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

HELD IN DUBLIN CASTLE
ON FRIDAY, 8TH JUNE 2018 - DAY 88

88

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 FRIDAY, 8TH JUNE
2 2018:

3
4 MR. MARRINAN: Conor Lally, please.

5 10:23

6 MR. CONOR LALLY WAS CROSS-EXAMINED BY MR. FERRY, AS
7 FOLLOWS:

8 1 Q. MR. FERRY: Good morning, Mr. Lally. My name is John
9 Ferry and I am one of the barristers representing
10 Superintendent David Taylor, and following your
11 evidence yesterday I just have a couple of short
12 matters to put to you in relation to your evidence and
13 the case of Superintendent Taylor.

10:23

14
15 Now, just yesterday, Mr. Marrinan started off by
16 informing the Tribunal that you had become aware of
17 this issue in relation to Sergeant McCabe as far back
18 as 2011 and maybe even 2010, and you outlined in your
19 evidence that you'd been given very, what I thought was
20 quite specific information about the case; that
21 included that an allegation had been made against the
22 sergeant, that it had been investigated by the Gardaí,
23 and an interesting part of your evidence, I thought,
24 was that you also had the detail that the Gardaí had
25 recommended to the DPP that there be no prosecution,
26 and you then went on to say that there was no
27 prosecution recommended. Now, I appreciate that you
28 said that you couldn't -- you said "I genuinely can't
29 recall who told me about this", but it was very

10:23

10:24

10:24

1 specific information that you had appeared to have
2 received back in the early days, is that correct?

3 A. It was very specific information, yes.

4 2 Q. What I mean by that, Mr. Lally, is, you know, normally
5 in day-to-day speak in Ireland, people, if they are 10:24
6 talking about somebody, they might give a view, he's a
7 good guy, he's not a good guy, this or that; I'd say is
8 it not unusual that somebody goes into that line of
9 detail?

10 A. Well, I mean, as I say, it's so long ago I didn't know 10:25
11 Maurice McCabe at the time, you know, he wasn't a
12 well-known figure, really, when I heard about this, all
13 the controversy that has happened since then. So, I
14 guess if I had heard this information, you know, three
15 or four years later, I'd probably recall exactly who 10:25
16 told me and how I heard it and so on. But the level of
17 information that I had from the off, I mean, it's quite
18 possible when somebody began talking about him, I may
19 have asked lots of questions and you know, who is this
20 guy and where is he from and why is he speaking out now 10:25
21 and so on, so it's possible the level of information
22 that I had was detailed because I asked.

23 3 Q. Yes. And would it be correct that it was from a
24 trusted source or from somebody that was, you know, a
25 responsible source, because that type of information 10:26
26 has a sort of, it has a legal speak terminology, I
27 mean, it's not really pub talk? So do you think it was
28 a sort of an official source that was familiar with
29 legal circles?

1 A. Well, I mean, anybody -- if I was speaking to people
2 about this particular issue I presume they will have
3 involvement in the criminal justice system or they
4 would be writing about it or whatever. As I said in my
5 evidence yesterday, it's a long time ago and Maurice 10:26
6 McCabe just simply wasn't the well-known person then
7 that he is now and I just can't recall where I first
8 heard this.

9 4 Q. Yes.

10 A. I just can't remember. 10:26

11 5 Q. I appreciate that you have said a few times that he
12 wasn't the well-known person back then that he is now,
13 and that's one of the themes sort of running through
14 this Tribunal, that there have been lots of witnesses,
15 including Garda witnesses, who seem to have had little 10:26
16 or no knowledge about Sergeant McCabe and the Ms. D
17 case really at any stage, so you are saying that back
18 in 2011/11 you got very, very specific, basically
19 factually correct information?

20 A. Well, what I said yesterday was, was that I think I had 10:27
21 my first, you know, lengthy piece on penalty points
22 published in 2012, and looking back on it now, I felt
23 when that article appeared in the media, I had known
24 about the allegation for about a year at that stage,
25 possibly longer. But I found it very hard to put a 10:27
26 specific time on it.

27 6 Q. Yes. And again, one of the features about the Tribunal
28 and for somebody like myself who has been here for a
29 few days of it, is that the central issue is almost

1 desensitised in some way, so what I am getting at is:
2 while you are saying that Sergeant McCabe wasn't a big
3 figure or whatever back when you heard it first, I mean
4 it is the case that you are somebody who was submerged
5 in the whole sort of Garda land; you are working with 10:27
6 The Irish Times, involved in crime reporting, and wider
7 crime reporting, like for example, reporting about
8 penalty points wouldn't necessarily correlate to murder
9 investigations, so you are somebody who is, you know,
10 entrenched in that whole Garda crime justice area, so 10:28
11 while you say he wasn't a well-known figure at the
12 time, wasn't it a startling allegation to hear about a
13 member of the guards, of any rank, that an allegation
14 of its type, like you didn't flesh it out yesterday but
15 were you aware that the allegation related to a minor 10:28
16 and a female, was that part of the information that was
17 given to you?

18 A. Yes. I am not sure that I was aware of that. I'm not
19 sure what I knew about the age of the person at the
20 centre of it, and I'm -- 10:28

21 7 Q. But leaving, say we leave that out of it. I mean, one
22 of the issues, I think, is that it's easy to sort of
23 desensitise the gravity of what was being said about
24 Sergeant McCabe, but I mean for you, somebody in your
25 position to hear that, surely that was, that was a big, 10:29
26 that was a big red flag issue because it could have led
27 to an enormous story in relation to An Garda Síochána?

28 A. Sorry, I just catch the last bit of that.

29 8 Q. I'm saying it's something that would have been a red

1 flag issue to somebody like yourself, as a crime
2 reporter, because it could possibly have led to a
3 massive story in relation to An Garda Síochána, if
4 there was any merit to any of the facts therein or any
5 of the issues that was being --

10:29

6 A. I'm not quite sure how it would have led to a massive
7 story about An Garda Síochána. I mean, as I say, I
8 heard that there had been an allegation, there was an
9 inquiry, he was completely exonerated and that was it.
10 I mean, I'm not -- I mean, the way the information was
11 presented to me, I find it very hard, looking back now,
12 to see how it would have led to any other story.

10:29

13 9 Q. Yes.

14 A. Even a small story. I mean, you just couldn't -- you
15 couldn't and you wouldn't want to do anything with it.
16 It was a dead piece of information from the very
17 outset.

10:30

18 10 Q. Okay, well, I'll accept that but I mean from my
19 position I would have thought it wouldn't be the type
20 of story you would hear about members of An Garda
21 Síochána on a regular basis, a pretty startling
22 revelation about anybody, let alone about a member of
23 the police force?

10:30

24 A. I don't know, there is a -- I mean, I have been, since
25 I have been working in the crime area there has been a
26 good few guards who have ended up in trouble in court
27 and, you know, certain allegations have been made
28 against them. I don't think it's -- you know, you
29 hear -- you would hear things all the time. I mean, as

10:30

1 far as I was concerned --

2 11 Q. I will move on from that, Mr. Lally, and accept what
3 you are saying there.

4 A. Just hang on a second. I just haven't completed that
5 answer. You know, you would hear things all the time 10:30
6 about people, about, you know, Gardaí, about other
7 people, and in the business that we're in, you think in
8 stories all the time and when you hear information,
9 you're automatically almost processing it in your head:
10 Is this a story? Can I do anything with this? What 10:31
11 tends to happen is, if the information that you hear,
12 you kind of process it instinctively and you say to
13 yourself I don't think there is a story here, you tend
14 to forget about it and just kind of move on.

15 12 Q. Yes. But that would be -- I don't mean to cut across 10:31
16 you, are you finished your answer? I don't mean to be
17 stating the obvious but that would have been my
18 understanding of a reporter in your position. That
19 your brain is like a computer and it's constantly
20 processing all the different bits that you are getting 10:31
21 in, with a view to is there a story here or not. I
22 mean, that is obviously how you are tuned -- we are all
23 the same, whatever line of work we work in, so you are
24 getting information and you are trying to ascertain is
25 there a story here or not. 10:31

26 A. Yeah.

27 13 Q. One of the things that you then said yesterday which I
28 just want to consider or have you consider is that,
29 whoever you heard this from, you said that:

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"From my recollection, even the person who told me, it was kind of in the context of, you know, Sergeant McCabe fell out with An Garda Síochána."

A. Yes. 10:32

14 Q. Now, for somebody who had been given information that an allegation had been made, so, for example, if you are working in The Irish Times and an allegation is made by somebody about your work or some aspect of your job, and if that's investigated, so in this case you had information that was investigated by the guards, so if it was investigated by The Irish Times management and then you said it was recommended by the guards that there be no prosecution, so if The Irish Times management recommended that there be no sanction taken against Conor Lally and if whoever the adjudicator was acted upon that and imposed no sanction, why would Conor Lally fall out with Irish Times management over that? 10:32

A. Well, I mean, I suppose if I was investigated and I was unhappy with -- I mean, it's a hypothetical question about a controversy in The Irish Times that hasn't happened. 10:33

15 Q. Oh no, no, I appreciate that. But your evidence was that whoever told you, and you genuinely can't recall who it was, that it was in the context of Sergeant McCabe fell out with An Garda Síochána and then you went on and say: 10:33

1 "This appears to have been the start of it all."
2 A. No, what I was saying there was, my feeling is -- and I
3 mean, again, I can't remember the specifics of this
4 incident, I just -- if Sergeant McCabe had been as well
5 known then as he is now, I would recall obviously, but 10:33
6 he wasn't. And that's the context for the very first
7 hearing of this.

8 16 Q. Yes.
9 A. I haven't finished answering the question.

10 17 Q. Sorry, I don't mean to cut across you. 10:33
11 A. Hang on a second. You keep doing that. What I feel
12 is, is that it's quite possible that I was having a
13 conversation with somebody about whistle-blowing and
14 questions being raised about penalty points and so on
15 and so forth, and it's quite possible I said who is 10:34
16 this guy, Sergeant McCabe? You know, where is he
17 based? What is it all about? You know, what is this
18 all about? And I think somebody may have said to me,
19 well actually, he fell out with the guards because what
20 happened was there was an allegation against him and so 10:34
21 on.

22 18 Q. Yeah.
23 A. And this appears to be the start of his, of the
24 fracture in his relationship with the guards. I feel
25 that that is the nature of the conversation I had with 10:34
26 the person, but I can't be sure because it's too long
27 ago and he wasn't a high profile person then.

28 19 Q. Yeah. And Mr. Lally, it's just my own fault, if I'm
29 cutting across you there, I don't mean to do that, it's

1 just, maybe I thought you had finished your answer.
2 But what I'm getting at is, for somebody who is putting
3 this detailed information to you, you had formed this
4 view that Sergeant McCabe had fallen out with the
5 guards, and you then went on to say that "nobody was 10:35
6 trying to drive home a point that he was a bad guy, or
7 you had to be wary of him or anything like that". But
8 the question I would have there is: If you had heard
9 that somebody had fallen out with Garda management, if
10 you were a member of Garda management, would he not be 10:35
11 somebody that perhaps common sense would say you better
12 be wary of this person?

13 A. You said there earlier that I had formed the view that
14 he'd fallen out with the guards. I hadn't formed any
15 view. I hadn't a clue who he even was at the time or 10:35
16 anything about this allegation against him, so I didn't
17 form any view. What I'm telling you is, this is the
18 information, this is the first time the information has
19 been relayed to me, and it was relayed in this
20 particular context. It was an explainer for -- it was 10:35
21 the person who was telling me, it was their view that
22 Sergeant McCabe had had a difficult time in work, he
23 had more or less fallen out with the guards and this
24 was the reason why he had fallen out with the guards,
25 but that was the view of the person who was telling me 10:36
26 this; I didn't know anything about it.

27 20 Q. Yes, no, I appreciate that.

28 A. I had no view.

29 21 Q. I think what you had said was that it was said to you

1 in the context of Sergeant McCabe having fallen out
2 with the guards. So whoever was giving you the
3 information, was giving you that context?

4 A. Yeah. And I mean, when I say it was in the context of
5 explaining how he'd fallen out with the guards, what I 10:36
6 was trying to explain was, this person was essentially
7 trying to put context on who they felt Sergeant McCabe
8 was, they felt he was a person who now had a fractured
9 relationship with the guards, and I was just trying to
10 basically tell the Tribunal that this is how I first 10:36
11 heard this information, rather than somebody from Garda
12 management coming up to me and trying to convince me
13 that what was at the centre of the allegation was true
14 or, you know, or anything like that. It cropped up in
15 the context of an explainer rather than somebody trying 10:37
16 to malign Sergeant McCabe. And that's what I meant.

17 22 Q. And I understand that, what I started questioning you
18 in relation to is that I found it interesting that
19 whatever information you had been given, as I have
20 already said, it was very specific and almost in a 10:37
21 legal terminology?

22 A. Well, that might be my phrasing of it now.

23 23 Q. Yeah. Okay.

24 A. Do you know what I mean? Maybe I've been -- that may
25 be the way I speak about these things. I am not 10:37
26 necessarily saying the exact phraseology, I am using
27 now in how I explain the event was the exact
28 phraseology was used previously. The one phrase that
29 does jump out at me was the person said to me it was

1 completely thrown out or it was completely rejected or
2 that kind of phrase but that is the only clear thing
3 that kind of stayed with me.

4 24 Q. You used a word this morning that you also used
5 yesterday and that is "explainer", and yesterday you
6 said:

10:38

7
8 "From my recollection the kind of telling of this
9 particular story was an explainer for how he fell out
10 with Garda management basically."

10:38

11 A. Mm-hmm.

12 25 Q. So again, whoever was giving you this information, was
13 saying that this investigation, the file to the DPP,
14 the result, that that had resulted in explaining why
15 Sergeant McCabe had fallen out with Garda management?

10:38

16 A. That was the -- that was the view of the person -- that
17 is my recollection of the opinion held by the person
18 that I first learned about this from.

19 26 Q. Yes. And we now find ourselves seven or maybe eight
20 years further down the road and one of the unique

10:38

21 things about this Tribunal is that there have been
22 practically no garda rank witnesses before the
23 Tribunal, because one of the features, as we all know,
24 is this deals with senior management in An Garda
25 Síochána, management in Garda Headquarters. So,
26 whoever was talking to you almost eight years ago, was
27 presenting this story to you in a way that it was a
28 falling-out with Garda management?

10:39

29 A. Yeah. I mean, it may not have been eight years ago,

1 you know, I can't --

2 27 Q. well, 2010 or 2011 is I think when you were timing it.

3 A. As I say to you, I wrote my first piece in 2012,

4 looking back on it I think I knew about it for about a

5 year, possibly more, at that stage, but literally it 10:39

6 would be very, very hard for me to put a timeframe on

7 it between 2010 and 2012 specifically when I first

8 heard about this.

9 28 Q. Yes.

10 A. So I was giving a time span there rather than an 10:39

11 absolute period for when I heard this.

12 29 Q. But I think the way that you opened your evidence was

13 that you were more or less saying, look, I had heard

14 about this long before the timeline that the Tribunal

15 is dealing with, 2012 -- or 2013, 2014? 10:39

16 A. Yeah.

17 30 Q. You had heard about it, you said, 2011 and maybe 2010?

18 A. Okay. Again, my recollection on the timeframe is I

19 wrote my first story about -- my first lengthy story

20 about penalty points in 2012. My recollection is that 10:40

21 I knew about this about a year at that stage and it

22 could have been even longer.

23 31 Q. Yes.

24 A. That's the best I can do.

25 32 Q. Yes. And when I mention there about the rank issue, 10:40

26 this was a story about a garda sergeant. Now, when you

27 start writing about the penalty points issues, isn't it

28 the case that you already have information on Sergeant

29 McCabe that he has fallen out with Garda management?

1 A. No, I have -- I have a person believing that he -- I
2 have a person who spoke to me about this first,
3 believing that he had fallen out with Garda management.
4 I didn't have any view on it, I mean, I just didn't
5 know at the start what happened, and I still don't 10:41
6 know, to be honest.

7 33 Q. Yes. And again, in relation to your evidence
8 yesterday, you say that "the story started to resurface
9 in 2013 or 2014", but I think you said you can't be 100
10 percent sure. But it was a story that, after your 10:41
11 first interaction with whoever you were talking to,
12 resurfaced again sometime later, and in relation to it
13 resurfacing again, I think you were ensure how you came
14 to the information, but it may have been from our
15 journalists, is that correct? 10:41

16 A. Yeah. I mean, I think it resurfaced in the context of
17 obviously Sergeant McCabe's profile began to rise quite
18 a bit, culminating in his appearance before the Public
19 Accounts Committee in 2014. I think if you look at the
20 period of about, you know, 12 months before he appeared 10:41
21 at the Public Accounts Committee, his profile was
22 increasing all the time. And I mean, when I say it
23 resurfaced, it's quite possible that because he was in
24 the news more I was just talking to more people about
25 him, so this came up again. You know, it's possible 10:42
26 that simply there was more interest in him, we were
27 talking about him more and this cropped up again.

28 34 Q. Yes.

29 A. Just to clarify, like, it's possible -- when I say it

1 resurfaced, it's possible it simply came up in
2 conversations again that I was having with other
3 journalists.

