that Paul Williams has a toxic
12 relationship with An Garda Síochána which is very
13 damaging to the public interest.

14 MR. HARTY: Okay, I don't think I have any further
15 questions. Thank you very much, Ms. O'Doherty. 11:34

16 CHAIRMAN: Is there anything?

17

18 THE WITNESS WAS RE-EXAMINED BY MR. MARRINAN:

19

20 155 Q. MR. MARRINAN: Yes, there's just one matter. I suppose 11:34

21 Mr. O'Higgins has criticised you for making statements
22 to the Tribunal that were based on rumours that you had
23 heard and perhaps innuendo as well. And in fairness to
24 you, I think that the Chairman, in his opening remarks
25 when he appealed for information originally, asked 11:34
26 people for any information that they had, hearsay or
27 otherwise, rumours or otherwise, isn't that right? And
28 I think that you made your statement to the Tribunal on
29 23rd May 2017, the statement that was sent in by your

1 solicitor with the bullet points, and that was prior to
2 the opening statement made by counsel for the Tribunal,
3 isn't that right?

4 A. I can't confirm that.

5 156 Q. Well, I can. And I think that the position is that, at 11:35
6 that point in time, no material had been circulated by
7 the Tribunal to any of the journalists or any of the
8 other parties. So I want you to look at paragraph --
9 at paragraph 21 again of your statement, it's at page
10 3665. I asked you about this yesterday, and I just 11:36
11 want to put this in context because you mentioned an
12 issue of privilege yesterday, and this may be
13 important, particularly in the light of recent
14 developments and information that has come into the
15 possession of the Tribunal. But here, you are 11:36
16 recounting a conversation that you had with Sergeant
17 McCabe after you had heard the issue in relation to the
18 rumours concerning Ms. D, and it's the second sentence
19 there where you say:

20 11:36
21 "I told him that certain journalists were attempting to
22 interview the alleged victim and that it was intended
23 by them to publish the story."

24
25 Now, I pointed out to you yesterday that the Tribunal 11:36
26 had information from Ms. D -- or Mrs. D, that two
27 journalists had door-stepped her, one she had invited
28 into her home, and they were Debbie McCann, who wasn't
29 invited into the home, and that was late February or

1 early March of 2014, and then, a number of days later,
2 that Eavan Murray arrived; you know both those
3 journalists?
4 A. No, I don't know them personally.
5 157 Q. Well, not personally, but you know them by reputation 11:37
6 or that they are journalists?
7 A. I know of them.
8 158 Q. Yes. Well, both of them, in interviews with the
9 Tribunal, have accepted that they went there at that
10 time, and we have evidence from Mrs. D that they did 11:37
11 call to the house, as I indicated. But what the
12 Tribunal is interested in is, when you were referring
13 to certain journalists there, were you referring to
14 what you had heard in relation to Debbie McCann and
15 Eavan Murray and subsequently Paul Williams calling to 11:37
16 the home of Ms. D?
17 A. My evidence stands as I told it yesterday. I can't
18 assist the Tribunal any further in that I'm not aware
19 of any other journalists.
20 159 Q. Well, that is what I just wanted to clear up. 11:38
21 A. Yes.
22 160 Q. You don't have information to give to the Tribunal that
23 would identify another journalist other than those
24 three journalists, as persons who had called to the
25 Ms. D household, is that right? 11:38
26 A. That's right.
27 MR. MARRINAN: Okay. Thank you very much.
28 A. Thank you.
29

1 THE WITNESS THEN WITHDREW

2

3 MR. MARRINAN: The next witness, sir, is Alison
4 O'Reilly.

5

11:38

6 MS. ALISON O'REILLY, HAVING BEEN SWORN, WAS DIRECTLY
7 EXAMINED BY MR. MARRINAN:

8

9 MR. MARRINAN: The material in relation to Ms. O'Reilly
10 is to be found in Volume 15, commencing with the letter 11:39
11 to the -- from the Tribunal to Ms. O'Reilly at page
12 3800, and there is a statement to the Tribunal on the
13 12th October 2017, which is at page 3812.

14 161 Q. Ms. O'Reilly, you are a journalist by profession, isn't
15 that right? 11:40

16 A. Yes.

17 162 Q. And will you just indicate to the Chairman a brief
18 history of your journalistic career to date.

19 A. Yes. I'm -- I have been involved in the media industry
20 for about 23 years. I've worked in television and 11:40
21 radio as a journalist, on-line news and print
22 journalism. I've made documentaries and I am a
23 published author and I am currently full-time staff
24 with the Irish Daily Mail.

25 163 Q. Now, I think that the Tribunal contacted you and asked 11:41
26 you had you any information that you could give to the
27 Tribunal; I think it was a matter that concerned you
28 quite deeply, isn't that right, and you thought about
29 it long and hard --

1 A. I did.

2 164 Q. -- in terms of providing information to the Tribunal,
3 is that right?

4 A. I did, yeah.

5 165 Q. And I think that eventually you provided a statement to 11:41
6 the Tribunal on the 7th June of 2017, and it's at page
7 3830. First of all, what was your motive in providing
8 this statement to the Tribunal?

9 A. Well, I didn't like what happened at the time, I didn't
10 like what I heard, and then I had raised - maybe not 11:41
11 strong enough concerns at the time, but I had certainly
12 questioned it at the time, what I was hearing, and then
13 I heard on the news that David Taylor had made a
14 protected disclosure and that there were malicious
15 rumours being spread about Maurice McCabe and that it 11:42
16 may have involved journalists, and, if anybody knew
17 anything, they had to come forward, or they were being
18 invited to come forward. I knew also that I had been
19 to Maurice McCabe's house. I had told him at the time
20 that I had heard rumours. I had told John Wilson a lot 11:42
21 of what I'd heard at that time as well. And I just
22 felt that I needed to say something.

23 166 Q. Most of what you heard at the time, and we'll come in
24 more detail to what you actually heard, but most of
25 what you heard at the time was from a colleague of 11:42
26 yours, Debbie McCann, who was also working in the Irish
27 Mail on Sunday, is that right?

28 A. That's correct.

29 167 Q. And how long had you been -- had you known Debbie

1 McCann prior to 2013?

2 A. I started working full-time with the Mail in around the
3 summer of 2011. I had just come back from adoptive
4 leave, and I worked very briefly with her in -- I was
5 only a freelancer in the News of the World, so I 11:43
6 didn't -- I knew her to say hello to. I didn't know
7 her very well until she joined the Mail.

8 168 Q. Now, you say in your statement to the Tribunal at page
9 3830, under paragraph A, towards the end - you
10 subsequently correct that in another statement - or 11:43
11 mid --

12
13 "The mid to end of 2013/early 2014 my colleague with
14 the Irish Mail on Sunday, Debbie McCann, told me that
15 the Garda whistleblower, Sergeant Maurice McCabe, who 11:44
16 had lifted the lid on the penalty points scandal, was a
17 child abuser."

18
19 will you just develop on that a little bit further in
20 terms of where this conversation took place, if you can 11:44
21 recall?

22 A. Yeah. I suppose, Chairman, there was a lot happening
23 at the time in relation to the whistleblowers, so it
24 was flaring up in the media and going away and coming
25 back and going away, so Debbie and I probably had loads 11:44
26 and loads of conversations about it, well over a
27 year-and-a-half. So I can only really recall
28 conversations around times that stories happened or --
29 because I obviously don't have any dates or times of

1 things, but I remember at this point we had discussed
2 it a few times and the names of people who had their
3 penalty points being quashed had been in the papers a
4 few times, I think, but on this particular occasion we
5 were in the kitchen in the Mail having a cup of tea, 11:45
6 which we did regularly - I'm not office-based, so I
7 would be in and out quite a bit - but I remember we
8 were in the kitchen, and you can't really talk when you
9 are there, but we were making a cup of tea, which we
10 did loads of times, and I said to her, I think -- I am 11:45
11 not sure, I think there was a senator or somebody was
12 in the paper about having their penalty points quashed,
13 and there was a reference possibly to the volume of
14 penalty points that are being quashed or something like
15 that, and she said to me, 'I have had my penalty points 11:45
16 quashed and I am concerned that my name is going to end
17 up in the paper', and her father was a guard and she
18 didn't like that, I think it had been referenced in
19 another paper before about something else, not her
20 penalty points being quashed but the fact that her 11:46
21 father is a guard and she didn't like that, obviously.
22 169 Q. well, do I get a sense that what she was saying to you
23 was that it could embarrass her father if it turned out
24 that -- or it was made public that she had had her
25 points quashed, is that -- 11:46
26 A. well, I suppose you can see her point of view; her
27 father is a guard and she has had her penalty points
28 quashed, and nobody would like that. But I had then
29 mentioned the whistleblowers, you know, and she said,

1 well, you mightn't mind Maurice McCabe, he is a child
2 abuser. I said, what do you mean he is a child abuser?
3 And she said, he abused a child that is now an adult
4 and everybody knows, all the guards know.

5 170 Q. Yes. And did she say -- or make any reference to what 11:46
6 his motivation for -- was?

7 A. She said that he had a falling-out with his superiors,
8 and that all of this, lifting the lid on the penalty
9 points and raising alleged Garda malpractice, was just
10 to get back at his employers, when really he had this 11:47
11 thing in his past.

12 171 Q. Now, I think arising out of that conversation that you
13 had with Debbie McCann, that you spoke to another
14 journalist, just to discuss the issue generally, and
15 there is no need to name him or to go into the contents 11:47
16 of that particular conversation, but your mind was put
17 at ease in relation to Sergeant McCabe by a colleague,
18 isn't that right?

19 A. Well, I suppose, Chairman, I was suspicious of it
20 myself anyway. I didn't really need anybody to -- 11:47
21 like, the colleague I spoke to would just be somebody I
22 trust, but it was really just to bounce the idea off,
23 that this is what I had heard, and he had said, I had
24 heard a bit of something about that or -- I know I kind
25 of explained what I had heard and who I had heard it 11:48
26 from, and I had already felt that it was suspicious
27 because I thought, why would you put yourself out there
28 with all these allegations about penalty points if you
29 had gotten away with something like that? So I bounced

1 it off somebody, but I don't need anyone to tell me how
2 I feel.

3 172 Q. Right. And I think that the issue of the penalty
4 points controversy continued on for a few weeks and
5 months indeed, and then you had another conversation 11:48
6 with Ms. McCann, is that right?

7 A. Well, I suppose in my statement I haven't made any
8 attempt to put it into sequence or a time-line; I just
9 pretty much put everything I could remember into the
10 statement at the time. But I remember sort of around 11:48
11 early 2014, Debbie had told me that she had gotten the
12 name and address of this girl that had made the
13 allegation, and I'd asked her where she was getting it
14 from and she said the Gardaí.

15 173 Q. In your statement, you say that she got it from someone 11:49
16 high up in the Gardaí?

17 A. Mm-hmm.

18 174 Q. Is that right?

19 A. That's correct.

20 175 Q. Or was it just the Gardaí? 11:49

21 A. No, she had said the Gardaí. I mean, this is a
22 conversation that we had for a long, long time, you
23 know, and it was quite tetchy and heated between the
24 two of us, a bit like the yes and no campaign, two
25 colleagues, two friends, there is always something they 11:49
26 dispute about. So she said the Gardaí, she said
27 someone high up in the Gardaí, she said her dad
28 confirmed this story, she said she heard it from Dave
29 Taylor, she said she heard it from Nóirín O'Sullivan.

1 It just went on and on. We had numerous conversations
2 about it.

3 176 Q. Okay. When you say that she had heard it from Dave
4 Taylor, that is Superintendent Dave Taylor, the Garda
5 Press Officer, isn't that right? 11:50

6 A. Mm-hmm.

7 177 Q. And did she tell you at that time that she had got
8 information from him?

9 A. She never -- she never said much about Dave Taylor,
10 other than I remember she had said that he told her she 11:50
11 was in a -- this girl was in a bad way and that it
12 was -- you know, it was going all the way up to
13 government at some stage. I remember the conversation
14 I had about her with Dave Taylor, I was at home in the
15 evening from work and it was around the time of the 11:50
16 Roma children story, and I'm not sure what specific day
17 it was, but at that point I think the children had just
18 been returned home at some point around that time and
19 we were talking about it on the phone, and I said to
20 her, you know, you see you were wrong there about the 11:51
21 Roma children and you were wrong about the family, and
22 she said some derogatory things about the family and I
23 said to her that it was totally unfair and she was to
24 leave it go, and it got very heated, the exchange on
25 the phone, and I said to her you are probably wrong 11:51
26 about the Maurice McCabe stuff as well, and she said,
27 no, no, no, Dave Taylor told me she is in a bad way.
28 That was the first time I'd heard a name.

29 178 Q. Well, did she advise you that she was going up to Cavan

1 to get the story?

2 A. I think that was around January or February 2014. We
3 were in the office and --

4 CHAIRMAN: well, if we could just -- the placing for
5 this, if this was in or around the Roma story, that was 11:52
6 21st/22nd October 2013.

7 179 Q. MR. MARRINAN: That is 2013 where you had that
8 discussion, but --

9 A. That was the conversation I had with her on the phone.
10 The children were only back and I was very upset about 11:52
11 that story, so I remember it very well.

12 180 Q. Yes. Just if we move forward then to early 2014.

13 A. Yes, I think it was around the time of the Public
14 Accounts Committee meeting. We sat in the office. We
15 had moved to the back of where the Mail offices are 11:52
16 now, we had been in the open-plan office and then we
17 had moved to the back of the office where Finance is
18 now. They have since moved again. But, like, I sat
19 just kind of facing the hallway and Debbie sat right
20 next to me. I think Ali Ryan was in front of me and 11:52
21 then John Lee and maybe Niamh Griffin the other side,
22 and Helen Rogers was behind us and Robert Cox was
23 behind me, and then Enda Leahy was in the corner and
24 Conor O'Donnell would have been in the glass office
25 behind us, so myself and Debbie sat very close to each 11:53
26 other. And I remember, like, I would go in and out of
27 the office very rarely - I mean, I don't even go into
28 the office now at all, but I would have mostly been in
29 the office on Tuesdays and Saturdays, if I did at all.

1 Like, I would be a door-knocker, so I would be out
2 quite a bit. I didn't always go to conference and I
3 wasn't always in on Saturdays, but I would have
4 expected that conversation to have happened on a
5 Tuesday because we were discussing what we were working 11:53
6 on. And she and I would -- we'd say to each other,
7 what did you have this week or have you got anything
8 decent? And she said she had the details of this girl.
9 181 Q. And I think that Robert Cox was there, is that right,
10 and there was some issue in relation to Robert Cox 11:54
11 indicating that he would check with the editor, Conor
12 O'Donnell, as to whether or not Debbie McCann could go
13 on the story, is that right?
14 A. Yeah, well the usual process would be to come in on a
15 Tuesday, you would have conference on a Tuesday. Not 11:54
16 every idea that you worked on would be pitched in
17 conference. And then Robert Cox would go and have a
18 discussion with Conor O'Donnell, the editor of the
19 paper. He might come back to you that day, he mightn't
20 come back to you until Thursday, sometimes even Friday, 11:54
21 if you were pushing a story. So I just remember that
22 they were standing at the back of the office having a
23 conversation, and I kind of just joined in and said,
24 are you sure? You know, I had asked that question a
25 few times. But they were discussing going up there 11:55
26 because, with a story like that, like, it would be --
27 it would be considered in The Mail on Sunday and in the
28 Mail a sensitive story, a very sensitive story, because
29 it involved an allegation, it involved somebody who had

1 made the allegation. So there would have been a
2 considerable amount of planning put into that story in
3 the sense that Debbie has heard it somewhere, she
4 brings it to the table, she discusses it with her line
5 manager, then he discusses it with the editor. They 11:55
6 may have a conversation together with Debbie, the three
7 of them.

8 182 Q. Yes. In your statement in this, as part of this
9 conversation, it appears from your statement, at the
10 bottom of page 3830, you say: 11:56

11
12 "She told me she had heard from Dave Taylor that the
13 woman was going to try and bring the matter to
14 government because it was not fully investigated."

15
16 Is that something that she said at that time? 11:56

17 A. No, I think she said that later on.

18 183 Q. Yes.

19 A. Because that was something I had heard later on. She
20 had discussed that with me so I don't think -- 11:56

21 184 Q. Can we extract that then from -- it appears in
22 chronological order as though it was said around about
23 that time?

24 A. Yeah, and I do accept that. But when I put my
25 statement together, I made no attempt to put it in 11:56
26 sequence. I just put everything in.

27 185 Q. At that time when Robert Cox was present and the other
28 people that you have named, do you recall what it was
29 that -- information that she said that she had in

1 relation to --

2 A. No.

3 186 Q. -- Ms. D?

4 A. No, the only time she told me the full details of it
5 was when she said that she had interviewed the girl. 11:57

6 CHAIRMAN: Mr. Marrinan, there was just one point, and
7 it may that be I misheard, but I thought you said that
8 at some point in the conversation - and please don't
9 mention a name, if you don't mind, I know you won't
10 mention a name - but that was the first time you'd 11:57
11 heard a name; I think you said that, didn't you?

12 MR. MARRINAN: Ms. D.

13 A. I had never heard -- I have never heard her name.
14 Sorry.

15 CHAIRMAN: You'd never heard her name. That's fine. I 11:57
16 must have misunderstood what you were saying.

17 A. Sorry.

18 CHAIRMAN: That is all right.

19 A. No, I think what I meant was, it was the first time I
20 had heard a garda's name, Dave Taylor. 11:57

21 CHAIRMAN: All right. That is what you were saying.
22 All right. I beg your pardon. Yes, I understand it
23 now.

24 187 Q. MR. MARRINAN: well, insofar as the story or the -- she
25 was seeking -- she was trying to justify her interest 11:57
26 in doing a story in relation to Ms. D at that time --

27 A. Yes.

28 188 Q. -- do you recall what facts in relation to the story
29 that she was pitching in your presence to the -- to the

1 group that were there?

2 A. No, I just heard -- Debbie told me that Maurice McCabe
3 was a child abuser, there was an allegation, and that
4 this girl was in a particularly bad way and she had
5 heard that from Dave Taylor, but she seemed to -- she 11:58
6 believed it, Debbie believed it, and seemed to have
7 been very moved emotionally by this girl's story. I
8 don't know anything about the girl, but I can only tell
9 you what Debbie was saying and the sort of behaviour
10 that she had. She just seemed to be very, very annoyed 11:58
11 with Maurice McCabe for, as she said, you know,
12 damaging this girl.

13 189 Q. So I think that you were quite unhappy with the
14 developments and what you were hearing, is that right,
15 at that time? 11:59

16 A. It just didn't sit right with me, it didn't ring true.
17 But to be honest, I hadn't a single shred of evidence
18 as to whether Maurice McCabe was or wasn't a
19 paedophile.

20 190 Q. You say in your statement that you thought that the 11:59
21 Gardaí were closing ranks to shut down the
22 whistleblowers?

23 A. I just felt that it was all going a bit pear-shaped for
24 them, that what they were -- what John Wilson and
25 Maurice McCabe were raising seemed to be fairly 11:59
26 accurate - I mean, they had some valid points. And I
27 just felt that we should have been looking at that more
28 as a paper, and I felt maybe at the time we weren't.

29 191 Q. I think at that time you hadn't met Sergeant McCabe or

1 indeed John wilson, isn't that right?

2 A. No, no.

3 192 Q. So did you approach your news editor, Robert Cox, to
4 ask him could you go and meet with John wilson?

5 A. I did. 12:00

6 193 Q. Yes. will you just tell us about that.

7 A. well, you can't really go off -- well, certainly in The
8 Mail on Sunday, or the Mail, you can't really go off on
9 a solo run if you like a story, Chairman; you have to
10 pitch it to your line manager and you have to get 12:00
11 permission to go to somebody's door. And I suppose
12 John wilson seemed to be the approachable person
13 because he was -- and easy enough to get in contact
14 with because he was on radio and he was very public at
15 the time with his comments. And I felt, given that 12:00
16 this story was very prominent and these were two men
17 that were of huge interest to the media at the time,
18 that we should be trying to make inroads, get to know
19 them. And I got a number for John wilson. I never
20 spoke to him before. I rang him up, we got on straight 12:01
21 away, and I think we met the next day, but I went to my
22 news editor, Robert Cox, and I said, look, can I go up
23 and meet him? So...

24 194 Q. well, we needn't go into what he said about him. But I
25 think that you did then go and meet with John wilson, 12:01
26 isn't that right?

27 A. That's correct.

28 195 Q. And did you mention anything to John wilson about the
29 rumours that were -- or the story that was there to be

1 investigated that Debbie McCann had referred to?
2 A. I did, yes. We met in front of a pub in Virginia
3 somewhere and we sat in his car and we talked about
4 loads of different things that they had raised as
5 whistleblowers, sort of an introduction meeting. We 12:02
6 got on quite well. And then I said, look, you know --
7 I mean, you go to meet people in the hope that you are
8 going to get a story, you go to meet people in the hope
9 that you are going to build a relationship or maybe be
10 able to feel comfortable to ring them for a comment if 12:02
11 the story flares up in the media again, that you have
12 at least met them. So I said to him, I felt that
13 really, you know, the only story was, is Maurice McCabe
14 a paedophile or not? And people make allegations all
15 the time, and that is their own business, and no 12:02
16 disrespect to Ms. D or anybody, but the story, to me,
17 was whistleblower at the heart of the controversy.
18 196 Q. Yes.
19 A. He was a sergeant, he was the story, he was the accused
20 in the land of rumours, so I just said to John, look, I 12:02
21 am hearing a rumour that Maurice McCabe is sort of
22 motivated by a bit of malice here and that he might be
23 hiding something and I had heard that he had abused a
24 girl who is an adult now, and John said he absolutely
25 did not, that is completely unfair. I mean, he was 12:03
26 aware of it, of course he was aware of it, but he then
27 rang Maurice McCabe there and then in the car and he
28 said, Maurice, I have a journalist here with me and I
29 think you'd like to meet her, there is something she

1 might want to ask you, can we come out to your house?
2 Or something like that. And Maurice said, yes, come
3 out to the house. So, I mean, I had sought permission
4 to go up to see John Wilson, but obviously things
5 happen when you are on the ground and you have to use 12:03
6 common sense, and I knew I was in safe hands, so I went
7 with John to Maurice McCabe's house.

8 197 Q. And I think when you got there you told Maurice McCabe
9 that a colleague of yours had told you that the Gardaí
10 had told her that he had abused a child years ago, is 12:04
11 that right?

12 A. Yes.

13 198 Q. And I think that you also told him that she had told
14 you that there had been a big cover-up in the Gardaí
15 about the sex abuse case, isn't that right? 12:04

16 A. Yes.

17 199 Q. Now, I think you asked him was it true, and he denied
18 it, and had denied that he had abused any young girl,
19 isn't that right?

20 A. Yes. 12:04

21 CHAIRMAN: I am sorry, Mr. Marrinan, I know you are
22 going on to something. But the detail about the
23 cover-up, was that coming from Debbie McCann in one of
24 these conversations, is that --

25 A. Yes. 12:04

26 CHAIRMAN: That the Gardaí had covered up the sex
27 abuse?

28 A. Yes, yes.

29 CHAIRMAN: well, kind of a bit contradictory, on the

1 one hand blaming a person and covering it up. But is
2 that what she had said?

3 A. She said there was just a big cover-up in the Gardaí,
4 that he -- this is why he was never caught, or
5 something, I don't know, because it wasn't -- they 12:05
6 didn't want to expose one of their own, or something.
7 I don't know.

8 CHAIRMAN: Okay.

9 200 Q. MR. MARRINAN: If we could just go back to your
10 conversation with John Wilson when you were referring 12:05
11 to a fact that your -- a colleague of yours, who we
12 know is Debbie McCann --

13 A. Yes.

14 201 Q. -- was anxious to do this story on Ms. D. Did you tell
15 John Wilson that it was Debbie McCann? 12:05

16 A. I didn't tell him at the start, but I think I told
17 him -- I think I told him her name that day, I think.

18 202 Q. Because we heard from the last witness that apparently
19 this information had filtered through to her.

20 A. Yes, that's correct. 12:06

21 203 Q. All right. So you are discussing this with Maurice
22 McCabe; he is denying it?

23 A. Yes.

24 204 Q. And did he indicate to you that he knew about the
25 rumours already? 12:06

26 A. I thought he did, and maybe he was referring to -- he
27 knew about it obviously or that maybe his colleague
28 said it to him, but I had said they were rumours and
29 it's my understanding he had heard them, but he

1 didn't -- I don't remember him saying he had heard them
2 from journalists.

3 205 Q. And I think you asked him, because of what you had
4 heard and what was developing before your eyes and he
5 was obviously upset by this, isn't that right? 12:06

6 A. I felt that he was very distressed when I met him. He
7 didn't look okay, but he was able to converse with me.

8 206 Q. And I think that you thought at that time that you
9 might be able to do a story on a smear campaign and --
10 of him, a smear of him, and you asked him if he would 12:07
11 be prepared to do that story with you?

12 A. Yes.

13 207 Q. And he indicated that he wasn't prepared to do that?

14 A. Yes, he said no way.

15 208 Q. So I think that you then went back to the office, is 12:07
16 that right?

17 A. I'm not sure if I went back that day or the next day,
18 because I'm -- I'm a door-knocker, I am always kind of
19 out on the road. So I know that I definitely said it
20 to Robert Cox in person standing in front of him in the 12:07
21 office, I said to him that I had met Maurice McCabe and
22 I had put the allegation to him and I asked him would
23 he do a story and he said no.

24 209 Q. And then did you meet with Debbie McCann and tell her
25 about the fact that you had met with Maurice McCabe? 12:07

26 A. I did tell her, yes.

27 210 Q. And did you express the view that you didn't believe
28 the rumours that were circulating?

29 A. I did. Again, Chairman, I only had my gut feeling to

1 go on. Maurice McCabe didn't produce a piece of paper
2 and say: there is that file, read it yourself, there
3 is the outcome from the DPP. I had nothing other than
4 my gut feeling and what John Wilson and Maurice McCabe
5 were saying to me, so I had no facts whatsoever, but I 12:08
6 believed him, I just only had a gut feeling and I just
7 felt it was quite suspicious. So given that she and I
8 had spoke about it so much, I told her the outcome of
9 the meeting.