4 35 Q. Yes. Now, just, I think going back to what you had
5 said at the outset, you said that the story -- I think 10:42
6 you said there was nothing you could do with the story
7 is that right? Nothing you could do with the
8 information?

9 A. Yeah.

10 36 Q. Yes. 10:42

11 A. Well, I mean, if there is an allegation against a
12 person, it's been through the system and it's been
13 rejected pretty comprehensively by the system, I mean,
14 it's you know -- it would be very legally -- it would
15 be very hard to do anything with that even if you were 10:43
16 inclined to, it would be very difficult.

17 37 Q. Yes. But in relation to the fact that he'd fallen out
18 with management being part of whatever information you
19 were given, what if that was not correct?

20 A. No, you see, you're assuming that I believed he'd 10:43
21 fallen out with Garda management. I never said that.

22 38 Q. No, I am not, Mr. Lally. I am just saying that was
23 your evidence, that is what you were told.

24 A. Okay. You keep going back to that point again so just
25 let me be absolutely clear with you, okay? when I say 10:43
26 it was an explainer for how he had fallen out with
27 Garda management it was put to me in that context by
28 the person I first spoke to. That is not the view I
29 held, that is the view that that person held and they

1 put this forward to say what has actually happened is
2 he has fallen out with the guards and why he has fallen
3 out with them and then went through what the allegation
4 was. So, I didn't hold that view, the person I spoke
5 to did. I didn't hold any view. I didn't know 10:44
6 Sergeant McCabe, I didn't know what was after
7 happening, you know. I had no opinion on it.

8 39 Q. Well, if that didn't form your view or attribute to
9 whatever view one might have, was there some other
10 source that was also giving you information about 10:44
11 Sergeant McCabe?

12 A. Yeah, I had a range of sources, yeah.

13 40 Q. And what information were they giving you?

14 A. Look, I mean, I was writing about the termination of
15 penalty points, so that's what I would have been 10:44
16 speaking to people about.

17 41 Q. Yes. So what I said there was, what if Sergeant McCabe
18 was genuine from the outset and you start writing about
19 penalty points, why do you think whoever had spoken to
20 you in 2010 or '11 had added on that rider that he fell 10:44
21 out with management and, as you put it, that was the
22 start of it?

23 A. Well --

24 42 Q. I'm saying if he was genuine, why would that be added
25 into it? 10:45

26 A. You said if he was genuine, I believe he was genuine.
27 Just to make that absolutely clear.

28 43 Q. Yes.

29 A. So, there is no if about it. I believe he was genuine.

1 As I have said a few times, the person who I spoke to
2 first, I don't believe they were trying to say this
3 with any venom or to convince me that Sergeant McCabe
4 was a bad guy or anything like that. It's quite
5 possible it could have been somebody who was quite 10:45
6 comfortable with a person blowing the whistle from
7 within An Garda Síochána. I can't remember who it was,
8 to be perfectly honest with you. But my -- I think
9 what they were trying to get across was, here is a guy
10 who had worked in the guards for a long time and then 10:45
11 he turned whistleblower and this person that I spoke
12 to, it was their view that the beginning, that the
13 beginning of this lay somewhere in his being unhappy
14 with how the case was handled or in this allegation
15 being brought forward, but that was the view of that 10:46
16 person, that wasn't my view.

17 44 Q. Yes.

18 A. So that person's opinion didn't in any way inform my
19 approach to the story as I began writing about the
20 termination of penalty points. People express opinions 10:46
21 to me all the time on a whole range of issues, they
22 don't find their way into my journalism.

23 45 Q. I appreciate that, and I'm not saying that for a
24 moment, Mr. Lally, but for the purposes of the Chairman
25 and the job he has to do, it appears that whoever it 10:46
26 was that gave you the initial information, you think --
27 I think you agree they were a responsible and perhaps a
28 trusted source because they were speaking in very
29 specific legal language.

1 A. Mm-hmm.

2 46 Q. But whoever they were, and for whatever reason, they
3 added on the rider that Sergeant McCabe had fallen out
4 with management and that that was the start of it?

5 A. I think --

10:46

6 47 Q. Sorry, sir, and I have to say that if somebody was
7 saying that to a journalist who then goes on to start
8 writing about issues affecting An Garda Síochána, that
9 was a very, very interesting rider that was added on to
10 a factually correct statement, because it would appear 10:47
11 that while the first part of the statement was
12 completely factually correct, it doesn't appear that
13 the second part of it was factually correct about him
14 falling out with management, and that was added in, and
15 I say that must have had -- I am not saying must have, 10:47
16 but that may have been intended to plant a seed in your
17 mind in relation to the motivations of Sergeant McCabe?

18 A. No, I don't -- I actually don't think it was. I think
19 what happened was, his name came up, the whole idea
20 that he was -- you know, that he was blowing the 10:47
21 whistle about penalty points or whatever, and I feel,
22 again it's a long time ago now, I feel when this came
23 up I would have asked questions: well, who is this
24 guy? what's it's all about? And has he blown the
25 whistle before? And has anything ever happened in the 10:48
26 past? And what is this all about? Is there any
27 background here? And so on and so forth. I can't
28 recall exactly what questions I asked.

29 48 Q. Yes.

1 A. You also said that the person phrased this in very
2 legalese kind of language; I don't think they did. I
3 think perhaps my recall of it now is couched in that
4 phraseology. But I feel that the person saying he had
5 fallen out with the guards, I think that was -- that 10:48
6 was only supplied after I'd asked questions, you know,
7 I mean, has this guy been happy in the guards up until
8 now and why is he coming out now all of a sudden and so
9 on, that kind of thing.

10 49 Q. Yes. But wasn't it providing whoever was -- whoever 10:48
11 was providing you with that information, was providing
12 you with an agenda for anything that that sergeant
13 might do in the future in relation to any issue
14 affecting Garda management?

15 A. No, I mean, I have very specifically said several times 10:49
16 that I don't believe that information was relayed to me
17 at the start in any way to turn me against Sergeant
18 McCabe or to suggest that, you know, you had to be wary
19 of him, he wasn't to be trusted, he was unreliable or
20 anything. I think this just cropped up in a much wider 10:49
21 conversation about lots of other issues.

22 50 Q. Yes.

23 A. I don't even think this was a conversation about
24 Sergeant McCabe or anything like that. This just
25 cropped up during the course of a conversation. 10:49

26 51 Q. Yes. And moving on then to 2013 and 2014 when it
27 resurfaced, again while, I think you said yesterday you
28 felt it was journalists that were talking about it, I
29 think you said that you can't specifically recall who

1 they were?

2 A. Yeah. I mean, when I say it resurfaced, I have a
3 feeling, because I was talking about Sergeant McCabe
4 more maybe to other people and, you know, they were --
5 there was more happening around the issues that he was 10:50
6 raising, I just think it's possible this just cropped
7 up again during the course of the conversations with
8 other journalists.

9 52 Q. So --

10 A. I wasn't like, it's very hard to recall this really, 10:50
11 because it was information that was just going to go
12 nowhere, you weren't going to do anything with it. As
13 I said, it was dead information from the start, and I
14 just wasn't, you know, tracking who I was talking to or
15 who told me what or when I heard about it. It was just 10:50
16 information that was going to go absolutely nowhere.
17 And you know, that's it.

18 53 Q. Yes, yes. But I mean, in 2013/2014, I know you find it
19 hard to be exact, but was it the exact same information
20 that was going around, doing the rounds, or would there 10:51
21 be variation on it?

22 A. I think it was the same type of information, yeah.

23 54 Q. So it was the same: File to DPP, no prosecution,
24 nothing to see here, he's cleared?

25 A. Yeah. At no point did anybody ever try to convince me 10:51
26 or supply with me with partial information to suggest
27 that he was guilty or there was anything to it or
28 anything like that. I heard about this all in one
29 chunk and that's how I continued to hear about it.

1 55 Q. Yes. And again, Mr. Lally, when we are here in an air
2 conditioned room in Dublin Castle it can be difficult
3 to keep in touch with context, but that period of 2014
4 where you had a sergeant about to appear at the Public
5 Accounts Committee, surely that was -- and you might 10:51
6 give us some information on this, what was the feeling
7 on the ground amongst journalists at that time about
8 Sergeant McCabe?

9 A. Oh, well I mean, I suppose, I mean he was causing a lot
10 of waves within the Garda organisation. I mean, it was 10:52
11 certainly, from our perspective, I mean, we'd be, you
12 know -- he was at the centre of a lot of dramatic
13 events that were ending up on the front page and on the
14 TV news and so on and so forth, and I suppose it was
15 keeping us occupied and we were covering the story and 10:52
16 I mean, I suppose we are journalists, we like drama,
17 and it was a big story and you're glad to be covering
18 big stories.

19 56 Q. And the big story involved Garda management?

20 A. Yeah. 10:52

21 57 Q. And we've had the most senior guards in the country for
22 the last ten, well, maybe last 20 years come before the
23 Tribunal giving evidence on various stages, and what
24 you had, in effect, was a situation where a low ranking
25 officer, a sergeant, was going into Government 10:52
26 buildings to talk about matters that you'd reported on
27 arising out of penalty points, and wasn't it a seismic
28 case in Garda history?

29 A. Yeah, I'd say it was, yeah.

1 58 Q. Because crime reporters who would be reporting on
2 issues such as what has happened around Dublin this
3 week, of murders and stuff, were actually reporting on
4 penalty points issues and a sergeant being called
5 before the Houses of the Oireachtas? 10:53

6 A. That's right.

7 59 Q. So it was big news?

8 A. Yes.

9 60 Q. Yes. And it appears that, apart from yourself, there
10 were, and I know you haven't given a number but you 10:53
11 have given a plural, it appears that journalists from
12 the crime reporting sector were reporting on that with
13 a background story that Sergeant McCabe had been
14 investigated, etcetera, and I presume, that the story
15 was out there that he had fallen out with Garda 10:53
16 management?

17 A. I mean --

18 61 Q. Well, I mean, that is what I am getting at. If you
19 step back from your own position and look at --

20 A. It was clear from -- I mean, it was clear from his own 10:54
21 actions that he was going head-to-head with Garda
22 management. I didn't need anybody else to tell me
23 that.

24 62 Q. Yes. But if the reason --

25 A. He was issuing press statements challenging Martin 10:54
26 Callinan's account of various things. I mean, I could
27 read those press statements and realise that he was,
28 you know, at loggerheads with Garda management. I
29 wasn't really waiting for anybody else to tell me that.

1 63 Q. Yes. But, it's one thing if somebody is raising issues
2 in the workplace and you have been told that they are
3 100 percent squeaky clean and they are a decent guy.
4 It's a different thing if you have been told they are
5 100% squeaky clean in relation to a certain matter; 10:54
6 however, because of that they fell out with Garda
7 management and, therefore, they have issues with their
8 management, do you get the distinction?
9 A. Yeah.

10 64 Q. And in this -- in accordance with your evidence, which 10:54
11 started out with very, very specific legal type
12 details, that was the position you were coming from.
13 A. Yes.

14 65 Q. Now, isn't that evidence of a negative briefing that
15 was in the ether -- 10:55
16 A. No.

17 66 Q. -- in relation to Sergeant McCabe?
18 A. I wouldn't agree with that, no.

19 67 Q. Well, what if the man was completely genuine, what if
20 he was innocent of any wrongdoing and furthermore, what 10:55
21 if he was a well-intentioned member of An Garda
22 Síochána who had witnessed poor practices and was
23 bringing them to attention?
24 A. I believe all those things were true. I believe he was
25 all of those things, well-intentioned and bringing poor 10:55
26 practice forward, but I will go back again: The tone
27 of the conversation I had with the person at the very
28 outset of all of this, it simply wasn't loaded against
29 Maurice McCabe and it's that simple. And my

1 recollection of it is, I asked questions because I
2 actually don't think I'd heard of him before or exactly
3 what he was doing, and I think maybe I asked the person
4 who told me lots of questions until they said, I may
5 have pressed the person, well, when -- why is it 10:56
6 happening now? When did it start? How did it start?
7 And it's quite possible the person only told me well
8 actually he fell out with Garda management over this
9 particular issue when I asked him lots of questions.
10 CHAIRMAN: Could I interrupt, gentlemen, for just a 10:56
11 minute. As I understand it, and it's good to know this
12 now, that the first mention of Maurice McCabe by name
13 was in Sunday Times on 24th November 2010, an article
14 by John Mooney. Now, as I understand it, Mr. Lally
15 believes that he had this conversation that he is 10:56
16 remembering as best he can with somebody who he can't
17 remember, or perhaps there was more than one person, I
18 don't know, in 2010 or perhaps 2011, so it could be in
19 around the time of the article. But at that stage,
20 David Taylor wasn't Press Officer so that can't be 10:56
21 evidence of a negative briefing as of that point, can
22 it? Certainly not emanating, it seems to me,
23 Mr. Ferry, from your client.
24 MR. FERRY: Yes.
25 CHAIRMAN: So I'm just a wee bit confused. Is there 10:57
26 something perhaps I am missing that you could help me
27 on?
28 MR. FERRY: well, I think his evidence has been that
29 that was what he was made aware of in 2011 or 2010, but

1 he then went on to say it resurfaced. So, it
2 resurfaced at a later period and it resurfaced at a
3 period when Superintendent Taylor was in the Press
4 Office, and we have had evidence of how he came into
5 the Press Office.

10:57

6 CHAIRMAN: Sure, I appreciate that. Another way
7 perhaps of looking at it, Mr. Ferry, is that if there
8 is something there, like a plant in the ground and it's
9 there and it's weak and suddenly a great deal of rain
10 comes some years later or the right conditions, it
11 grows up very quickly and this could be an appropriate
12 analogy in relation to the fact that here is this in
13 the ether but when Sergeant McCabe comes better and
14 better known and there is more controversy about him,
15 that this thing gets talked about more and more, not
16 necessarily evidence of a negative briefing by anyone
17 in Garda Headquarters but it could be that, or it could
18 be the plant in a dry season type situation where the
19 rain comes. I do understand that. There is nothing
20 wrong with any of the questions you are asking, by the
21 way, it's helpful, but I'm kind of puzzled as to how
22 this thing in 2010/2011 could be anything to do with
23 Superintendent Taylor.

10:57

10:57

10:58

24 MR. FERRY: well, the only thing that I think is
25 relevant of that is the rider that Sergeant McCabe had
26 fallen out with management.

10:58

27 CHAIRMAN: Yeah.

28 MR. FERRY: So that's -- I think if Sergeant McCabe was
29 a genuine officer bringing genuine issues up, that this

1 thing of having fallen out, and the evidence of
2 Mr. Lally about how everything was dealt with so well
3 by the guards, even the detail that the guards had
4 recommended no prosecution, I mean, there is nothing to
5 suggest in any of that, that he would have any reason 10:58
6 to fall out with his management because they seem to
7 have completely cleared him.

8 CHAIRMAN: No, it's perfectly legitimate. Well, just
9 so long as we do remember that I'm talking about the 23
10 months from July 2012. 10:59

11 MR. FERRY: Yes. That is where I am at, at present in
12 relation to the issue of resurfacing and it was amongst
13 journalists.

14 68 Q. And what I was saying, Mr. Lally, is that the
15 journalists had a similar version to what you had been 10:59
16 told and I think you had said there that it wasn't
17 being presented in a manner of trying to do down
18 Sergeant McCabe, I think that is kind -- I may have
19 misquoted you there now, but your last answer was
20 saying it wasn't to try and do the man down, but you 10:59
21 see, the evidence of Superintendent Taylor, I don't
22 think you were here for that, you may have read it, but
23 Superintendent Taylor's evidence isn't that he was, you
24 know, opening up a flip chart and giving directions to
25 journalists, it was that he was instructed that the 10:59
26 agenda was that Sergeant McCabe was driven by revenge
27 as a result of being investigated and that was the
28 agenda. So there is a distinction there between -- I
29 mean, is it the case that people outside of here are

1 thinking, well listen, the reason why Sergeant McCabe
2 is here is because there was something to the
3 allegation, or are people aware what is actually being
4 suggested here is that the Commissioner wanted people
5 to be made aware that he was driven by revenge as a 11:00
6 result of being investigated, can you see the
7 distinction between the two?

8 A. I absolutely can. Like, nobody ever told me he was
9 driven by revenge and the initial conversation that I
10 had with the person in the very early stages, and this 11:00
11 is kind of the point that I'm keen to be clear on, when
12 I say that person told me they believed he'd fallen out
13 with Garda management, they weren't saying he'd fallen
14 out with Garda management so in revenge he is now
15 blowing the whistle. I have a feeling that I probed 11:00
16 them and I continually asked, well, why is this
17 happening now? You know, what is this all about? How
18 come this guy has been in the guards for a long period
19 of time, there has been no problems, and he's coming
20 forward now? Is there any particular issue there? And 11:01
21 I think the person said, well, actually, there was an
22 allegation, he was completely cleared of it, and he
23 appears to have fallen out with the guards -- with, you
24 know, Garda management at that time, and I think it was
25 local Garda management, and I'm not even sure the 11:01
26 phrase was "fallen out with". I think they were trying
27 to point to the fact -- I was pressing them, is there
28 any fracture here at all between Sergeant McCabe and
29 the organisation? And after I pressed the person said

1 well, actually, he was involved in an issue in whatever
2 it was, 2006, 2008, and I feel that's the context.

3 69 Q. Yes.

4 A. This idea that this was a seed that was planted in my
5 head, my recollection is, I had to ask lots of 11:01
6 questions before I got that answer, so --

7 70 Q. Yes.

8 A. -- it wasn't a seed, there was nobody saying that he's
9 now blowing the whistle in revenge because he fell out
10 with Garda management. That is just not the kind of 11:02
11 conversation that happened.

12 71 Q. Yes. But going back to what you described as the
13 hypothetical example, if the manager of The Irish Times
14 received a report from a reporter who'd been
15 investigated some years earlier into wrongdoing in The 11:02
16 Irish Times, and they thought well, where did we hear
17 of this fella before and somebody says oh, sure that's
18 the fella that was investigated earlier, could you see
19 how that could come into the ether in relation to a
20 whistleblower? 11:02

21 A. I'm not quite sure I understand your question.

22 72 Q. Well, there was something negative in his background
23 that he had fallen out with management as a result of
24 an investigation earlier in his career. If you were
25 the editor of The Irish Times and a reporter comes 11:02
26 forward and there is stuff in the media and you are
27 being invited to go up to the Houses of the Oireachtas,
28 wouldn't one of the issues be, well sure this fella
29 fell out with us years ago over an investigation we

1 did, and therefore, that's a reason behind what is
2 happening?

3 A. Yeah, like, are you asking me did people in the guards
4 say that to me?

5 73 Q. No, I'm saying that you are saying back in 2011 that it 11:03
6 wasn't really that relevant, but what I'm saying if you
7 roll forward and you are in senior Garda management,
8 you are told in 2011 he had fallen out with management,
9 if you roll forward to 2014 and that Garda manager has
10 got a sergeant going before the Oireachtas, doesn't 11:03
11 than issue that he had fallen out with Garda management
12 become a much bigger issue?

13 A. Yeah, I'm not so sure about that. I mean, you know, he
14 was -- the allegation was made, he was cleared, you
15 know. I'm not -- 11:03

16 CHAIRMAN: I think Mr. Ferry's question in fairness is
17 this: Doesn't it make it much more likely that they
18 would want to put a spin on it? Because I mean every
19 story we have, I suppose, the basic facts and then you
20 have the remembrance of the facts and then you have the 11:04
21 way people look at the facts and then you have the way
22 people recount the facts. So I suppose the idea is, if
23 this thing was there, wasn't it the case that this
24 coming up, this embarrassing them would mean they would
25 like to twist things a bit or ram the knife in a bit 11:04
26 deeper, that's I think the basic question. Is it,
27 Mr. Ferry?

28 A. Well, look, I mean, all I can say is that nobody from
29 the guards ever came near me with this particular line

1 or spin on it.

2 74 Q. MR. FERRY: Yes. I will move on from that then.
3 During your time as a crime reporter, I think that you
4 had many contacts, which would be obvious in your line
5 of work, with the Garda Press Office. 11:04

6 A. Yeah.

7 75 Q. And you would have a relationship with Superintendent
8 Taylor while he was a Garda Press Officer?

9 A. Yeah.

10 76 Q. And during the course of your evidence, I think you 11:04
11 also said that you don't recall ever talking to -- or I
12 think you said:
13
14 "I don't remember ever having a conversation with
15 Superintendent Taylor about Maurice McCabe. I know 11:05
16 that does sound strange but I have no recollection of
17 having a conversation with him about Maurice McCabe."
18 A. Yeah.

19 77 Q. So you're saying that during his term in office as a
20 Garda Press Officer, I know I have seen some phone 11:05
21 records, there was lots and lots of contact and that is
22 understandable, so you are saying that you never had a
23 discussion with him about Maurice McCabe?

24 A. I didn't say that. I said I don't remember any
25 specific conversation with him about Maurice McCabe. 11:05

26 78 Q. You don't remember, yes.

27 A. I mean, the Maurice McCabe issue was obviously huge,
28 Dave Taylor was the head of the Garda Press Office, I
29 probably would have at some stage asked him about some

1 issue around this particular controversy, but what I'm
2 saying to you is, I cannot -- I honestly cannot
3 remember even one conversation that I had with him on
4 this issue. Like, the specific detail of a
5 conversation that I had with him.

11:06

6 79 Q. Yes. But in the course of his evidence, Superintendent
7 Taylor, one of the specifics that he was able to point
8 to was that he said you were the only journalist that
9 ever pushed back against anything that he suggested,
10 and that was when he talked to you in relation to
11 Sergeant Maurice McCabe not cooperating with the
12 O'Mahony report.

11:06

13 A. Yes, I heard that evidence.

14 80 Q. Yes. Do you remember Superintendent Taylor talking to
15 you about Sergeant McCabe not cooperating with the
16 O'Mahony report?

11:06

17 A. I don't. My recollection about the O'Mahony report
18 issue is that, I think -- I think either Sergeant
19 McCabe issued a statement on it or Garda Headquarters
20 issued a statement on it or maybe they both did, and I
21 think that's where that -- I think that's where the
22 information that I wrote about came from.

11:06

23 81 Q. Yeah. Now, I went back to just look at the transcript
24 and I think that Superintendent Taylor attributed that
25 conversation to a telephone call he had with you, so
26 not face-to-face, and he said that he remembers it
27 because you pushed back and basically said that you
28 didn't believe it, you didn't believe that Sergeant
29 McCabe had not cooperated with the O'Mahony report?

11:07

1 CHAIRMAN: Mr. Ferry, you don't happen to have a
2 reference for that, do you? Because it would possibly
3 help Mr. Lally and me certainly in the event that we
4 could put it up on the screen.

5 MR. FERRY: Yes, it's at page 140, and I think -- 11:07

6 CHAIRMAN: And what day is it?

7 MR. FERRY: Day 74, Chairman.

8 CHAIRMAN: Day 74. It will just take a minute to come
9 up, if you wouldn't mind just taking a breather there.

10 MR. FERRY: It is at the top of, yes, day 74, Chairman. 11:07
11 Day 74, page 140.

12 CHAIRMAN: So it's the second day of his evidence, from
13 the look of it.

14 MR. FERRY: I think that is the first day, is it?

15 CHAIRMAN: Is it? 11:08

16 MR. FERRY: Just there at line 2, Mr. Lally, he was
17 being asked about, was there any reaction from any of
18 the reporters. So he says:

19

20 "The only person that ever pushed back on anything I 11:08
21 reported was in relation to the Sergeant McCabe not
22 cooperating with the John O'Mahony report. Mr. Conor
23 Lally pushed back and basically said he didn't believe
24 it."

25 CHAIRMAN: Let's go on to the rest of it, if you 11:08
26 wouldn't mind. I am sorry, I don't have it in front of
27 me.

28 MR. FERRY: And then the question was:
29

1 "Yeah. Well, was that a key part of the briefing?"

2

3

And he says:

4

5

"Well, that was another part of the briefing in

11:08

6

relation to the O'Mahony report and the engagement of

7

Sergeant McCabe with it."

8

9

And then I think it was Mr. McGuinness says:

10

11:08

11

"Well, that was a battle really that was being fought
out in public, isn't that right?"

12

13

A. Yes. But, as I say, there is the public and

14

private battle that was going on, do you know.

15

Q. But you think he pushed back on that, is that

11:09

16

right?

17

A. Yes, yes, he did."

18

19

So as I say, that was, when I checked back I think that

20

is, Superintendent Taylor attributes that to a

11:09

21

telephone call that he had with you. But does that

22

help refresh your memory in relation to the O'Mahony

23

report on Sergeant McCabe?

24

A. Well, look, as I have said in my statement to the

25

Tribunal, I really can't get into, for reasons of

11:09

26

source protection I really can't get into specific

27

conversations that I had with individual Garda members.

28

CHAIRMAN: No, and I'm not asking you to, do you

29

understand? It's just that he has given evidence and

1 that's all you need to focus on.

2 A. Yeah.

3 CHAIRMAN: That you had some kind of a conversation as
4 to an issue which is actually, I'm not reporting on,
5 but which may form part of the report, which was this: 11:09
6 He raised the issue in relation to fixed charge penalty
7 notices. The Commissioner appointed Assistant
8 Commissioner O'Mahony to look into it. There is
9 evidence on one side that Assistant Commissioner
10 O'Mahony felt he just couldn't, because it was a 11:10
11 confidential disclosure, actually ring the person who
12 had made it, namely Sergeant McCabe, although indeed he
13 suspected very, very strongly that it was him, and on
14 the other hand, we have the direction given to Sergeant
15 McCabe, stop accessing Pulse, but, at the same time, if 11:10
16 you have anything further by way of evidence if you
17 think you need to add well then go to Assistant
18 Commissioner O'Mahony. Now, a public controversy broke
19 out, and RTÉ is part of it, to the effect that Sergeant
20 McCabe is the kind of man who moans but doesn't 11:10
21 actually cooperate with proper investigation. So it's
22 all very well to say something but when people are
23 trying to look into it, clearly that is your chance,
24 you have to put up at that point whatever you have got
25 or, as the phrase says, shut up. So that is the point 11:10
26 that is being raised here. Now, I don't think anyone's
27 trying to undermine your journalistic privilege but
28 what you are being asked about this: Superintendent
29 Taylor gave specific evidence that you had a phone call

1 or perhaps some kind of a chat, and there is nothing
2 wrong with that, and I presume in any event, it would
3 probably be in open circumstances, and that in the
4 course of that, this thing of did Sergeant McCabe
5 cooperate or not, came up, and you just weren't 11:11
6 prepared to accept the party line, put it that way. If
7 there was a party line, I'm not saying he was. But he
8 is saying there was a kind of a party line, McCabe
9 doesn't cooperate working group proper investigations,
10 and you said I'm not accepting that or something to 11:11
11 that effect. That is all you are being asked about.

12 A. Yeah.

13 CHAIRMAN: Do you have a recollection of any such
14 conversation?

15 A. There is a description obviously of that, of what Dave 11:11
16 Taylor says, I don't recognise any of it.

17 CHAIRMAN: I mean, it's a terribly bald description.

18 A. Yeah. I mean, I just don't recognise what he's saying.
19 I just, I have no recollection of anything, of the
20 events as he outlines them here. 11:12

21 CHAIRMAN: well, in other words, what he seems to be
22 saying is you were showing a bit too much independence,
23 that is what he's saying on this issue, but you --
24 Mr. Ferry is asking you do you remember any
25 conversation with him about that issue. 11:12

26 A. I don't remember any conversation with him about that
27 issue, and I'm not sure that conversation took place,
28 actually.

29 82 Q. MR. FERRY: But you don't --

1 A. I think I'd recall that conversation.

2 83 Q. Yeah. Because in saying yesterday that you don't
3 remember ever having a conversation with him about
4 Maurice McCabe, that wouldn't be correct if
5 Superintendent Taylor's correct in relation to the 11:12
6 O'Mahony report?

7 A. Sorry?

8 84 Q. If what Superintendent Taylor is saying in relation to
9 the O'Mahony report, that you have just read there,
10 that you pushed back, then what you said yesterday 11:12
11 wouldn't be correct when you said that you don't
12 remember ever having a conversation with Maurice
13 McCabe?

14 A. I don't remember ever having a conversation with him
15 about Maurice McCabe. 11:13

16 85 Q. But could it be possible that you don't remember but
17 Superintendent Taylor is correct in relation to the
18 O'Mahony report aspect in relation to Sergeant McCabe?

19 A. I would remember that -- I would remember that
20 conversation because, as far as I'm concerned, if that 11:13
21 conversation took place, that would be an effort to
22 negatively brief me about Sergeant McCabe, and I would
23 remember that. We are now into territory here where
24 Sergeant McCabe is a very well known person, this is
25 really heating up now, this is what, 2013, 2014, this 11:13
26 is a serious business now, so this is not like the
27 conversation that I had several years earlier. This is
28 a conversation that I would recall, right? The nature
29 of my contact with Garda Headquarters just is not as it

1 is outlined here. It's just that simple. If this took
2 place I would recall. This never took place.

3 86 Q. Well, in relation to your contact with Garda
4 Headquarters, and particularly the Press Office, you
5 would have had experience of other Press Officers apart 11:14
6 from Superintendent Taylor, is that correct?

7 A. That's correct.

8 87 Q. And there are phone contact records and, as you have
9 already said, there was a lot of contact directly to
10 Superintendent Taylor. Would that have been the norm 11:14
11 before his tenure? When John Gilligan was the Press
12 Officer, for example, would you have been talking to
13 Superintendent Gilligan on the phone?

14 A. I would have been, yeah.

15 88 Q. Yes. So Superintendent Taylor was similar to the 11:14
16 previous Press Officer in that he was having telephone
17 conversations and I'm sure face-to-face conversations
18 with crime reporters?

19 A. Yeah.

20 89 Q. Yes. Now, I appreciate what you are saying is that 11:14
21 that would have been a negative briefing and you were
22 never briefed negatively, but again it's all to do with
23 context. Did you find Superintendent Taylor a man that
24 you could have a chat with?

25 A. I wasn't close to him, I didn't regard myself as being 11:14
26 particularly close to him, I didn't have that many
27 dealings with him to be honest.

28 90 Q. When you spoke to him, I mean, did you have a
29 conversation or was it just I put a question and I seek

1 an answer? Did you have conversations with him?

2 A. It was kind of professional exchanges, really. I mean,
3 it was -- as I say, I wasn't particularly close to him,
4 he wasn't a guy I would be having a long drawn out chat
5 with.

11:15

6 91 Q. Yes. Because, you see, I have to put it to you that
7 while you have been saying that you weren't briefed and
8 there was no negative briefing, the height of
9 Superintendent Taylor's evidence is that he would work
10 and he would drop this information into conversations
11 as opportunities arose. So, in other words, if he was
12 talking to a journalist and an issue came up about
13 Sergeant McCabe he would drop it in that there was an
14 issue about Sergeant McCabe and that he had an agenda
15 because there was a revenge agenda against An Garda
16 Síochána because of the investigation. But the way it
17 was being done, it wasn't being done according to his
18 evidence, by any formal briefing, it was being done,
19 and the evidence he gave was that he said:

11:15

11:15

20
21 "I would take the opportunity when the conversation
22 would arise, because sometimes I would have daily or
23 hourly connection with the media."

11:16

24 A. He wouldn't have had an hourly connection with me,
25 that's for sure.

11:16

26 92 Q. "And sometimes we would be talking on one matter and
27 then it may drift into a matter in relation to Sergeant
28 McCabe."

29

1 And it was in that context that if Sergeant McCabe came
2 up along with journalists that he would drop in that
3 there was an agenda there and that there was an issue
4 with Sergeant McCabe in relation to revenge and he was
5 motivated by maliciousness against Garda management. 11:16
6 So, do you see the distinction there?

7 A. I do.

8 93 Q. I appreciate that you are coming here, you are a
9 respectable crime reporter, and obviously you don't
10 want to think that you have been played here or that 11:16
11 somebody has taken you, you know, for a ride, but it's
12 not a situation where somebody is saying you were
13 having official briefings, it's been described as a
14 briefing. But the reality of it, according to
15 Superintendent Taylor, was it was just slipped into the 11:17
16 conversation whenever Sergeant McCabe's name would come
17 up?

18 A. The nature of what you have outlined there, that never
19 occurred between me and any member of An Garda
20 Síochána, ever. 11:17

21 94 Q. But it occurred with whoever you spoke to back in 2010,
22 2011?

23 A. It was a totally different type of conversation. What
24 you are -- what you're outlining here is the slipping
25 in of information to try and influence reporters 11:17
26 against Sergeant McCabe. That's not the nature of the
27 conversation I had back at the start, totally
28 different.

29 95 Q. No, but I could see how an independent observer of your

1 evidence could form a view that, actually that was what
2 happened in 2010 or 2011 because whoever was speaking
3 to you back then did drop in a negative piece of
4 information, very subtly, that this man had fallen out
5 with Garda management and that was the start of it? 11:17

6 A. I think you are forgetting one thing about the evidence
7 that I gave: The person that I spoke to back in 2010,
8 2011, wasn't a guard. So the whole premise of your
9 question is just completely crazy.

10 96 Q. I appreciate that. But there is more than one way to 11:18
11 skin a cat, Mr. Lally. And regardless of who it was or
12 what it was or when it was, but you can't recall, you
13 then proceeded -- you then proceeded with your
14 journalist's career which moved on to penalty points,
15 which became the biggest issue in the history of Garda 11:18
16 management, which has resulted in a number -- two garda
17 commissioners leaving their post, a Minister for
18 Justice leaving his post, high officials in the
19 Department of Justice leaving their post, and the low
20 ranking Garda sergeant is still standing, and you were 11:18
21 reporting through all of that at a time when the low
22 ranking Garda sergeant was, there was an issue that he
23 was going to be called before the Houses of the
24 Oireachtas, and whoever had spoken to you, had planted
25 that in your mind that he had fallen out with Garda 11:19
26 management and that was the start of it?

27 A. Yeah. But the person that I spoke to at the outset
28 wasn't a guard, and wouldn't have been wielding any
29 Garda agenda. I don't think you quite understand that.