10 211 Q. Okay. So at this stage you are really very much at 12:08
11 odds with Debbie McCann. She is promoting a story in
12 relation to Ms. D and you have taken a view that this
13 is -- really is highly suspicious at the time and you
14 think that it may be a smear on Maurice McCabe, who is
15 a whistleblower? 12:09

16 A. Well, I suppose, you know, we were good friends and she
17 is a good journalist and I just felt that she was being
18 used, and I felt, by using her, they were trying to use
19 our paper. Whoever was telling her this, she believed
20 it. And I just shared with her what Maurice McCabe had 12:09
21 told me and how I felt about it, but again, I had no
22 proof of anything other than his word, and he seemed
23 quite credible to me. And I know from previous persons
24 in The Mail on Sunday, when you go to the accused and
25 they say 'no' or they deny it, it's usually dropped, 12:09
26 it's usually dropped. They run a mile from stories
27 like that. They would be afraid of getting into
28 trouble with stories like that. So I just felt, you
29 know, it was probably just best to leave it, but I am

1 not the editor.

2 212 Q. well, she pitched her story and she was permitted to go
3 down to Cavan, isn't that right?

4 A. Yeah. I don't know whether she went before or after
5 me, I just don't know. I didn't write a story on it. 12:10
6 I checked my mileage and I can't -- I obviously didn't
7 even put in for the mileage for that trip so I can't
8 say exactly who went first. I don't know, I am not
9 sure. Maybe the Mail know.

10 213 Q. Did you discuss her visit to Ms. D's home subsequent 12:10
11 with Debbie McCann?

12 A. Yes, yes.

13 214 Q. Do you recall where that conversation took place?

14 A. It was in the office. We were seated beside each
15 other. 12:10

16 215 Q. And did she tell you that she had gone to the home of
17 Ms. D?

18 A. She did.

19 216 Q. Did she say that she met Ms. D?

20 A. She did. She told me she spent about an hour with her 12:10
21 and that she really believed the girl. She said that
22 she was in the living room with her, that she was
23 sitting on one end of the sofa and a girl was sitting
24 on the other end of the sofa and that she was kind of
25 gripped, gripping herself like this, that she was in an 12:11
26 awful state, like, she was visibly shaking recalling
27 the story, and then she outlined the allegation to me.

28 217 Q. Will you tell us what she said that Ms. D told her?

29 A. I was obviously quite interested because I suppose

1 Debbie and I both write crime stories, not everyone
2 would have been interested in it, but both -- I'm not a
3 crime correspondent, but I would be interested in crime
4 so I have written so many stories about child sex
5 survivors, child abuse survivors and rape survivors, so 12:12
6 I was kind of gripped by what she was telling me. And
7 she said that she had spent about an hour with this
8 girl, she had called up to the house, that she was in
9 an awful state, she said that she had been, what, I
10 don't know, five, six or seven at the time, that her 12:12
11 father was a guard and that he knew Maurice McCabe and
12 that they were at some gathering, I thought she said in
13 her house, when she was small, and he went in behind
14 the sofa and pushed up against her using his groin and
15 that she had forgotten about it for years and then it 12:12
16 all came flooding back and it was now in the media and
17 upsetting her and she was very damaged by the whole
18 thing.

19 218 Q. I think in your statement, your account that Mr. McCabe
20 was a friend of the woman's father but that they fell 12:12
21 out at some stage?

22 A. That is what she said, yes.

23 219 Q. Do you recall that being said to you?

24 A. Yes, Debbie said that, that they had fallen out at some
25 stage. 12:13

26 220 Q. You then go on to say that:

27

28 "She had forgotten about the abuse for a number of
29 years and then it all came flooding back. "

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was that said to you as well?

A. That is what she said. And she said something like, I think that happens to abuse victims quite a bit, that they can forget things and it can all come flooding back, and this is what happened to this girl, she said.

12:13

221 Q. And what did you say in response to the story that you were being told by Debbie McCann at that time?

A. You see, it seemed very believable to me. Like, I can only tell you what Debbie told me. I wasn't there. Again, I had only the word of Maurice McCabe, who I felt was quite credible, and John Wilson as well, but I didn't meet this girl, I didn't talk to her, I didn't know anything, and given Debbie's expertise and, you know -- in this area, and her experience as a journalist, I mean, why would she be telling me something else? And I kind of was thinking maybe I have this wrong, maybe this did happen, I don't know, because she seemed to have all this information, and it's -- and it always seemed like the story was building and building, and I thought at some point maybe Maurice McCabe is going to be arrested here and I have got this totally wrong, I don't know.

12:13

12:14

12:14

222 Q. One of the problems that we have here, and I'm sure you have identified it yourself, is that we have evidence from Mrs. D that Debbie McCann called to the door?

12:14

A. Yeah.

223 Q. And she was a bit taken aback by Debbie McCann being there?

1 A. Yes.

2 224 Q. She recalled her being pregnant and that the
3 conversation lasted a very short period of time, that
4 Debbie McCann left?

5 A. Yes. 12:15

6 225 Q. Here, we have you providing a statement to the Tribunal
7 and, in that, there are facts there that reflect what
8 Ms. D originally said --

9 A. Yes.

10 226 Q. -- to the Gardaí in her statement, that shouldn't have 12:15
11 been available to you or other journalists at that
12 time.

13 A. Mm-hmm.

14 227 Q. And were obviously leaked out in some way or another.

15 A. Yeah. 12:15

16 228 Q. But you are attributing your state of knowledge in
17 relation to these facts --

18 A. Yes.

19 229 Q. -- to Debbie McCann?

20 A. Yes. 12:16

21 230 Q. But it appears that Debbie McCann didn't get them from
22 Ms. D?

23 A. No, I have read her statement and I have read Ms. D's.

24 231 Q. And you are aware that Ms. D says that the only person
25 that she recounted her story to was Paul Williams? 12:16

26 A. Yes.

27 232 Q. So it would appear, if you are to be believed in
28 relation to this, that Debbie McCann was spinning you a
29 yarn?

1 A. Well, she either wasn't telling the truth then or she
2 is not telling the truth now.

3 233 Q. Right.

4 A. But that is what she told me.

5 234 Q. I mean, is there -- I mean, what it would mean would be 12:16
6 that Debbie McCann went down, she tried to interview
7 Ms. D, she was unsuccessful.

8 A. Mm-hmm.

9 235 Q. She returned to the newsroom.

10 A. Yes. 12:17

11 236 Q. And she tells you that she did interview --

12 A. Yes.

13 237 Q. -- Ms. D, and she gives you a blow-by-blow account of
14 the account of her conversation with Ms. D,
15 graphically -- 12:17

16 A. To the point where I was doubting myself --

17 238 Q. Graphically describing how she was upset?

18 A. Yes.

19 239 Q. How she held herself in her arms at the other end of
20 the settee, and this would then have all been an 12:17
21 invention on -- in its entirety, from beginning to end?

22 A. You see, I can only tell you what she told me --

23 240 Q. I mean, I know that.

24 A. But it was very, very believable. I mean, she did this
25 with her arms and said the girl was visibly shaken and 12:17
26 very distressed and told me she'd continued to be in
27 touch with her.

28 241 Q. Well, you made this statement back in June, the 7th
29 June of 2017, isn't that right?

1 A. Yes.

2 242 Q. And, in fact, you had, earlier on, and we will come to
3 it in due course, spoken to Mr. Howlin about it as
4 well?

5 A. I did. 12:18

6 243 Q. But you didn't have any access to any of this
7 information that is set out in your statement that you
8 have told the Chairman about in relation to Ms. D's
9 account of what took place in her -- in her home, about
10 the sexual assault? 12:18

11 A. Oh, no, I don't know anything about Ms. D.

12 244 Q. You don't know anything about it. You had no access to
13 any file, or otherwise?

14 A. Absolutely not, no, absolutely not. I don't even know
15 the girl's name. I don't know anything about it, only 12:18
16 what Debbie McCann told me and obviously what I have
17 read in the Tribunal since.

18 245 Q. And you didn't discuss any of it with Sergeant McCabe,
19 did you?

20 A. No, I didn't know the details then. 12:18

21 246 Q. Right. Okay. You appreciate I have to ask you these
22 questions --

23 A. Yes, of course, of course.

24 247 Q. -- because it's a most peculiar situation. I mean, had
25 Debbie McCann, had she spun yarns to you before, that 12:18
26 you are aware of?

27 A. Well, you see, you don't know because you don't expect
28 to end up in a tribunal, in an investigation, trying to
29 find things out, so I don't know.

1 248 Q. Right. Okay.

2 A. I mean, it wouldn't be unusual for some journalists to
3 maybe exaggerate their level of contact with sources.

4 249 Q. Yes.

5 A. Or disguise sources or maybe just not tell you the 12:19
6 truth, I don't know.

7 250 Q. Yes. Well, lawyers could be guilty of talking up
8 victories themselves. But this would appear to be an
9 entire invention?

10 A. It appears so. 12:19

11 251 Q. You know, there is a difference, because it's not an
12 exaggeration; it's inventing a conversation?

13 A. It appears so. I mean, I can only tell you what she
14 said, but I have a very clear recollection of what she
15 said. 12:19

16 252 Q. Right. Now, if we could just then --

17 CHAIRMAN: I am sorry, there is just one detail, if you
18 wouldn't mind, Mr. Marrinan, and that was the reference
19 to pregnancy. I understood Ms. D to say that Debbie
20 McCann, in calling to the door, was pregnant herself, 12:20
21 but maybe I got that wrong, or are you saying that she
22 was saying Ms. D -- that Mrs. -- I am talking about
23 Mrs. D, the lady who answered the door, was pregnant.
24 You mentioned somebody was pregnant at the door.

25 MR. MARRINAN: No, I mentioned it, recounting what 12:20
26 Mrs. D had said, but it was that Debbie McCann was
27 pregnant.

28 CHAIRMAN: Yes. All right. Well, that was the point I
29 was hearing. Well, was she? I don't know.

1 A. Debbie was pregnant, yes.

2 CHAIRMAN: All right, okay. Because Mrs. D certainly
3 said that a lady called to the door and that she was
4 pregnant and they had a very brief conversation, and
5 that she, Mrs. D, said she was horrified and didn't 12:20
6 want to talk any further and was not saying anything,
7 and the person said, I know you have been through a
8 hard time, et cetera. So that seems to be it. And
9 it's Day 10 of the Tribunal at -- on Monday the 17th
10 July last year. But anyway, I am sorry, I just wanted 12:21
11 to clarify that point.

12 253 Q. MR. MARRINAN: So if you could just look at page 3832
13 and paragraph J, you continue on to say that:
14
15 "Debbie told me that the story was not going to make it 12:21
16 into the paper and she was very annoyed about this."
17
18 Now, it's in a different paragraph. Is this part of
19 the same conversation that you were having?

20 A. No, I think it was a conversation we were having -- we 12:21
21 walked to our cars all the time together if we finished
22 early, so I think we were talking about it on our way
23 back to the car one day where she just -- I said, what
24 happened with that story? Because it kind of went off
25 the radar again. And she said that she had -- she had 12:21
26 talked to Conor and Robert, or whoever, and it wasn't
27 going in and that it was Sebastian Hamilton, the
28 editor-in-chief, who had put a stop to it.

29 254 Q. So she told you the matter had been under consideration

1 but had been rejected, is that right, the story had
2 been rejected?

3 A. That's what she said, yeah, I think she said it a
4 second time as well. Sometimes you would try and get a
5 story in and it wouldn't go in and then you would push 12:22
6 for it to go again and push for it, and then eventually
7 you just know, look, it's not going in.

8 255 Q. And then, it's what I had asked you about earlier on,
9 your early -- first conversation with John Wilson, but
10 here at paragraph K you say: 12:22
11

12 "I spoke to John Wilson on a number of occasions
13 throughout the period of time and confided in him that
14 Debbie McCann had gone to Cavan to speak with a woman
15 who was a daughter of a garda. I told him Debbie 12:22
16 insisted the story was true, but John said it was not.
17 I said I was hassled by what she was telling me and I
18 was annoyed."

19

20 Now, you then go on to say that you have a recollection 12:23
21 that Debbie tried to get the story into the paper on a
22 second occasion, but that it was refused again.

23 A. That is what she said. And that could be just you
24 verbally asking, you know, what about this story?

25 256 Q. And then you say that you had a conversation with her 12:23
26 in Herbert Park before going to your parked cars after
27 a Tuesday conference. Will you just tell us about
28 that?

29 A. Again, I think it was a Tuesday conference because we

1 were leaving early and we didn't seem to be rushed.
2 when it was Saturday we would be rushed to get home,
3 because you could end up working until all hours. But
4 we were walking back to our cars, as we always did, and
5 we were standing at the black gates of Herbert Park and 12:23
6 the cars were across the road, the other side of the
7 road, and we were just talking about it again, and she
8 was saying, you know, the story is true, and I was
9 like, maybe there is something wrong with it, just the
10 usual sort of tetchy debate that we had about it, and 12:24
11 all I remember is that she was in the latter stages of
12 her pregnancy; like, Debbie is quite slim and tall, but
13 you could see that she was pregnant and in the latter
14 stages of her pregnancy, and I just asked her a bit
15 more about it and she said, oh, this woman was going to 12:24
16 go and meet Micheál Martin and the Taoiseach Enda Kenny
17 and I just kept thinking the story was getting bigger
18 and bigger and, you know, something was going to happen
19 to Maurice McCabe again, and I said I -- I can only
20 tell you what she was telling me, and I said, you know, 12:24
21 like, where is it coming from, like? Your pal Nóirín?
22 And she said yes. That was it. I kind of thought to
23 myself then, maybe you have got this wrong completely
24 yourself, and maybe, you know, he is going to end up in
25 jail. I don't know. 12:25

26 257 Q. well, what you said at paragraph M of your statement
27 is:

28
29

"I asked her how does she know the story is true. She

1 told me the information she had was coming from the
2 top. "

3 A. Yeah.

4 258 Q. "I asked her, from your pal Nóirín? And she said yes."
5 12:25
6 Is that what she said to you?

7 A. Yeah, I mean, you would say that, you know, about the
8 guards, or, you know, it's coming from way up there or
9 it's -- in other words, it's pretty serious. So I
10 said, what, from your pal Nóirín? And she said yes. 12:25

11 259 Q. Now, in terms of the reference to Micheál Martin and --
12 were you -- were you aware at that time of the article
13 that had been written by Paul Williams when it was
14 published --

15 A. I think those articles, I think they were published 12:25
16 when Debbie -- after Debbie went on maternity leave.

17 260 Q. So you believe this conversation was before?

18 A. I believe so, because she was in the latter stages of
19 her pregnancy and then she was gone for a few months
20 from work. And we were in touch with each other 12:26
21 afterwards, you know, and I went out to visit her when
22 she had her baby, and we were in communication with
23 each other, even when she was on maternity leave. So I
24 think those conversations were -- I'm pretty sure they
25 were when she was pregnant. 12:26

26 261 Q. And did she tell you that she was still in touch with
27 Ms. D?

28 A. Yeah, she did, and she certainly gave me the impression
29 that they had formed a bit of a relationship, as you

1 would do with a contact that you get along with, you
2 know, you'd be in regular touch with people. But the
3 story just seemed to kind of die out and the big
4 dramatic ending never came. I thought he was going to
5 be arrested. I know when I read about it in the paper 12:27
6 I thought, God, you know, I did question myself, I did
7 think sometimes that maybe, that I was wrong, because,
8 again, you know, I was only going on a gut feeling.

9 262 Q. And did she also make a reference to the fact that
10 there was -- no Pulse number had been assigned to the 12:27
11 case?

12 A. She did, yes. And I just took that to mean it was all
13 kind of hush-hushed, or something. I don't know.

14 263 Q. Now, I think that you refer to, at paragraph N, around 12:27
15 this time the story of Sylvia Roche-Kelly was happening
16 and that you wanted to investigate it further as it
17 involved Bailieboro Gardaí, and that you spoke to
18 Robert Cox about it?

19 A. Yes.

20 264 Q. Will you just tell us what was said? 12:28

21 A. I just said can we do something positive on the
22 whistleblowers, can I write something about it? And he
23 said they didn't want any negative stories because it
24 would piss off the Gardaí and they would stop giving
25 Debbie stories. 12:28

26 265 Q. Now, I think that you continued to meet John Wilson on
27 a number of occasions, isn't that right?

28 A. Yeah, I think I might have met him a couple of months
29 later, but we did speak a lot on the phone.

1 266 Q. And I think that Debbie McCann went on maternity leave?
2 A. That's correct.

3 267 Q. Did you keep in contact with her?
4 A. Yes, I -- I mean, we had our difficulties, obviously,
5 and I am sure I annoyed her as much as she annoyed me 12:28
6 about certain things, but we were still pals in one
7 way. I mean, there was never a big discussion, I am
8 never speaking to you again, type thing. It was just
9 an ongoing debate we had, I suppose, about the Gardaí
10 on and off. But certainly when she went on maternity 12:29
11 leave, I made sure the office got her some flowers and
12 went out to see her and was in touch with her, because
13 when you are on maternity leave, you know, you can feel
14 a little bit vulnerable in your job, you know, you
15 would be concerned that there won't be a job for you 12:29
16 when you come back. You know, it's a general -- I
17 think it's a fair enough feeling, you know.

18 268 Q. And I think the Guerin Report was published and it
19 spoke highly of Maurice McCabe?
20 A. Hmm. 12:29

21 269 Q. And you were talking to Debbie about it and you say
22 that she described it as gross?
23 A. Yes.

24 270 Q. Is that reference to the report?
25 A. Yes. 12:30

26 271 Q. Yes. And did she indicate then to you -- you point out
27 in your statement, she said:
28
29 "Everyone knows about what happened, from politicians

1 to journalists, and that it was a pantomime."
2 A. That's correct, yes. It's in a text message.
3 272 Q. And I think that we will come to those after lunch.
4 But those were text messages that you have provided to
5 the Tribunal, is that right? 12:30
6 A. That's correct.
7 CHAIRMAN: The Guerin Report is the 6th May '14, so is
8 that the right kind of time-line?
9 A. She'd be off then, she was off.
10 CHAIRMAN: You spoke, what, by text? 12:30
11 A. By text and phone call.
12 CHAIRMAN: Oh, I see. All right. Do you want to break
13 there?
14 MR. MARRINAN: Yes.
15 CHAIRMAN: All right. We will take an hour. 12:30
16
17 THE HEARING ADJOURNED FOR LUNCH
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29

1 THE HEARING RESUMED AS FOLLOWS AFTER THE LUNCHEON

2 ADJOURNMENT:

3

4 273 Q. MR. MARRINAN: Now, we'd just got to the stage where
5 the -- you had contact after the publication of the 13:37
6 Guerin Report. Just before we move on from that, do
7 you know whether or not Debbie McCann was friendly with
8 Paul Williams?

9 A. I would know Paul from -- well, obviously everybody
10 knows Paul, but, yeah, I think they were -- well, they 13:38
11 would know each other well, yes, I think so. I worked
12 for a short period of time as a freelancer in the News
13 of the world and they were in there, but he kind of
14 just seemed to work on his own; he was quite friendly,
15 you know, but he seemed to just work on his own stuff. 13:38
16 But yeah, I think they do, yeah, I think so, yeah.

17 274 Q. And what about Eavan Murray?

18 A. I know Eavan well, yes.

19 275 Q. Yes. Would Debbie McCann be friendly with her?

20 A. I wouldn't have thought so. I don't think so. I'm 13:38
21 sure they know each other as journalists, but I can't
22 remember them being pally.

23 276 Q. But do you think there's any circumstances where they
24 may have shared information with each other as between
25 Debbie McCann, Eavan Murray and Paul Williams? Is 13:38
26 there a possibility of that?

27 A. It's absolutely possible. I mean, journalists meet all
28 the time in courts and on crime scenes and they try and
29 help each other out. So it is possible, yes.

1 277 Q. And even though you might be working for rival
2 newspapers or providing stories to rival newspapers?
3 A. Yes.
4 278 Q. Even as freelancers?
5 A. Yes. 13:39
6 279 Q. would there be a sharing of information?
7 A. I think with most journalists there's goodwill, and if
8 you are kind of stuck on something or if you're trying
9 to get into an area that you are not familiar with,
10 there are senior journalists that have certainly helped 13:39
11 me along the way, and I find most journalists are quite
12 helpful.
13 280 Q. But in --
14 A. They will keep the exclusives for themselves, though,
15 you know. 13:39
16 281 Q. Yes, all right. well, then we move on, and Nóirín
17 O'Sullivan was appointed Commissioner, and you had some
18 interaction with Debbie McCann in relation to trying to
19 get an interview with the Commissioner --
20 A. Yes. 13:39
21 282 Q. -- because you knew her personally.
22 A. well, so I believed anyway.
23 283 Q. Hmm?
24 A. I believed that.
25 284 Q. Yeah. And did you inquire in relation to her story and 13:40
26 getting an exclusive with the Commissioner, did you
27 inquire from time to time in relation to that?
28 A. Yes, I did. At that time now, Debbie was back from
29 maternity leave, so you're moving towards the end of

1 the year, and Nóirín O'Sullivan was appointed
2 Commissioner. So she was obviously the first female
3 Commissioner and, as I understood it, Debbie knew her,
4 and I just -- like, she would have encouraged me with
5 stuff and I would have encouraged her with stuff. So I 13:40
6 was saying, you know, why don't you try and get a
7 sit-down with Nóirín O'Sullivan? Because I remember
8 when Frances Fitzgerald was appointed Minister for
9 Justice, I just kept going at the Press Office to try
10 and get a sit-down with her. So I was kind of 13:41
11 encouraging Debbie to just keep at it, like, just keep
12 doing it. And, you know, I just said it would be a
13 great story for the paper, obviously. So she said
14 that, you know, that she had her mobile number, she had
15 her -- I remember she had her bag on her shoulder and 13:41
16 she gestured to her bag and said, well, I do have her
17 mobile number. And she said that she'd been in touch
18 with her, but she had to make a request through the
19 Garda Press Office to make it look like they didn't
20 know each other. 13:41
21 285 Q. And I think that she ultimately did interview her and
22 she wrote an article which was published in the Irish
23 Mail on Sunday on 30th November 2014, isn't that right?
24 A. Yes.
25 286 Q. And you kindly attached that to your statement and 13:41
26 provided it to the Tribunal, along with a number of
27 text messages from in or around that time in 2014. And
28 if we could just go to page 3840. And this is one of
29 the text messages that you had retained on your phone

1 and you made available to the Tribunal from you to
2 Debbie McCann. It reads:

3
4 "A highly respected officer held in 'high regard' " --
5 in quotation marks -- "is how judge Guerin describes
6 McCabe." 13:42

7
8 And then the response is:

9
10 "I am fully aware and, to be honest, I think it's
11 gross. There is a very messed up girl at the heart of
12 it and no one gives a fuck." 13:42

13
14 Then over the page at 3841, again I think this is a
15 text message, is it, that was sent to you? 13:43

16
17 "It's a farce. Everyone knows, from politicians to
18 cops to jurno."

19 A. Yes.

20 287 Q. "It's an f-ing pantomime" is there. And then the
21 following page at 3842, and we see a text message
22 there: 13:43

23
24 "Sorry for Shatter? It's just like a house of cards.
25 Self-preservation is the name of the game. It's one
26 big sordid game. Nóirín should get the job, she'd be
27 fab, and it'll be the ultimate knee-jerk reaction if
28 they go down the civilian route. I also feel for
29 Callinan. What a way for his career to end. The tape 13:43

1 thing is one big f-ing smokescreen designed to save
2 political face, and at what cost? Justice will be the
3 biggest loser if the government continues the way it's
4 going. "

13:44

5
6 Then she says:

7
8 "It's disgusting. "

9
10 And I think you just provided those to give a flavour
11 of the interactions that you had?

13:44

12 A. Yeah, I just gave the Tribunal everything I have. I
13 don't know whether it's relevant or not, but it was
14 just to show, really, you know, that we were kind of
15 having this ongoing debate.

13:44

16 288 Q. Now, if we could fast forward to --

17 CHAIRMAN: Sorry, Mr. Marrinan, I'm just wondering are
18 there dates or kind of approximate dates for those?

19 MR. MARRINAN: Sorry, sir, I thought that they were on
20 them.

13:44

21 CHAIRMAN: No, unlike most things it doesn't --

22 MR. MARRINAN: well, we can deduce that --

23 CHAIRMAN: It's in around the time of the interview
24 being published then, is it, or Mr. Callinan resigning?

25 A. In and around Mr. Callinan resigning. And then also --

13:44

26 CHAIRMAN: So it's earlier in the year, is that
27 March --

28 A. It could have been earlier in the year, right down to
29 when Nóirín O'Sullivan was appointed. So it's across

1 the year.

2 289 Q. MR. MARRINAN: The first one at 3840 has the date on it
3 as being 9th May 2014.

4 CHAIRMAN: Yes.

5 MR. MARRINAN: And the second one then is after -- 13:45

6 CHAIRMAN: Oh, yes. No, I see.

7 MR. MARRINAN: -- Callinan -- or, sorry, is after
8 Shatter has -- Minister Shatter has resigned.

9 290 Q. You might be able to provide us with the exact dates --

10 A. Yes. 13:45

11 291 Q. -- after you've given evidence. So if we could
12 fast-forward to early last year. You say at paragraph
13 Q in your statement the story of Maurice McCabe emerged
14 again and that you heard there was an issue with the
15 Tusla file in relation to Maurice McCabe. 3833. And 13:45
16 that you heard on the news several times that the
17 matter of Gardaí being in collusion with journalists
18 was a major issue and that there were attempts to smear
19 Mr. McCabe. And then you indicate that you heard Dave
20 Taylor made a protected disclosure and claimed he was 13:46
21 instructed by Garda management to smear Maurice McCabe
22 and brief journalists about vicious rumours.

23

24 You hadn't been approached, or had you, by
25 Superintendent Taylor? 13:46

26 A. No.

27 292 Q. Did you know him as the Garda Press Officer?

28 A. Not really, no. I would have had a handful of phone
29 conversations with him maybe on a Saturday when -- if

1 Debbie wasn't in, and I might have met him at some
2 markings, but that would be about it.

3 293 Q. Were you at all suspicious that he may have been behind
4 Debbie McCann's hostility towards Sergeant McCabe?