1 Like, look, let me be very, very clear, okay: The
2 person that I spoke to at the start of all of this, who
3 relayed this to me, they relayed it to me after I
4 repeatedly asked them questions, who is this guy and
5 what is the story? Okay. Just this was not any part 11:19
6 of any campaign to do down Sergeant McCabe. It just
7 wasn't, okay. The idea that somehow they were trying
8 to tell me that, you know, he was acting in revenge or
9 they were trying to plant a seed in my head that would
10 grow years later, it's just complete nonsense. The 11:20
11 person wasn't a guard, they weren't -- they weren't
12 pro-guard, they weren't trying to wheel out any Garda
13 agenda, they hadn't been poisoned by any Garda agenda.
14 The nature of what you are outlining is just fantasy,
15 complete fantasy. And the nature of this interaction 11:20
16 that's been outlined by Dave Taylor, again total
17 fantasy.

18 97 Q. Total fantasy?
19 A. Sure, I mean, he has no evidence to even, you know,
20 back it up. He can't say where this happened, how many 11:20
21 times he talked to me, where did he talk to me. Like,
22 he has absolutely no evidence whatsoever. This just
23 didn't happen, it's that simple.

24 98 Q. Yes. And the people that he said he was talking to
25 can't back it up either, they can't remember? 11:20
26 A. Because it never happened.

27 99 Q. And there are other people also, but anyway, when it
28 was 2013, 2014 and it was big news, at least
29 journalists were talking about Sergeant McCabe and the

1 issue, you had heard about it, but you had discounted
2 it. So I put it to you that if Superintendent Taylor
3 was talking to you about Sergeant Maurice McCabe as he
4 said in his own direct evidence, in relation to the
5 O'Mahony report, and I put it to you that he says that 11:21
6 he was talking to you in relation to Sergeant McCabe in
7 relation to the agenda and revenge against the guards,
8 that what I'm saying is, that if Superintendent Taylor
9 had been talking to you about Maurice McCabe, that that
10 would not have alarmed you or startled you in the sense 11:21
11 that you hadn't heard the story before. So you've
12 clearly given evidence that you had heard this on and
13 off from 2010, 2011?

14 A. I never said 2010, 2011. What I said was I wrote my
15 first story in The Irish Times on penalty points in 11:22
16 2012. I have a feeling looking back on it now, I knew
17 about it for about a year at that time, possibly
18 longer. Okay? Like, the timeframe pre-dates Dave
19 Taylor's time even in the Press Office.

20 100 Q. No, I appreciate that. But I think in fairness to you 11:22
21 now, you are saying you never mentioned 2010, 2011, I
22 think that is what you opened with yesterday?

23 A. I did mention it, but I didn't specifically say that
24 that is what the timeframe was. I haven't put a
25 specific timeframe. 11:22

26 101 Q. What I am saying is, if Superintendent Taylor had
27 mentioned it to you it wouldn't be, for want of a
28 better term, a JFK moment, that you'd, wow, that is the
29 first time I ever heard that, because you had heard

1 about Maurice McCabe and the complaints much earlier?

2 A. Yeah. The revenge element would be, you know, a JFK
3 moment.

4 102 Q. Yes.

5 A. And that's why I'm so clear that the evidence as it's 11:22
6 been outlined here didn't happen, because I would
7 remember it because that would be a kind of, I won't
8 say a JFK moment but it would be something that I would
9 certainly recall.

10 103 Q. Yeah. So anyway, to finish up, you can't recall or 11:23
11 remember who told you the story first of all back
12 whenever it was?

13 A. Hmm.

14 104 Q. You can't recall or remember what journalists told you
15 the story whenever it was? 11:23

16 A. Hmm.

17 105 Q. And you don't remember ever having a conversation about
18 Maurice McCabe with Superintendent Taylor?

19 A. That's right.

20 106 Q. So therefore, how can you exclude Superintendent Taylor 11:23
21 as being one of the people that spoke to you about
22 Maurice McCabe when you don't remember who spoke to you
23 about Maurice McCabe?

24 A. Dave Taylor has put in a protected disclosure that has
25 led to the creation of this Tribunal and he can't 11:23
26 remember anything, okay?

27 107 Q. No, no --

28 A. He can't remember anything. He can't remember any
29 details of any of this.

1 108 Q. well, he can remember talking to you and, for example,
2 he has --

3 A. when was that?

4 109 Q. He has given evidence that he spoke to new relation to
5 the O'Mahony report? 11:23

6 A. And when did he speak to me? what date was that? And
7 where was I? In reply to what questions?

8 110 Q. He said in his evidence that he couldn't be specific of
9 the date or the time it --

10 A. There you go. 11:24

11 111 Q. -- but he can remember what it was about and he can
12 remember speaking to you.

13 A. Okay.

14 CHAIRMAN: well, I think Mr. Ferry's point is that
15 Mr. Taylor, Superintendent Taylor gave evidence on oath 11:24
16 of this.

17 A. Right. well, I mean, as I have said, first of all, I
18 just didn't have that kind of relationship with Dave
19 Taylor, that is for starters. He would have been
20 reading what I was writing about Sergeant McCabe, he 11:24
21 would have -- he would have firmly gotten the view that
22 I was an independent person and I think if he was
23 trying it on with anybody in the media he wouldn't come
24 to me. I just didn't have that kind of relationship
25 with him, that's all I can say to you. If he had come 11:24
26 to me at some point and tried to say that Sergeant
27 McCabe was motivated by revenge, I would recall that.
28 I don't recall ever having any such conversation with
29 anybody from An Garda Síochána, and I think if that

1 happened I would recall it.

2 112 Q. MR. FERRY: Yes.

3 A. And we can sit here for hours, that's what happened,
4 you know.

5 113 Q. Yes. But it's interesting that you can't recall that 11:25
6 but you can recall, from the outset, that Sergeant
7 McCabe had fallen out with management.

8 A. No, I can recall being told that by a person when --

9 114 Q. Yes.

10 A. I haven't formed that view. I didn't form that view 11:25
11 back then.

12 115 Q. Yes.

13 A. As I asked the person, well, what is this all about,
14 where did this come from, how did it happen, and when
15 did it happen, and so on, the person volunteered, well, 11:25
16 there was an issue and this, you know, seems to be
17 where he fell out with Garda management. That was the
18 view of that person. Not my view.

19 116 Q. Well, in circumstances where you can't remember the
20 person who told you, you can't remember who the 11:25
21 journalists were, you can't remember Dave Taylor
22 talking to you, would you agree that perhaps then you
23 just don't remember Dave Taylor talking to you about
24 Sergeant McCabe but that it may have happened?

25 A. If anybody in An Garda Síochána had come to me and 11:26
26 tried to smear or negatively brief me about Sergeant
27 McCabe, I would recall that.

28 117 Q. Yes.

29 A. That would be a big moment.

1 118 Q. Yes. Well, I put it to you that, finally, you were one
2 of the journalists that was negatively briefed by
3 Superintendent Taylor in relation to Sergeant Maurice
4 McCabe.

5 A. I don't agree with that statement. 11:26

6 MR. FERRY: Thank you, Mr. Lally.

7 CHAIRMAN: Thanks very much, Mr. Ferry. Was there any
8 questions from RTÉ?

9 MR. GILLANE: No.

10 CHAIRMAN: You will be at the end, in any event. 11:26

11 Mr. Ó Muirheartaigh or, sorry, Mr. Doyle you are here.

12 MR. MÍCHEÁL O' HIGGINS: Chairman, just one or two
13 questions.

14

15 THE WITNESS WAS CROSS-EXAMINED BY MR. MÍCHEÁL 11:26

16 O' HIGGINS:

17 119 Q. MR. MÍCHEÁL O' HIGGINS: Mr. Lally, Mícheál O'Higgins on
18 behalf of former Commissioner Callinan and former
19 Commissioner O'Sullivan. The gist of the allegation
20 against former Commissioner Callinan insofar as it has 11:27
21 been put, is that he was angry or irritated and took
22 personally, it is alleged, the allegations made by
23 Sergeant McCabe relating to the FCPN, the fixed charge
24 penalty notice system, and that, as a result of that,
25 it is said, he instigated some class of smear campaign, 11:27
26 all right. That being the central plank of the
27 allegation, can I just ask you about the matter that
28 Mr. Ferry was canvassing with you on behalf of
29 Superintendent Taylor, and that is the conversation

1 that you believe you had with somebody who wasn't a
2 garda, as to -- which possibly occurred perhaps, and
3 you are not in a position to state with precision when
4 it was, but may have occurred in the region of 2010 or
5 2011, all right? Just focusing on that for a moment, 11:28
6 that is the area I am going to ask you one question
7 about. The point has already been made by the Chairman
8 and others that that was at a time, it would appear, if
9 it was 2010 or 2011, prior to even Superintendent
10 Taylor being in the Press Office, but can I ask you: 11:28
11 Are you aware that Maurice McCabe and John Wilson came
12 forward with their complaints about the abuse of the
13 FCPN system actually in April 2012, isn't that so?
14 A. I wasn't sure about that.
15 120 Q. All right. But if that be correct, and I think it is, 11:28
16 that would mean that, whatever conversation you had
17 with this person who wasn't a guard, even predated
18 that, wouldn't that follow?
19 A. That would follow. I mean, what I said was that I had
20 my first extensive story about the penalty points issue 11:29
21 in The Irish Times towards the end of 2012. I felt at
22 that time I knew about it about a year and possibly far
23 longer. It's possible that I'm over-estimating the
24 period of time that I knew -- that I'd heard about this
25 for. I have found it impossible to put a timeframe on 11:29
26 exactly when I heard about it.
27 121 Q. Right. The only other point I want to ask you is:
28 Were you aware that insofar as Superintendent Taylor is
29 seeking to, I won't say cling on to what you have said

1 of your conversation as to 2010 or 2011, but at least
2 to derive some benefit from it, were you aware that
3 according to Sergeant McCabe's own correspondence with
4 his then superintendent, Superintendent Clancy, many
5 years ago, it was Sergeant McCabe's position that the D 11:29
6 investigation, that is to say the Garda investigation
7 into the D allegation, had caused his own relations
8 with his Garda colleagues to become strained, were you
9 aware of that?

10 A. Am I aware of that now or was I aware of it back then? 11:30

11 122 Q. Are you aware of it now?

12 A. I am aware of it now, yes.

13 MR. MÍCHEÁL O' HIGGINS: Okay. Thank you.

14 CHAIRMAN: was there anything else?

15 MR. MÍCHEÁL O' HIGGINS: No, Chairman. 11:30

16 CHAIRMAN: Sorry, Mr. Marrinan?

17

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

19 123 Q. MR. MARRINAN: One matter. If I could have page 6480
20 up on the screen, please. 6480. Yes, this is part of 11:30
21 an anonymous letter that was certainly sent to RTÉ --
22 CHAIRMAN: This is the famous letter?
23 MR. MARRINAN: Yes.

24 124 Q. You just might be able to help us. This was in
25 circulation in late February/early March of 2014. Did 11:30
26 you ever see that anonymous letter?
27 A. When I was interviewed by the Tribunal investigators I
28 was shown this and that was the first time I'd ever
29 seen it or heard of it.

1 MR. MARRINAN: Thank you very much.

2 CHAIRMAN: Yes. So that was basically this year, so it
3 didn't get to The Irish Times.

4 A. Well, I certainly didn't see it.

5 CHAIRMAN: Mr. Lally, just to say I am sorry for 11:31
6 holding you overnight. I had an educational thing that
7 I was doing and in fact the Bar Council and the Law
8 Society were invited so the fact that it came as a
9 mystery to them is a mystery to me. So thank you very
10 much. 11:31

11 A. Okay.

12

13 THE WITNESS THEN WITHDREW

14

15 MR. MARRINAN: The next witness, sir, is Debbie McCann, 11:31
16 please.

17 CHAIRMAN: I am talking about the Hardiman lecture
18 series, which members of the Bar attend so
19 enthusiastically.

20

21 MS. DEBBIE McCANN, HAVING BEEN SWORN, WAS DIRECTLY
22 EXAMINED BY MR. MARRINAN:

23 125 Q. MR. MARRINAN: Now if you wouldn't mind just pulling
24 the microphone close to you and speak up into it,
25 please. Ms. McCann, I think that you're a journalist 11:32
26 with the Irish Daily Mail?

27 A. No, I am a journalist with the Irish Mail on Sunday.

28 126 Q. Irish Mail on Sunday, I am sorry. Would you just give
29 the Chairman a brief history of your?

1 A. Yeah. I started in Provincial Newspapers after leaving
2 college around 2006. I worked with Provincial
3 Newspapers for about two years. I then went travelling
4 to Australia and I came home and I went into the News
5 of the world, and from there I went into The Mail on 11:32
6 Sunday.

7 127 Q. Now, I think that in the first instance, if we could
8 just look at the history of your interaction with the
9 Tribunal, just for the purposes of recording it and
10 maybe any comment that you wish to make in relation to 11:33
11 it. I think the Tribunal first wrote to you on 15th
12 March of 2017?

13 A. Yes.

14 128 Q. And that's at page 3718, if it could be brought up on
15 the screen for you. And you see there, it's addressed 11:33
16 to you?

17 A. Mm-hmm.

18 129 Q. And in paragraph 2:
19
20 "As you are also no doubt aware the Sole Member of the 11:33
21 Tribunal, Mr. Justice Charleton, delivered an opening
22 statement on 27th February 2017. In this opening
23 statement he called for all those people with knowledge
24 of the matters and the terms of reference to provide a
25 written statement to the Tribunal by close of business 11:33
26 on the 13th March 2017. A copy of the opening
27 statement is available on the Tribunal's website --"
28
29 And then it gives the address:

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-- and is also enclosed herewith, for ease of reference."

And then the next paragraph says:

11:34

"From information in the possession of the Tribunal it appears that it may be that you were be in contact with Detective Superintendent Dave Taylor while he was Press Officer for An Garda Síochána and after he had ceased that role. In the event that you have information relevant to the terms of reference of the Tribunal, it would greatly assist the work of the Tribunal if you would submit a statement containing such information."

11:34

A. Mm-hmm.

11:34

130 Q. And then it goes on in the next paragraph to deal with:

"In the event that you wish to claim any privilege over any such information or the source of such information this can be set out in any statement which you may furnish to the Tribunal."

11:34

So the response to that came from Mr. Kealey on your behalf on the 26th March of 2017. It's addressed to Ms. Mullan, solicitor for the Tribunal. And then in the second paragraph --

11:35

CHAIRMAN: Sorry, Mr. Marrinan, it may be that it follows on the next page, but it's a different page.
MR. MARRINAN: It's 3719.

1 CHAIRMAN: It's all in volume 14, Ms. McCann, if you
2 want to look at a hard copy in front of you.

3 131 Q. MR. MARRINAN: I hope to go through this as quickly as
4 possible, Ms. McCann. And if there is any matter in
5 the statements that I'm excluding that you think might 11:35
6 be important, please stop me and I will certainly
7 highlight it on your behalf.

8
9 "Four of my clients, Debbie McCann, Ali Bracken,
10 Jennifer Bray and Alison O'Reilly recently received 11:35
11 correspondence from you on behalf of the Tribunal. I
12 am afraid that for personal reasons I have been unable
13 to reply until now. I apologise for this."

14
15 Then it goes on to say: 11:36

16
17 "While your letter requests that reporters in question
18 disclose information which falls within the terms of
19 reference of the Tribunal it focuses upon contact
20 between them and Detective Superintendent David Taylor 11:36
21 and upon any communications of an open kind they have
22 had with him. While I have only a limited opportunity
23 in the time available to take instructions from my
24 clients, it appears clear that none of the open
25 communications that the journalists in question had 11:36
26 with Detective Superintendent Taylor relate to matters
27 falling within the terms of reference of the Tribunal."

28
29 Now, just in relation to that, had you discussed the

1 matter with Sebastian Hamilton?

2 A. No.

3 132 Q. Had you discussed the matter with Jennifer Bray?

4 A. No.

5 133 Q. Had you discussed it with Alison O'Reilly? 11:36

6 A. No.

7 134 Q. Or indeed Ali Bracken?

8 A. No.

9 135 Q. Or Conor O'Donnell, in relation to the approach that
10 the journalists would adopt towards the work of the 11:37
11 Tribunal?

12 A. No.

13 136 Q. It then goes on:

14

15 "As anticipated by Mr. Justice Charleton in his opening 11:37
16 statement, and as referred to in my letter of the 13th
17 March, my clients have an obligation of confidence
18 towards sources of information and a legally
19 established privilege against revealing those sources,
20 either directly or indirectly." 11:37

21

22 Was that the position that you were adopting at that
23 stage?

24 A. Yes. Yeah.

25 137 Q. And it was a position that you were adopting without 11:37
26 consultation with your -- with the editors in the
27 newspaper or the other journalists who have been
28 written to, is that what you are telling the Chairman?

29 A. No, it was a position that we were looking to deal with

1 the matter of privilege first before we did anything
2 further.

3 138 Q. No. When you say "we" I mean, were you giving
4 individual instructions in this regard?

5 A. No, I would have been speaking to Michael Kealey and I 11:38
6 would have been speaking to possibly my news editor.

7 139 Q. Who is?

8 A. Robert Cox.

9 140 Q. And did Robert Cox convey to you the attitude of
10 Sebastian Hamilton? 11:38

11 A. No, no.

12 141 Q. So, did Robert Cox indicate to you that he had had a
13 conversation with Ali Bracken or Jennifer Bray or
14 Alison O'Reilly, the other journalists who would have
15 been written to? 11:38

16 A. No.

17 142 Q. No? So it just happens to be a coincidence that you
18 all adopted the same stance in relation to this matter
19 then, is that what you are saying?

20 A. Yeah, we were -- I guess we were getting legal advice, 11:38
21 we were dealing with the matter of privilege first and
22 then we were going to proceed from there.

23 143 Q. Well you see, how did privilege arise at all in
24 relation to the matter? Superintendent Taylor was the
25 Garda Press Officer, isn't that right? 11:39

26 A. Mm-hmm, he was.

27 144 Q. And you would have had dealings with him as a
28 journalist on a daily basis, isn't that right?

29 A. Mm-hmm. Well, yeah -- not daily, but yeah.

1 145 Q. well, on a regular basis?
2 A. Mm-hmm.
3 146 Q. And what was the problem in relation to disclosing any
4 information or any dealings that you would have had
5 with Superintendent Taylor? 11:39
6 A. Because not all of my dealings with Superintendent
7 Taylor would have been on the record.
8 147 Q. well, even off-the-record, what's the problem in
9 relation to that?
10 A. well, there's sourcing issues. 11:39
11 148 Q. Pardon?
12 A. There are sourcing issues, would be a problem.
13 149 Q. Yeah, well, I wonder; I mean, you are dealing with
14 Superintendent Taylor as the Press Officer --
15 A. Mm-hmm. 11:39
16 150 Q. -- and he will give you the official line and he could
17 be quoted --
18 A. Mm-hmm.
19 151 Q. -- as such, isn't that right?
20 A. Yeah. 11:39
21 152 Q. And then he speaks off the record --
22 A. Mm-hmm.
23 153 Q. -- and the understanding is that he won't be quoted in
24 your newspaper, isn't that right?
25 A. That is essentially off the record, yeah. 11:39
26 154 Q. But why does that give rise to any situation of a
27 source that needs to be protected?
28 A. Press officers would give on- and off-the-record
29 briefings all the time.

1 155 Q. But it doesn't give rise to a situation where he needs
2 to be protected. It's quite legitimate for him, as the
3 Tribunal understands from evidence that we've received,
4 for him to talk on the record in the first instance and
5 secondly, to talk off the record on the understanding 11:40
6 that it won't be published?

7 A. Mm-hmm.

8 156 Q. But there is no suggestion that it won't be his -- his
9 identity won't be revealed or the conversations can't
10 be referred to? 11:40

11 A. Well, my take on off-the-record is that the identity
12 wouldn't be revealed.

13 157 Q. Well, that seems very broad. I mean, it seems
14 astonishingly broad in the context of an off-the-record
15 discussion; I mean, this isn't a matter of protecting a 11:40
16 source, sure it's not?

17 A. Well, it is. Superintendent Taylor would have been one
18 of a number of people I would have been talking to at
19 the time on an off-the-record basis, so absolutely it
20 would have been a matter of not revealing a source. 11:40

21 158 Q. Did you discuss the matter with Superintendent Taylor
22 when this issue arose?

23 A. No.

24 159 Q. Why not?

25 A. He was no longer in the Press Office, I wasn't in 11:41
26 communication with him.

27 160 Q. Why wouldn't you have discussed it with him because
28 according to you potentially he was a source?

29 A. And privilege lies with me, the journalist, why would I

1 discuss it with Superintendent Taylor?

2 161 Q. So is that the stance that you are taking; is that the
3 privilege lies purely with you?

4 A. Absolutely.

5 162 Q. And the basis of the privilege being what in this 11:41
6 particular instance?

7 A. Meaning?

8 163 Q. What is the purpose of the privilege?

9 A. Well, that in going forward I have a career as a
10 journalist that I need to protect. 11:41

11 164 Q. All right. I will return to that in due course. The
12 Tribunal then wrote to you again, in a letter of the
13 21st April 2017, and this is at page 3720 of the
14 material:

15 11:42

16 "The Tribunal looks forward to your cooperation in its
17 work. The Tribunal is anxious to ensure that it
18 receives all relevant information pertaining to its
19 terms of reference."

20 11:42

21 And then:

22

23 "You may know that Superintendent Taylor has asserted
24 that he was instructed to brief the media negatively in
25 relation to Sergeant Maurice McCabe. The solicitors 11:42
26 acting for Superintendent Taylor have confirmed on his
27 behalf to the Tribunal that he does not claim privilege
28 in respect of communications the subject-matter of the
29 terms of reference to the Tribunal, with journalists in

1 the print, broadcasting or other media."
2
3 So that is fairly clear.
4 A. Mm-hmm.
5 165 Q. "The Tribunal has also received confirmation from both 11:42
6 Commissioner O'Sullivan and former Commissioner
7 Callinan that do not claim any privilege should they be
8 identified as the source of any information, briefing,
9 allegation or belief communicated to journalists in the
10 print, broadcasting or other media directly or 11:43
11 indirectly relating to Sergeant Maurice McCabe in
12 relation to the work of the Tribunal."
13
14 So that is very clear in relation to their position
15 also. 11:43
16 A. Yes.
17 166 Q. "We hope this is of assistance to you in order to
18 provide answers which deal with the substance of the
19 following queries which the Tribunal asked you to reply
20 to. Please furnish as much detail as you can. 11:43
21
22 1. Can you confirm your mobile phone number and work
23 phone number?"
24
25 Your answer to that subsequently was that you were 11:43
26 refusing to do that.
27 A. Yeah.
28 167 Q. Will you advise the Chairman why you were refusing to
29 give or confirm your phone number?

1 A. Because I didn't want to give rise to any
2 investigations into my phone number and who my sources
3 were.

4 168 Q. But the Tribunal weren't looking into who your sources
5 were, there was no indication that the Tribunal was 11:44
6 examining or interested in any of your sources.

7 A. Mm-hmm.

8 169 Q. Do you understand?

9 A. Mm-hmm.

10 170 Q. Isn't that right? 11:44

11 A. Yes.

12 171 Q. So as far as you were concerned, the Tribunal had been
13 set up to look into and to investigate a protected
14 disclosure by Superintendent Taylor?

15 A. Mm-hmm. 11:44

16 172 Q. Isn't that right?

17 A. Yeah.

18 173 Q. And that made reference to Commissioner Callinan,
19 Deputy Commissioner Nóirín O'Sullivan and himself in
20 terms of his interaction with the media as the Garda 11:44
21 Press Officer --

22 A. Mm-hmm.

23 174 Q. -- in his official capacity?

24 A. Mm-hmm.

25 175 Q. And the Tribunal made it very clear by sending you the 11:44
26 terms of reference and setting out very clearly in the
27 letters --

28 A. Mm-hmm.

29 176 Q. -- to you, that that was the business of the Tribunal.

1 A. Mm-hmm.

2 177 Q. Therefore, the Tribunal weren't interested and aren't
3 interested in pursuing any sources that you have or
4 opening up any lines of inquiry in that regard.

5 A. I would be very slow to hand over my mobile phone 11:45
6 number.

7 178 Q. Sure you called up to Ms. D and you gave her a card
8 with your phone number on it, isn't that right?

9 A. That is a very different scenario.

10 179 Q. Sorry? 11:45

11 A. That is a very different scenario.

12 180 Q. The Garda Press Office --

13 A. I didn't give Ms. D my number, I gave Mrs. D my number.

14 181 Q. The Garda Press Office have your mobile number?

15 A. Mm-hmm. 11:45

16 182 Q. Dave Taylor had your mobile number.

17 A. Yeah.

18 183 Q. I mean, it's not a state secret.

19 A. No, absolutely not. I didn't want to give to any
20 further investigation into my mobile phone number. 11:45

21 184 Q. Do you realise the importance of the work of the
22 Tribunal?

23 A. I do of course.

24 185 Q. You know how it was established?

25 A. I do. 11:45

26 186 Q. And you know the reason that it was established?

27 A. Yeah, absolutely.

28 187 Q. And it is to get to the truth of a protected disclosure
29 that was made by Superintendent Taylor.

1 A. Mm-hmm.

2 188 Q. And here we have a simple question being asked by the
3 Tribunal to confirm your telephone number --

4 A. Yeah.

5 189 Q. -- which is freely available -- 11:46

6 A. Mm-hmm.

7 190 Q. -- to anybody --

8 A. Mm-hmm.

9 191 Q. -- who wishes to find out --

10 A. Mm-hmm. 11:46

11 192 Q. -- and yet your immediate response is that you say no.

12 A. Mm-hmm.

13 193 Q. Do you think that is cooperating with the work of the
14 Tribunal?

15 A. Well, I have tried my best to assist the Tribunal in 11:46
16 any way that I can.

17 194 Q. No, this is -- let's focus on this issue.

18 A. Mm-hmm.

19 195 Q. This is a very simple issue, asking you to confirm your
20 telephone number? 11:46

21 A. Mm-hmm.

22 196 Q. And even when the Tribunal were in possession of it
23 later on they asked you to confirm your telephone
24 number?

25 A. Yes. 11:46

26 197 Q. And you refused to do so?

27 A. The Tribunal got possession of my mobile phone number
28 and asked me a number of questions in relation to it
29 and I answered those questions.

1 198 Q. You refused to identify your own telephone number, is
2 that right?

3 A. I answered the questions in relation to my phone
4 number.

5 199 Q. You refused to answer and identify your own telephone 11:47
6 number, isn't that right?

7 A. I have a very difficult -- I am in a very difficult
8 position in the sense that I'm balancing what I have to
9 try and preserve, which is source protection, and
10 assisting the Tribunal, I have tried to do that as best 11:47
11 as I could.

12 200 Q. But Ms. McCann, you will familiar with the workings of
13 the Tribunal up to now and the interaction with
14 journalists, are you?

15 A. Mm-hmm. 11:47

16 201 Q. And you will be aware of the fact that the Tribunal in
17 fact hasn't intruded or sought to intrude on any
18 sources that journalists may or may not have outside
19 the specific matters dealt with in the terms of
20 reference, you will be aware of that? 11:47

21 A. Yes.

22 202 Q. And you will be aware, for instance, the manner in
23 which Conor Lally, the last witness, gave evidence to
24 the Tribunal and cooperated with the Tribunal to a
25 limited extent while still preserving the fundamental 11:48
26 rights that he believes that he has in relation to
27 journalistic privilege?

28 A. Mm-hmm.

29 203 Q. You will be aware of that?

1 A. Yeah, absolutely.

2 204 Q. And you'll also be aware of the evidence of
3 Mr. O'Toole, as well?

4 A. I am, and he also --

5 205 Q. A similar position was adopted by the Tribunal -- 11:48

6 A. Yes.

7 206 Q. -- in total respect for the rights of journalists?

8 A. Absolutely. And he also refused to give his phone
9 number.

10 207 Q. This is a very clearly defined and limited inquiry that 11:48
11 is being made.

12 A. Mm-hmm.

13 208 Q. You appreciate that?

14 A. Absolutely, yeah.

15 209 Q. And we will come back to the limited inquiry that was 11:48
16 being made of you at this juncture; namely, for you to
17 identify your telephone number.

18 A. Yes.

19 210 Q. Now, is it just a matter of a blanket refusal to 11:48
20 cooperate with the work of the Tribunal that led you
21 not to disclose your telephone number?

22 A. It wasn't a blanket refusal. I refused to hand over my
23 phone number at the first juncture. I was then
24 subsequently asked by the investigators in relation to
25 a series of text messages and I answered those 11:49
26 questions. I didn't blanketly refuse.

27 211 Q. In any event, I will go on with the questions.

28

29 "Was this number your mobile phone number in the years

1 from July 2012 until February 2017?"

2
3 I think you answered again that you weren't going to
4 answer that.

5
6 "Were you briefed negatively about Sergeant McCabe by
7 anyone? And if so, by whom?"

8
9 4. Have you any information or evidence about an
10 orchestrated campaign to directed by senior officers of 11:49
11 the Garda Síochána to discredit Sergeant Maurice McCabe
12 by spreading rumours about his professional or personal
13 life?

14
15 5. Were you contacted by Superintendent Dave Taylor in 11:49
16 relation to Sergeant Maurice McCabe?

17
18 6. Were you briefed negatively by Superintendent
19 Taylor in relation to Sergeant Maurice McCabe?

20
21 7. Were you briefed negatively by Superintendent 11:50
22 Taylor in relation to Sergeant Maurice McCabe to the
23 effect that his complaints had no substance?

24
25 8. Were you briefed negatively by Superintendent 11:50
26 Taylor in relation to Sergeant McCabe to the effect
27 that the Gardaí had fully investigated complaints and
28 had found no substance to his allegations and that he
29 was driven by agendas?

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9. Was your attention drawn by Superintendent Taylor to an allegation or suggestion of criminal misconduct made against Sergeant McCabe in any respect?

11:50

10. Was your attention drawn by Superintendent Taylor to an allegation that the root cause of Sergeant Maurice McCabe's agenda was revenge against An Garda Síochána?

11:50

11. Were you informed by Superintendent Taylor that he was instructed/directed by former Commissioner Callinan and/or Deputy Commissioner Nóirín O'Sullivan to contact the media to brief the media negatively against Sergeant Maurice McCabe?

11:51

12. Are you aware and have you any evidence of any attempt made by former Commissioner Callinan or Commissioner O'Sullivan or any other member of An Garda Síochána to discredit Sergeant Maurice McCabe by reference to an allegation of criminal misconduct made against him?"

11:51

I'll just stop and pause there for the moment. You refused to answer any of those questions, isn't that right?

11:51

A. Yes, I did subsequently in the same statement provide more detail, though.

212 Q. So I'll repeat the question asked at that stage: Are

1 you aware or have you any evidence of any attempt made
2 by former Commissioner Callinan or Commissioner
3 O'Sullivan or any other senior member of An Garda
4 Síochána to discredit Sergeant Maurice McCabe by
5 reference to an allegation of criminal conduct made 11:52
6 against him?

7 A. I have no evidence of any orchestrated campaign by
8 senior Garda management.

9 213 Q. I'll ask the question again: Are you aware and have
10 you any evidence of any attempt made by former 11:52
11 Commissioner Callinan or Commissioner O'Sullivan or any
12 other senior member of An Garda Síochána to discredit
13 Sergeant Maurice McCabe by reference to an allegation
14 of criminal misconduct made against him?

15 A. I have no evidence of any orchestrated campaign and 11:52
16 no --

17 214 Q. I am not talking an orchestrated campaign.

18 A. I have no evidence of any campaign to malign Sergeant
19 McCabe. I wasn't briefed negatively by any member of
20 An Garda Síochána in relation to Sergeant McCabe. 11:52

21 215 Q. We then go on:

22
23 "Were you informed by a journalist or any other person
24 of any matters referred to in questions above?

25 11:53

26 14. Have you any knowledge, information or evidence
27 relating to any of the other matters above?

28

29 Have you any knowledge, information or evidence

1 relating to any matters within the terms of reference
2 of the Tribunal?

3
4 Have you any records of communications from or with
5 Superintendent Taylor or former Commissioner Callinan, 11:53
6 Commissioner O'Sullivan or any other senior garda
7 relating to any of the above matters?"

8
9 The contents of this letter are confidential to the
10 Tribunal." 11:53

11
12 And then a reminder I think was sent on 2nd May. And
13 the response came and it's at page 3724 on your behalf,
14 on the 5th May of 2017, from Michael Kealey, and it
15 reads: 11:54

16
17 "I have been asked to reply on my clients' behalf to
18 your letters of the 21st April to each of the reporters
19 in question. My clients are unable to answer the
20 questions in your letters of the 21st April, they are 11:54
21 concerned that if they do so they would breach their
22 obligations of confidence towards sources of
23 information or at the very least allow for the opening
24 up for lines of inquiry that would lead to the
25 identification of those sources." 11:54

26
27 Are you now happy that the Tribunal isn't anxious to
28 open up any avenues in relation to other sources that
29 you may or may not have had?

1 A. Yes, I have expanded on my answers since those letters
2 were sent.

3 216 Q. Sorry?

4 A. I have expanded on my answers since those letters were
5 sent when I met with your -- 11:54

6 217 Q. Yeah, you have in evidence today and that is very
7 welcome and the Tribunal welcomes that.

8 A. But I did when I met with your investigators as well, I
9 expanded on those questions.

10 218 Q. Not to the extent that you have today and I think that 11:55
11 you are aware of that.

12 MR. KEALEY: Sorry to interrupt - Michael Kealey - I
13 don't believe that is correct assertion by
14 Mr. Marrinan. If Mr. Marrinan wishes to go through the
15 original statement you will see that the original 11:55
16 statement to the Tribunal of Debbie McCann said
17 precisely the things she is saying today; namely, that
18 she was not negatively briefed by the Gardaí and was
19 unaware of any orchestrated campaign.