5 A. I had no idea. At the time, I had no idea. I mean, a 13:47
6 lot has emerged since then, but at the time I was just
7 listening to what she was telling me, but --

8 294 Q. But what she was telling you was that David Taylor was
9 giving her information?

10 A. Yes. 13:47

11 295 Q. In relation to Ms. D?

12 A. Yes.

13 296 Q. Firstly, that the information that she was in bits, I
14 think the description was, is that right?

15 A. Yeah, she was in a bad way. 13:47

16 297 Q. And so from that point of view you knew that she'd been
17 discussing the matter with Superintendent Taylor?

18 A. Well, that's what she told me.

19 298 Q. Did you know that they were in a lot of contact with
20 each other? 13:47

21 A. I wouldn't know who Debbie's in contact with. She's
22 the crime correspondent, so you just naturally assume
23 that her port of call would be Dave Taylor, because he
24 was the Press Officer, but...

25 299 Q. But in any event, you say that you were very concerned 13:48
26 and that you believed what happened to Maurice McCabe
27 was wrong, but you felt afraid to tell anyone in the
28 Mail?

29 A. Yes.

1 300 Q. Could you just tell us why you felt that way?
2 A. Well, I had an awful instance with them in 2016 that
3 took me nearly a year to get over and I didn't feel
4 they had my best interests at heart.

5 301 Q. Okay. This concerned a story that you had written, is 13:48
6 that right?
7 A. Yes.

8 302 Q. And we have information that was sent in to the
9 Tribunal, and I'm sure that Ms. McCann's lawyers will
10 ask you questions about that, as they are fully 13:48
11 entitled to do. But your statements have been put to
12 Ms. McCann --
13 A. Yes.

14 303 Q. -- and I'll come to what she says?
15 A. Yes. 13:49

16 304 Q. But she actually hasn't denied in any of the statements
17 that she's made the contents of the conversations that
18 you say that you had with her.
19 A. Yes.

20 305 Q. You appreciate that? 13:49
21 A. Yes.

22 306 Q. From reading the material?
23 A. Mm hmm.

24 307 Q. You say then -- you continue on at paragraph R that you
25 have been speaking to a confidante about a number of 13:49
26 issues that we needn't go into and that he had
27 experience and that he had a connection with Deputy
28 Brendan Howlin, is that right?
29 A. That's correct.

1 308 Q. And was there a suggestion that you would contact
2 Deputy Howlin?

3 A. I think what happened was, there was all this talk
4 about a tribunal, Dave Taylor, slurs and smears against
5 Maurice McCabe, and I felt very concerned. I think I 13:50
6 had heard N6ir6n O'Sullivan on the radio at that time
7 saying she'd no knowledge of any smear campaign. And I
8 was talking to my contact - or, well, he's a friend,
9 actually, he's not a contact, but I talk to him all the
10 time, at all hours, but I just said to him, look, 13:50
11 there's a bit of a situation here, I've heard this
12 about Dave Taylor, they're looking for people to come
13 forward with information, I can't prove a lot of what
14 I'm saying, but I know that Debbie was up at the house,
15 I know what she told me about N6ir6n O'Sullivan and 13:50
16 Dave Taylor and her dad, I don't really know what to
17 do. And I knew as well from speaking to John Wilson
18 that Maurice McCabe was highly distressed. I mean, I
19 had met the man myself and I got that feeling from him
20 too. And I just thought it was so wrong. I just 13:51
21 thought it was just so wrong that anybody could do that
22 to somebody when they didn't do anything wrong. And it
23 involved, you know, on the face of it, what Dave Taylor
24 was saying, guards and journalists and everybody. And
25 I knew what Debbie McCann had told me, so I told my 13:51
26 friend that and he said to me, 'do you want to speak to
27 Brendan Howlin?' And I said okay, but it has to be in
28 the strictest of confidence, because I've been so sick
29 for a year-and-a-half, I just -- I'd need it to be

1 really, really confident -- confidential. And then
2 later on that morning, I don't know, a couple of hours
3 later, Deputy Howlin rang me and --

4 309 Q. This is on the 8th February --

5 A. Yes, yes. 13:52

6 310 Q. -- of last year?

7 A. Yes, the day he made the speech in the Dáil. And he
8 just said to me: I believe you have some concerns.
9 And I said I do, but I'm in a bit of a difficult
10 situation here and I've had a terrible year, but this 13:52
11 is wrong and I remember stuff and I know stuff and
12 maybe it's of no help to anybody, I don't know, but
13 Debbie McCann told me about Nóirín O'Sullivan and I've
14 heard her there on the radio saying she'd no idea of
15 any smear campaign, and that's not what I heard. And 13:52
16 he said, but that's, you know, that's hearsay. And I
17 said it is, but, you know, that's what I heard. And he
18 said, okay, like, what do we do? And then he went away
19 and then he came back and rang me and he said -- and I
20 don't know if I missed a few phone calls from him, but 13:53
21 he rang me later that day, or that morning, and he
22 said, okay, I'm going to make a speech in the Dáil.
23 And I said right. And he said I've been asked --
24 speaking to another few journalists and they all seem
25 to be coming up with the same name, that Debbie McCann 13:53
26 was part of this smear campaign. And I said, well, I
27 know what she told me. And so he read out his speech
28 to me and I said -- he was saying like the journalist
29 and she, and I was saying, oh, Jesus, Brendan, now,

1 don't be getting me into trouble there. And he says,
2 well, you know it's very important, like, and it is
3 really important. And I said okay. And he mentioned
4 direct information and I said, well, I don't have
5 direct information. And he said -- I think he said 13:53
6 something like, it's direct in the sense that she's
7 told you and you believe it.

8
9 So it just happened really fast. He stood up and made
10 his speech in the Dáil and then he rang me afterwards 13:53
11 to see if I was okay, and I said yes, I'm fine. And I
12 said, but, you know, Brendan, like, if you're talking
13 about direct information there, you'd better just
14 clarify that. And he said yeah, because a few people
15 are looking for information off me, a few people are 13:54
16 trying to clarify that. And I said now, Brendan,
17 you're not to give my name to anybody, and he said I
18 will never give your name to anybody. He did ask me
19 would I speak to the Tribunal. I said I would, but I
20 -- you don't just speak to a Tribunal; you have to get 13:54
21 advice. And I was thinking that in my head, you know?
22 But he clarified his statement pretty much
23 straightaway, I think, and then he went on radio the
24 next day and explained what happened and that he had
25 thirdhand information, and he got a bit of a hard time, 13:54
26 I think, but he accepted it. And then that was that.
27 And then the day after that then --

28 311 Q. well, just before we move on to that, so that we're
29 clear on what you actually --

1 A. Sorry, yes.

2 312 Q. -- what you actually told him. If you could just look
3 at your statement at page 3833. First of all, you say
4 there:

5

13:55

6 "I could only speak to him in confidence."

7 A. Yes.

8 313 Q. I think there is an issue between the two of you in
9 relation to this aspect of it?

10 A. Well, not really any more, no.

13:55

11 314 Q. No, it -- there doesn't seem to be much between the two
12 of you. And I'll come to what Mr. Howlin says in
13 relation to this in a moment. You then go on to say:

14

15 "I told him I had a very bad year in work and that I
16 could only speak to him in private. He said he would
17 not discuss what I told him. I told him that a
18 reporter called Debbie McCann had told me that
19 Commissioner O'Sullivan and Dave Taylor had told her
20 Maurice McCabe was a child abuser."

13:55

13:56

21 A. Yes.

22 315 Q. Is that right?

23 A. Yes.

24 316 Q. "I told him Debbie McCann told me she had the
25 Commissioner's phone number."

13:56

26

27 Did you tell him that?

28 A. Yes.

29 317 Q. "I told him Debbie McCann was allowed to go to the

1 alleged victim's house to interview her for the paper."

2 A. Yes.

3 318 Q. That wasn't common knowledge at all at that stage,
4 except for what Debbie McCann had told you in relation
5 to that?

13:56

6 A. It's just what Debbie McCann had told me.

7 319 Q. "I told him Debbie said terrible things about Maurice
8 McCabe and that she had told me that she got her
9 information from the Gardaí."

10

13:56

11 And that's what you've told us and you told that to
12 Mr. Howlin, is that right?

13 A. That's right.

14 320 Q. And he then pointed out to you, you say:

15

13:56

16 "But that is only third-party information."

17 A. Yes.

18 321 Q. And you said:

19

20 "Yes, it is.

13:56

21 And then he said: So what do we do?

22 I said: I don't know. I'm just telling you because
23 you are a TD."

24

25 I suppose your understanding was that he would take the
26 matter further, isn't that right? That's why you were
27 telling him?

13:57

28 A. Yeah, I suppose, yeah, yeah.

29 322 Q. So, in any event, if we could just have a look then at

1 what Mr. Howlin has said in a statement to the Tribunal
2 at page 1692. This letter dated 13th March to the
3 Tribunal:

4
5 "I am writing to you pursuant to the Tribunal's opening 13:57
6 statement. On returning to my Dáil office after
7 10 a.m. on Wednesday, 8th February 2017, I was told by
8 my chief of staff, Neil Ward, that a journalist,
9 Ms. Alison O'Reilly, wanted to speak to me in relation
10 to the then ongoing Garda Commissioner controversy. I 13:58
11 telephoned Ms. O'Reilly from my Dáil office. She
12 informed me that she had direct knowledge of the
13 campaign of vilification conducted against Sergeant
14 Maurice McCabe. Ms. O'Reilly worked, as I already
15 knew, in the office of The Mail on Sunday. She 13:58
16 informed me that The Mail on Sunday crime
17 correspondent, Ms. Debbie McCann, had had ongoing
18 communication with Garda Commissioner Nóirín O'Sullivan
19 during 2013 and 2014."

20
21 Is that right? 13:58

22 A. No, I just have the one conversation that she told me
23 about, and then obviously when she interviewed her a
24 few months later for her piece in the paper.

25 323 Q. "Ms. O'Reilly said that Ms. McCann told her that the 13:58
26 Commissioner had given information to her claiming
27 serious sexual misconduct on the part of Sergeant
28 McCabe. It involved a girl in Cavan whom it was
29 alleged had been abused by Sergeant McCabe."

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Is that correct?

A. Yeah.

324 Q. "Ms. O'Reilly said that Ms. McCann, after the conversation, described Sergeant McCabe as a dirty f-ing bastard," in quotation marks.

13:59

Is that right?

A. I think -- it mightn't have been after the conversation. She said it so much throughout the years, she'd said a lot of bad names about him, so it mightn't have been directly after our conversation.

13:59

325 Q. And you advised Mr. Howlin of that?

A. Yes.

326 Q. "Ms. O'Reilly said that superintendent Dave Taylor and Commissioner Nóirín O'Sullivan had both provided this type of information directly to Ms. McCann."

13:59

Is that right?

A. According to Debbie, yes.

13:59

327 Q. "She further informed me that she would be willing to make a statement to an inquiry on these matters."

And you can confirm that that's --

A. Yes.

13:59

328 Q. That's right, is it? And then he goes on to say:

"I spoke again by telephone to Ms. O'Reilly just before attending the Dáil for Leaders' Questions and I read to

1 her the text of what I proposed to say in Dáil Éireann.
2 She replied that every word was true."

3
4 Is that right?

5 A. I don't know if I said every word was true. I would 14:00
6 have said, well, I don't have direct information. But
7 he asked me, do you believe this? And I said I do
8 believe it.

9 329 Q. And then he goes on:

10 14:00
11 "Later in the afternoon of 8th February I spoke again
12 to Ms. O'Reilly to make sure that she was okay with the
13 publicity that resulted from my Dáil statement. She
14 replied: well done, fair play to you."

15 14:00
16 Have you any issue in relation to any of that?

17 A. Well, I actually had asked him to clarify the direct
18 information, and he clarified that and we spoke
19 again -- or he read that statement to me, that second
20 statement, and I said well done, fair play to you, 14:00
21 thanks for doing it.

22 330 Q. Okay. And then if we could go to -- have page 6380 up
23 on the screen. This is a further letter by Mr. Howlin
24 to the Tribunal on 20th February 2018. And it's in
25 response to the statement that you had made to the 14:01
26 Tribunal. And there's one issue here in paragraph 1:

27
28 "Ms. O'Reilly says that she did not have direct
29 knowledge and did not use the words 'direct knowledge'

1 in relation to her knowledge of the campaign against
2 Maurice McCabe. "

3
4 He says:

5
6 "My recollection is that Ms. O'Reilly did use these
7 words and, in any event, not as a legal expert might
8 have done. I think it is clear from Ms. O'Reilly's
9 views from my earlier statement to the Tribunal, indeed
10 from my Dáil statement of 8th February of last year, 14:01
11 that it has always been clear that Ms. O'Reilly did not
12 tell me she was herself party to a conversation with
13 any of the Gardaí concerned, but rather, that she had
14 knowledge of Garda contacts with journalists. I have
15 never claimed or implied that Ms. O'Reilly herself 14:02
16 received any such contact. "

17
18 Is that a fair enough observation?

19 A. Yeah.

20 331 Q. There doesn't appear to be anything between you in
21 substance, isn't that right? 14:02

22 A. Yeah, I think that's fine.

23 332 Q. Then paragraph 2 he says:

24
25 "I believe that, overall, my statement to you detailing 14:02
26 what Ms. O'Reilly relayed to me on the morning of 8th
27 February 2017 in her statement to you of 7th June 2017
28 are consistent in their accounts of her dealings with
29 Debbie McCann. "

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Do you differ in any way from the observation of Mr. Howlin in that regard?

A. No, I think that's okay.

333 Q. Hmm?

14:02

A. That's okay, yeah.

334 Q. He then points out at paragraph 3:

"Ms. O'Reilly's statement and my own recollection are therefore not substantially at variance. That said, there is one aspect of her statement which I must take issue, although I appreciate that the Tribunal may not consider it to be relevant to its own investigation."

14:02

And that's in relation to the issue as to whether or not this was said in private or there was an understanding that he wouldn't mention you. Because obviously he mentioned you in his statement to the Tribunal, isn't that right?

14:03

A. Yeah, I mean, he could have just stood up and said my name in the Dáil. I just felt that it was very much up to me to speak to the Tribunal myself. But, you know, at the time when I received the statement from the Tribunal, it was a bolt out of the blue, because I hadn't spoken to him. He didn't come to me and say, I'm going to write off to the Tribunal now. So there was no warning. So, you know, in that circumstance I was shocked and I was upset and I felt very let down. I felt all sorts of feelings, I suppose, when you get a

14:03

14:03

1 shock like that, but, you know, like, in the fullness
2 of time and when other more important things happen in
3 your life, it doesn't really matter. I mean, I did
4 speak to him, and he -- you know, he's clarified that I
5 didn't have direct information and he clarified that 14:04
6 pretty quickly. And I have spoken to the Tribunal, so
7 it's not an issue for me any more.

8 335 Q. Right, okay. But at the time it appears to have been
9 an issue to you. He points out at page 6381, in the
10 third-last paragraph: 14:04
11

12 "When I informed the Dáil on 8th February that 'I have
13 been contacted by somebody who is willing to give
14 evidence to the commission'," that was actually
15 correct, because you did indicate to him -- 14:05
16

17 336 Q. -- that you were prepared to give evidence to what was
18 then thought to be a commission rather than the
19 Tribunal?
20

21 A. I did. But I just felt that it was up to me to do, and 14:05
22 that was the issue.

23 337 Q. Yeah. So you feel that perhaps Mr. Howlin ought to
24 have contacted you before he sent the letter in to the
25 Tribunal?
26

27 A. Well, he said he would. I mean, I thought he would be 14:05
28 in touch. And, you know, as I said, I think I probably
29 would have always been sitting up here talking to the
Tribunal because I had been told things that had upset
me anyway. So I've just told the Tribunal everything I

1 can think of and remember, and I sent it in.

2 338 Q. well, I've gone through what Mr. Howlin says in
3 relation to the matter.

4 A. Yes.

5 339 Q. We have your evidence in relation to it -- 14:05

6 A. Yes.

7 340 Q. -- as well. It doesn't appear to me that there's a
8 great deal between the two of you in relation to your
9 account of the same incident --

10 A. I don't think -- 14:06

11 341 Q. -- and interactions?

12 A. Yeah, and I don't think it matters. I'm not upset any
13 more about it. I think he was just trying to help
14 Sergeant McCabe and he was just trying to do the right
15 thing. 14:06

16 342 Q. Okay. Sorry, just give me one moment. Yes, if we
17 could have page 3739 up on the screen. This is an
18 interview that Debbie McCann had with the Tribunal
19 investigators on 7th July 2017. If you look at line
20 163 there, this is a quote from your statement: 14:08

21

22 "Ms. Alison O'Reilly of the Irish Daily Mail stated the
23 following to the Disclosures Tribunal:

24

25 'I do not have any direct information. I was told by 14:08
26 my former colleague in the Irish Mail on Sunday, Debbie
27 McCann, between 2013 and 2014, that Superintendent Dave
28 Taylor and then Acting Commissioner Nóirín O'Sullivan
29 told her Maurice McCabe abused a girl when she was a

1 child. Debbie told me the abuse was covered up because
2 Mr. McCabe was a garda and the case was never given a
3 Pulse number.' "

4
5 **The question is:**

14:08

6
7 "I have been asked whether what Ms. O'Reilly has stated
8 above is accurate and whether I wish to make any
9 comment."

10
11 **And this is the general comment that you made:**

14:08

12
13 "I wasn't involved in any orchestrated campaign to
14 malign Sergeant McCabe. I have no evidence of any
15 orchestrated campaign to malign Sergeant Maurice
16 McCabe. The allegations that we are looking at at the
17 time were discussed in the office. I certainly did not
18 negatively brief Alison O'Reilly. We certainly would
19 have discussed the allegations. As journalists, we
20 became aware of allegations all of the time. Our job
21 is to investigate them, see if we can substantiate them
22 and publish them if they are in the public interest.
23 But until proven, they are treated only as an
24 allegation. The allegations were discussed in a
25 private capacity. They were never going to be aired
26 and shared with anyone else. I work primarily on crime
27 in The Mail on Sunday. Alison would also have worked
28 on crime. We would have discussed stories all the time
29 together. She was a colleague and a friend at that

14:09

14:09

14:09

1 point and any discussion around stories were in that
2 context. Just to say it wasn't a briefing in any
3 description; it was a discussion among colleagues. To
4 clarify, any discussion was into the allegation we were
5 looking at, as already described above in my
6 statement."

14:10

7
8 So you see there she's characterising the discussions
9 that she had with you and the conversations she had
10 with you as not being a briefing, and I suppose she's
11 right in that regard?

14:10

12 A. Mm hmm.

13 343 Q. It could never be described as a briefing --

14 A. No.

15 344 Q. -- is that right? But nevertheless, the conversations
16 took place between two colleagues, is that right? Is
17 that right?

14:10

18 A. That's correct.

19 345 Q. Yes. And then if could go to page 3730:

20
21 "I have been asked to provide an account to the
22 Disclosures Tribunal relating to all meetings,
23 interviews and all attendant circumstances, including
24 the facts and circumstances relating to why, how, when
25 and in what circumstances I sought to interview Ms. D
26 and/or members of her family in 2014. In February 2014
27 we had been hearing murmurings about Sergeant Maurice
28 McCabe."

14:10

14:11

1 I am not sure who the "we" refers to.

2

3 "As I say, it was around the February 2014 period. The
4 Gardaí were big in the news at that point. Martin
5 Callinan had made the 'disgusting' remark. There was 14:12
6 also controversy surrounding Alan Shatter at that
7 point. I decided to look into the murmurings of an
8 allegation against Sergeant McCabe a little more
9 closely at that point. I approached a number of
10 different sources in respect of trying to firm up the 14:12
11 allegation and I established that there had been an
12 allegation made around 2006, 2007 mark. I wasn't sure
13 of the date precisely. I was also aware it related to
14 a child at that point who was now (2014) a teenager."

15

14:12

16 That corresponds with what she told you, is that right?

17 A. That's correct.

18 CHAIRMAN: Except the teenager detail?

19 A. The teenager bit, I do not remember the teenager bit.

20 346 Q. MR. MARRINAN: "I established it was an allegation of 14:12
21 inappropriate touching."

22

23 Is that in accordance with what she told you?

24 A. She said he was behind a sofa and pushed up against her
25 using his groin. 14:12

26 347 Q. She adds that:

27

28 "A file had gone to the DPP."

29

1 Did she advise you that a file had gone to the DPP?
2 A. No, I think she just said there was a cover-up, a big
3 cover-up in the Gardaí and, because he was a guard, it
4 was kind of dulled down.
5 348 Q. "I ran the information that I received by my news 14:13
6 editor, Robert Cox..."
7
8 You say that that is correct, is that right?
9 A. That's correct, yes.
10 349 Q. "... who, in turn, spoke to our overall editor in The 14:13
11 Mail on Sunday, Conor O'Donnell."
12
13 And that is in accordance with what you have advised
14 the Tribunal, is that right?
15 A. Well, that is what we would do, yes, but I wasn't 14:13
16 there.
17 350 Q. "As would be usual, I report to my line manager, Robert
18 Cox. I would run everything by him first. A decision
19 was made in mid to late February 2014. The decision
20 was to approach the family of Ms. D and ask if they 14:13
21 would like to comment on the allegation."
22
23 Do you want to make any observation in relation to
24 that?
25 A. In relation to all of it? 14:14
26 351 Q. Yes.
27 A. I mean, "murmurings" is not the word I would have used.
28 352 Q. All right. She says:
29

1 "The next morning I travelled to the Ms. D family home.
2 I think, from recollection, it was Friday, either the
3 14th or the 21st February. I wasn't sure of the exact
4 location of the house, so when I arrived in the area I
5 asked some neighbours for directions. On arrival at 14:14
6 Ms. D's house, I got out of my car, knocked on the
7 door. A woman came out who I believe was Ms. D's
8 mother. I told her why I was there. I identified
9 myself as a journalist with the Irish Mail on Sunday.
10 She appeared to me to be a little upset. She made 14:14
11 reference to listening to the one o'clock news, so it
12 must have been that time of day. The reason I gathered
13 she was upset was that Sergeant McCabe's name had been
14 mentioned on the radio. I asked her if she would like
15 to talk a little bit more. I recall I gave her my 14:15
16 card. That would have been my mobile number and
17 contact details. She was very nice and polite. I
18 think we left it that she would think about it, or
19 words to that effect. She did not speak to me about
20 the allegation." 14:15

21
22 Now, that, of course, is at variance with what Debbie
23 McCann told you, is that right?

24 A. That's correct. It's nothing like what she told me.
25 I'd also like one of them business cards as well. I 14:15
26 don't know if -- I do not remember us having them.

27 MR. MARRINAN: Thank you. Would you answer any
28 questions

29 A. Thank you.

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MS. O'REILLY WAS CROSS-EXAMINED BY MR. McDOWELL:

- 353 Q. MR. McDOWELL: Ms. O'Reilly, Michael McDowell is my name. I am one of the counsel for Sergeant Maurice McCabe. Could I firstly ask you, do you agree with my client's instructions that you visited him on one occasion and the visit was at his home and lasted approximately ten minutes or so; was that your recollection of it? 14:16
- A. I thought it was a little bit longer, but yes, yes.
- 354 Q. Well --
- A. Maybe 20 minutes.
- 355 Q. Maybe I'm being --
- A. Maybe it doesn't matter. 14:16
- 356 Q. Ten minutes or quarter of an hour at most?
- A. Maybe, yes.
- 357 Q. And can we take it that you informed him that you knew that there were rumours that had been put out about him, is that right? 14:16
- A. That's correct.
- 358 Q. And that he denied them to you, is that right?
- A. He did.
- 359 Q. Is there any question that he would have given you an account of the -- Ms. D's allegation, including the sofa, the pushing up against, or anything like that? 14:16
- A. No, he shut down completely.
- 360 Q. I see. He didn't in any sense impart to you any information concerning what her allegation had been, is

1 that right?

2 A. No, he didn't.

3 361 Q. And, after that, did you have any further personal
4 contact with Maurice McCabe?

5 A. I didn't. But I actually just remembered there 14:17
6 recently that, and I haven't got it in my statement
7 because I only just remembered it, I rang him around
8 the time last year that David Taylor made a protected
9 disclosure, to speak to him around the time I was
10 talking to Brendan Howlin, around that time. Now, I 14:17
11 can get the date, but the Mail would have my phone
12 records, I can get the date. But the phone was off and
13 I just left a message saying it's Alison O'Reilly from
14 the Daily Mail, could I speak to you. But I presumed
15 there was so many people ringing him at that time, so 14:17
16 he didn't return my call.

17 362 Q. And that accords with his instructions to me, is that
18 he had only one interaction with you?

19 A. Yes.

20 363 Q. And that was in 2013? 14:17

21 A. He probably forgot about it, or maybe he didn't even
22 hear the message.

23 364 Q. Now, could I ask you, in relation to the account you've
24 given that Debbie McCann gave you of her interview with
25 Ms. D, this is her sitting at the other end of a 14:18
26 settee --

27 A. Yes.

28 365 Q. -- and clutching herself. I just want to ask you one
29 thing; could that possibly have come from seeing a

1 video recording with her at a later stage, or
2 something? I mean, can you put a date on when that
3 happened?

4 A. I honestly, I think it was just around January or
5 February, possibly. I can't say for sure, because I 14:18
6 wasn't reporting on this and I have no dates because
7 these were -- a lot of it was just conversations.

8 366 Q. Yes. I'm just wondering where the detail could come
9 from. Maybe she witnessed -- could she by any chance
10 have told you that she had seen a video recording, or 14:19
11 anything like that?

12 A. No, she didn't.

13 CHAIRMAN: You are talking about the Paul Williams
14 video, is that what you're --

15 MR. McDOWELL: Or whatever, yes. 14:19

16 CHAIRMAN: And is she on a couch clutching herself?

17 MR. McDOWELL: I don't know.

18 CHAIRMAN: I don't know. Well, I will look at it, in
19 any event? But did you see -- did --

20 A. No, I didn't see anything, no. I mean, that's just 14:19
21 what she told me.

22 367 Q. MR. McDOWELL: So, but you have no doubt that she led
23 you to believe that she had been present in a room in
24 Ms. D's home and had had this conversation with her, is
25 that right? 14:19

26 A. Absolutely no doubt.

27 368 Q. And did it occur to you to ask yourself whether, given
28 that her father was a member of An Garda Síochána, that
29 she might have had access to materials by that means?