20 CHAIRMAN: Maybe you would be so kind as to point out 11:55
21 the relevant passage, then, Mr. Kealey.

22 MR. KEALEY: Debbie McCann's initial statement to the
23 Tribunal you will find, I am afraid I don't have the
24 volume number, you will find at page 3729 and so forth.
25 I think it's volume 14. Apologies, volume 19. 11:55

26 CHAIRMAN: Just the page will do, Mr. Kealey. You say
27 3729?

28 MR. KEALEY: That is where the statement begins.

29 CHAIRMAN: And if you want to get this out yourself,

1 Ms. McCann, please do. The volumes are all there and
2 if you need any help Ms. Ní Gabhann will give you a
3 hand. So is it volume 14? It is?

4 MR. KEALEY: Yes. And I think perhaps the best way to
5 commence that if you commence it at page 3739.

11:56

6 Commencing on line 169.

7 MR. MARRINAN: well, that is an entirely different
8 matter and I was very careful in that regard. What it
9 says is:

10
11 "I wasn't involved in any orchestrated campaign to
12 malign Sergeant McCabe. I have no evidence of an
13 orchestrated campaign to malign Sergeant McCabe. The
14 allegations that we were looking at, at the time, were
15 discussed in the office."

11:56

11:57

16
17 If you then would go back, if we could have page 3735
18 up on the screen. In the middle, line 98:

19
20 "I have been asked if I have any evidence or
21 information about an orchestrated campaign directed by
22 senior officers of An Garda Síochána to discredit
23 Sergeant McCabe by spreading rumours about his
24 professional and personal life. For the reasons
25 outlined in my solicitor's correspondence to the
26 Disclosures Tribunal of the 5/5/2017 I am unable to
27 answer this question."

11:57

11:57

28
29 So there is actually a contradiction inherent in it.

1 Page 3734, line 79:

2
3 "I have been asked to provide details of the role that
4 any members of An Garda Síochána may have had in the
5 above. Again, for source protection reasons, I don't 11:58
6 feel I can answer the question."
7

8 But look, the reality is that if you believed that that
9 was an answer to the question that I have now asked
10 you -- 11:58

11 A. Yes.

12 219 Q. -- in relation not -- not just in relation to an
13 orchestrated --

14 CHAIRMAN: If we can just stop for just a moment,
15 Mr. Marrinan. Mr. Kealey, your objection is completely 11:58
16 wrong. It's completely wrong. I mean, the text bears
17 that out. This is the first time I have heard, and
18 believe me I do follow these things, from Ms. McCann
19 that no member of An Garda Síochána ever briefed her
20 negatively in relation to Sergeant McCabe. This is the 11:58
21 first time I've heard that no senior management in An
22 Garda Síochána ever attempted to malign Sergeant McCabe
23 to her. That is the first time I have heard it. So
24 your objection is wrong. It's totally wrong.

25 MR. KEALEY: May it please you, Mr. Chairman. 11:59

26 220 Q. MR. MARRINAN: Ms. McCann, we are just anxious to get
27 the information, right, and this isn't -- I don't wish
28 to be in any way harsh on you or abrupt with you, do
29 you understand?

1 A. Mm-hmm.

2 221 Q. It is very helpful that you have given us that
3 information today because it advances our inquiries to
4 a large extent. And if I could just turn then to
5 Superintendent Taylor and your interactions with 11:59
6 Superintendent Taylor in 2013 and 2014. volume 19 of
7 the material, page 5257. These are a list of your
8 telephone contacts with Superintendent Taylor over a
9 period of time from the 16th November of 2012, there
10 are six pages, and they go up until the 17th June of 12:00
11 2014. I think that you had gone on maternity leave in
12 March, or thereabouts, of 2014, is that right?

13 A. I did, yeah.

14 222 Q. And that would show that you were obviously in contact
15 with Superintendent Taylor and there is nothing 12:01
16 untoward in relation to that?

17 A. Mm-hmm.

18 223 Q. And there is no suggestion that there was. But you
19 would have had cause to contact him whenever any issues
20 arose, any queries that you may have had of the Press 12:01
21 Officer, and you would contact him directly on his own
22 mobile phone, is that right?

23 A. Yes.

24 224 Q. If we could just then have volume 26, please, and if we
25 could have 6984 up on the screen. These are a list of 12:02
26 telephone contacts between Superintendent Taylor and
27 yourself, Commissioner O'Sullivan or -- Commissioner
28 Callinan and also journalist Eavan Murray, and that is
29 over a relevant period of time that we are just going

1 to turn to now. You told the Tribunal investigators
2 that in or around about February of 2014, that you
3 heard murmurings, is the way that you put it.

4 A. Mm-hmm.

5 225 Q. And you refer in your statement "we heard murmurings
6 about Maurice McCabe". would you just tell the
7 Chairman about that, please.

12:03

8 A. Yeah, I'm not sure how -- for how long, but I
9 certainly -- there were murmurings going around that
10 there was something in relation to Sergeant McCabe, in
11 his past. I didn't know the specifics at that point.
12 I didn't know very much about it at all, really, and I
13 didn't pay too much heed to it at that point.

12:03

14 226 Q. Well, can you tell us what were the murmurings, what
15 were the specific things about Maurice McCabe's past
16 that you were hearing?

12:03

17 A. I can't remember exactly, but it was something -- I
18 think it was that I -- there was an allegation there.
19 I didn't know what had happened with the allegation,
20 what the allegation was about, I didn't know any of the
21 details in relation to the allegation, but just that
22 there had been an allegation in the past.

12:04

23 227 Q. Did you contact Superintendent Taylor about that to
24 find out what it was?

25 A. I don't feel I can answer that question for source
26 protection reasons, but I did state that, again, no
27 member of An Garda Síochána has ever maligned Sergeant
28 McCabe to me.

12:04

29 228 Q. Yes. Well, would it not have been entirely legitimate

1 for you to contact him, as he was the Garda Press
2 Officer, to find out about whether or not there was
3 something in Sergeant McCabe's past of a disciplinary
4 nature, of a criminal nature? would that not have been
5 an entirely legitimate inquiry? 12:04

6 A. In relation to a matter like that, you wouldn't really
7 expect the Garda Press Officer to confirm details like
8 that. I would have my own sources that I would go to.
9 CHAIRMAN: I don't think, Ms. McCann, I really want to
10 make this very clear, I have no interest in inquiring 12:05
11 into any sources that you have. We are only interested
12 in inquiring in relation to Superintendent Taylor or
13 Nóirín O'Sullivan or indeed Martin Callinan, and that's
14 all. I don't expect you to answer that, and I don't --
15 I don't wish you to. I appreciate -- I don't want to 12:05
16 know.

17 A. Okay.

18 229 Q. MR. MARRINAN: So --
19 CHAIRMAN: So Mr. Marrinan's question is about
20 Superintendent Taylor. 12:05

21 230 Q. MR. MARRINAN: And what you are looking for is
22 something that might be factual and might -- there
23 might be a legitimate inquiry of the Garda Press
24 Officer or indeed the Garda Press Office; did you ever
25 think of contacting the Garda Press Office directly? 12:05

26 A. No, not in relation to that allegation. I wouldn't
27 have looked --

28 231 Q. Did you think of contacting Superintendent Taylor about
29 it?

1 A. I don't know if I can answer that question, in the
2 sense that if I had contacted anybody in relation to
3 this matter, it would have been purely on an
4 off-the-record basis.

5 232 Q. You are familiar with the waiver that Superintendent 12:06
6 Taylor has signed --

7 A. Mm-hmm.

8 233 Q. -- in this regard, and it's extremely broad in its
9 content, and the Tribunal investigators drew your
10 attention to it, and it's in the papers. You are also 12:06
11 familiar with the waiver of former Commissioner
12 Callinan --

13 A. Mm-hmm.

14 234 Q. -- in relation to these matters, and also Commissioner 12:06
15 Nóirín O'Sullivan -- former Commissioner Nóirín
16 O'Sullivan?

17 A. Mm-hmm.

18 235 Q. I mean, was there some -- was there in any sense any
19 sort of prompting by Superintendent Taylor in relation
20 to this story? Were the murmurings heard from him at 12:06
21 that time?

22 A. Again, I don't feel I can answer that question for
23 source protection reasons.

24 236 Q. Well, I mean, it's really a fairly direct question. 12:07
25 CHAIRMAN: Sorry, Mr. Marrinan, just, I have to stop
26 here because, I mean, we can't sail into the realms of
27 the ludicrous, you know; it's not going to help
28 anybody - it's not going to help you, it's not going to
29 help me, it's not going to help the public interest.

1 But, I mean, you have said clearly, and it couldn't be
2 more clear than the fact that there was -- you have no
3 evidence of any orchestrated campaign by Garda
4 management to align Maurice McCabe, and secondly, I was
5 never briefed negatively by any garda in relation to 12:07
6 Maurice McCabe. So Mr. Marrinan asks you then the
7 question: So there were these murmurings there about
8 some allegation in the past, so did you ring David
9 Taylor? Well, where is the problem? Because if you
10 did ring David Taylor and if what you are saying is 12:07
11 true, that you were never briefed negatively by any
12 garda in relation to Maurice McCabe, then the answer
13 would surely be you had some kind of a discussion but
14 he never told me that there was anything bad in Maurice
15 McCabe's background? I mean, you know, you can't have 12:08
16 your cake and eat it.

17 A. In relation to the murmurings I would have been
18 hearing, I am not even sure who I would have been
19 hearing them from.

20 CHAIRMAN: No, I am not asking -- I am not interested 12:08
21 in the murmurings. So many people have spoken about
22 murmurings, it may be one of the most used words before
23 the Tribunal. We are talking now about, there is this
24 rumour, and then you have contact with the Garda Press
25 Officer, so did you say: Look, David, is there 12:08
26 anything to this? Is there anything that I need to
27 know? Or anything like that. Because if indeed your
28 answer is correct, that you were never briefed
29 negatively by any garda in relation to Maurice McCabe,

1 I have to reach the logical conclusion that he said,
2 no, Maurice McCabe is a really nice man and these
3 things were investigated and they are the kind of thing
4 that crop up from time to time, but the DPP ruled there
5 wasn't even an offence. I have to assume that's the 12:09
6 conversation you had.

7 A. Yeah.

8 CHAIRMAN: Yes. So I don't see where source protection
9 comes up.

10 A. Well, I guess we are coming up to around February 2014 12:09
11 when I would have been looking into the allegations a
12 little bit more and I would have contacted my own
13 sources in relation to that.

14 CHAIRMAN: And again, I'm not asking you about that.

15 A. Yeah. 12:09

16 CHAIRMAN: Sorry, Mr. Marrinan, for interrupting. And
17 I just wanted to make it clear the field that we are
18 on, where we are, what we are talking about, and maybe
19 you'd talk to Mr. Marrinan about it.

20 237 Q. MR. MARRINAN: You see, the reason I'm asking this: We 12:09
21 know that you went up to investigate an issue;
22 presumably at that time you knew that it was an issue
23 concerning an alleged sexual assault?

24 A. It was, yeah, at that point, around about that point
25 that I would have made further -- I would have made 12:10
26 inquiries myself to establish what the allegation was.

27 238 Q. Yes.

28 A. And whether or not there was any substance to it.

29 239 Q. And what sort of -- and again, we are not inquiring

1 into who your sources were at that time, but what was
2 the level of information that you got?

3 A. I understood, going up there, I understood that there
4 had been an allegation, it was historic in nature, I
5 understood that it had been an allegation of 12:10
6 inappropriate touching and I understood that the matter
7 had been referred to the DPP and the DPP had ruled not
8 to prosecute.

9 240 Q. And obviously you had the names?
10 A. I did. 12:10

11 241 Q. Yes.
12 A. I had the names and I inquired myself then as to the
13 address, you know, I got it myself as opposed to from
14 sources.

15 242 Q. And did you also know that it was a -- it concerned the 12:11
16 daughter of a colleague of Sergeant McCabe?
17 A. Yes, I'm pretty sure I did know that at that point.

18 243 Q. And we've already heard evidence in relation to this,
19 that you ran it by your news editor?
20 A. I did, I did, I contacted -- 12:11

21 244 Q. That was Robert Cox at the time, was it?
22 A. Yes, yes.

23 245 Q. And you brought that information to the table, did you,
24 that you had?
25 A. I did. I think I suggested that we look at the 12:11
26 allegation a little bit in more detail, which I did. I
27 then told him that I had gotten more specific
28 information in relation to it, and at that point then
29 he told me to travel up and knock on her door.

1 246 Q. Did you share that with Alison O'Reilly at the time?
2 A. In advance, I -- possibly. I don't believe so. I
3 think this was all very quick, in the sense that I had
4 been speaking to Robert Cox about going up, the evening
5 before, and I went up the following morning. 12:12

6 247 Q. I'll come to what Alison O'Reilly says in relation to
7 this, I have to put her side of that particular aspect
8 of it. But before we broach that topic, Superintendent
9 Taylor says that he -- that you phoned him before you
10 went up -- 12:12

11 A. Mm-hmm.

12 248 Q. -- to speak with Ms. D. Is that right?
13 A. Again, there are a variety of sources on this matter,
14 and I don't feel comfortable answering that question.

15 249 Q. Well, I'm not asking you to identify any sources 12:12
16 whatsoever, do you understand? You're excluding
17 Superintendent Taylor as being a source for this, are
18 you?

19 A. I'm simply not answering the question. I don't feel
20 comfortable answering that question in relation to 12:13
21 source protection.

22 250 Q. Well, Superintendent Taylor is asserting that you
23 phoned him before you went up. I can't really
24 understand why you have a difficulty --

25 A. I really wish that I could help you further on this. 12:13
26 It would probably make my life easier if I could help
27 you further on this, but I have a career as a
28 journalist that I am very keen to protect in all of
29 this, as well as assist your work, obviously.

1 251 Q. Well -- and you will appreciate that the Tribunal
2 respects that as well.

3 A. Mm-hmm.

4 252 Q. But here we have Superintendent Taylor, forget about
5 what -- the content of the actual discussion that you 12:14
6 had with him, I'm merely pointing out to you that he
7 says that you phoned him before you went up to see
8 Ms. D. He is not saying that he was a source of any
9 information, I'm not suggesting to you at this juncture
10 that he was the source of any information; I am just 12:14
11 asking you to confirm whether or not you did, in fact,
12 phone him before you went up to visit Ms. D?

13 A. I would be in conversation with David Taylor on a
14 weekly basis, so there was a good possibility that I
15 was speaking to him in advance of going up, but whether 12:14
16 or not this was discussed, I don't feel comfortable
17 revealing that at this juncture.

18 253 Q. But, I mean, in the context of what you have now,
19 earlier on, revealed to the Tribunal in terms of not
20 having evidence in relation to being -- anybody seeking 12:15
21 to influence you in any sort of smear campaign, but in
22 that context, I mean, would it not -- would it be usual
23 enough that you might ring him and say, look, you know,
24 there is actually another -- there is another story
25 here and I am going down to interview Ms. D? 12:15

26 A. I didn't tell Dave Taylor of everything that I did in
27 my day-to-day job.

28 254 Q. No, and I appreciate that, but did you tell -- he is
29 saying that you told him about this.

1 A. I don't feel I can help you on that question, again for
2 source protection reasons. I wish I could --

3 CHAIRMAN: I mean, unfortunately, Ms. McCann, the
4 inference that might logically be taken out of that is
5 that he was your source. 12:15

6 A. There were -- again, I am not saying --

7 CHAIRMAN: And I am saying 'might'. I am not saying
8 that I am saying that, I'm saying 'might'. And could I
9 say one other thing, because it has occurred to me
10 really very forcibly and it's necessary to say it; the 12:15
11 statement you made to the Tribunal was one which
12 carries certain consequences if it's not correct, but
13 the obligation on citizens taking an oath or otherwise
14 is to actually tell the full truth. It's not a
15 question of saying, and I refer to the famous example, 12:16
16 'I did not have sexual relations with that woman', the
17 definition didn't include, so I am not actually telling
18 you. I am not interested in that kind of thing. That
19 is nonsensical. One has to tell actually what
20 happened, the actual truth, and not use forms of words 12:16
21 such as, for instance, 'orchestrated', or whatever, and
22 that, somehow, seems to escape from the obligation to
23 tell the truth. It doesn't. The obligation here is to
24 actually tell the truth.

25 A. And I'm -- 12:16

26 CHAIRMAN: And it applies to everybody, not just to
27 you. I'm not giving this long lecture for the purpose
28 of annoying you, or anything else like that, but it is
29 actually a fundamental patriotic obligation to tell the

1 truth, and there is -- you have sworn an oath to that
2 effect, not to pick and choose words.

3 A. Yeah, absolutely, and I would take that very seriously.
4 I am telling that you I know of no evidence of any
5 smear campaign against Sergeant McCabe. I sought out 12:17
6 this information and I went up and I spoke to Mrs. D at
7 the door.