1 A. I didn't ask her.

2 369 Q. She never mentioned that to you?

3 A. She said to me earlier in the year that her father had
4 confirmed the story, but I didn't know what the story
5 was at that point. All I knew was there was an 14:19
6 allegation from a young girl who was now grown up, and
7 that's all I knew, and that Dave Taylor had told her
8 she was in a bad way later on in the year. But she
9 said her father had confirmed the story, but she never
10 told me what her father actually said. 14:20

11 370 Q. Did she ever tell you that she'd had a brief encounter
12 with Mrs. D at the home which didn't prove successful?

13 A. No.

14 371 Q. Did you ever hear her report that back --

15 A. No. 14:20

16 372 Q. -- to the Daily Mail?

17 A. No. The Mail on Sunday.

18 373 Q. Or The Mail on Sunday, rather?

19 A. No, I didn't.

20 374 Q. And in relation to the account she gave you, can you 14:20
21 just assist the Tribunal, was it a vivid account, or
22 what kind of account was it of Ms. D that she gave you?

23 A. She said that they were -- she was in her house, that
24 Debbie was on one side of the sofa and Ms. D was on the
25 other, and that she was very, very distressed; I mean, 14:21
26 she referenced her distress a lot in the aftermath, but
27 she was saying that she was really gripping herself and
28 was just in an awful way and that Sergeant Maurice
29 McCabe was responsible for this damage.

1 375 Q. I see. Now, could I ask you just to go to page 3840 of
2 volume 15. This is, I take it, you sending her a
3 quotation from Sean Guerin's report which came out on
4 6th May 2014 and you sent her a text with a phrase from
5 it? 14:22

6 A. Yes, I think it was just part of the ongoing debate
7 that we were having.

8 376 Q. Yeah.

9 A. Saying, look.

10 377 Q. And can you just put that in context; you were citing 14:22
11 this in support of Sergeant McCabe's --

12 A. Yes.

13 378 Q. -- innocence, is that right?

14 A. Yes. Well, again, I only had my gut feeling to go on,
15 but I believed he was innocent. 14:22

16 379 Q. And it reads:
17
18 "A highly respected officer held in high regard is how
19 judge Guerin --"
20 14:22

21 You've elevated him to the judiciary.

22 A. Yeah, sorry.

23 380 Q. "-- describes McCabe. And she replied: I am fully
24 aware and, to be honest, I think it's gross. There is
25 a very messed up girl at the heart of it and nobody 14:22
26 gives an F. "

27 A. Yes.

28 381 Q. Is that right?

29 A. Yes. She was very in support of this girl and, I mean,

1 I certainly believe from speaking to Debbie that they
2 had formed some sort of a friendship, because that's a
3 text message that, in my impression is, she's moved by
4 this girl's story.

5 382 Q. Could I ask you to go to the next page in that volume, 14:23
6 page 3841. There's a text which reads:
7
8 "It's a farce. Everybody knows from politicians to
9 cops to jurnos. It's an f-ing pantomime."

10 A. Yes. 14:23

11 383 Q. Who sent you that?

12 A. That's from Debbie, off the back of that other text.

13 384 Q. I see.

14 A. It's probably not done the right way, but...

15 385 Q. And can we take it that this reflected what she'd told 14:23
16 you, that this was generally known to be true, as far
17 as she was concerned?

18 A. As far as she was concerned, that's what she told me.

19 386 Q. And the next text is one which obviously, or maybe not
20 obviously, but seems to post-date the resignation of 14:23
21 Alan Shatter, is that right?

22 A. Yeah, I think so, yes.

23 387 Q. And that's her e-mail to you, is that right?

24 A. I think I asked her did she feel sorry for Alan
25 Shatter, maybe. 14:24

26 388 Q. Yes.

27 A. I'm not sure.

28 389 Q. And she deals with the fact that Nóirín O'Sullivan
29 would get the job and she'd be fab, is that right?

1 A. Yes.

2 390 Q. And that a civilian commissioner would be a bad idea,
3 she imparts that to you as well, isn't that right?

4 A. Yes.

5 391 Q. And she says -- she describes any suggestion of that as 14:24
6 the ultimate knee-jerk reaction. And she says:
7
8 "I also feel for Callinan. What a way for his career
9 to end. The tapes thing is one big fecking smokescreen
10 designed to save political face." 14:24
11
12 And she goes on to say that it's disgusting at the end.
13 was that her general approach to this controversy and
14 the political outcrop of this controversy at the time?

15 A. Yes. She very much admired Nóirín O'Sullivan and 14:25
16 Martin Callinan. I mean, Nóirín O'Sullivan is the
17 first female Commissioner and a highly intelligent
18 woman, very good at her job, you know, but I always was
19 on the -- under the impression that she knew Nóirín
20 O'Sullivan, she had told me she was in touch with her, 14:25
21 she had given her an off-the-record interview, which I
22 think a lot of us would struggle to get if you didn't
23 know her, but that's just my view. And, yeah, I mean,
24 she didn't believe the whistleblowers. She really,
25 really had strong views and feelings about Maurice 14:25
26 McCabe, she really didn't like him or John Wilson.

27 MR. McDOWELL: I see. Thank you very much.

28 CHAIRMAN: You have no questions?

29 MR. DIGNAM: No questions.

1 MR. MOHAN: Sorry, I don't know if I am next in turn.
2 My name is Hugh Mohan, barrister.
3 CHAIRMAN: I am not sure anyone wants --
4 Mr. Ó Muirheartaigh, do you want to ask any questions?
5 Sorry, or -- I beg your pardon? 14:26
6 MR. DOYLE: Excuse me, Chairman, I will see what arises
7 from Mr. Mohan's cross-examination, and if there are
8 any matters, I would ask, Chairman, to take them up at
9 that stage
10 CHAIRMAN: All right. Well, that's fine. So, 14:26
11 Mr. Mohan, maybe kindly introduce yourself.
12 MR. MOHAN: May it please you, Chairman.
13
14 MS. O'REILLY WAS CROSS-EXAMINED BY MR. MOHAN:
15 14:26
16 392 Q. MR. MOHAN: Ms. O'Reilly, my name is Hugh Mohan, I am a
17 barrister. I am instructed by Mr. Michael Keeley on
18 behalf of your current employers, Associated Newspaper
19 Group and indeed on behalf of Debbie McCann and a
20 number of other individuals who are associated with 14:26
21 Associated Newspapers and the Tribunal. I have a
22 number of questions and --
23 CHAIRMAN: Can you see Mr. Mohan?
24 A. I can't really hear him, sorry.
25 MR. MOHAN: Can you hear me? 14:27
26 A. I can.
27 CHAIRMAN: He is just down in the back there.
28 MR. MOHAN: I'm here.
29 A. Hi.

1 393 Q. I was going to say, forgive me, but you will probably
2 be glad to know that I am not going to parse every line
3 that Mr. Marrinan has very helpfully put to you and
4 Ms. McCann's version of events, which I suppose in some
5 ways differ from your version of events that happened. 14:27
6 A. Yes.

7 394 Q. It appears to me, and you may correct me if I'm wrong
8 in this, that sometimes you're somewhat confused with
9 dates, am I right about that?

10 A. I don't have the dates. I just have to go around 14:27
11 things that were happening at the time.

12 395 Q. I'm not criticising you for that.

13 A. Yes, yes.

14 396 Q. I'm just trying to put it in some kind of macro
15 picture; I think that the Roma controversy was 14:27
16 happening in October 2013, I think matters that are
17 bothering us in this Tribunal are really coming to the
18 fore in January, mid to late January in 2014, and I
19 think Mr. Callinan, or then Commissioner Callinan,
20 appeared in front of the PAC, I think it was at the end 14:28
21 of January the following year, I think 2014?

22 A. Yes.

23 397 Q. And at that stage, and again I'm not putting a time on
24 it, I'm keeping it rather broad, because we're talking
25 about from maybe mid-January through to February, March 14:28
26 or April, I know Ms. McCann has said, she uses the word
27 "murmurings"; you have taken exception to that and I
28 want to keep neutral for the time being.

29 A. Sure.

1 398 Q. I might suggest to you that there was, not just in your
2 newspaper, but in most media organisations who had an
3 interest in this type of stuff, discussions in broad
4 terms about this issue and all of the aspects of this
5 issue. I'm trying to use the biggest, most neutral 14:28
6 terms possible. Would you agree with that?

7 A. It seems that way, yes.

8 399 Q. And, in turn, you would have been talking not just to
9 colleagues like Ms. McCann, but also to colleagues in
10 other newspapers about what Commissioner Callinan was 14:28
11 saying, what the guards' view of life was and what
12 indeed the whistleblowers' view of life might have
13 been?

14 A. Well, I don't remember discussing Maurice McCabe with
15 anybody else. 14:29

16 400 Q. Okay. Well, you didn't discuss the issue with any
17 other journalistic colleagues?

18 A. There's nothing that jumps to mind. The first I had
19 heard about Maurice McCabe was obviously he was in the
20 media the whole time, but the rumours and the 14:29
21 allegations I'd heard from Debbie McCann.

22 401 Q. Yes, but I don't want to dwell too long on it, but it
23 seems to have been an issue which very quickly became a
24 lead story of sorts, and was being followed, I suppose,
25 by crime journalists, by journalists in general, and 14:29
26 something which you had an interest in or were on the
27 periphery of?

28 A. Well, I suppose I'm not office-based and I'd be in and
29 out of the office and I would be out and about a lot

1 dealing just with ordinary people. I don't do stories
2 on the guards really, a few of them obviously from
3 covering for Debbie, but there's nothing that jumps to
4 mind where somebody sat down to tell me about it.

5 402 Q. And you describe, and I use a phrase that you used this 14:30
6 morning, you said "we were good friends and good
7 journalists"?

8 A. Yes.

9 403 Q. And you've described her as a good journalist?

10 A. She is a very good journalist, yes, and a nice person. 14:30

11 404 Q. And in that regard, you kind of also said this morning
12 that you -- my client and your employer ran a tight
13 ship, you wouldn't go on a solo run as such, you would
14 have to, I'm trying to get a picture of it, that you
15 would meet and you would have a discussion of what 14:30
16 stories you may or may not follow, you'd be given broad
17 approval for it, bring it back and have it checked out,
18 and the like?

19 A. Yeah. And I think with something as sensitive as that,
20 you're quite -- given that it was an allegation, given 14:30
21 that Debbie was also pregnant and going to the door of
22 somebody while she's heavily pregnant, there would have
23 been a duty of care, because somebody could react very
24 badly at the door and, you know, that could also lead
25 to maybe a photographer going with her, I don't know, 14:31
26 I'm just saying generally. There would have been, I'd
27 say, a discussion with the line manager, Robert Cox.

28 405 Q. Sure.

29 A. There would have been a discussion with Conor

1 O'Donnell, quite possibly a discussion with Michael
2 Keeley, given the nature of the story and given that
3 she was pregnant and how someone could react on the
4 door.

5 406 Q. Well, we'll take a look at what you did, first of all. 14:31
6 I think you went on the -- maybe the whistleblower
7 angle, you meet with the two individuals concerned and
8 you meet with Sergeant McCabe, you come back, and I
9 think, as you described it yourself, you had just had a
10 hunch that they were, in your view, innocent and were, 14:31
11 I suppose, deserved - these are my words - a better
12 hearing, and that you did and wanted to put that
13 forward in a form of a story, but, as you say, and I am
14 quoting you, you had no proof of it?

15 A. No. 14:31

16 407 Q. And the story didn't elect to run or cover that, is
17 that correct?

18 A. Well, I think when I first heard the story, I was
19 suspicious of it, but obviously when I met John Wilson
20 and Maurice McCabe, I believed them, but I had no 14:32
21 proof.

22 408 Q. But to get to the end, you followed -- I mean, in fact,
23 you went -- I think you went up to Virginia and you met
24 with --

25 A. John Wilson. 14:32

26 409 Q. Yes, John Wilson. And even though you're not meant to
27 do a solo run, he gave you Sergeant McCabe's number and
28 you followed that and you sat down with him and you
29 spoke with him; to use your phrase, you had no proof,

1 you came back, and the newspaper decided not to run
2 with any story on that, isn't that correct?

3 A. Oh, no, it was never a story. I just explained to
4 Robert Cox when I came back from the job, look, while I
5 was there John Wilson asked me did I want to meet 14:32
6 Maurice McCabe, because I put it to him about the
7 rumours, and I ended up in Maurice McCabe's house, and
8 I asked him straight out, did you know about the
9 rumours, do you want to do a story about it? And
10 Robert Cox said, okay, grand. 14:32

11 410 Q. And the same, in fact, happened with Debbie McCann,
12 who, in fact, had followed, if you will, the other
13 line? We know, and I'll get into what -- we know what
14 she says and we know how you differ in versions as to
15 what may or may not have happened there. But for the 14:33
16 time being, she certainly was maybe interested in
17 running a line or a story from that point of view. And
18 again, the newspaper didn't run that story?

19 A. I wasn't there for the conversation or why it didn't
20 work out, but it didn't run, it definitely didn't run. 14:33

21 411 Q. It would seem to follow a pattern that the journalists
22 check stories out, they see do they stand up, there is
23 a discussion about them. If they do, they do. If they
24 don't -- they have to stand up fairly well, and if they
25 don't, they don't go with those stories? 14:33

26 A. Absolutely.

27 412 Q. And I just want to come back to, again, your time-line.
28 You said this morning, maybe I have this -- I am
29 misunderstanding this, but you said that you had a

1 discussion with Debbie McCann about her being
2 interviewed by Mícheál Martin and the like, is that
3 correct?

4 A. Yeah, I think, as I said, I made no attempt to put my
5 statement into a sequence or a time-line, I just put 14:33
6 everything in. And obviously you have time to try and
7 think about things better. But there are certain
8 conversations that I have a fairly clear recollection
9 of, but again, there was no diary or dates, or anything
10 like that. These were conversations around the office. 14:34

11 413 Q. And then she went out on maternity leave, is that
12 correct?

13 A. She went on maternity leave, yes.

14 414 Q. You see, again, just, I don't want to be nit-picking,
15 she went on maternity leave on the 22nd March 2014. 14:34
16 All of what you're describing with Mícheál Martin
17 didn't happen until post the Paul Williams interview
18 in the following month of April 2014?

19 A. Yes, and I said that this morning. I said I believe
20 that conversation was probably a little bit later on 14:34
21 with Dave Taylor. Dave Taylor had told her that. And
22 I explained that it was probably a little bit later on.

23 415 Q. So --

24 A. Around that time, because that's when she told me.

25 416 Q. She was out on maternity leave? 14:34

26 A. No, no, no, before she went on maternity leave. She
27 had spoken to me when she was heavily pregnant and I
28 had asked her about Nóirín O'Sullivan. It was the same
29 conversation at Herbert Park.

1 417 Q. You see, the difficulty with that is that none of this
2 had, in fact, come into the public domain until the
3 following month.

4 A. Okay.

5 418 Q. It hadn't happened. This happened post a Paul Williams 14:35
6 article which appeared, I think, on 12th April 2014.

7 A. Okay. Well, that's just the best to my recollection,
8 that's my best.

9 419 Q. But do you understand that none of this came into that,
10 and she's really gone at this stage, three or four 14:35
11 weeks. Again, it would suggest that your time-line, as
12 you make -- I'm not being overly critical at this
13 point, but it would seem that it couldn't have happened
14 when she was still working, in any event?

15 A. I don't know. I can only tell you what she told me. 14:35

16 420 Q. And if I may get to the point where you seem to have --
17 seem to be a very --

18 CHAIRMAN: Sorry, Mr. Mohan, just before you go on, I'm
19 sorry, it's my fault, I am not following the point.
20 what's not in the public domain as of March 2014? 14:35

21 MR. MOHAN: Well, I may be wrong about this, Chairman,
22 but it appears to me that the Paul Williams article,
23 which was 12th April --

24 CHAIRMAN: Yes, there was four of them. The first was
25 certainly 12th April, yes. 14:36

26 MR. MOHAN: And that brought this issue about the --
27 Ms. D into the domain and the issue of meeting Micheál
28 Martin and all of that.

29 CHAIRMAN: Certainly, yes.

1 MR. MOHAN: In other words, that was the commencement
2 of all of that, if you will. And it's just that it's a
3 matter of fact - and Ms. McCann will be giving evidence
4 in due course - she went out on 22nd March.
5 CHAIRMAN: Yes. 14:36
6 MR. MOHAN: Quite some time before.
7 CHAIRMAN: No, all right, I understand your point. But
8 your point is that you couldn't have been having a
9 discussion about Mícheál Martin, the Taoiseach, etc.,
10 in March, it had to be later than that, and she was on 14:36
11 maternity leave. I'll just clarify that for myself.
12 Do you understand that?
13 A. I do understand that. But I thought that - well, it
14 was my understanding anyway that did Paul Williams not
15 say his article was delayed? I don't know, but -- 14:36
16 MR. MOHAN: Again, I'm open to correction, I'm told
17 that his meeting was 8th March 2014 and the first of
18 those articles appeared -- sorry, 8th March 2014. And
19 then his article appeared on 12th April 2014.
20 A. Yeah, I think he told the Tribunal maybe they were 14:37
21 delayed. But again, I can only go on what I remember
22 she told me.
23 421 Q. And I think we now get to quite a divergence of a
24 recollection between you and Ms. McCann in relation to
25 the, if you will, meeting Mrs. D and her -- your 14:37
26 recollection of her account that this interview took
27 place and took place in such graphic detail. We now
28 know that it didn't take place, isn't that correct?
29 A. It seems that way, yes.

1 422 Q. well, both parties to it say it didn't take place.
2 A. That's correct. But again, Chairman, I can only tell
3 you what she told me. That's what she told me.
4 423 Q. well, for the time being, your recollection may be
5 incorrect, or indeed correct, Ms. McCann's recollection 14:37
6 may be incorrect, that's a possibility on both?
7 A. No, I remember the conversation clearly. I remember
8 her describing this girl. So I can only go on what
9 Debbie McCann told me. I wasn't there.
10 424 Q. By the time you put all of this information down, in 14:38
11 fact, all of this material was, in fact, part of the
12 public domain.
13 A. I don't know, I can't remember.
14 425 Q. well, it was in fact.
15 A. Was it? 14:38
16 426 Q. Because your statement was in 2017, it was all -- yes,
17 it was.
18 A. Okay. well, I can only tell you what Debbie McCann
19 told me.
20 427 Q. Now, this is a lady who you characterise as a good 14:38
21 journalist?
22 A. She is.
23 428 Q. You used the phrase that sometimes journalists
24 exaggerate, sometimes journalists do things and say
25 things that they should or shouldn't? 14:38
26 A. I was just asked, what do you think the reason is
27 behind this? But I have a very clear recollection,
28 Chairman, of Debbie McCann telling me that story.
29 429 Q. And why do you think she would do that? There doesn't

1 seem to be any reason or motive behind it?

2 A. That is something you will have to ask Debbie McCann.

3 430 Q. It doesn't make sense when one takes a look at it at
4 face value, does it?

5 A. It is just something you will have to ask Debbie 14:38
6 McCann.

7 431 Q. No, I appreciate that, and Debbie McCann, we have
8 already noted from what -- her statement, is going to
9 say it didn't happen.

10 A. I just have a very clear recollection of it. 14:39

11 CHAIRMAN: Sorry, she doesn't actually say that in the
12 statement.

13 MR. MOHAN: Sorry, I'm characterising it --

14 CHAIRMAN: I'm sorry, Mr. Mohan, what she says in her
15 statement, Mr. Mohan, is, and we both know this, just 14:39
16 from the point of view of clarity, is that she
17 describes the encounter at the door of the D household
18 effectively the same way Mrs. D has given evidence of.
19 But she never says: I never had a conversation along
20 the lines of I went into the house, she was on the 14:39
21 couch, I was on the other side of the couch, Ms. D was
22 clutching herself, she was very upset and I said that
23 to --

24 MR. MOHAN: I am sorry, Chairman, you are quite
25 correct. But for the purposes of clarity, it might 14:39
26 have been better expressed, but the conversation didn't
27 happen. In fact, her conversation with Mrs. D was as
28 set out in the statement, not otherwise.

29 CHAIRMAN: No, but the issue was --

1 MR. MOHAN: In other words, no further conversation
2 other than was set out.
3 CHAIRMAN: No, I appreciate that, that may well be the
4 case, I don't know, but --
5 MR. MOHAN: I'm clarifying that, sorry. 14:40
6 CHAIRMAN: No, but is -- your client is denying having
7 the conversation now described with --
8 MR. MOHAN: Yes, Ms. D.
9 CHAIRMAN: Sorry, your client is -- I just want to make
10 sure. Your client is denying having a conversation 14:40
11 with Alison O'Reilly about actually meeting Ms. D, her
12 clutching herself and being very upset?
13 MR. MOHAN: Sorry, yes,
14 CHAIRMAN: I am sorry for misunderstanding that, but I
15 just wanted to make sure because it's -- 14:40
16 MR. MOHAN: That is so.
17 CHAIRMAN: All right.
18 MR. MOHAN: And the reason why is because it simply
19 never happened, we say.
20 432 Q. Sorry, there are two different conversations, and I 14:40
21 want to be clear about this. She will say she never
22 had the conversation with you, Ms. O'Reilly, it never
23 happened.
24 A. I can only tell you what she said, Judge. That is what
25 she told me. 14:40
26 433 Q. Now --
27 A. I wasn't there.
28 434 Q. You then -- and I want to get to, if I may, the next,
29 maybe divergence -- you -- there seems to be a dispute

1 between you and Mr. Brendan Howlin as to whom contacted
2 whom, but we know there was contact made, in any event,
3 between both of you.

4 A. I spoke to my friend, who gave my details to Deputy
5 Howlin, and he contacted me. 14:41

6 435 Q. Yeah. And you knew at this stage that giving the type
7 of information that you, in fact, gave to him, was, and
8 it's my -- the use of my word, explosive at that point
9 in time?

10 A. It's the truth. 14:41

11 436 Q. No, no, I appreciate that. I am characterising it as,
12 at that time Nóirín O'Sullivan was the Commissioner and
13 she was being now named by you, information you were
14 giving, that she had, in fact, been speaking to
15 journalists along the lines that you have described 14:41
16 about Maurice McCabe. That was, and again it's my
17 word, explosive?

18 A. Yeah. But, you know, there was no master plan. I just
19 wanted to tell somebody what I knew. I mean, anybody
20 looking at this story knows there was no master plan. 14:42
21 I just felt I needed to tell somebody.

22 437 Q. I appreciate that. When you give that information,
23 you're a journalist, you know the impact it was going
24 to have, and certainly it did have the impact that one
25 could surmise it was going to have. It was, I think, 14:42
26 the lead story on the news, it was on the headlines of
27 all the newspapers the following day, and we know
28 Mr. Howlin, who we will hear from, was, I think, on
29 Morning Ireland the following day describing it. We

1 know as well that the Ceann Comhairle had taken him to
2 task about it. But it was explosive information?

3 A. I didn't consider what was going to come out in the
4 media; I just felt I needed to tell somebody.

5 438 Q. No, and I understand that point. I just want to -- 14:42
6 that you understood the significance of what you were
7 saying, that's the question I'm asking you?

8 A. Yes, it's very important information.

9 439 Q. Explosive?

10 A. Maybe. Very important, I would have thought, extremely 14:42
11 important information.

12 440 Q. And you knew that when he spoke in the Dáil and when it
13 was now being carried on the airwaves and in the
14 newspapers, that you were the source of the
15 information? 14:43

16 A. Well, at first I thought he had spoken to a few
17 journalists. But yes, I accept that -- the Nóirín
18 O'Sullivan stuff and the Dave Taylor, yes, I told him
19 that.

20 441 Q. And it came then, and you wanted anonymity at that 14:43
21 point?

22 A. Yes.

23 442 Q. Why was that?

24 A. I had a very difficult time in work and I just didn't
25 want any more issues. And I, you know, as I said to 14:43
26 him, I was going to speak to the Tribunal, so I suppose
27 it was just up for me to get independent legal advice
28 and come forward. But, you know, like, two days after
29 that interview, the editor-in-chief of the Mail,

1 Sebastian Hamilton, wrote a two-page spread on what a
2 great idea it was for Brendan Howlin to stand up and
3 speak in the Dáil. I just think he didn't obviously --
4 I don't think he would have written the article had he
5 known that Brendan Howlin was referring to two of the 14:44
6 company's reporters.

7 443 Q. Ms. O'Reilly, when, and before, I think, Mr. Howlin had
8 named you, in the course of a meeting with Michael
9 Keeley you were asked had you -- were you the source
10 and had you a conversation with Brendan Howlin? 14:44

11 A. He asked me was I the source. He didn't ask me did I
12 have a conversation.

13 444 Q. I want you to go to page, if I may, 382, please --
14 3862, sorry. If we could put that up on the screen,
15 please. This is documentation that I think you or your 14:44
16 solicitor sent to the Tribunal. Volume 15.

17 A. It's just not up yet, sorry.

18 CHAIRMAN: It's 3862, I think.

19 MR. MOHAN: Sorry, my apologies.

20 CHAIRMAN: No, you did say it right. 14:45

21 445 Q. MR. MOHAN: Now, at this point you have already given a
22 statement -- or, sorry, you haven't given a statement,
23 but there is a typed note of a conversation you had
24 with Michael Keeley about this issue, and this is
25 referred to, and I want to read this to you: 14:45
26

27 "I had asked --"

28 CHAIRMAN: Just hang on a minute. I am sorry,
29 Mr. Mohan, you probably know the context of this, but I

1 am afraid I am a bit lost, and if you wouldn't mind
2 just giving me a context. I didn't know if Mr. Keeley
3 came into this or how he might have come into it.

4 MR. MOHAN: The Tribunal had contacted a number of
5 journalists, and when they contacted my client, the 14:45
6 in-house counsel, Mr. Michael Keeley, who is
7 instructing me, sitting beside me, had been given and
8 taken the responsibility of meeting any and all
9 relevant journalists for the purpose of speaking to
10 them, if they had any information that might be of 14:46
11 assistance to the Tribunal, and, in doing that, he
12 spoke to various members, including yourself, and he
13 typed up his account of that meeting and he sent, in
14 each case, an account of that meeting to each of the
15 journalists and he sent to you an account of that 14:46
16 meeting. And in that account, which we don't have and
17 it's not here, but the key parts are referred to in
18 this, and I'll just read this now, and it's in that
19 context:

20
21 "Alison, I had asked both questions at our meeting and 14:46
22 you responded that you were not Mr. Howlin's source and
23 had not spoken to him. After our meeting on 5th April
24 last I prepared a note of our conversation. I sent
25 that to you by e-mail for your approval or amendment. 14:46
26 It included the following sentence: 'She (Alison
27 O'Reilly) did not speak with Brendan Howlin, TD, and
28 was not his source before his Dáil statements about
29 Sergeant McCabe on 8th February 2017'. While you

1 amended other aspects of the note, you agreed with this
2 record of what took place. You did so in your e-mail
3 of 21st April to me. Given what has since transpired,
4 I do not believe that you could have been unaware of
5 the importance of this statement." 14:47

6
7 And it goes on to say that it has placed him in an
8 extremely difficult position that would lead to a
9 conflict of evidence between you and another client,
10 etc. But I want you to deal with that first paragraph, 14:47
11 please.

12 A. Chairman, I went to a meeting with Michael Keeley after
13 receiving a letter from the Tribunal and he asked me a
14 series of questions and he asked me did I ever hear the
15 rumour about Maurice McCabe being a child abuser, and I 14:47
16 said yes, I did. And I went to tell him who it was and
17 he put his hand up and he said, I don't want to know.
18 And I thought, well, what are we doing here? I mean,
19 do we tell the truth or do we not tell the truth? And
20 then he went on, maybe question five or six he said: 14:47
21 Did you meet Maurice McCabe? I said I did. I asked
22 him to do an interview. I said, Michael, I actually
23 feel very sorry for Maurice McCabe. And he said -- he
24 put his pen down and he looked at me, he was sitting
25 there, and I was sitting here, and he said: You know, 14:48
26 nobody comes out of a Tribunal looking okay, even if
27 they're trying to be the good guy. And I said, do you
28 know what? I'm not telling you anything. I was
29 terrified, absolutely terrified. I felt threatened and

1 terrified. And I thought, what is this? I knew that
2 Debbie had been up at the house, I knew that I had been
3 up with Maurice McCabe, and by the time he got to his
4 very last question, as we were standing up to leave, I
5 said I'm not telling him anything, I'm too afraid. 14:48

6 446 Q. No, you did; you, in fact, said to him that you did not
7 speak with Brendan Howlin, TD, and were not his source.

8 A. I remember just shaking my head and going no.

9 447 Q. Why I'm putting that you said to him, because you may
10 have been all of those things, which I'm not going to 14:49
11 caval with for the time being, but this was sent to you
12 afterwards?

13 A. It was.

14 448 Q. Which it could have been corrected. You saw fit not to
15 correct it. And further than that, in further messages 14:49
16 I'm going to show, you actually denied that that had
17 been so. The reality was, you actually denied it and
18 you told Michael Keeley a lie.

19 A. I felt very threatened by Michael Keeley, and when I
20 got that e-mail from him, I didn't read it line by 14:49
21 line, and I remember saying, well, he must know that
22 Debbie McCann was up at that house, and I specifically
23 wrote on the top of it: I don't know what anyone else
24 is saying but that's fine by me, or something like that
25 I said to him. And I sent it in. 14:49

26 449 Q. Ms. O'Reilly --

27 A. Now, I've told the Tribunal absolutely everything I can
28 tell them. It wasn't perfect, but I've told you
29 everything I know.

1 450 Q. Ms. O'Reilly, you -- and if we go on to the following
2 page of 3859, you say at the second paragraph - now,
3 you're not, I think, at this stage being threatened
4 because you're not sitting across from him, it's from
5 your mobile phone: 14:50
6
7 "Just read the letter from the Tribunal to me. I am
8 really shocked. It's full of inaccuracies. The
9 reality is, I know his friend, Councillor George
10 Lawlor, for a long time, and I had confided in him --" 14:50
11 A. Sorry, I don't mean to interrupt. I actually just
12 don't have that page.
13 451 Q. I'm sorry, it's important that you do see it.
14 A. Yes, I have it now.
15 452 Q. Sorry. "Just read the letter from the Tribunal to me. 14:50
16 I am really shocked. It's full of inaccuracies."
17 CHAIRMAN: Just hang on if you wouldn't mind a wee
18 moment, please, Mr. Mohan, because it's just not coming
19 up. would you give us a page number again, if you
20 wouldn't mind, please. 14:50
21 MR. MOHAN: sorry, 3859.
22 CHAIRMAN: 3859. It will just take a second. And
23 where does this come in sequence vis-à-vis the
24 meeting --
25 MR. MOHAN: If you see at the top of the page, this is 14:50
26 the reply. It's, in fact, the same day, the first
27 letter that was sent.
28 453 Q. This is again sent from your iPhone, isn't that
29 correct? You're familiar with this, I'm sure,

1 Ms. O'Reilly?

2 CHAIRMAN: This is an electronic communication?

3 MR. MOHAN: Yes. And we see at the top --

4 CHAIRMAN: Maybe just give her a second to have a look
5 at it, if you wouldn't mind. 14:51

6 A. I see it. I have it.

7 CHAIRMAN: You have it.

8 A. Thank you.

9 454 Q. MR. MOHAN: "Just read that letter from the Tribunal to
10 me. I am really shocked. It's full of inaccuracies. 14:51
11 The reality is, I know his friend, Councillor George
12 Lawlor, for a long time, and had confided to him during
13 dozens of conversations about difficulties I was
14 experiencing because of his own expertise in this area.
15 He gave Brendan Howlin my number and he rang me without 14:51
16 me asking to speak to him. I never thought he was
17 talking about me as source because he said he talked to
18 loads of people and got background on the issue and
19 kept coming up with the same thing. He also said this
20 was an important issue and that any conversations were 14:51
21 protected by parliamentary privilege and he would never
22 use my name in anything he did into his background
23 stuff. This was repeated to me."

24 A. Yes.

25 455 Q. "I never thought he was talking about me as a source." 14:51
26 I specifically asked you that and you confirmed you
27 knew full well you were the source.

28 A. Well, you know, as I said, I have told the Tribunal
29 everything I know, and I wrote that e-mail to Michael

1 on the day that I got Brendan Howlin's letter. I was
2 very, very upset, very shocked, probably the same way
3 Debbie McCann felt when she heard I named her to the
4 Tribunal. It's all of those things. But, you know, I
5 had tried to tell Michael Keeley in a meeting when I 14:52
6 went to see him, and he said he didn't want to know.

7 456 Q. Sorry --

8 A. And I didn't feel obliged to recall any private
9 conversations I had with Brendan Howlin. But, you
10 know, I have corrected that, and I have told the 14:52
11 Tribunal everything I know. I could have sat here and
12 said I'm not saying anything, I'm claiming journalistic
13 privilege. I have told the Tribunal every single thing
14 that I know.

15 457 Q. Ms. O'Reilly, when you were asked by Michael Keeley 14:52
16 were you the source of Brendan Howlin's story and did
17 you speak to him and when you denied that, do you now
18 accept that you lied to Michael Keeley?

19 A. I didn't lie to Michael Keeley. I actually didn't know
20 if I was or wasn't. He had said he'd spoke to a number 14:53
21 of journalists. I accept it now, I accept it now, and
22 I've told the Tribunal I accept it, but at the time he
23 had said he had checked these things out with other
24 reporters.

25 458 Q. I can bring you back over your own statement, I can 14:53
26 bring you -- I don't intend to, but I --

27 A. I fully accept, Chairman, that I am Brendan Howlin's
28 source.

29 459 Q. And recall in graphic detail how you described the

1 events of that morning when he rang you back and made
2 it abundantly clear to you and that he was going to the
3 Dáil and when I tried to -- and I think you accepted
4 that you knew the information you had given was
5 explosive, there is no getting away from it. Yet when 14:53
6 your employer was seeking to sit you down and discuss
7 this with you, you lied to them?

8 A. My --

9 460 Q. For whatever reason?

10 A. My employer told me he didn't want to know. 14:53

11 461 Q. No, sorry, no, no, he asked you -- forget about
12 whatever else you are saying. I want you to just think
13 of the question for a moment. You accept you were
14 asked were you Brendan Howlin's source and did you
15 speak to him? You denied you were his source and you 14:54
16 denied speaking to him. You lied on both occasions.
17 Do you accept that now?

18 A. I accept that I told the Tribunal the truth and I
19 accept now that I am Brendan Howlin's source.

20 462 Q. Do you accept that when you denied that to Mr. Michael 14:54
21 Keeley, you lied?

22 A. I accept that I tried to tell Michael Keeley
23 everything, and he didn't want to know.

24 463 Q. Do you accept when that was put to you, as you accept
25 it was, and when you did not give the truth, that you 14:54
26 lied?

27 A. I was terrified of telling him, Chairman.

28 464 Q. That's not the question I'm asking you.

29 A. I didn't tell him. I didn't tell him.

1 465 Q. That's a lie, it was a lie?

2 A. There were circumstances surrounding that where I felt
3 very, very threatened by Michael Keeley.

4 466 Q. I'll get to that in a moment. But I want you to
5 understand that you are coming to the Tribunal here 14:54
6 saying I am telling the truth, you must believe me
7 insofar as regards my conversation with Ms. Debbie
8 McCann, you must believe me insofar as my conversation
9 with Ms. Debbie McCann in two respects: one, a meeting
10 that neither party says took place; and secondly, when 14:54
11 Ms. Debbie McCann is absolutely clear about her
12 association at that stage with Nóirín O'Sullivan, that
13 she did not have Nóirín O'Sullivan's number at that
14 point in time, you saw that in her statement?

15 A. But Debbie McCann told me she had Nóirín O'Sullivan's 14:55
16 mobile number before she did her interview in November
17 2014.

18 467 Q. Sorry, and be very clear about this, we are talking
19 about at that time, which was -- she did an interview
20 with her at a later point in time. But at that time. 14:55
21 I'll read to you, and it's page 3744, Debbie McCann.
22 And it's from page, sorry, from 252 of the --

23

24 "However, according to --"

25

14:55

26 Sorry, I will wait until everybody gets it.

27

28 "However, according to Mr. Howlin's statement to the
29 Dáil, it is alleged that the Commissioner called me in

1 2013 and early 2014 and made allegations against
2 Sergeant Maurice McCabe. I have previously outlined to
3 the best of my knowledge I never spoke to her on the
4 phone during those periods and there was certainly no
5 mention of Maurice McCabe when we did speak later in 14:56
6 2014."

7
8 That's her account and that will be her testimony.

9 A. But I never said she spoke to her on the phone. I just
10 said she told me that Nóirín O'Sullivan had told her 14:56
11 this stuff. That's all I said.

12 468 Q. But are you suggesting they met then? Is that what you
13 are suggesting?

14 A. Pardon?

15 469 Q. Are you suggesting they met? 14:56

16 A. Sorry?

17 470 Q. Are you suggesting, rather than speaking on the phone,
18 that they met individually one-on-one or --

19 A. I've no idea. I can only tell you what Debbie told me.
20 I have no idea how they were conversing. 14:56

21 471 Q. But by implication you are saying that they spoke on
22 the phone, with respect?

23 A. I have no idea. Debbie McCann had told me later on in
24 the year that she -- well, before she did her
25 interview, that she had Nóirín O'Sullivan's mobile 14:56
26 number.

27 472 Q. Well, we now know from, I think Ms. Leader on behalf of
28 the Tribunal, at -- I think two days ago, Day 81,
29 question 158:

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"There are no mobile phone contacts in any event with Ms. McCann."

Do you accept that?

14:57

A. But I didn't say they spoke on the phone. I said she told me she had her phone number.

473 Q. Sorry, I have to put this to you. Yet again we have you giving an account of an interaction between two individuals where both of them deny it took place. Do you understand what I am putting to you?

14:57

A. Chairman, I can only tell you what Debbie McCann told me. I wasn't there. I don't know.

474 Q. Ms. O'Reilly, that's why I was asking you do you accept that you lied when it was plain on the face of it that you give an incorrect answer on a question which you knew the truthful answer but decided to lie about?

14:57

CHAIRMAN: Can I just ask you, Mr. Mohan, was this meeting for the purpose of receiving legal advice in consequence of the very detailed letter which this Tribunal sent to every journalist whom we felt --

14:57

MR. MOHAN: Yes.

CHAIRMAN: -- might know something about this?

MR. MOHAN: Yes.

CHAIRMAN: why are we hearing about it? Has she waived her privilege in relation to this meeting?

14:57

MR. MOHAN: Yes, she sent all of this information in to the Tribunal.

CHAIRMAN: All right. And vis-à-vis part of the

1 conversation -- question from the Tribunal which was
2 read to her: Have you heard the rumour about Maurice
3 McCabe being a child abuser? And her saying yes, I
4 did, and then it coming --

5 A. I went to tell Michael Keeley -- 14:58

6 CHAIRMAN: Sorry, just hang on a minute. And said: I
7 don't want to know. Is that accepted?

8 MR. MOHAN: In relation to what information journalists
9 had --

10 CHAIRMAN: No, no, no, it's pretty straightforward. Is 14:58
11 that accepted?

12 MR. MOHAN: He made it clear that he did not want to be
13 put in a position where sources were told to him in
14 that context. I think it's a different version of
15 events, but in that context that was the basis of what 14:58
16 was said.

17 A. Chairman, he said 'I don't want to know'.

18 MR. MOHAN: Sorry, he did not want to know -- sorry,
19 Chairman, he did not want to be put in the position of
20 being told sources -- 14:58

21 A. But that was my whole point, Chairman; like, what were
22 we doing there? Why -- we are meeting to not tell the
23 Tribunal anything. I mean --

24 CHAIRMAN: So the Tribunal is writing letters to
25 people, and what's the result? I mean, either we 14:58
26 actually owe allegiance to this country or we don't.
27 So what is the result of the Tribunal writing letters
28 to people?

29 MR. MOHAN: well, sorry, Mr. Chairman, this information

1 was put before you by the witness, the current witness,
2 and my client in this case, Ms. McCann, has a different
3 version of events in relation to this. It just so
4 happens, for yet the second time, both the parties to
5 it have a fundamentally different version of events 14:59
6 than this witness has given. I am challenging her
7 credibility --

8 CHAIRMAN: well, if you want to put a different version
9 of a conversation, of course you are perfectly entitled
10 to, Mr. Mohan, and I would welcome that indeed. 14:59

11 MR. MOHAN: well, what I want to do now if I may --

12 CHAIRMAN: No, but this is actually important, because
13 we have been spending the last year-and-a-half trying
14 to find out things that we have been charged by the
15 Oireachtas to do, and it is, this is our country, we 14:59
16 owe allegiance to it. We are tasked with trying to
17 find this information out. Now, it's appropriate, if
18 you have a different version of the conversation, to
19 please put it.

20 MR. MOHAN: Sorry, the different version I am putting 14:59
21 is that, in fact, Ms. McCann did not, because she was
22 not in contact with Nóirín O'Sullivan, ever say that
23 Nóirín O'Sullivan had told her anything whatsoever.

24 CHAIRMAN: No, no, and I appreciate that. But it is --
25 the Tribunal went to a lot of trouble to write an awful 15:00
26 lot of letters to an awful lot of people, and
27 furthermore, there were back-up letters, there were
28 follow-up letters, many people never replied, we had to
29 follow up in the case of some people a large number of

1 times, and then, apparently, if anything comes up, well
2 then I'm given a submission on this, that and the
3 other. But this is actually important, and it's
4 important from the point of view of the other person
5 having the conversation. If there's a different 15:00
6 version of this conversation, it should be put.

7 MR. MOHAN: well --

8 CHAIRMAN: I am not talking about Ms. McCann; I am
9 talking about the conversation with Michael Keeley. I
10 mean, that's what I am talking about, that. I mean, 15:00
11 Mr. Mohan, vis-à-vis Mrs. O'Reilly and what she was
12 told, what she was saying was, well, I don't know what
13 was behind it, I don't know whether it was the
14 fisherman's tale of getting the 50-pound salmon or
15 whether it was the truth, but what I am telling you is 15:01
16 that it was said. So that's one thing, I appreciate
17 that. But then the other thing is, okay, source or no
18 source, the Tribunal had asked for information, and I
19 am now being told that that was blocked. Now, that's
20 important. If there is a different version, I really 15:01
21 ought to know.

22 MR. MOHAN: I have an account, which you don't have, of
23 that attendance that Mr. Keeley prepared following his
24 conversation with Alison O'Reilly, and I have checked
25 it, for some reason that didn't appear, although 15:01
26 Ms. O'Reilly would be familiar with it, and I have no
27 difficulty with that being put in. It's Mr. Keeley's
28 account. I can read it, if I may.

29 CHAIRMAN: well, yes, of course, but it's not for me,

1 it's for the witness.

2 MR. MOHAN: Sorry, you did ask me, I have an account --

3 CHAIRMAN: well, I don't know why everyone is arguing

4 with me and parsing and analysing everything I say.

5 Look, it is a very fundamental principle of law. It's 15:02

6 from the point of view of fairness to Mr. Keeley, from

7 the point of view of fairness to the witness and also

8 from the point of view of the functionability of a

9 tribunal in this Republic, as to whether any such thing

10 happened. Now, of course I had no notice, and neither 15:02

11 did you perhaps have any notice, I don't know,

12 Mr. Mohan, certainly it's no blame, I am not sending

13 any in your direction at all, that in answer to your

14 question Ms. O'Reilly would tell me what she's just

15 told me. But from the point of view of fairness, if 15:02

16 there is a different version of the conversation, it

17 should be put, out of fairness to her and out of

18 fairness to Mr. Keeley as well.

19 MR. MOHAN: I wonder, I'm going to -- not to waste the

20 court's -- the Tribunal's time, I will go on to another 15:02

21 and come back to this. But in the meantime I will have

22 this photocopied and circulated so everybody has a copy

23 of it, and I will return to that point. And this will

24 be the version dealing with the point that you have

25 made, if I may deal with it that way? 15:02

26 CHAIRMAN: well, it's not exactly as if I am making a

27 point; it is pretty fundamental.

28 MR. MOHAN: well, no, I am happy to deal with it,

29 absolutely.

1 CHAIRMAN: well, that's fine. Grand.

2 MR. MOHAN: I can read the note, but I think it might
3 be better if everybody has a copy.

4 CHAIRMAN: well, I'm not trying to interfere. I think
5 you should take your own course. And I appreciate the 15:03
6 questions you've put. Look, Ms. O'Reilly is saying: I
7 had the conversation, it was such and such. You are
8 saying you couldn't possibly have, because you never
9 had, for instance, the Commissioner's number, there was
10 no record of any communication between them. That's 15:03
11 perfectly and utterly fair. But in the event there is
12 an allegation of obstruction on the Tribunal, well that
13 should be dealt with today, if possible.

14 MR. MOHAN: I'm going to get copies of the note made
15 and I will return to that, if I may. Ms. Leader is 15:03
16 going to make copies of it.

17 CHAIRMAN: Yes, we will facilitate you every way we
18 can.

19 MR. DOYLE: Chairman, I am sorry to interrupt on behalf
20 of Ms. O'Reilly. If an issue has now arisen about a 15:04
21 conversation with Mr. Keeley which Ms. O'Reilly had and
22 it is now going to be put to Ms. O'Reilly that a
23 contemporaneous, or near contemporaneous, note made by
24 Mr. Keeley supports Mr. Keeley's version of that
25 conversation, I suppose I just want to put the Tribunal 15:04
26 on notice that I will be asking, in re-examination, to
27 introduce a contemporaneous, or near contemporaneous,
28 note made by Ms. O'Reilly of the same conversation with
29 Mr. Keeley. I hadn't appreciated that it was going to

1 become such an issue for the Tribunal.

2 CHAIRMAN: well, things come up and sometimes they seem
3 to be important at the time and suddenly their
4 importance gets lost and other times things come up
5 which are not important and they assume importance 15:04
6 later on. So let's not get too excited about it, but
7 the reality is, this is important, because the Tribunal
8 has been doing its very best to get information out of
9 people, and I wouldn't like to think that it is
10 obstructed and I wouldn't like to think that in the 15:05
11 event that someone says it was obstructed, that the
12 matter should be left unchallenged or at least an event
13 should not be put forward, out of fairness to both
14 parties, Browne v. Dunn. So we'll come back to that,
15 and if you have -- 15:05

16 MR. MOHAN: I have no difficulty with that.

17 CHAIRMAN: Yes. No, if you have got something that you
18 want me to photocopy, well then we'll facilitate that
19 as well, of course, and we'll put it in the materials.
20 If that's all right, then, Mr. Doyle, Mr. Mohan, we 15:05
21 will carry on as best we can.

22 475 Q. MR. MOHAN: Ms. O'Reilly, I will come back to that in a
23 moment. But you know a Mr. Alan Crohan, is that
24 correct?

25 A. I do, yes, yes. 15:05

26 476 Q. You give the same information to Mr. Alan Crohan in
27 October 2016, is that correct?

28 A. I did, yes.

29 477 Q. And you gave that information to him because we know

1 that he wrote to Ms. Claire Daly TD with that
2 information, isn't that correct?

3 A. I don't know.

4 478 Q. well, it's in the Tribunal documentation, because, yet
5 again, there are photo snaps of text communications 15:06
6 between you and Ms. McCann which could only have come
7 from you because they didn't come from Ms. McCann?

8 A. Okay.

9 479 Q. And it's the self-same information. Why were you
10 giving that information to Alan Crohan to give to 15:06
11 Claire Daly?

12 A. I think he probably made that decision himself.

13 480 Q. why were you giving the information to Alan Crohan
14 knowing that he was going to give it to Claire Daly?

15 A. well, I didn't know he was going to give it to Claire 15:06
16 Daly, but I know now. But, I mean, I have given it to
17 the Tribunal, it's the same thing.

18 481 Q. When you were giving it to Alan Crohan, what did you
19 say to Alan Crohan about it?

20 A. I was just talking to him about what should I do about 15:06
21 this.

22 482 Q. Were you disappointed when Claire Daly didn't raise it
23 in the Dáil?

24 A. Not at all, no. Sure it's been raised now and we're
25 here now. 15:06

26 483 Q. No, it wasn't by Claire -- it wasn't raised in late
27 2016 or early 2017, and that's why I'm suggesting you
28 raised it again with Mr. Brendan Howlin. But were you
29 disappointed when Claire Daly didn't put it on the Dáil

1 record when you gave it via Alan Crohan to Claire Daly?

2 A. Not at all. I had nothing to do with that.

3 484 Q. Sorry, you gave this same information to Alan Crohan,
4 Alan Crohan gives it to Claire Daly, and I am
5 suggesting you knew full well that that is what he was 15:07
6 going to do with it and I am suggesting to you he told
7 you that's what he did with it.

8 A. This is the first time I have heard this.

9 485 Q. Is it?

10 A. It is. 15:07

11 486 Q. Are you aware that there are what are called
12 photographs of texts that you had sent to -- you had
13 sent and received from Ms. McCann contained in that
14 information?

15 A. I showed them to Alan, I gave them to Alan. But, I 15:07
16 mean, I've given them to the Tribunal.

17 487 Q. I --

18 A. I mean, it is not uncommon to share with your friends
19 concerns that you have. And if he felt he wanted to
20 raise it -- 15:07

21 488 Q. Very well.

22 A. -- that's fine.

23 489 Q. You see, why I want to put to you is that at the same
24 time that you wrote to -- or gave this information to
25 Alan Crohan and at the same time he wrote to Claire 15:07
26 Daly, on 18th October 2016 you made a complaint to the
27 Workplace Relations Commission about my client, your
28 employer.

29 A. That's correct.

1 490 Q. Did you tell Alan Crohan that?
2 A. I don't know. I honestly can't -- I probably did, I
3 probably did.
4 491 Q. Well, it doesn't appear in the communication.
5 A. I don't know. I don't remember. But I may have done. 15:08
6 I mean, everybody knows now, it's no secret.
7 492 Q. In December of 2016 you made a personal injuries
8 application to the Personal Injuries Assessment Board
9 indicating that you were going to look for damages for
10 personal injuries, stress, or whatever else, from your 15:08
11 employer?
12 A. That's correct.
13 493 Q. The Labour Court declined to deal with your case in
14 January 2017, isn't that correct?
15 A. Well, they said we could come back to them. But 15:08
16 once --
17 494 Q. The PIAB thing was in being, you couldn't deal with it
18 with that in place, is that correct?
19 A. I think it was because there was a possibility I was
20 going to the High Court, they felt that they didn't 15:08
21 have a place in the proceedings.
22 495 Q. Did that disappoint you?
23 A. No, but sure we've lodged papers into the High Court.
24 496 Q. Oh, you have, you have indeed. So that on 20th
25 January, when you now know that the Labour Court won't 15:08
26 deal with it but you have a PIAB claim pending, it was
27 within two weeks that the contact, you had the contact
28 with Brendan Howlin, TD?
29 A. It's absolutely nothing to do with anything. I mean, I

1 have a legitimate claim that I am taking to the High
2 Court, Chairman, and it's got absolutely nothing to do
3 with the Tribunal.

4 497 Q. well, you then at that stage were obviously
5 contemplating it, because the following month you, in 15:09
6 fact, issued, if you like, a third prong of attack, you
7 issued defamation proceedings against your employer?

8 A. I had been in discussions with my solicitor for months
9 and months. The timing of it is the timing of it.
10 It's when papers are prepared and it's when your senior 15:09
11 counsel is able to sign off on them. And obviously you
12 have to do it within a year. But, I mean, you're not
13 telling the Tribunal any news. My defamation case and
14 personal injuries case was in the Irish Times and a few
15 other papers. Everybody knows, it's no secret. But I 15:09
16 just don't think it's anything to do with the Tribunal;
17 it's a completely separate matter --

18 498 Q. would it not --

19 A. -- that is before the High Court.

20 499 Q. would it not have been helpful if you had told Mr. 15:10
21 Howlin that you were at war with your employer, that he
22 might have maybe had a more rounded picture, that you
23 are giving hearsay evidence about what another employee
24 in your employer's company had told you and yet you're
25 having these conflicts with him? Do you not think 15:10
26 that's relevant?