8 CHAIRMAN: Now, I think I need to tell you as well how
9 serious this matter is, because, you know, we have -
10 and it doesn't matter whether they sit high or sit low, 12:17
11 the law is still above them - we have two commissioners
12 of An Garda Síochána against whom appalling things have
13 been said by a person with whom you were in contact.
14 They actually have rights as well. And the purpose of
15 this Tribunal is to attempt to see what actually 12:17
16 happened. And in the event that you did indeed ring
17 David Taylor and said, look, I am going up there, and
18 he said to you something to the effect of, well, you
19 know, Maurice McCabe is a really decent and honourable
20 man, I wouldn't bother, it's all in the past and the 12:18
21 DPP has ruled on it, I don't know why you are wasting
22 your time, I actually would need to know that, and I
23 don't believe that is anything to do with source
24 protection. It's to do with actually answering the
25 questions that the people of Ireland have entrusted to 12:18
26 me to come up with some kind of an answer to. You
27 might like to think about this, and, in that regard,
28 I'm actually going to break for lunch now for an hour.
29

THE HEARING ADJOURNED FOR LUNCH

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1 THE HEARING RESUMED, AS FOLLOWS, AFTER LUNCH:

2
3 MR. MARRINAN: Debbie McCann, please.

4 255 Q. If we just turn now to the statement that Alison
5 O'Reilly made in relation to these matters.

13:29

6 A. Yeah.

7 256 Q. It's at page 3830, if you want it there, in volume 15.
8 Have you got it?

9 A. I can read it here.

10 257 Q. Oh, you have it on the screen. All right. Clearly,
11 you're at odds with Ms. O'Reilly in relation to a lot
12 of what is contained in her statement?

13:30

13 A. Yes.

14 258 Q. And her own counsel can take up some of the issues, but
15 I am concerned about some aspects of it --

13:30

16 A. Okay.

17 259 Q. -- that I am going to bring you through.

18 A. Yeah.

19 260 Q. But if you want to refer to other aspects of it that
20 you think might be important --

13:30

21 A. Okay, yeah.

22 261 Q. -- please free feel to say so.

23 A. Yeah.

24 262 Q. It starts off in paragraph A towards the end, that
25 change to mid-2013 and early 2014:

13:30

26
27 "My colleague with the Irish Mail on Sunday, Debbie
28 McCann, told me that the Garda whistleblower, Sergeant
29 Maurice McCabe, who had lifted the lid on the penalty

1 points scandal, was a child abuser."
2
3 Do you recall saying that to her?
4 A. No, absolutely not.
5 263 Q. Pardon? 13:31
6 A. Absolutely not.
7 264 Q. But you'd heard, as you put it, mutterings to that
8 effect?
9 A. Absolutely. I had heard an allegation, yeah.
10 265 Q. And Alison O'Reilly was a colleague, isn't that right? 13:31
11 A. She was. She was a colleague and a friend, at that
12 point.
13 266 Q. I mean, it mightn't be unusual during the course of
14 conversations to refer to rumours that you had heard
15 about Sergeant McCabe and to take a view in relation to 13:31
16 him. I mean, it may well have been that you didn't
17 approve of the manner in which he was bringing his
18 complaints in relation to the penalty points into the
19 public domain. Did you feel that way at the time?
20 A. No. It wasn't that I didn't approve of what he was 13:32
21 doing; it was that I had heard an allegation in
22 relation to him. But it's a bit of a leap to go from
23 hearing an allegation and to calling him a child
24 abuser.
25 267 Q. "She told me Sergeant McCabe and John Wilson had caused 13:32
26 a lot of trouble within the Gardaí for doing what they
27 did."
28 A. Mm-hmm.
29 268 Q. Would that have been discussed?

1 A. No, not that -- no. Not -- No.

2 269 Q. You don't seem a hundred percent sure about that? I
3 mean --

4 A. Well, you know, there would have been discussions,
5 obviously, you know, that this was causing a huge 13:32
6 amount of controversy. You know, whether I would have
7 said that they are bringing a lot of trouble.

8 270 Q. Well, you know, people are perfectly entitled to have
9 their views --

10 A. Mm-hmm. 13:32

11 271 Q. -- and to express and discuss them, even in strong
12 terms on occasions --

13 A. Mm-hmm.

14 272 Q. -- and nobody is criticising you for that.

15 A. Mm-hmm. 13:33

16 273 Q. But what Alison O'Reilly is suggesting in the statement
17 here is that perhaps she was on one side of the fence
18 and you were on the other insofar as the Sergeant
19 McCabe issues were concerned?

20 A. In that sense, I was possibly a little bit more 13:33
21 skeptical at the time in the sense that I had heard
22 this allegation, but it was no more or less than that.

23 274 Q. She then goes on to say that:
24
25 "Debbie said all the Gardaí knew he was involved in 13:33
26 abusing a girl who is now an adult and that there had
27 been a big cover-up within the Gardaí."
28
29 well, you did know that much at the time?

1 A. No, I didn't. I knew nothing about any cover-up or
2 anything like that.

3 275 Q. But you'd heard an allegation that he was -- that
4 Sergeant McCabe had abused a girl, is that right?

5 A. I did. But again, I didn't get the specifics on that 13:34
6 allegation until just before visiting the home of
7 Ms. D.

8 276 Q. I understand. And you then go on, she says -- claims,
9 to say:
10 13:34

11 "... the Gardaí because he was a sergeant and a friend
12 of the girl's father, who was also a garda."
13 A. Mm-hmm.

14 277 Q. Subsequently, that was something that you did find
15 out -- 13:34

16 A. I did.

17 278 Q. -- in 2014, isn't that right?

18 A. Yes, yes.

19 279 Q. I mean, is it possible that you gave her this
20 information and discussed this with her? 13:34

21 A. That there was a cover-up?

22 280 Q. Well, that it was a cover-up, that the girl was a
23 daughter of a colleague?

24 A. There was no mention of a cover-up. I knew nothing of
25 any cover-up, and still don't. Whether or not I would 13:34
26 have discussed afterwards when we got more specific
27 information about the girl's father being a colleague
28 of Sergeant McCabe, I possibly did discuss that
29 afterwards.

1 281 Q. "She told me he was hated within the Gardaí and that
2 there were no scandalous behaviour contained in his
3 complaint."

4 A. That's not true, in the sense that there were plenty of
5 Gardaí who were very much on his side on this. 13:35

6 282 Q. Well, it may not be true, but you may have said it to
7 back up your position in relation to Sergeant McCabe.

8 A. I don't think I would have said that.

9 283 Q. "She said that he was only doing it to get back at the
10 Gardaí because he had fallen out with his superiors." 13:35

11 A. Mm-hmm.

12 284 Q. Is there a possibility that you might have said that?

13 A. No, I think that we would have discussed the
14 allegation, but I don't think I would have drawn
15 conclusions from that. 13:35

16 285 Q. I mean, it would be a fairly -- it wouldn't be a very
17 robust debate to have with her perhaps over coffee if
18 you were agreeing to everything. I mean, is it a
19 position, because she has supplied texts to the
20 Tribunal that might suggest, you know, that you were 13:36
21 taking the Garda line in relation to these matters?

22 A. Mm-hmm.

23 286 Q. But is it a position that she held very strong views in
24 relation to Sergeant McCabe and you held strong views
25 that perhaps he was causing some damage within An Garda 13:36
26 Síochána?

27 A. There was a little bit of that between us.

28 287 Q. There was a little bit.

29 A. There wasn't -- the sense is given that there was an

1 awful lot of discussion about this.

2 288 Q. Yes.

3 A. There wasn't.

4 289 Q. All right. But, I mean, I'm just trying to see what's
5 between the two of you in relation to these matters? 13:36

6 A. Yeah, yeah.

7 290 Q. "She said that there was no scandal and that all anyone
8 had to do when they got penalty points was to write a
9 letter to their local superintendent, tell them it's a
10 mistake and there was a good chance the points would be 13:37
11 quashed."

12

13 well, in fact, you did discuss that with her, didn't
14 you, at some stage?

15 A. Well I discussed that in the matter of a conference. 13:37

16 291 Q. Yes.

17 A. On one of our Tuesday conferences, I raised that issue,
18 yes. I didn't say that there was a good chance that
19 everybody could just get their points quashed. I just
20 raised the legitimate process that there is in place 13:37
21 for that.

22 292 Q. And that was in the context of penalty points that you
23 had written in to a superintendent about, isn't that
24 correct?

25 A. Yeah, yeah. 13:37

26 293 Q. "I asked her if you" -- yes. Then she says:
27
28 "I asked her if you told the Gardaí when they stopped
29 you that you were friends with the Garda or you knew

1 someone in the Gardaí, would they let you go there and
2 then, and she said probably. At some stage around the
3 time of the penalty points scandal names appeared in
4 one or two newspapers of some people who had their
5 penalty points quashed." 13:38
6
7 well, that's so, isn't that right?
8 A. Yeah, yeah.
9 294 Q. "Debbie told me that she was worried her name was going
10 to be printed." 13:38
11
12 were you worried?
13 A. I don't remember having this conversation with her, but
14 obviously I wouldn't like to have my name printed in a
15 newspaper in relation to this. 13:38
16 295 Q. well, nobody would like to have their name printed.
17 A. No.
18 296 Q. Particularly if you hadn't done anything wrong.
19 A. Yes, absolutely.
20 297 Q. "I asked her if she had her penalty points quashed and 13:38
21 she said yes. She said she didn't want her name in the
22 paper because her father was a garda. As far as I
23 recall, her name was not made public."
24 A. well, you see, that conversation didn't happen in the
25 sense that she asked me were the penalty points 13:38
26 quashed. It was no secret I had raised it at a case
27 conference and pointed out that there was a legitimate
28 process where you could, if you felt that the
29 discretion could have been used if you were a couple of

1 kilometres over the speed limit, write to the local
2 superintendent in the area.

3 298 Q. Well, I mean, for instance, did you say that you didn't
4 want your name in the paper because your father was a
5 garda; I mean, your father was a superintendent? 13:39

6 A. He was, yeah, absolutely, yeah.

7 299 Q. And it might have caused him a little bit of
8 embarrassment?

9 A. It would. It would have caused him and me
10 embarrassment. 13:39

11 300 Q. Yes, indeed. Then at paragraph C she says:
12
13 "The story of the penalty points controversy continued
14 for a few weeks or months and Debbie told me she had
15 got the name and address of the girl who was allegedly 13:39
16 abused by Maurice McCabe, from the Gardaí."

17 A. Mm-hmm.

18 301 Q. Well, you had got the name and address of the girl,
19 isn't that right?

20 A. I had gotten the name and address of the girl, yes. 13:39

21 302 Q. "I asked her where she got her information and she said
22 from someone high up in the Gardaí."
23
24 Did you say that to her?

25 A. Absolutely not. 13:40

26 303 Q. "She told me she was going to Cavan."
27
28 And that's where the address was, in Cavan, isn't that
29 right?

1 A. Mm-hmm, mm-hmm.

2 304 Q. "And she was going to get the girl to talk."

3 A. Well, I didn't say that. We don't generally go on
4 doorsteps with a view of getting somebody to talk.
5 It's very much a knock on the door and see what 13:40
6 happens. It's the person on the other side of the
7 door's prerogative, not mine.

8 305 Q. But your intention was to go up and to try and get a
9 story from Ms. D, isn't that right?

10 A. We were -- at the time of investigating the allegation, 13:40
11 I had got some of the information confirmed, and, on
12 that basis, we went up to see if we could get more of
13 the information.

14 306 Q. She then says:

15 13:40

16 "I said, are you sure he was a child abuser? Debbie
17 said he was and all of the Gardaí hate him. She said
18 her father, John McCann, who was then a senior member
19 of the Garda Sexual Assault and Domestic Violence Unit,
20 had confirmed the story." 13:41

21 A. I completely refute that, and I reject the assertion.
22 My father knew nothing of this.

23 307 Q. Well, first of all, I have to ask you, I mean, did you
24 discuss the issue with your father?

25 A. Myself and my father would discuss issues that were 13:41
26 topical. We still do discuss issues that are topical
27 all of the time. But we both are very clear on the
28 fact that he is a garda, or was a serving garda, and I
29 was a journalist, and there obviously is a conflict and

1 we were very conscious of that, whenever we discussed
2 matters.

3 308 Q. Yes, I can understand that. But at any time did you
4 mention Sergeant McCabe to him?

5 A. I am sure we did discuss Sergeant McCabe. He was very
6 big news in the -- at the time.

7 309 Q. Yes.

8 A. And I'm sure we would have discussed what was happening
9 in terms of the penalty points and all of the different
10 controversies.

11 310 Q. Did you at any time say that you were pursuing a story
12 in relation to an alleged sexual assault case against
13 him?

14 A. My information is my information. I do not share what
15 I am doing with my father, and vice versa.

16 311 Q. Is there -- the third possibility, I suppose, that
17 maybe that you were saying this to Alison O'Reilly to
18 lend some credence to the story?

19 A. Absolutely not. And anybody that knows me knows that I
20 would not do something like that. I am certainly not a
21 braggard and I don't go about making up things to
22 people.

23 312 Q. "She said on several occasions Sergeant McCabe was a
24 paedophile. Debbie said she had heard from Dave Taylor
25 that the girl was in a bad way."

26 A. That is not true.

27 313 Q. Well, first of all, had you heard from Dave Taylor that
28 the girl was in a bad way?

29 A. I didn't tell her -- I didn't tell her that I had heard

13:42

1 from Dave Taylor. And in relation to that question, I
2 am still very much of the view that I cannot discuss
3 matters because of source privilege -- because of my
4 position on sourcing.

5 314 Q. Well, I mean, you had no difficulty telling us about 13:43
6 your father and your conversation with your father?
7 A. He is my father.

8 315 Q. I know. But there's no difficulty telling us about
9 that. And you had no difficulty telling us about your
10 conversations with Nóirín O'Sullivan and the content of 13:43
11 them and the fact that Sergeant McCabe wasn't
12 mentioned, isn't that right?
13 A. That was a very specific allegation --

14 316 Q. Yes.
15 A. -- in relation to Nóirín O'Sullivan. And we assisted 13:43
16 the Tribunal in pointing out that the allegation had
17 been that I was in contact with her over the phone, and
18 we pointed out that if you were to go back over her
19 telephone records, that it would back up my assertion
20 that there was no communication between us. I was 13:43
21 trying to help the Tribunal in the best way that I
22 could.

23 317 Q. But, you see, I mean, you have got to see it from
24 everybody's perspective, not just your own.
25 A. Of course. 13:44

26 318 Q. Superintendent Taylor has rights as well.
27 A. Of course. But I had --

28 319 Q. He is asserting a particular set of facts as being
29 truthful.

1 A. Mm-hmm.

2 320 Q. And he is maintaining that position, and he is
3 asking -- you're aware of the fact that he has asked
4 that you, as a named person, would assist the Tribunal
5 in answering the Tribunal's questions in this regard, 13:44
6 you're aware of that?

7 A. I am, but I believe --

8 321 Q. Yes. Alison O'Reilly also has rights as well in
9 relation to this, because she is saying: I was told
10 this by Debbie. 13:44

11 A. And I'm telling you that she did not hear that from me.

12 322 Q. I know, but just let me finish. She is saying: I was
13 told this by Debbie McCann.

14 A. Mm-hmm.

15 323 Q. And then the first question you would ask in those 13:44
16 circumstances: well, was that something that Debbie
17 McCann was told by Superintendent Taylor? You see
18 that, that is the first question you'd ask --

19 A. Mm-hmm.

20 324 Q. -- if you had wanted to resolve that issue? 13:44

21 A. Mm-hmm, mm-hmm.

22 325 Q. So, therefore, I am asking the first question: Did
23 Superintendent Taylor mention to you that Ms. D was in
24 a bad way?

25 A. And again, I can't answer that question. He has waived 13:45
26 privilege. I am the journalist and I believe that that
27 decision lies with me. I have a career to think about,
28 going forward. I can't go there. I would love to go
29 there, but I honestly cannot do that.

1 326 Q. Yes. I'm not going to press you on these issues,
2 because, you know, it's matter for the lawyers to
3 debate in relation to privilege.

4 A. Mm-hmm, mm-hmm.

5 327 Q. And we may have to embark on that. But for the moment, 13:45
6 we are just trying to get what information that we can
7 in the circumstances.

8

9 "Debbie called Mr. McCabe several names. She said he
10 was a paedo, a child abuser and --" 13:45

11

12 I mean, this isn't really important. It shows the
13 extent to which she says that you were opposed to
14 Sergeant McCabe and the view that you took on him, but
15 you deny that that is so, is that right? 13:46

16 A. Absolutely. We very much discussed the allegation.
17 But that's, for one, not language that I would use, and
18 secondly, in terms of discussing an allegation, it is a
19 very big jump to go from me -- discussing an
20 allegation, and we discuss allegations all the time, we 13:46
21 hear allegations all the time, some of them are
22 legitimate, some of them are not, we discuss it, I
23 certainly don't go around calling people that I am
24 hearing allegations about paedophiles and child abusers
25 and -- 13:46

26 328 Q. "I remember standing at the back of the office with
27 Debbie McCann and news editor, Robert Cox, and she told
28 us she had the details for the woman who was allegedly
29 abused by Maurice McCabe and she was going to get her

1 to talk. Robert Cox said he would check with editor
2 Conor O'Donnell and that he might arrange for a
3 photographer to go with her. The woman could do
4 silhouette photos."

13:47

6 There seems to be some truth in that?

7 A. I don't know how she would have been aware of that, in
8 the sense that that conversation took place over the
9 phone, it took place a couple of times, I think, that
10 week over the phone, and on the final occasion that I
11 spoke to Robert I would have told him that I had the
12 details, and it was the following morning that we went
13 up.