27 A. No, I don't. I actually told my friend and he -- I had
28 been speaking to him for a whole year and had been
29 getting support off him in relation to how ill I was,

1 so I'm sure he told George Lawlor and it's there on the
2 Internet, people have written about it.

3 500 Q. No, I'm --

4 A. But it's got absolutely nothing to do with today,
5 Chairman. I have an issue with my employers for a 15:10
6 very, very good reason, but it's before the High Court
7 and I don't wish to prejudice my case.

8 501 Q. I can go into chapter and verse, but I am sure the
9 Tribunal won't want me to do that and I'll stay clear
10 of it. But we know as a matter of record and as a 15:10
11 matter of fact you have a three-pronged legal attack
12 against your employer; I'm suggesting that would have
13 been very relevant information, given that, what you
14 are describing, was giving indirect information about
15 what another employee had told you. 15:11

16 A. The issues with Maurice McCabe, Chairman, were in 2014,
17 at a time when I was being nominated as journalist of
18 the year. The incident that happened with the Mail two
19 years later was extremely distressing for me and my
20 entire family. And just because I'm taking a legal 15:11
21 case against my employers, which everybody knows about
22 anyway, doesn't mean that my statement to the Tribunal
23 is not correct. I've told the Tribunal everything. Do
24 you not think I would have considered all of these
25 things? 15:11

26 502 Q. I am suggesting to you you should have given this
27 information to the people you were, as it were, passing
28 on indirect information, because I am suggesting to you
29 it had, and the desired effect was to, I suppose, cause

1 damage, reputational damage to your employer.

2 A. Chairman, I've told the Tribunal everything I know, and
3 I don't think -- like, Dave Taylor was up in the
4 Tribunal a few weeks ago and he's actually told the
5 Tribunal he is Debbie McCann's source, which wasn't, he 15:12
6 wasn't cross-examined by the Mail. I mean, she has --
7 I've just heard this morning she's effectively accepted
8 a lot of the private conversations we had about Maurice
9 McCabe. I've showed you text messages that
10 contextualise that. But, I mean, just because I'm 15:12
11 taking a legal case has nothing to do with this.

12 503 Q. But would it not have been better to let the people who
13 gave you that information have that information so they
14 could take a view on it?

15 A. Pardon? 15:12

16 504 Q. Would it not have been better to have given that
17 information to the individual to whom you spoke so they
18 might have had been in a position to take their own
19 view on it?

20 A. Which individuals are you talking about? 15:12

21 505 Q. I am talking about Mr. Brendan Howlin.

22 A. Well, George Lawlor knew very well that I was sick. I
23 was actually confiding in him, and he is the one that
24 put me in touch with Brendan Howlin, and I opened my
25 conversation with Brendan Howlin saying I'm after 15:12
26 having a very difficult year in work. It's there
27 on-line. I'm sure Mr. Howlin, with his years of
28 expertise in the Dáil, did his own checks on me before
29 he made his speech to the Dáil.

1 CHAIRMAN: Mr. Mohan, if I can just say, I have no
2 problem if you feel that you should put the highlights,
3 for instance, of the legal case and, for instance, what
4 it is that is alleged to have happened. I am clearly
5 not able to decide it, but there's now a disconnect 15:13
6 vis-à-vis dates. You said your legal case was started
7 in 2016 and all of the conversations vis-à-vis Maurice
8 McCabe were 2013, 2014, so after. But I would assume
9 that whatever the events were that led to, and whatever
10 it was, whoever is in the right and in the wrong, 15:13
11 obviously you have my sympathy on all sides, but I'm
12 not making a decision on it.

13 A. Sure.

14 CHAIRMAN: But I just don't know. If Mr. Mohan wishes
15 to put when whatever you allege happened, happened, in 15:13
16 terms of a date, it may help us, I don't know.

17 MR. DOYLE: Sorry, Chairman, again, I am sorry, on
18 behalf of Ms. O'Reilly. In my respectful submission,
19 if this is cross-examination as to credit, the Tribunal
20 has been over that ground in great depth, and I would 15:14
21 respectfully adopt the submission made by to the
22 Tribunal by Mr. McGuinness in the early stages. But if
23 it is cross-examination as to credit, I cannot see what
24 else it is, I would respectfully submit that if the
25 Tribunal is minded to allow the cross-examination to go 15:14
26 into the minutiae and the detail of Ms. O'Reilly's
27 action against the Daily Mail, that that is not a place
28 that the Tribunal should go.

29 CHAIRMAN: No, no, Mr. Doyle, I see what you are saying

1 and I do understand, and certainly it's not my desire
2 to chase a hare down a side alley and be stuck there
3 for weeks or days, or even minutes or hours. But there
4 is a disconnect in terms of time and one can describe
5 these things, for instance, by saying on such and such 15:15
6 a day did you issue a Plenary Summons alleging that on
7 such and such a day so-and-so rolled over your foot in
8 a car? Now, appreciating that if this is a stress case
9 or a bullying case, it may be more difficult, but if I
10 simply had the dates when what was ever alleged to have 15:15
11 happened, happened, I'd be content with that and I've
12 no intention of following it up or allowing further
13 evidence in relation to it. So that's what I was
14 trying to say.

15 MR. MOHAN: May it please the court -- Chairman. 15:15

16 506 Q. Ms. O'Reilly, you wrote an article in the newspaper on
17 Sunday the 27th March which carried an interview
18 following you attending at the home of a Ms. Louise
19 James who had lost several members of her family,
20 including her husband and two children, in a tragic 15:15
21 accident when the car which they were in slipped off a
22 pier in Buncrana, County Donegal, is that correct?

23 A. Yes, and I wrote it with two journalists from the Mail
24 on-line also.

25 CHAIRMAN: Do we have a year for that? I know that -- 15:16

26 A. 2016.

27 507 Q. MR. MOHAN: 2016. And you did so following you
28 speaking to Ms. Louise James on Good Friday of 25th
29 March 2016, is that correct?

1 A. That's correct.

2 508 Q. And we know that Ms. Louise James then initiated legal
3 proceedings against the newspaper on the basis of what
4 she thought was the manner in which you had gained
5 access and got an interview with her, is that correct? 15:16

6 A. We had been warned by freelance photographer -- or a
7 freelance journalist, Stephen Maguire, the next day not
8 to run the story. But they ran it anyway.

9 509 Q. You attended at her house accompanied by children of
10 yours and were let into the house and had a 15:16
11 conversation, which at that stage the bereaved widow
12 wasn't aware was going to be treated in that manner,
13 and she took exception to that, is that correct?

14 A. I made it clear to Ms. James, Chairman, that I was a
15 journalist with the Irish Mail on Sunday, that I was 15:16
16 doing a story and that I taped it in line with what we
17 normally do in The Mail on Sunday, we secretly tape
18 things for our own protection in case you are accused
19 of fake news or in case you are attacked.

20 CHAIRMAN: All right. Well, those seem to be the broad 15:17
21 elements of the thing.

22 510 Q. MR. MOHAN: Yeah. And in any event, a settlement was
23 arrived at between the newspaper and Ms. James, as a
24 result of which an apology was published, and that
25 apology was to the effect that they made it clear that: 15:17
26
27 "Louise James understood that she was speaking to a
28 reporter" -- which was you -- "in a purely private
29 capacity, and had not consented to being interviewed.

1 She did not wish to give interviews to media outlets,
2 we are happy to make that clear. We apologise to
3 Louise James and her family for the upset caused."
4

5 That was the apology published, isn't that correct? 15:17

6 A. That's correct.

7 511 Q. An investigation follows that and, in that, you were
8 investigated --

9 A. I'd just like to say - sorry, if you don't mind - it
10 had been fully accepted, Chairman, that I had 15:17
11 interviewed Louise James, it had been fully accepted
12 that other journalists have brought their children on
13 jobs in the Mail if you're stuck for a childminder, but
14 there was a specific reason why my children were up
15 there that day. Also -- 15:18

16 CHAIRMAN: We don't need to go into it. I am not
17 making any judgment either against you or for you, I'm
18 not doing the case.

19 A. I just --

20 CHAIRMAN: No, no, no, I appreciate that. 15:18

21 A. I just feel it's pretty unfair. Like, these are my
22 employers and this is a separate case.

23 CHAIRMAN: No, and I do appreciate that. I do, I
24 understand. But do you understand the relevance of it?

25 A. I do, Chairman, but -- 15:18

26 CHAIRMAN: Well, what is basically being said is that
27 essentially you either take such a warped view of
28 things that this stuff is coming from your unconscious
29 and you don't know the difference between what's real

1 and what's unreal, or else that you're inventing the
2 whole thing out of bitterness against your employer.
3 That is the basic bottom line in relation to all of
4 this. It may not be said to you, but that is what this
5 kind of cross-examination is about. So if you just 15:18
6 listen to Mr. Mohan's questions, that is what they are
7 directed to. And by the way, it's nothing to do with
8 him, he is a very nice man. This is what his
9 instructions are.

10 MR. MOHAN: Thank you, Chairman. 15:18

11 512 Q. An inquiry, an investigation into your conduct was then
12 carried out by your employer, which you were
13 represented at, isn't that correct?

14 A. I had just been discharged from hospital and was very
15 sick, yes. 15:19

16 513 Q. And you were represented at both the initial inquiry
17 and the ultimate investigation, and, as a result of
18 that, a sanction was issued to you whereby a warning
19 was put on your record for a year, is that correct?

20 A. That's correct. 15:19

21 514 Q. And you read out a statement which, and I quote:

22
23 "I note the sanction. Just to be absolutely clear, I
24 fully accept my error of judgement. I want to put it
25 behind me. I want to continue working for the Mail. I 15:19
26 want the opportunity to prove myself. I look forward
27 to working on features and welcome any training that
28 would be given and I embrace it. The last few months
29 have taught me a lot of us here need to look at how we

1 work. On the basis of that, I accept the sanction and
2 look forward to getting back to work."

3

4 Isn't that correct?

5 A. I was very heavily medicated, Chairman, and to the 15:19
6 point where Sebastian Hamilton had actually called my
7 representative aside and said: Should we proceed with
8 this? I have never seen her look so bad. And that was
9 the advice I was given in those circumstances.

10 CHAIRMAN: All right. well, those are the ups and 15:20
11 downs of it, Mr. Mohan, yes.

12 515 Q. MR. MOHAN: And it's out of that you are challenging
13 that sanction in those proceedings, as I understand it,
14 isn't that correct?

15 A. No, I am challenging how Mr. Keeley got his apology 15:20
16 from me and how I was treated by the company. But
17 again, it's got nothing to do with this.

18 516 Q. Ms. O'Reilly, what age are you?

19 A. 43.

20 517 Q. How many years have you worked as a journalist in the 15:20
21 rough and tumble of the media world?

22 A. 23 years.

23 518 Q. I mean, with respect, are you portraying yourself as
24 some kind of woman who is simply unable to cope with
25 the stresses and strains of ordinary working life? 15:20

26 A. I don't know any journalist who was ever put at the
27 heart of a fake news story that exploded all over the
28 world and it had a very, very, very bad impact on me
29 and I was very sick and, at the same time, running

1 parallel to that, Chairman, I had a very credible death
2 threat against my life and I was receiving Garda
3 briefings regularly, and those briefings continue, and
4 the threat to my family has currently -- is currently
5 being investigated by Gardaí. 15:21

6 CHAIRMAN: All right, you don't need to go into that.

7 A. It's just a very difficult time.

8 CHAIRMAN: No, and I can appreciate it's a very
9 difficult time. But again, we are coming off the
10 point. 15:21

11 A. I never had an issue up until then.

12 CHAIRMAN: And I think the point is -- the point that
13 is being made to you is you have an issue with Mr.
14 Keeley, you have an issue with your employer and that,
15 therefore, your evidence shouldn't be accepted. That's 15:21
16 what's being put to you.

17 A. I understand.

18 CHAIRMAN: And it's fair to put it to you.

19 A. No, I do, I totally understand.

20 CHAIRMAN: And then I think if you want to answer that 15:21
21 and make a comment about it, you are very free to do
22 so.

23 A. Thank you, Chairman. I was in the middle of a security
24 briefing, getting a very, very serious briefing about a
25 death threat, when Michael Keeley came down in a taxi 15:21
26 to a Garda station and called me out of the briefing, a
27 couple of hours after telling me the company had
28 decided to apologise to Louise James, and got me to
29 sign the apology in those circumstances. Three days

1 later, a fake news story was written about me, which
2 Michael Keeley and my employers accepted isn't accurate
3 and does not reflect what's in my recording, and I have
4 a conversation with Conor O'Donnell, who told me that I
5 did interview Louise James and that they only 15:22
6 apologised to her because that is what she wanted, and
7 he wanted to know if I was okay. And it was only then
8 when I started saying please get that fake news down,
9 that suddenly there was an internal inquiry. And
10 that's what happened, and it was very, very difficult, 15:22
11 Chairman. But again, I'm telling the Tribunal
12 everything I know in relation to Maurice McCabe, and I
13 have considered all of these things before I made my
14 statement. It was very important to consider these
15 things. 15:22

16 519 Q. MR. MOHAN: Is the fake news story the apology?
17 A. No, a priest gave a fake news story to a newspaper that
18 ran on the front page, a priest that wasn't even there.
19 It circulated all over the world. I have text messages
20 to Michael Keeley the next day saying, please can you 15:23
21 get this down, this is damaging my reputation, this is
22 so bad, my children are being picked on, everybody --
23 CHAIRMAN: No, no, I understand.

24 A. It was just awful.
25 CHAIRMAN: I think there comes a point where I have to 15:23
26 say, having invited you to put the details, but the
27 reason for my asking was to see how it fits in terms of
28 time. So this is --
29 MR. MOHAN: I will ask no more questions --

1 CHAIRMAN: So this is 2016 and it relates to that awful
2 tragedy on the pier.

3 MR. MOHAN: I am going to move away from --

4 CHAIRMAN: And everything that happened in relation
5 thereto. 15:23

6 MR. DOYLE: Sorry to interrupt again, but you,
7 Chairman, have interpreted the line of questioning from
8 the Mail, and I would like, if the Mail wants to put it
9 to Ms. O'Reilly fair and square that her evidence to
10 this Tribunal is not to be believed (a) because she is 15:23
11 consumed with bitterness because of her ongoing legal
12 action or (b) because she is deluded in some way, I
13 would like that to be put fair and square to her by the
14 Mail and not just through the Chairman.

15 CHAIRMAN: No, no, but I am -- calm is a great thing if 15:24
16 we can ever achieve it. So you've heard what Mr. Doyle
17 has said. Are you deluded, do you think, making very
18 bad mistakes in consequence of being unable to discern
19 fact from reality, or are you telling the Tribunal a
20 whole load of lies about Debbie McCann because of 15:24
21 bitterness against her or the Mail or Mr. Keeley, or
22 anything like that?

23 A. Absolutely not, Chairman.

24 CHAIRMAN: All right.

25 A. I love my job, I'm a very proud journalist and I keep 15:24
26 myself to myself and I continue to work in the Mail.
27 But I'm glad you raised this stuff now, because it's an
28 eye-opener.

29 CHAIRMAN: All right. Well, there it is.

1 MR. MOHAN: Very good.

2 CHAIRMAN: If you are happy with that, Mr. Mohan?

3 MR. MOHAN: I am indeed. Thank you, Chairman. I am
4 now going to go back to the attendance. I wonder has
5 that been circulated? 15:25

6 CHAIRMAN: It is. We have all got a copy, yes.

7 MR. MOHAN: Ms. O'Reilly will have seen this before,
8 Chairman, but you won't. And I'm going to read it into
9 the record, because this is what Mr. Keeley typed up
10 from his interaction with you and sent to you and I 15:25
11 think you made amendments to it. I don't have those
12 amendments here, but I will read this to you as it is
13 Mr. Keeley's account and therefore his --

14 CHAIRMAN: And you, as the client, have waived legal
15 professional privilege in relation to this? 15:25

16 A. (Witness Nods)

17 CHAIRMAN: You are telling me yes?

18 A. Yes.

19 520 Q. MR. MOHAN: 5th April 2017:
20 15:25

21 "I met with Alison O'Reilly in the Conrad Hotel.
22 Alison has never been in contact with former
23 Commissioner Martin Callinan and Commissioner
24 O'Sullivan or Garda Keith Harrison. Alison has met
25 with Sergeant Maurice McCabe. She was put in touch 15:25
26 with Sergeant McCabe through contacts she had with
27 Garda John Wilson. She met Sergeant McCabe at his
28 home. She thinks that was late 2013 or early 2014.
29 They had a lengthy discussion about the issue of

1 penalty points and their removal. Sergeant McCabe
2 showed Alison files he had on the topic but she did not
3 read them. He told her that he had been targeted by
4 senior Gardaí since he had raised the issue. He
5 appeared distressed to Alison. Alison asked Sergeant 15:26
6 McCabe if he would consider telling his story to the
7 newspaper, but he declined. Alison was aware of the
8 sexual assault allegation against Sergeant McCabe
9 before she met him. She was not, however, told this by
10 another garda. Sergeant McCabe denied the allegation 15:26
11 to her. Subsequent to this meeting, Alison spoke with
12 Sergeant McCabe on a couple of occasions by telephone.
13 At the meeting and subsequently Sergeant McCabe was
14 critical of Commissioner Callinan and believed he had a
15 role in the campaign against him. He was upset that a 15:26
16 number of Gardaí were aware of the sexual assault
17 allegation against him. Alison has no recollection of
18 Sergeant McCabe ever mentioning Superintendent Dave
19 Taylor. Alison has spoken on over five occasions to
20 Superintendent David Taylor. She did so on the 15:26
21 telephone, either on her regular mobile or on an office
22 phone, and he never mentioned Sergeant Maurice McCabe
23 to her. She has never met Superintendent Taylor nor
24 does not know him well. She tended to do so when
25 Debbie McCann was off. She remembers speaking with him 15:27
26 in September 2013 about an allegation that the accused
27 in the X case was being investigated over a rape
28 allegation. Little came of this and no story appeared.
29 No garda ever told Alison of the sexual assault against

1 Sergeant McCabe. She does not know of the complainant
2 and never approached her or her family. She never
3 spoke with Martin Callinan or John McGuinness, TD,
4 about their meeting on 24th January 2014. She did not
5 speak with Brendan Howlin, TD, and was not a source for 15:27
6 his Dáil statements about Sergeant McCabe on 8th
7 February 2017. "

8
9 That's Mr. Michael Keeley's note and therefore his
10 account of what took place between you at that meeting. 15:27

11 A. As I explained to the Tribunal, Chairman, the reason
12 why I didn't finish off that conversation with Michael
13 Keeley, because he didn't want to know. And I looked
14 at this, he sent this to me on e-mail, I read it, I
15 didn't go through it line by-line, but I knew at that 15:28
16 point that he would have known Debbie McCann was up at
17 Ms. D's house, and I just reply to him, I asked him
18 maybe to -- that Maurice McCabe didn't go through his
19 files, or something like that, and, to be honest, I
20 didn't go through it line for line. At that point I'd 15:28
21 already made contact with Gus Cullen solicitors and I
22 had given him my notes of that meeting and I explained,
23 because I made a phone call the next day, I was in
24 Tuam, I made a phone call to him and told him. And
25 then I followed what Michael Keeley had told the 15:28
26 Tribunal in its opening day and he hadn't told them
27 anything. And at that point I just said I'm going to
28 go and get legal advice, because Maurice McCabe knows I
29 was up at his house, he knows what I told him, John

1 wilson knows, there's texts on my phone. Michael
2 keeley told me that the Tribunal was sending out court
3 orders or something to do with phones and I just said
4 the best thing is, you know, to tell the Tribunal what
5 I know, and that was the legal advice I received. 15:28

6 CHAIRMAN: Yes, Ms. O'Reilly, do you have any -- and do
7 you have any big problem with this insofar as it goes?

8 A. No.

9 CHAIRMAN: Okay.

10 521 Q. MR. MOHAN: And just to finish off, Ms. O'Reilly, at 15:29
11 this stage you must have been in and out with
12 solicitors on a very regular basis; at this stage you
13 have now three full-blown legal attacks against your
14 employer in being, isn't that correct?

15 A. I continue to work there. I am still a full-time 15:29
16 employee of the Mail, I like my job, but I am still
17 entitled to tell the Tribunal what I know and I am
18 still entitled to take a legal case if I believe that I
19 was defamed and treated very badly. I just don't see
20 what the relevance is. 15:29

21 522 Q. I haven't asked you about any of that. I just want
22 to -- I think you accept, therefore, as a matter of
23 record, you're in conclave with your lawyers over many
24 different types of issue, for whatever reason, at this
25 point in time? 15:29

26 A. I have a legal case against my employer, everybody
27 knows that.

28 MR. MOHAN: Thank you very much.

29 MR. MARRINAN: Sorry, sir, just before Mr. Mohan

1 finishes, a large portion, nearly an hour of the
2 witness's evidence today, in the first instance,
3 concerned conversations that the witness says that she
4 had with Debbie McCann. A lot of that is highly
5 significant as far as the Tribunal is concerned. It 15:30
6 includes Debbie McCann's interactions, or stated
7 interactions with Superintendent Taylor, how she came
8 to know the address of Ms. D, her interaction with her
9 own father. They're all set out there at page 3830.
10 That has been in circulation for a long period of time 15:30
11 now, and, despite repeated requests of Ms. McCann, both
12 by the investigators and by the Tribunal, we actually
13 don't have a different version of events. And
14 obviously under the rule in Browne v Dunn, there is an
15 obligation on the party to put an alternative version 15:30
16 of events, and I'm just wondering where the Tribunal
17 stands in relation to this. Are we to take it that
18 this evidence is accepted because it hasn't been
19 challenged?

20 CHAIRMAN: well, I suppose if I have to mention Browne 15:31
21 v. Dunn again, I will get quite excited, but in
22 probably very much the wrong way. But it seems,
23 Mr. Mohan, that there is a point there that Mr.
24 Marrinan makes that needs to be considered. I mean,
25 are you going to put your client's instructions in 15:31
26 relation to these things? Because that's what this
27 process is all about.

28 MR. MOHAN: I appreciate that.

29 CHAIRMAN: And every single case, whether it is

1 criminal or otherwise, the Supreme Court has said it,
2 you have to put your client's instructions to the
3 person who is saying something against your client or
4 something relevant to your client about which you, on
5 behalf of the person, know something. That's the law. 15:31

6 MR. MOHAN: I appreciate that, Mr. Chairman. And
7 Mr. Marrinan very helpfully put my -- Ms. McCann's
8 words on these issues that are contained in her
9 statement, to this witness, and I have nothing further
10 to add on it. 15:31

11 CHAIRMAN: So you accept it all?

12 MR. MOHAN: I have nothing further to add on it.

13 CHAIRMAN: No, no, that's not good enough, Mr. Mohan.
14 Ms. O'Reilly is saying, she said these things to me.
15 On behalf of your client, are you going to say, well, 15:32
16 no, she didn't, and here is the alternative version of
17 the conversation which I want to put to you, because --

18 MR. MOHAN: Sorry --

19 CHAIRMAN: -- this is more likely?

20 MR. MOHAN: This was put this morning, and I repeat, 15:32
21 this is a quote from the statement given to the
22 Tribunal by Ms. Debbie McCann:

23
24 "I wasn't involved --"

25
26 This is at 169, page 3739, and I quote: 15:32

27
28 "I wasn't involved in any orchestrated campaign to
29 malign Sergeant Maurice McCabe. I have no evidence of

1 any orchestrated campaign to malign Sergeant Maurice
2 McCabe. The allegations that we are looking at at the
3 time were discussed in the office. I certainly did not
4 negatively brief Alison O'Reilly. We certainly would
5 have discussed the allegations. As journalists we 15:32
6 become aware of allegations all of the time. Our job
7 is to investigate them to see if we can substantiate
8 them and publish them and if they are in the public
9 interest. But until proven, they are treated only as
10 an allegation. The allegations were discussed in a 15:32
11 private capacity. They were never going to be aired
12 and shared with anyone else. I work primarily on crime
13 in The Mail on Sunday. Alison would also have worked
14 on crime and we would have discussed stories all the
15 time together. She was a colleague and a friend at 15:33
16 that point and any discussion around stories were in
17 that context. Just to say it wasn't a briefing in any
18 description, it was a discussion among colleagues. To
19 clarify, any discussion was into the allegation they
20 were looking at, as I've already described above in my 15:33
21 statement."

22
23 And I can't put it in any further. That is her account
24 of -- her recollection of events at that time.

25 MR. MARRINAN: with the greatest of respect, sir, that 15:33
26 doesn't come anywhere close with dealing with the
27 evidence that's been presented to the Tribunal. A
28 witness cannot -- or a party cannot simply rely on a
29 broad general statement when specifics have been given

1 of conversations had with the witness. Now, if the
2 witness's evidence isn't being challenged, the Tribunal
3 will have to take it, in my respectful submission, on
4 the basis that the evidence stands.

5 MR. MOHAN: I'm not offering any further submissions
6 other than what I have already given to the Tribunal. 15:34

7 CHAIRMAN: well, Mr. Mohan, I am wondering is that
8 wise? I mean --

9 MR. MOHAN: They are my instructions, Chairman.

10 CHAIRMAN: well, now, I mean, let's just take an 15:34
11 example and let's move away from this, because it's
12 your client, and Ms. O'Reilly is sitting there, so
13 let's take an example; there is, let us say, a road
14 traffic accident and Mr. A, who is sitting up in a
15 window at the top floor of his home, witnesses the road 15:34
16 traffic accident -- and I don't know if you want to
17 listen to me, Mr. Mohan or --

18 MR. MOHAN: I am listening, sorry, Chairman.

19 CHAIRMAN: And Mr. A sees a car going through a red
20 light and causing an unfortunate motorcyclist to be hit 15:34
21 and, let's say, to lose his leg. Now, that is the
22 witness statement that Mr. A, let us say, puts in to
23 the solicitor appearing on behalf of the motorcyclist.
24 But independent of that, Mr. A has a person with whom
25 he talks quite regularly, let us say, in a pool hall, 15:35
26 and he gives a different version of events to the
27 person in the pool hall, according to the person in the
28 pool hall, which is to the effect that, no, the light
29 for the car was green and the motorcyclist went through

1 a red light and he saw the whole thing perfectly but he
2 had a great deal of sympathy with the young man. Now,
3 let's suppose that evidence is given in a case. It's
4 not enough, I don't think, in the event that the man in
5 the upstairs window, who is the main witness, 15:35
6 independent of the two parties, it's not enough just to
7 say, well, my client is going to give evidence. I
8 think in the event that the man in the pool hall has a
9 different version of events to give, that needs to be
10 put on behalf of the man driving the car and the 15:36
11 specifics of it need to be put, because it's (a) in
12 terms of fairness to the witness, and it's (b) in terms
13 of actually the mechanics of any form of
14 judgment-making, that I should have the opportunity, I
15 should have the opportunity - and this, by the way, is 15:36
16 my right - I should have the opportunity to hear what
17 the alternative of the conversation is that is being
18 put.
19
20 Now, how can any judge sitting in any court adjudicate 15:36
21 on the basis that parties come into court and say,
22 well, I'm saying silent in relation to all of this or
23 I'm not going to put my clients' case, I'm not going to
24 put an alternative version of this conversation, I'm
25 not going to put the basis of a misunderstanding, or 15:36
26 indeed to say instead, well, isn't there a reason
27 you're bitter, but not put the alternative version? I
28 think, Mr. Mohan, unless you have something to offer
29 and unless I'm getting the law completely wrong, I

1 think that needs to be done. I think Mr. Marrinan is
2 correct. I mean, I know it's shooting the breeze, I
3 know they are all in a place together and they're
4 talking about this, that and the other, but if there's
5 an alternative, for instance, as to what the source of 15:37
6 the information was, as to where Ms. D lived, her
7 address, if she's saying no, I didn't say that to
8 Alison O'Reilly, well then if she said something
9 different, I think I actually need to hear that. I
10 need to hear the response of Ms. O'Reilly to that. I 15:37
11 mean, this is basic stuff.

12 MR. MOHAN: I think, again, I can only put it this way,
13 Mr. Chairman. The very --

14 CHAIRMAN: No, I think you really ought to think about
15 this, Mr. Mohan. 15:38

16 MR. MOHAN: May it please you.

17 CHAIRMAN: You know, it may be that your client is
18 taking a strong view I don't want Alison O'Reilly
19 cross-examined, but, I am sorry, she can't take that
20 view and, as counsel appearing on her behalf, you can't 15:38
21 take that view, because I actually have a right to hear
22 what the alternative version of a conversation is. If
23 the evidence were to be, for instance, oh, I don't
24 remember any such conversation and it's highly unlikely
25 that I ever had such a conversation, well that is an 15:38
26 instruction. It may not be very satisfactory in terms
27 of judging Ms. O'Reilly's reaction to it, but certainly
28 many, many people have told me in this Tribunal, 'I
29 forget completely', but that may be it. But if in the

1 event it's merely a question of forgetting completely
2 and if Ms. O'Reilly has a very good recollection, well
3 then I have to consider that when I go back to try and
4 formulate a finding of fact on this. And it actually
5 is important. 15:39

6 MR. MOHAN: well, maybe, in light of that, I will take
7 further instructions on the issue.

8 CHAIRMAN: Yes. I'm sorry if you have to come back
9 tomorrow, but everyone is doing their best, and it's
10 quite often the case that things happen and it seems 15:39
11 that -- well, let's just carry on. So we'll leave it
12 until tomorrow.

13 MR. MOHAN: May it please --

14 CHAIRMAN: will we call Mr. Howlin now then?

15 MR. MARRINAN: If at all possible 15:39

16 CHAIRMAN: Yes, well, I think it would be. And if we
17 could -- I'm sure we could trot through his evidence
18 and get away.

19 MR. MARRINAN: I'd imagine no more than five or ten
20 minutes, as far as I am concerned 15:39

21 CHAIRMAN: why don't we do that. And I'm sorry to
22 interrupt your evidence and thank you very much for
23 being here. You're coming back tomorrow.

24

25 THE WITNESS THEN STOOD DOWN 15:39

26

27

28

29

1 MR. BRENDAN HOWLIN, HAVING BEEN SWORN, WAS EXAMINED BY
2 MR. MARRINAN:

3
4 523 Q. MR. MARRINAN: Your credentials are well known to the
5 Tribunal, so we don't need to recite them. You 15:40
6 provided a statement to the Tribunal on 15th March of
7 last year concerning your interactions with the last
8 witness, Alison O'Reilly, isn't that right?

9 A. That's correct.

10 524 Q. It's at page 1692 of the materials. And your 15:40
11 supplemental statement that you made to the Tribunal
12 appears later on, but I will come to that in due
13 course. I think you refer to the fact that you
14 returned to your Dáil office at 10 a.m. on Wednesday,
15 8th February of 2017, when you were told by your chief 15:40
16 of staff, Neil Ward, that a journalist, Ms. O'Reilly,
17 wanted to speak to you in relation to the ongoing Garda
18 Commissioner controversy, isn't that right?

19 A. That's correct.

20 525 Q. And I think that you telephoned Ms. O'Reilly from your 15:41
21 office. And will you just tell us what she advised
22 you?

23 A. Well, I made a note and typed it up on the day, and
24 it's basically what I submitted in the letter to the
25 Tribunal subsequently. She had contacted my 15:41
26 parliamentary assistant early that morning. I think
27 she had taken a deep interest in the whole controversy
28 about Sergeant McCabe, felt passionately that she had
29 information that needed to be imparted, in fact put

1 into the public domain. She -- my parliamentary
2 assistant rang my Dáil office. I was out of the office
3 at that time. When I came back, as I say, I rang
4 Ms. O'Reilly and she told me exactly as I set out in my
5 letter to the Tribunal of 13th March. Do you want me 15:42
6 to read through it?

7 526 Q. Yes, if you would, just, please, briefly. It's fairly
8 short.

9 A. Yes. Ms. O'Reilly worked, as I said, in the office of
10 The Mail on Sunday. 15:42

11
12 "She informed me that The Mail on Sunday crime
13 correspondent, Ms. Debbie McCann, had ongoing
14 communication with Garda Commissioner Nóirín O'Sullivan
15 during 2013 and 2014. Ms. O'Reilly said that 15:42
16 Ms. McCann told her that the Commissioner had given
17 information to her claiming serious sexual misconduct
18 on the part of Sergeant McCabe. It involved a girl in
19 Cavan whom it was alleged had been abused by Sergeant
20 McCabe. Ms. O'Reilly said that Ms. McCann, after the 15:42
21 conversation, described Sergeant McCabe as a dirty
22 f-ing bastard. She said that these matters had been
23 discussed generally in the office of The Mail on
24 Sunday. Ms. O'Reilly said that Superintendent David
25 Taylor and Commissioner Nóirín O'Sullivan had both 15:43
26 provided this type of information directly to
27 Ms. McCann. She further informed me that she would be
28 willing to make a statement to an inquiry on these
29 matters."

1 527 Q. Now, I think she subsequently -- you spoke to her again
2 by telephone just before you attended the Dáil for the
3 Leaders' Questions, is that right?

4 A. That is correct. I obviously had to consider exactly
5 what was happening, and I think probably putting it in 15:43
6 the context of that week would be important. The
7 previous day, Tuesday, the Cabinet had determined, on
8 foot of a scoping report by Mr Justice Iarfhlaith
9 O'Neill, to establish a Commission of Investigation.
10 The terms of reference had been published by the 15:43
11 government the previous day, that Tuesday, and they
12 were to be debated that week in the Dáil. I think it
13 is important to say that the normal course of events in
14 terms of the establishment of a terms of reference for
15 a commission of investigation, and I'm afraid we've 15:44
16 gone through an awful lot of them - in fact, I think
17 there's another one to be established next Tuesday
18 week, into another matter - but is that there is
19 discussions with certainly leaders of opposition. If
20 you take, for example, the Siteserv one, there's been a 15:44
21 number of formal meetings with opposition leaders to
22 discuss the terms of reference.

23
24 This was a particularly important commission because it
25 went to the heart of policing in our country and it was 15:44
26 a cause of concern for me that we hadn't had
27 discussions. In fact, the terms of reference were what
28 were proffered by Mr. Justice Iarfhlaith O'Neill, and
29 on foot of his report, which, in fact, was not

1 published or circulated. So the Dáil itself and I felt
2 I, as a leader of a party in the Dáil, was put in a
3 very difficult position in order to determine a terms
4 of reference to an inquiry without any proper
5 consultation. And I certainly felt, once I'd had that 15:45
6 conversation with Ms. O'Reilly, that the import of that
7 needed to be said, needed to be considered by the
8 Oireachtas in the context of considering the terms of
9 reference, and ultimately, as you know, it wasn't, in
10 fact, a commission of investigation, but within a 15:45
11 matter of days it was determined, because of the volume
12 of information that came into the public domain in the
13 couple of days subsequent, in particular the RTE
14 programme, that there should be a tribunal of inquiry
15 established to look into these matters, with much 15:45
16 broader terms of reference.

17
18 In fact, on foot of that I made a submission myself to
19 the Tánaiste and Minister for Justice the following
20 week on these matters. So I then formulated what I was 15:45
21 going to say in leader's questions on these matters, I
22 telephoned Ms. O'Reilly in advance of going into the
23 Dáil to make sure that she was comfortable with that,
24 read exactly what I was going to say to her and she had
25 no difficulty with me saying that. And I made my 15:46
26 statement to the Dáil on that basis.

27 528 Q. And that's to be found at page 7360 of the materials,
28 if that could be put up on the screen. The relevant
29 paragraph is the second paragraph down:

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"This morning a journalist contacted me and told me they had direct knowledge of calls made by the Garda Commissioner to journalists during 2013 and 2014 in the course of which the Commissioner made very serious allegations of sexual crimes having been committed by Sergeant Maurice McCabe. In 2015 the Garda Commissioner oversaw the investigation which examined the call logs of a Garda officer who was under suspicion of leaking material to the media. If it was a fact that the Garda Commissioner was in direct contact with the media making allegation against one of her own officers at around the same time, it would be quite extraordinary. I did not know whether the charges that had been made against the Garda Commissioner are true or not."

15:46

15:47

15:47

And you made that very clear in your speech to the Dáil. Now, I think that later on, on the afternoon of 8th February, you again spoke with Ms. O'Reilly to make sure that she was all right with what you had publicly said in your Dáil statement and she said 'well done, fair play to you', is that right?

15:47

A. That's exactly right.

529 Q. Now, I think that the Tribunal wrote to you on 13th February 2018 with enclosures, which were the statements made by Ms. Alison O'Reilly. And that's at page 6380. You were here this afternoon, you heard me go through that with her?

15:47

1 A. Hmm.

2 530 Q. And there doesn't seem to be any real issues between
3 the two of you in relation to your interactions. Are
4 you happy enough with that?

5 A. Absolutely. I think we had some debate about -- you 15:48
6 had some debate about the word using "direct"
7 knowledge. But other than that, the substance of the
8 information that she gave me has been confirmed by
9 Alison, yeah.

10 531 Q. Yes. And we heard her make reference to the issue of 15:48
11 privacy and whether or not her name should've been
12 disclosed to the Tribunal in circumstances where you
13 hadn't contacted her prior to doing that. Could you
14 just tell us your view in relation to that?

15 A. Well, as I set out in my letter, it's one issue that 15:49
16 I'm very, very careful about. I think there's a few of
17 us, Chairman, who have experience of a previous
18 Tribunal, I notice Mr. Marrinan and you, Chairman, and
19 myself --

20 CHAIRMAN: I'd gone by that point? 15:49

21 A. Oh, had you left the Morris Tribunal?

22 CHAIRMAN: I had. I'm very, very certain of that.

23 A. But in terms of protecting sources is a very important
24 issue for me - in fact I wrote it into a programme for
25 government and we changed the law to protect the 15:49
26 private communication with TDs. I think it's a really
27 important issue and it's an issue that I don't make
28 mistakes about, because it's important to me in
29 relation to that. And that's -- it's why I read first

1 the statement that my informant was willing to give
2 evidence to the Tribunal. And of course, the only
3 time, the only time where I mentioned either the names
4 of Alison O'Reilly or Debbie McCann was in my letter to
5 the Tribunal. I on no other occasion and in no other
6 circumstance divulged those names. 15:50

7
8 But I thought in response to your request, Chairman, it
9 was important for me to be completely frank in relation
10 to that. And I certainly was strongly of the view that 15:50
11 that was understood. I understand now there may have
12 been a confusion on that matter, but my understanding
13 was crystal clear. In fact I spoke to the Dáil the
14 following day, 9th February and the Dáil record will
15 show, among other things, I've said: 15:50

16
17 "I can also inform the house that my source for the
18 information I put on the record yesterday has given
19 consent for their name to be provided to Mr. Justice
20 Charleton and has made clear to me their willingness to 15:50
21 provide Mr. Justice Charleton with all the information
22 at their disposal."

23
24 And that was my understanding and it remains my
25 understanding. 15:51

26 532 Q. MR. MARRINAN: And indeed you were interviewed on
27 Morning Ireland on the following day, 9th February
28 2017. And if we could just have 7366 up on the screen
29 --

1 A. I think "interviewed" is a way of putting it, yeah.

2 533 Q. Yeah. But all that I'm concerned about in relation to
3 this is you were asked the question:
4
5 "Can I check one thing first of all about you? The 15:51
6 following conversation with a journalist, is the
7 journalist who spoke to you prepared to give evidence
8 to the new inquiry under Judge Charleton?"
9
10 And you answered: 15:51
11
12 "That ultimately would be a matter for the journalist
13 concerned. "
14
15 And then: 15:51
16
17 "You mean you don't know?
18 A. I spoke to the person yesterday and yesterday before
19 I went into the Dáil I was told by that person that
20 they would be willing to make the same statements in a 15:51
21 public forum."
22
23 And that confirms what you've told the Chairman.

24 A. Yes.

25 534 Q. Is there anything else you'd like to add in relation to 15:52
26 your evidence?

27 A. No.

28 535 Q. Oh, sorry, just one matter that is a matter that we
29 have been asking other members of the Dáil when they

1 come to the Tribunal; had you heard any rumours
2 circulating in 2013 and early 2014 in relation to
3 Sergeant Maurice McCabe?

4 A. I confess I haven't -- I hadn't. I was fairly involved
5 in government at that stage and I'm afraid I was 15:52
6 completely focused on economic matters. So I didn't.
7 I heard rumours later when we came out of government,
8 but I hadn't been privy to those sort of rumours
9 certainly in the years you mention.

10 MR. MARRINAN: And indeed Deputy Shatter likewise 15:52
11 hadn't heard rumours about it and he informed the
12 Tribunal of that. Thank you very much.

13 CHAIRMAN: Any questions from anybody? You don't have
14 any questions?

15 MR. DIGNAM: I have some questions, Chairman, but they 15:53
16 won't take very long.

17 MR. MOHAN: I have some questions as well.

18 CHAIRMAN: That's fine. Well, who wants -- sorry, was
19 that Mr. Ó Muicheartaigh? I'm sorry, I beg your pardon,
20 I didn't -- oh, It's Mr. Mohan. 15:53

21 MR. MOHAN: Sorry, Hugh Mohan --

22 CHAIRMAN: Sorry Mr. Mohan, yes. All right, if you
23 want to ask questions then please go ahead.

24 MR. MOHAN: Should I go first?

25 CHAIRMAN: Yes. 15:53

26
27 THE WITNESS WAS CROSS-EXAMINED BY MR. MOHAN AS FOLLOWS:

28
29 536 Q. MR. MOHAN: Sorry, Mr. Howlin, just a number of brief

1 questions. You'll know from your Morning Ireland
2 interview, and indeed from the Ceann Comhairle's
3 comments, what was being put to you there, and I'll put
4 to you again, what you were receiving basically was
5 hearsay and you, by repeating it, was hearsay upon 15:53
6 hearsay; do you accept that?

7 A. No. I never suggested, either in my Dáil statement or
8 anything else I said subsequently, that I was
9 suggesting that I'd spoken to somebody who'd had a
10 direct conversation with the Garda Commissioner or a 15:53
11 senior Garda. It was clear always that I was talk --
12 that I was referencing somebody who had told me they
13 had spoken to a party to that conversation.

14 537 Q. Yeah. That's hearsay.

15 A. It's not the same as I overheard it on the bus. If 15:54
16 it's legally hearsay, I accept what you're saying to
17 me. I'm not a lawyer.

18 538 Q. But the problem with that is that -- sorry, well, maybe
19 I'll come back to the problem with that in a moment; is
20 that you were actually given the name of Ms. Debbie 15:54
21 McCann. Did you not think it worthwhile maybe to call
22 her or even to have a query or a conversation about
23 'well, maybe I should speak to her directly'?

24 A. I didn't give the name of Debbie McCann to anybody save
25 to this Tribunal. 15:54

26 539 Q. No, sorry, I appreciate that, it's a different question
27 I'm asking you. I'm going back to the morning; you get
28 the call, you've the conversation, we've your account
29 of it in the letter. And clearly you had been given

1 the name by Ms. Alison O'Reilly of Debbie McCann and
2 what I'm querying with you now is why did you not say
3 'well, look, we're all a bit' -- 'you're one step
4 removed, I'm now two steps removed; I'm going to go in
5 and I'm going to go in and I'm going to give 15:54
6 information which is' - and I've used the word, you
7 used the word "extraordinary", I used the word
8 "explosive" - and it turned out to be so, certainly as
9 far as the then Commissioner was concerned - 'I'd
10 better just check this out maybe first hand with the 15:55
11 person concerned, Ms. McCann'; did that not occur to
12 you?

13 A. Absolutely not.

14 540 Q. why not?

15 A. Because I couldn't set myself up as an investigation. 15:55
16 what was I to do, to ring Ms. McCann? And what was I
17 supposed to do? If she says yes, take a course of
18 action? If she said no, take a course of action? That
19 would be an impossible. It was clear to me - and I
20 believed what I was told by Alison O'Reilly - that this 15:55
21 was a matter that was proper to be investigated by the
22 Tribunal of Inquiry. But in the first instance, my
23 role was a parliamentarian shaping the very terms of
24 reference and the nature of that inquiry, so we needed
25 to have that debate in the Dáil. 15:55

26 541 Q. I would be very sympathetic with somebody in your
27 position who receives information like this, making it
28 available to a Tribunal - and I appreciate the Tribunal
29 hadn't been set up at that point - but it's a very,

1 very different thing going in making the information
2 that you've been receiving, the explosive or
3 extraordinary information, public in the Dáil. That
4 had ramifications for the then Commissioner as we now
5 know.

15:56

6 A. Well, the bottom line is that I was contacted by a
7 journalist who was known to my parliamentary
8]assistant, whom I had the discussion with, who had
9 very significant information that I believed.

10 542 Q. But --

15:56

11 A. And it was important for me to, in my judgment as a
12 parliamentarian, as is my right, to impart that to the
13 Dáil in the context of the Dáil actually determining,
14 firstly, the nature of what sort of investigation
15 should happen, and secondly, the terms of reference,
16 which I intended to have an input in shaping.

15:56

17 543 Q. Well, we now know that for whatever -- I'm not saying
18 this is determinative, but both parties to that
19 conversation, the then Commissioner Ms. Nóirín
20 O'Sullivan denies having that conversation and as I
21 understand it a trawl from her phone records will
22 confirm she didn't have telephone conversations at
23 least with Ms. McCann, and Ms. McCann also denies that
24 she had a conversation. Does that not worry you now
25 that that is the situation with both those parties
26 saying what they're saying and knowing what the
27 Tribunal has done on a trawl?

15:57

15:57

28 A. But that's why we established the Tribunal, to
29 determine those very things. What you're suggesting to

1 me is that I should've determined it in advance of the
2 capacity of the Tribunal to take evidence under oath,
3 check phone records and all the panoply of powers the
4 Oireachtas gives this body. It would've been
5 impossible for me. 15:57

6 544 Q. Well, you heard, I presume you were here when I was
7 putting to the last witness about her travails and
8 troubles with her employer and about having legal
9 disputes and issues. You didn't know that, for
10 example. Would that have informed your mind? 15:57

11 A. I was aware of those matters.

12 545 Q. You were aware that there were three legal actions
13 being taken --

14 A. No.

15 546 Q. -- by that individual? What were you aware of? 15:57

16 A. I was aware that she was having problems with her
17 employer and had taken legal action against them. The
18 detail, the number, I wasn't aware of.

19 547 Q. So that surely would've put a red light on this sort of
20 stuff to cause you some significant concern to say 'I 15:58
21 better get some verification of this hearsay account
22 before I go into the Dáil'. And forget about you don't
23 name Ms. McCann, but you do name Commissioner Nóirín
24 O'Sullivan. And it was carried, as you know, I think
25 it was the headline news that day, it was on the front 15:58
26 page of all the main newspapers the following day,
27 isn't that correct?

28 A. Well --

29 548 Q. Isn't that correct first of all?

1 A. Is what correct?

2 549 Q. That it was carried as a main item of news.

3 A. Absolutely, yes.

4 550 Q. And it put significant pressure on the then
5 Commissioner. Do you not think having it checked out 15:58
6 or having treated it with a greater degree of care
7 might've been more appropriate?

8 A. You're suggesting that my statement in the Dáil came
9 out of the blue, not in the context of the previous day
10 the Government of Ireland had determined to establish a 15:58
11 Commission of Investigation, part of which, in the
12 published record of the day before, was to trawl
13 through two years of records of the Commissioner to see
14 was she involved in a smear campaign against a member
15 of An Garda Síochána. There was nothing entirely new 15:59
16 in what I was saying, save, I suppose, two points; one,
17 I mentioned the word "sexual" crime for the first time,
18 I think, in the public sphere, but that, of course,
19 became greatly amplified by the RTÉ programme of the
20 subsequent day, which went into the Tusla affair in 15:59
21 very great detail. But it was certainly, it might've
22 incrementally been an addition, but it certainly wasn't
23 a new issue --

24 551 Q. What does --

25 A. -- to suggest that the Garda Commissioner might have 15:59
26 been involved in a smear campaign against Sergeant
27 McCabe. Sure that was the very thing that the cabinet
28 had determined to investigate the day before.

29 552 Q. Sorry, Mr. Howlin, and I'll read your own words: "In

1 direct contact"; that was the key --

2 A. Sorry?

3 553 Q. The phrase you used:

4

5 "If it was a fact that the Garda Commissioner was in 16:00
6 direct contact with the media making allegations
7 against one of her own officers around the same time,
8 it would be quite extraordinary."

9 A. Yes.

10 554 Q. That's the meat in the sandwich. 16:00

11 A. That was what I was told. And that was what --

12 555 Q. No, but that's what made it the key, that is what made
13 it --

14 A. But that was what I was told and that's the evidence
15 we've heard for the last number of hours from Alison 16:00
16 O'Reilly, that it's her position. And I believed her
17 then and I believe her now.

18 556 Q. And I suggest you ought to have done as you did
19 previously, have gone not to a naming in public behind
20 the immunity that the Dáil gives the statements, but to 16:00
21 the authority when it would've been set up. You did
22 that before, isn't that correct?

23 A. Well, firstly, we were actually shaping the terms of
24 reference for that and the information I was imparting
25 I judged to be an essential part of that shaping and an 16:00
26 essential part of my role as a parliamentarian. And
27 secondly, you say I did it under privilege; Dáil
28 privilege is a feature of every parliamentary system
29 and it's there for a reason, for a very good reason.

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I am a parliamentarian of more than three decades' standing and I'm very conscious -- I'm a former Leas Ceann Comhairle of Dáil Éireann, as well as holding various other roles and I understand the issue of privilege very well. I would never seek to abuse it, but never not use it when I believe it's in the public interest to do so.

16:01

557 Q. Ms. O'Reilly, when you spoke to her later on, said you seemed very happy the way things had gone. Is that a phrase that you would associate with how you felt?

16:01

A. No.

558 Q. You, in your interview -- or, sorry, in your Dáil statement also referred to the fact, and I quote:

"This morning a journalist contacted me and told me they had direct knowledge of calls made by the Garda Commissioner to journalists."

16:01

You use plural in both of those. And when asked about that the following day on Morning Ireland you didn't correct that. We now know that's not correct.

16:01

A. That is correct, I should've used "journalist" singular.

559 Q. You should've used "journalist" singular and "call" singular, is that right?

16:02

A. I wasn't aware of how many calls were made.

560 Q. And --

A. I understood there was calls plural from two sources,

1 one from the superintendent and one from the Garda
2 Commissioner. That was what I was informed.

3 561 Q. You're asked the following day:

4

5 "I don't want to go into the individual s.

16:02

6 Q. No, don't. But do you know who they are?"

7

8 And you say: "I didn't ask for individual names." But
9 that's again giving a complete wrong impression of what
10 you were told, isn't that correct?

16:02

11 A. Well, let me characterise -- you're relying, you picked
12 one interview. And the interview I did on Morning
13 Ireland the following morning with Cathal MacCoille,
14 Cathal MacCoille is an excellent journalist, but I
15 think those of us in the political business would see
16 that interview and if you read the transcript, I barely
17 finished a single sentence without an interruption
18 interruption, barely a single sentence. So it was more
19 a political coursing than an interview, that particular
20 occasion. I did a more reasoned long interview on Sean
21 O'Rourke the day after, for example. But you picked
22 this particular one and, as I say, you can pars and
23 analyse the half sentences in that, but I'd be very
24 happy it answer any question you approximate you the to
25 me on it.

16:02

16:03

16:03

26 MR. MOHAN: No, sorry, I was just putting it to you and
27 you'd accept that you ought not to have said it in that
28 context. No, I hope we give you more air time here.
29 Thank you very much.

1 CHAIRMAN: All right. And then?

2

3 THE WITNESS, WAS CROSS-EXAMINED BY MR. DIGNAM AS
4 FOLLOWS:

5

16:03

6 562 Q. MR. DIGNAM: Deputy Howlin, my name is Conor Dignam, I
7 appear on behalf of An Garda Síochána and I'm going to
8 ask you some questions, particularly on behalf of
9 former Commissioner O'Sullivan. I won't detain you
10 very long, Mr. Mohan has asked a number of the 16:03
11 questions that I was going to cover with you and I'll
12 skip over those. But if I could just put this in some
13 context. I'm sure you've been -- I think you've been
14 here over the last day or two, you've been in
15 attendance and I'm sure you've been following it in the 16:04
16 newspapers, if not reading the transcripts. I'm sure
17 you're aware that we now know that a number of people
18 have been operating under a misapprehension or have
19 been misled as to allegations that were in fact being
20 made against Commissioner O'Sullivan; I'm sure you have 16:04
21 seen that --

22 A. Yes.

23 563 Q. -- at least in the newspapers, if not in person. You,
24 I'm sure, are also very aware, having lived through
25 that week from 8th February onwards, that it was a 16:04
26 particularly fraught week, it was a controversial week,
27 there was a lot of media coverage and public and
28 political commentary on all sorts of issues involving
29 Commissioner O'Sullivan, involving Sergeant McCabe, the

1 PrimeTime programme etc., so it was a very, very busy
2 week from a public commentary point of view. I think
3 you'd accept, I think, that your Dáil statement was one
4 which had a tremendous impact and which was covered
5 extensively in political and in media commentary over 16:05
6 the course of 8th and 9th February, if not beyond that,
7 is that fair?

8 A. That's fair, yes.

9 564 Q. And I think you -- part of the context is that you made
10 that contribution during Leader's Questions. I think 16:05
11 there was to be a debate on the terms of reference for
12 the Commission of Investigation that afternoon, but you
13 raised this during the course of Leader's Questions
14 that morning, and I might just come back to that in a
15 moment. 16:05

16
17 The other part of the context which you, of course,
18 didn't know and wouldn't have known back then, but
19 which we now know is that Commissioner O'Sullivan
20 absolutely denies doing what she was alleged to have, 16:05
21 or what she is alleged to have done, i.e. briefing
22 Ms. McCann on any issues involving Sergeant McCabe, and
23 there's a very full denial set out in her statement to
24 the Tribunal. I don't propose to bring you to it,
25 because I don't think it's necessary. 16:06

26 A. No, I fully accept that.

27 565 Q. Yes. And indeed that Ms. McCann denies ever having
28 that type of conversation with Commissioner O'Sullivan
29 also. I'm not sure whether you are aware of that --

1 A. Sure.

2 566 Q. -- at this stage? So they are the, some of the factual
3 contexts around what we're discussing. I suppose from
4 your point of view, your experience, and you're well
5 known to the Tribunal and indeed to the public, but I 16:06
6 think you've held three ministerial portfolios: Health,
7 Environment and --

8 A. Public Expenditure.

9 567 Q. -- Department of Public Expenditure. You've been the
10 last Ceann Comhairle and, as you said just a few 16:06
11 moments ago, you've been a TD for over 30 years. And
12 if I might then just start with your Dáil speech, and
13 I'm really going to focus on your Dáil speech in asking
14 the few questions that I have. That was a speech, as I
15 say, that was made during Leader's Questions and you 16:06
16 say at the -- shortly after your contribution began,
17 you say that if it is, if it be the case that the
18 Commissioner has been smearing or briefing or speaking
19 negatively to journalists about a serving member, that
20 would be extraordinary. And you fully appreciated at 16:07
21 that stage that if a Commissioner was involved in that
22 type of conduct that it would be an extraordinary state
23 of affairs and would be a very important state of
24 affairs for the relevant authorities - and we may caval
25 about who the relevant authorities are, but it is an 16:07
26 important and extraordinary state of affairs that
27 should be brought to attention, is that fair?

28 A. Yes.

29 568 Q. Yes. You saw it as your role as a responsible public

1 representative to do something about it when this was
2 brought to your attention, is that right?

3 A. Yes.

4 569 Q. Now, the time of your speech, I think it being in
5 Leader's Questions, it would've been sometime after 16:07
6 noon, isn't that right?

7 A. Yes. Twelve o'clock.

8 570 Q. Yes. And I think it was carried --

9 A. Leaders start, and I'm the third in sequence, yeah.

10 571 Q. Yes. And I think it was carried on the one o'clock 16:08
11 news. So we know it was sometime between twelve and
12 one o'clock. Could you tell us what time you spoke to
13 Ms. O'Reilly?

14 A. Sometime after ten.

15 572 Q. Okay. And if I understand you -- 16:08

16 A. For the first time. I spoke to her twice.

17 573 Q. Yes. And if I understand you correctly, you spoke to
18 her, you didn't take any of the steps which Mr. Mohan
19 has asked you about checking the facts or speaking to
20 either the people who were being alleged to have 16:08
21 engaged in this conversation or spoken to anybody else,
22 am I right in saying that?

23 A. That's correct, other than, obviously, my own advisors.

24 574 Q. Yes, and you've given the explanation for that and I
25 don't propose to go back over that. But you did say 16:08
26 that there was absolutely nothing new in what was being
27 said by Ms. O'Reilly. Now, I have to put it to you
28 that you're fundamentally wrong in that.

29 A. No, I didn't say that. I said nothing new, save two

1 things; one was -- in what I said, rather than in what
2 Ms. O'Reilly said to me. One was I think it was the
3 first public utterance of "sexual crimes". And then
4 the second issue was the direct link with the
5 Commissioner.

16:09

6 575 Q. Yes, okay. Sorry, I --

7 A. Save that. The point I was answering Mr. Mohan on was
8 that this wasn't out of the blue; we were talking about
9 setting up a Tribunal of Inquiry into all these matters
10 in any event, including whether the Commissioner, the
11 then Commissioner was actively engaged in a smear
12 campaign.

16:09

13 576 Q. Yes, I take that correction, Mr. Howlin. The point I
14 want to get to is that do you appreciate the
15 significance of your utterance in the Dáil linking the
16 former Commissioner O'Sullivan for the first time with
17 being involved, directly involved in engaging in a
18 smear campaign?

16:09

19 A. As I say, that was a very, the very matter that was to
20 be investigated in. So if you like, there was to be an
21 inquiry into these matters. I was presented with what
22 I thought was creditable information that needed to be
23 put into the context of formulating the terms of
24 reference for that. Yes, it was significant and it was
25 important.

16:09

16:10

26 577 Q. Yes. Now, when you say creditable information, that
27 was creditable information based on your --

28 A. Creditable.

29 578 Q. Yes, creditable.

1 A. Sorry, I thought you said "questionable".

2 579 Q. No, no. When you say creditable information, your
3 assessment of that was based on two telephone
4 conversations with Ms. O'Reilly and nothing else?

5 A. Yes. 16:10

6 580 Q. Now, the significance though of the direct briefing, so
7 to speak, by Commissioner O'Sullivan is that this was
8 the first time that that allegation had been made and
9 certainly the first time it had been made in public?

10 A. (Witness Nods). 16:10

11 581 Q. You know, I'm sure, that Superintendent Taylor, even at
12 the height of his case, says that Commissioner
13 O'Sullivan, then Deputy, was aware of a smear campaign
14 and nothing more than that?

15 A. Absolutely. I mean -- 16:10

16 CHAIRMAN: Well, it's a wee bit more than that. I
17 mean, I know there's nuances of it and I appreciate
18 you're putting it as best, but I mean, it's alleged
19 that they had face to face conversations on the smear
20 campaign. I mean, it's as serious as that. 16:11

21 582 Q. MR. DIGNAM: Sorry, yes, that Superintendent Taylor has
22 said that he kept Commissioner O'Sullivan informed and
23 briefed and they had conversations in relation to it,
24 but he has never said that she herself directed him to
25 engage in a smear campaign or indeed did it herself. 16:11

26 A. I'm sure that's true.

27 583 Q. Yes.

28 A. My role in this was simply to conduit the information I
29 was given that day into the debate to ensure that these

1 things were fully captured and understood by the
2 Oireachtas in formulating the type of inquiry to be
3 established.

4 584 Q. Yes. And --

5 A. And a second point I should make, Chairman, which I 16:11
6 also made public on that day, which was also important
7 to have been made, I think, by others in the Dáil too,
8 I also was very concerned if these matters were true -
9 and of course, I said repeatedly on every utterance I
10 didn't know them to be true or not and everybody was 16:12
11 entitled, including the Commissioner, to the
12 presumption of innocence - but she, as Garda
13 Commissioner, was the custodian of all this evidence,
14 including mobile phones, including laptops. And I
15 expressed concern that all of those would be, all of 16:12
16 those would be available to this Tribunal or whatever
17 Commission of Inquiry would be established to fully
18 ventilate that and I was concerned that the best way to
19 achieve that would be, as in normal practice, for the
20 Commissioner to stand aside pending the determinations 16:12
21 of whatever inquiry was to be set up.

22 585 Q. Yeah. And that came later I think. But your initial
23 contribution was to simply disclose that this
24 allegation had been made by Ms. O'Reilly to you?

25 A. Yes. 16:12

26 586 Q. Yes. Now, then turning to -- sorry, just in relation
27 then -- do you appreciate, Deputy Howlin, the
28 significance - and I take it that you do, given your
29 experience in the Dáil etc. - the significance of a

1 speech, particularly by a party leader, particularly
2 one with such vast ministerial and representative
3 experience, the significance in the public mind that a
4 disclosure of this type makes when made on the floor of
5 the Houses of the Oireachtas?

16:13

6 A. Well, two points. Firstly, you have to understand it
7 wasn't a speech.

8 587 Q. No, I've been careful to say "contribution".

9 A. Well, no, because it was Leader's Questions. And I
10 chose to do it at Leader's Questions so that the
11 specific questions could be answered by the Taoiseach. 16:13
12 That's what Taoiseach's -- or Leader's Questions are
13 for. So it wasn't a speech as such. But when you say
14 to me did I understand that me saying these things
15 would have an impact, I did and I'd to think about that 16:13
16 for the amount of time I had to think about it and I
17 made a judgment call, as in the last five or six years
18 I've made very many in very tight circumstances, as you
19 can imagine.

20 588 Q. Yes. Because I think -- I doubt if there's any dispute 16:14
21 but that it did have a tremendous impact. And I have
22 to put it to you that it established, in the public
23 narrative at least - and obviously this Tribunal is
24 doing its work very carefully - but it established in
25 the public narrative that the Commissioner was guilty 16:14
26 of the offences with which she was charged.

27 A. I don't think that's fair. On that basis, you'd never
28 set up any inquiry, if you come to a conclusion
29 beforehand. But in order to investigate any matter,

1 you have to set out the matters to be investigated
2 without coming to any interpretation, without coming to
3 any value judgment on it. And I was very clear to
4 repeat, every utterance, I didn't know whether these
5 matters were true or not and that the presumption of 16:14
6 innocence was obviously to be afforded to everybody.
7 589 Q. Now, if I could then just turn to the text of your
8 contribution, or of your leader's question. You say at
9 the beginning that:
10
16:14
11 "This morning a journalist contacted me and told me
12 they had direct knowledge of calls" - plural - "made by
13 the Garda Commissioner to journalists" - plural. And
14 you've already addressed this with --
15 A. Yeah. 16:15
16 590 Q. -- Mr. Mohan. But if I could just ask you then to turn
17 to page 7366, which is the text of your interview --
18 A. In inverted commas, yes.
19 591 Q. -- we'll call it an interview, yes, with Mr. MacCoille.
20 And at the very bottom of that page he says -- 16:15
21 A. Scroll it up a bit.
22 592 Q. Yes. The final question on that page. He says:
23
24 "What about the journalists" - plural - "about whose
25 behaviour he spoke to you" - and that's Ms. O'Reilly 16:15
26 obviously - "will they give evidence?"
27
28 And your answer was: "I don't know."
29

1 "Q. So you raise behaviour on a hearsay basis by
2 people" - plural - "alleged by one person to you
3 relating to other people" - plural - "and you don't
4 know, do you know who they are" - plural?

5 A. Em, I don't want to go into the individuals. 16:16

6 Q. No, don't. But do you know who they" - plural -
7 are?

8 A. I didn't ask for the individual names" - plural.

9

10 And then later on, towards the bottom of that page 16:16
11 you're asked again "Did you ask who they are?" And you
12 say "I was given one name."

13

14 Now, I have to say to you that in the course of that
15 interview/questioning, your answers clearly created the 16:16
16 impression that there were several journalists, at
17 least more than one journalist involved in being
18 contacted by the former Commissioner.

19 A. Yeah. As I said, it was a rather fraught interaction,
20 a more calm debate was had subsequently. But there was 16:16
21 two journalists in my mind, one was the journalist
22 Alison O'Reilly who'd spoken to me and the second was
23 Debbie McCann, who was the conduit for the information.
24 They were the journalists, plural. I was certain that
25 Ms. O'Reilly was willing to give evidence. I didn't 16:17
26 know, because I'd no contact with Ms. McCann.

27 593 Q. Yes. In any event, you accept now that there was one
28 journalist, that Ms. O'Reilly says that she had
29 knowledge of contacts between the former Commissioner

1 and one journalist, Ms. McCann?

2 A. Yes.

3 594 Q. You accept that's the case now. And was that your
4 knowledge at the time or did you believe that there may
5 be more than one journalist? 16:17

6 A. No, the only one I ever knew about was the one
7 referenced by Alison.

8 595 Q. And would you agree with me that the impression that
9 there was more than one journalist being contacted by
10 the Commissioner would also be of significance to the 16:17
11 public narrative of what had been engaged in, or
12 allegedly engaged in by the former Commissioner?

13 A. That might be the case.

14 596 Q. Now, you've already dealt with the question of direct
15 knowledge. You say in your Dáil statement that you'd 16:18
16 been contacted by a journalist who has direct knowledge
17 of calls made by the Garda Commissioner. I think
18 you've accepted that she didn't have direct knowledge?

19 A. The word used, it's my recollection - and if you look
20 at my second letter to this Tribunal, I make that clear 16:18
21 - "direct" inasmuch as she had spoken to a party to
22 that conversation.

23 597 Q. Yes. Now, you then go on to say that in 2015 the Garda
24 Commissioner oversaw the investigation which examined
25 the call logs of a Garda officer who was under 16:18
26 suspicion of leaking material to the media. I take it
27 that you were referring to Superintendent Taylor in
28 that sentence?

29 A. Yes.

1 598 Q. I'm not sure whether you were knowingly referring to
2 him at that time, whether you knew it was
3 Superintendent Taylor or whether you've come to know
4 that now? You might help us on that.

5 A. My recollection is I was aware of it, yeah. 16:18

6 599 Q. Now, you know now that Superintendent Taylor in fact
7 has accepted that in fact he was doing precisely that,
8 leaking material to the media?

9 A. Yes.

10 600 Q. Yes. He has also accepted that the investigation was 16:19
11 conducted and overseen by Superintendent, or Chief
12 Superintendent Clerkin. You're aware of that?

13 A. This is -- you're telling me the findings of a year's
14 work of the Tribunal.

15 601 Q. No, no, I just want to ask you a question first of all. 16:19

16 A. Am I aware of it now? Yes.

17 602 Q. Yes, you're aware of it now, yes.

18 A. After a year's work of the Tribunal.

19 603 Q. Now, did you -- what did you mean when you said that 16:19
20 the Commissioner was overseeing that investigation? And
21 perhaps if I put some context on that; that has become
22 of great significance to the Tribunal in this module
23 because one of the allegations that had been made and
24 has now been withdrawn was that the Commissioner was
25 interfering in some way improperly in that 16:19
26 investigation.

27 A. My understanding --

28 604 Q. Could you explain what you meant by that?

29 A. My reference was simply, as the chief police officer,

1 would have general oversight of all investigations.

2 605 Q. Okay. And nothing more than that?

3 A. Nothing more than that.

4 606 Q. Now, you then, you go on to say immediately below that:

5

6 "If it was a fact that the Garda Commissioner was in
7 direct contact with the media making allegations
8 against one of her own officers at around the same
9 time, it would be quite extraordinary."

10

11 Could you just explain to me, why draw the link between
12 those two things? Surely it would be quite
13 extraordinary that the Commissioner would be doing that
14 at any time?

15 A. It's true.

16 607 Q. Yes. So why the link between those two --

17 A. Doubly extraordinary in those circumstances.

18 608 Q. Well, you might explain why there was a link drawn, why
19 you felt the need to insert the fact that she was
20 overseeing an investigation into Dave Taylor in the
21 very same short contribution --

22 A. It was simply the fact that the issue of leaking
23 documents was of such moment, it would be doubly
24 extraordinary if that issue caused an investigation to
25 be put in place if at the same time it was a fact that
26 the Commissioner was involved in the same thing
27 herself.

28 609 Q. Yes. And just finally, Deputy Howlin, do you accept
29 that if the information about Commissioner O'Sullivan

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16:21

1 turns out to be wrong - and that's obviously a matter
2 for the Tribunal to determine - that it would be very
3 damaging and has been very damaging information to her
4 position as Commissioner?

5 A. Well, the bottom line is, on that basis you'd -- unless 16:21
6 you knew the outcome of a Tribunal, you'd never embark
7 on a Tribunal.

8 610 Q. Well --

9 A. Because what you're saying is unless you know what the
10 outcome is, you shouldn't, because it's damaging to 16:21
11 people's reputations.

12 611 Q. Well perhaps you might just answer me firstly --

13 A. But you understand what I'm saying?

14 612 Q. I do. And I'll give you an opportunity to explain.
15 But you might just answer me in the first instance. If 16:22
16 the Tribunal finds that that information was incorrect,
17 do you accept that the information being put before the
18 Dáil was damaging to Commissioner O'Sullivan's
19 position?

20 A. The mere creation of the Tribunal, the decision of the 16:22
21 government the previous day to check the phone records
22 of the Commissioner for two years to see was she
23 involved in smearing, all of that, by definition, would
24 be damaging if it's all untrue. But there was reason
25 for the Oireachtas unanimously to cause this Tribunal 16:22
26 to be established to check those matters out. And as I
27 say, you'd never have an investigation if your
28 contention is you have to know the outcome before you
29 start.

1 613 Q. I'll take that as a yes, with your explanation and
2 your --

3 A. No, I mean, what I said was no more damaging than the
4 actual Tribunal terms of reference, which surely the
5 government making a determination that the phone 16:23
6 records of the sitting Commissioner of An Garda
7 Síochána for two years needed to be checked and a
8 Tribunal, or at that stage a Commission of
9 Investigation established to see was she involved in a
10 smear campaign against a serving officer, all of that, 16:23
11 sitting, if it all proves to be wrong, would be
12 damaging. And of course I accept that. And my
13 contribution and probably the contribution of every
14 Deputy who contributed to the debate on the terms of
15 reference would equally add to that. And I'm aware of 16:23
16 that.

17 614 Q. But is it your position that an express statement by a
18 TD with your experience and the position that you held
19 at the time of making that express statement, that you
20 had been contacted by somebody with direct knowledge of 16:24
21 wrongdoing on the part of Nóirín O'Sullivan, albeit
22 with your qualification that you didn't know the truth
23 or otherwise of it --

24 A. Well, that's a very important qualification.

25 615 Q. I appreciate that. Is it your position that that is no 16:24
26 more damaging than the establishment of the Tribunal in
27 the first place?

28 A. Well, as I say, every contribution --

29 616 Q. Is that your position, Deputy Howlin?

1 A. Let me answer the question please. Every contribution
2 to the debate on the terms of reference, that went
3 through a variety of allegations, the discussions we
4 had in relation to that potentially are damaging to a
5 variety of people. And that is the nature of setting 16:24
6 up an investigation. And we do probably have an awful
7 lot of them in this country.

8 617 Q. Well, I'll finish on this, Deputy Howlin, but is it
9 your position that an express statement by a TD with
10 your background and experience that you had been given 16:24
11 information by somebody that Nóirín O'Sullivan was
12 engaged in this wrongdoing was no more damaging than
13 the establishment of the Tribunal in the first place?
14 It's yes or no.

15 A. It's actually, it's not yes or no, because it's this: 16:25
16 We were in the process of determining the nature of and
17 the terms of reference of an investigation. There was
18 all sorts of inputs into that. And if it helps you, I
19 fully accept that me putting into the public domain the
20 information I had was of particular significance, yes. 16:25
21 MR. DIGNAM: Thank you.

22 CHAIRMAN: All right. Mr. Marrinan, do you have
23 anything further?

24 MR. MARRINAN: No.

25 CHAIRMAN: There's nothing. Mr. Ó Muicheartaigh? No. 16:25
26 Well, I think you better speak now or forever hold your
27 peace. All right, thank you very much, Deputy Howlin.

28 A. Thank you indeed.

29 CHAIRMAN: Okay, I need to go through a couple of things

1 now if I may. Obviously my note is not necessarily
2 like a stenography note, but --

3 A. Sorry, am I finished?

4 CHAIRMAN: Oh, yes, you are indeed. Thank you. But
5 what Ms. O'Reilly said in relation to her conversations 16:26
6 with Debbie McCann - and what I'm interested in
7 hearing, is there a different version, or if it is,
8 what it is - is 'Once we were making a cup of tea in
9 the Irish Daily Mail kitchen and she told me that she
10 had penalty points quashed, that was embarrassing and 16:26
11 her father was a Garda. I mentioned Maurice McCabe and
12 that he was' -- she mentioned -- 'I mentioned Maurice
13 McCabe and she said that he was a child abuser. The
14 person was now an adult'. His motive was all to get
15 back at the Gardaí because the Gardaí knew about this 16:26
16 investigation, it is implied. She said 'I thought it
17 was suspicious when I first heard it and then I asked
18 myself the question as to why create a fuss if you have
19 a background that you need to conceal?'

20 16:26
21 At some stage she said Debbie McCann said that her
22 father confirmed the story. She said that 'Debbie
23 McCann had told me that she had gotten the name and
24 address of the person abused from someone high up in
25 the Gardaí and she said she'd heard it from David 16:27
26 Taylor, that she'd heard it from Nóirín O'Sullivan.
27 She never said much about David Taylor and all she said
28 was that the girl was in a bad way'. And this was said
29 apparently on the phone and in the context of

1 Ms. O'Reilly being upset vis-à-vis the Roma children
2 and their story, their names going into the media, I
3 infer.

4
5 Then she said 'Early in 2014, in the back office with 16:27
6 others, Debbie McCann and I' - sitting, apparently,
7 close to one another - 'were discussing stories or
8 discussing stories to be pitched, whether she had
9 anything decent to pitch and she said she had the
10 details of this girl and was discussing a story with 16:27
11 Robert Cox'.

12
13 Then we go down further on; vis-à-vis the Cavan visit
14 by Alison O'Reilly, she said she didn't know who went
15 to Cavan first, her or Debbie McCann and afterwards, 16:28
16 after the visit by Debbie McCann, 'She told me she'd
17 gone to the home of Ms. D and that she spent an hour
18 with her and that Ms. D was in an awful state and was
19 gripping herself - by which I understand to mean
20 embracing herself with her arms and rocking, that kind 16:28
21 of behaviour - 'and Maurice McCabe was responsible for
22 it. She told me that Ms. D had told her that she'd
23 been five, six or seven at the time and her father was
24 also a Garda and they were at some kind of a gathering
25 and that she, as a small child, was behind a couch and 16:28
26 that Maurice McCabe had pushed up against her from
27 behind with his groin. She told me that she continued
28 to be in touch with her' - meaning Ms. D - 'I had no
29 other information'.

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The father, she said, had been friends and had fallen out. 'She told me that the story didn't, or would not make it into the paper and that she was annoyed and that Sebastian Hamilton, the Editor in Chief, had put an end to it or had exercised a veto' - I'm sure perfectly properly for his own reasons.

16:29

On another other occasion she said Debbie McCann told her that she'd tried to pitch the story green and it had been refused again. Then there was talk of a Tuesday conference, which is, I think, a pitching conference and going to their cars in Herbert Park and there was a somewhat tetchy debate and it was mentioned to Alison O'Reilly by Debbie McCann that the woman in question, namely Ms. D was going to meet with Mícheál Martin and with An Taoiseach Enda Kenny 'and I said to her are you getting this from your pal Nóirín? And she said yes'. And she said 'I believe this was before the Paul Williams articles came out', the first of which was 12th April 2014, as we now. And then we have the texts, which are texts and they're expressions of opinion, but they're there.

16:29

16:29

16:30

So those are the conversations. And I'm just going to say this and I'm going to say absolutely or totally clearly whether you're in a criminal case or a civil case or you're before a Tribunal, you have an obligation to put your client's version of facts in

16:30

1 issue to a witness. It's a basic matter as to the
2 administration of the justice, because justice is based
3 upon what people tell a Tribunal or a court, it's not
4 based upon, for instance, what a witness might like to
5 be the case or what might be convenient for a case. If 16:30
6 a client, for instance, gives ludicrous instructions
7 that couldn't possibly be true, while you can have a
8 conversation with them, you're nonetheless absolutely
9 and completely obliged to put that.

10
11 Now, I'm speaking not on my own authority, I'm speaking
12 on the authority of the relevant decided case, which is
13 McDonagh -v- Sunday Newspapers. If anyone wants to
14 dispute that, well, they can take another case to the
15 Supreme Court. But there it is. 16:31

16
17 Now, there's a second thing that I need to say, and
18 that is this: I'm running out of time. I'm in the
19 Court of Appeal next week and then I'm back doing other
20 work very shortly after. So vis-à-vis any submissions 16:31
21 that people wish to make at the end of this - and I
22 hope we are coming to the end of this and thank you all
23 for your assistance - I'm not allowing any time, you
24 can make your submissions and if you want to do
25 something in writing, you should do it now. But what 16:31
26 would help me most is if you would adopt a position and
27 tell me why you're adopting a position, as opposed to
28 giving me a big long elaborate exposition on documents
29 and on the transcript, which, by the way, I actually

1 have already. So there it is. And we will continue on
2 tomorrow.

3
4 Oh, sorry, and by the way, Mr. Mohan, I've arranged for
5 the transcript to be printed out for you so that you 16:32
6 have it.

7 MR. MOHAN: Thank you very much.

8 CHAIRMAN: And Ms. Ní Ghabhann will give you a copy of
9 that now.

10 MR. MOHAN: Thank you very much, Chairman. 16:32

11

12 THE HEARING WAS THEN ADJOURNED UNTIL FRIDAY, 1ST JUNE
13 2018 AT 10:00

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