13:47

14 329 Q. Well, how could she -- we know that this was so, we
15 know from Mr. O'Donnell there was some reference in
16 relation to a photographer.

13:47

17 A. That is very much a process that we would take in our
18 newsroom. It is pretty much the process that we would
19 take with every single story that we cover.

20 330 Q. So you're saying it was an educated guess on her part
21 when she put this in her statement, is that it?

13:47

22 A. I can't say what her thinking is, but I'm just telling
23 you what happened that week.

24 331 Q. Well, you can, actually, because either she was privy
25 to the information because you told her about it or she
26 heard it in your presence, or else it's a complete and
27 utter invention on her part?

13:48

28 A. Well, she is saying that she heard it in the office and
29 she was standing in the back of the office. That, to

1 my mind, did not happen.

2 332 Q. Did she know that you were in fairly regular contact
3 with Superintendent Taylor?

4 A. I don't know if she would have specifically known, but
5 I'm sure she would have hazarded a guess. I was a 13:48
6 crime correspondent, I still am, and he was the Press
7 Office within the Gardaí.

8 333 Q. Would she have guessed that you were having a fairly --
9 a contact with Superintendent Taylor where he says that
10 you told him that you were going down to Ms. D? 13:48

11 A. Would she have guessed that?

12 334 Q. Do you think that she -- is that something that she
13 would have thought, that your relationship was perhaps
14 that?

15 A. I don't know what she thought about our relationship. 13:49
16 All that I know is that she probably would have known
17 that I was in contact with him because I'm a crime
18 correspondent.

19 335 Q. "She told me she had heard from Dave Taylor that the
20 woman was going to try and bring the matter to 13:49
21 government because it was not fully investigated."
22 A. I didn't know anything about that.

23 336 Q. But you subsequently found out about it with the Paul
24 Williams article?

25 A. It was in an article, yes. 13:49

26 337 Q. Did you discuss this matter at all with Paul Williams?
27 A. About the fully investigated, I don't remember. I'd
28 speak to Paul, you know, very occasionally. I speak to
29 Paul occasionally. It's not a -- he's not somebody

1 that I would speak to on an ongoing basis, or anything
2 like that.

3 338 Q. Well, in particular in relation to Ms. D, were you
4 aware of the fact that he had gone down originally on
5 the 5th March, I think it was, the Wednesday, and then 13:50
6 back on the Saturday, the 8th March 2014?

7 A. I didn't know that he had gone down. I knew --

8 339 Q. Did he tell you that he had been there?

9 A. I don't know afterwards if he would have told me -
10 possibly - but I didn't know that he was there and I 13:50
11 didn't learn about this until I read it in the
12 newspaper.

13 340 Q. Just come back to the question that I asked you,
14 whether or not you discussed it with him, his visit.
15 This is prior to the publication of the article on the 13:50
16 12th April.

17 A. Mm-hmm.

18 341 Q. Do you have any recollection of discussing it with Paul
19 Williams?

20 A. Of discussing him being there or -- 13:50

21 342 Q. Yes, yes.

22 A. I have some recollection of talking to him around that
23 time, but I don't know -- he certainly wasn't
24 communicating with me when he was going to go up to the
25 girl, or if he had been up to the girl or what was in 13:50
26 the contents of their discussion. There was none of
27 that.

28 343 Q. Are you sure about that?

29 A. Yes, I am.

1 344 Q. And what about Eavan Murray, is she a journalist that
2 you would have been friendly with?

3 A. Not at that point, no.

4 345 Q. Did you become aware of the fact that she had been down
5 to the same household a few days after you had called? 13:51

6 A. No.

7 346 Q. Are you saying that the first that you became aware of
8 that was when you got the papers from the Tribunal?

9 A. Yeah, I believe so.

10 347 Q. You see, the problem that we have here is, and you'll 13:51
11 readily see it yourself --

12 A. Mm-hmm.

13 348 Q. -- is that two people who Dave Taylor was in fairly
14 regular contact with, but had been in contact with
15 specifically in relation to this, because he said that 13:51
16 you and Eavan Murray both phoned him to declare your
17 intention to go down --

18 A. Mm-hmm.

19 349 Q. -- to see Ms. D, and I think that he is not sure in
20 relation to you, whether you rang him after you had 13:52
21 been there, but certainly he is sure in relation to
22 Eavan Murray. But one might conclude from that, that
23 Superintendent Taylor had suggested that you would go
24 down, to you, and given you the information, that you
25 went down and didn't get anywhere, and then he sent 13:52
26 Eavan Murray down a few days later, do you understand?

27 A. Mm-hmm.

28 350 Q. So that might be the suggestion that would be there.
29 what do you say --

1 A. Well, that would be a suggestion. Nobody guides me in
2 my job, only my news editor, Robert Cox, and my editor.
3 And the reason I went down at that point was because
4 Sergeant McCabe was very much big in the media, he had
5 been before the PAC, he been named, and that was the 13:52
6 reason for travelling down at that point.

7 351 Q. He had been named in a very positive light?

8 A. He had.

9 352 Q. The story that you were investigating would paint him
10 in a very negative way, isn't that right? 13:53

11 A. We look at all aspects of a story, we come at it from
12 various different angles. It was, we investigated it,
13 and nothing more. We never did anything with it.

14 353 Q. I know that, but the story, if there was a story there,
15 would have painted Sergeant McCabe in a very bad light, 13:53
16 isn't that right?

17 A. Em, if there was a story there, potentially it could
18 have painted him in a bad light, but there was no story
19 there.

20 354 Q. And similarly for Eavan Murray going down, it was again 13:53
21 going to be a story that would paint him in a bad
22 light, and you see the extraordinary coincidences that
23 you and Eavan Murray were both in contact with
24 Superintendent Dave Taylor in around that time?

25 A. But I was in contact with Superintendent Dave Taylor 13:54
26 throughout the two-year period that you produced phone
27 records for, and it has been a constant contact, it
28 hasn't been up and down, you know, more on any given
29 weeks, or anything like that. It has been a constant

1 contact.

2 355 Q. And he says that you told him that you were going down
3 there to Ms. D.

4 A. Again, I can't answer that question.

5 356 Q. And he says that Eavan Murray told him the same thing. 13:54
6 Is there anything you want to say about that, because,
7 you see, Alison O'Reilly is suggesting that you were
8 getting information from Superintendent Taylor in
9 around that time and you --

10 A. Alison O'Reilly wouldn't have known my sources at all. 13:54
11 I am not in the habit of going around revealing my
12 sources to anybody.

13 357 Q. She then goes on to deal with some other matters there
14 in paragraph D and then into paragraph E, and her
15 dealings with Robert Cox. And then she deals in 13:55
16 paragraph F with her interaction with Maurice McCabe.
17 Then if we just move to paragraph G, if we could scroll
18 down there:

19

20 "I went back into the office maybe that afternoon or 13:55
21 the next day."

22

23 This is after she had spoken to Sergeant McCabe.

24

25 "And I told my news editor, Robert Cox, I met with 13:55
26 Maurice McCabe and I asked him to do a story with it,
27 but he said no. I told Robert Cox that Sergeant McCabe
28 had denied the rumours and, in my opinion, he was
29 credible. I told Debbie McCann I met with Maurice

1 McCabe. "

2

3 Did she tell you at that time that she met with Maurice

4 McCabe?

5 A. She told me subsequently to meeting him, as far as I 13:56

6 can remember, yes.

7 358 Q. And she says that:

8

9 "I didn't believe the rumours. She told me to be

10 careful, that he was manipulating me and not to fall 13:56

11 for it."

12

13 Did that conversation take place?

14 A. That who was manipulating me?

15 359 Q. That Maurice McCabe was manipulating her? 13:56

16 A. That I told her that?

17 360 Q. Yes.

18 A. No, I certainly did not.

19 361 Q. "I told her she should be sceptical about the

20 allegations as Sergeant McCabe had dealt with the 13:56

21 allegations in a very straightforward manner when I

22 asked him about them."

23

24 Do you recall her telling you that she had confronted

25 Sergeant McCabe with the allegations? 13:56

26 A. Yeah. I vaguely recall her telling me about the

27 allegations afterwards, yeah.

28 362 Q. It would appear, just up until this point, leaving

29 aside emphasis and the use of language that you didn't

1 approve of and her portrayal of you saying things --
2 A. Yeah.
3 363 Q. -- with a certain gusto, but the actual content of what
4 she is saying that you said and the discussions that
5 you had, by and large reflect what actually took place 13:57
6 between the two of you?
7 A. No, absolutely not. We discussed allegations, we
8 discussed them all the time. I was coming at them from
9 a slightly different position, she was coming at them
10 from her own position, and that was essentially it. 13:57
11 364 Q. Then she continues:
12
13 "Around the same time Debbie said she would travel to
14 Cavan to meet the woman she claimed was abused by
15 Sergeant McCabe. I felt this was wrong because she had 13:57
16 already decided that Sergeant McCabe was guilty and
17 that she did not seem willing to give him an
18 opportunity to deny the claims. I felt that because
19 the allegations were well-known to a reasonably large
20 number of people, even an anonymous story could have 13:58
21 implications for Sergeant McCabe. However, she pitched
22 the story to the news desk and she was permitted to go
23 to Cavan."
24
25 well, that's correct, isn't that right? 13:58
26 A. In the sense of pitching a story, we had the name of
27 the girl and we had the allegation, and it was
28 essentially part, another part of our investigation
29 into that allegation.

1 365 Q. Well, insofar as pitching the story, I mean in terms of
2 interactions with your editor --

3 A. Mm-hmm.

4 366 Q. -- Robert Cox, at the time, it was necessary for you to
5 go into the circumstances and the facts that you had 13:58
6 then available to you, isn't that right?

7 A. Yes. Now, I don't believe that this was ever a
8 realistic possibility, that we ever felt that it was a
9 realistic possibility in printing a story.

10 367 Q. No. I am not referring to that. I am referring to get 13:59
11 permission to go to Cavan --

12 A. Yeah.

13 368 Q. -- you have to approach your editor?

14 A. Oh, absolutely, yes.

15 369 Q. And you wouldn't be doing it on a whim or on the basis 13:59
16 merely of rumour or mutterings, is that right?

17 A. No, I had the allegations at that point.

18 370 Q. Yes. And had you the allegations at that stage and you
19 had gone to your source or sources --

20 A. Mm-hmm. 13:59

21 371 Q. -- and you had got the additional information. What
22 Alison O'Reilly seems to be suggesting here is that
23 that constitutes you pitching the story to the news
24 desk and that you were then permitted to go to Cavan.
25 I don't think she is saying that you had actually 13:59
26 written a story at that stage, but that you had put
27 your case to be permitted to go to Cavan, do you
28 understand?

29 A. Yeah. Again, I don't know how she knows about the

1 lead-up to me going to Ms. D's house. I have -- I can
2 recall all of this happening over the phone with my
3 news editor.

4 372 Q. She then goes on in paragraph I:

5 14:00

6 "I can't recall if it was the day after the interview
7 or during that same week when Debbie went to the house
8 of the alleged victim. She described in detail the
9 state the woman was in. She told me I needed to be
10 careful of Maurice McCabe because she was in no doubt 14:00
11 he abused the woman she interviewed. She said that --"

12
13 She makes some comment in relation to John Wilson, and
14 we needn't go into that.

15 14:00

16 "I told her I was always on the side of a victim but I
17 found this story hard to believe and I feared it was
18 malicious because the Gardaí were spreading the rumour.
19 Debbie said it was not a rumour. She spent around an
20 hour with the alleged victim. I felt pressurised into 14:00
21 believing her and that her behaviour was causing a rift
22 in our friendship. She told me the woman was in a
23 terrible state."

24
25 Now, I know you deny all that, and you point to the 14:01
26 fact that we know from Mrs. D that she merely answered

27 the door to you and there was some --

28 A. And you know from my own evidence that she merely
29 answered the door to me.

1 373 Q. Yes.

2 A. I gave that in my own evidence.

3 374 Q. Yes. So I suppose is there any possibility that -- to
4 support your case that you were making then in your
5 discussions with Alison O'Reilly, that you just simply 14:01
6 invented all of this?

7 A. Absolutely not. I came down from that house after
8 knocking on the door and I spoke very briefly to the
9 mother, who, to me, appeared to be upset. I came down,
10 I pulled over the car and I rang my news editor, almost 14:01
11 instantly, within about five minutes of knocking on the
12 door, and I told him exactly what had happened at the
13 door. There was never any -- it was word for word what
14 had happened at the door. I spoke to another
15 colleague, Valerie Hanley, on my way home, I told her 14:02
16 exactly what had happened on that door. And on the
17 Saturday when we were all back in the office - we were
18 all out doing our stories during the week, and on the
19 Saturday we would be office-bound - it was, you know,
20 part of the conversation: What did you do this week? 14:02
21 And I would have told -- I would have said exactly what
22 had happened on that door.

23 375 Q. So the point that you're making there is that it would
24 be a rather foolish yarn to spin to her because --

25 A. Absolutely. And I'm not in the habit of spinning 14:02
26 yards.

27 376 Q. Yes. But that there would be the added factor insofar
28 as if she spoke to anybody else in the newsroom, you'd
29 be exposed?

1 A. If I had done what she says and lied to her about this
2 fictitious interview, I would have been almost
3 instantly found out.

4 377 Q. She then goes on to say:
5
6 "She claimed Mr. McCabe had abused her when she was a
7 young child, possibly five, six or seven years old."
8
9 You had ascertained that from your own inquiries, isn't
10 that right? 14:02

11 A. Yeah. I knew she was a young girl at the time. I
12 didn't know her exact age. 14:03

13 378 Q. "Mr. McCabe was a friend of the woman's father and they
14 fell out at some stage."
15
16 well, that, in fact, is right. Had you discovered that
17 from your own inquiries? 14:03

18 A. Yeah, I knew that they were colleagues. I don't know
19 if I knew at that point that they had fallen out, I
20 don't know. 14:03

21 379 Q. "They were having a party or a gathering in the woman's
22 house."
23
24 Did you establish that as part of your investigations?

25 A. I don't think I had that level of detail. I had that 14:03
26 it was an allegation of inappropriate touching. I
27 think I knew at the time that there may have been
28 tickling involved, but I think that's all I knew. I
29 don't know about the party or --

1 380 Q. well, she is saying that you imparted this information
2 to her and that the woman was behind a couch and
3 Maurice McCabe went behind the couch and pushed against
4 her using his groin?
5 A. I don't think I had that level of detail. 14:04
6 381 Q. You don't think you did. Is it possible --
7 A. No.
8 382 Q. -- that you had? I mean, was it a good source that you
9 had?
10 A. Yeah, but it was -- we had the allegation and we had 14:04
11 the findings of the DPP, but it was very much that. It
12 wasn't expanded on. There was no -- it was very much
13 what the allegation was and the findings from the DPP,
14 to my memory.
15 383 Q. well, the source -- I'm not asking you to reveal who 14:04
16 the source was, but the source obviously was somebody
17 who was in a position to give you quite a lot of
18 information in relation to the investigation of the
19 offence, the nature of the alleged crime, the DPP
20 directions. You see, this detail here that Alison 14:04
21 O'Reilly is saying that you imparted to her --
22 A. Mm-hmm.
23 384 Q. -- is, in fact, very close to what we now know --
24 A. Mm-hmm.
25 385 Q. -- to be what is alleged to have occurred. 14:05
26 A. Mm-hmm.
27 386 Q. Do you understand?
28 A. Yeah. I don't believe I knew the specifics of the
29 allegation, going up.

1 387 Q. And then she goes on:

2

3

4

5

6

7

8

9

"Debbie said she thought he did other things to the woman that she was not going to go into and that the woman was very upset. She had forgotten about the abuse for a number of years and then it all came flooding back."

14:05

10 A. No. I have never met Ms. D, ever, in my life.

14:05

11 388 Q. Is there any possibility you could have discussed this with Paul Williams, who would have told you about the end of a story, as it were, or an end of an investigation that he might have been aware that you were interested in? Is there a possibility of that?

14:05

16 A. Well, my recollection is reading his articles, not talking to him about this.

18 389 Q. Just, I'm asking is it possible?

19 A. It's possible, but I went on maternity leave very quickly afterwards, and I don't believe I was in communication with Paul Williams for any -- it's very sporadic, my communication with Paul Williams.

14:06

23 390 Q. She goes on to say that she said to you:

24

25

26

27

28

29

"I asked: Are you sure, Debbie? And Debbie said: I know he is a paedophile and he has destroyed the woman's life, she is very messed up. Debbie told me she told Robert Cox and Conor O'Donnell about the interview."

14:06

1

2

And you deny that you said any of that?

3

A. Yes, absolutely.

4

391 Q. She says:

5

14:06

6

"Debbie told me that the story was not going to make it

7

into the paper and she was very annoyed about this. I

8

asked her: Why not? And she said that Conor O'Donnell

9

wanted to put it in as an anonymous story but that

10

editor-in-chief, Sebastian Hamilton, did not want the

14:07

11

story in the paper. She said Sebastian was too

12

cautious about the scandal and didn't want to run it."

13

14

what do you say in answer to that?

15

A. That didn't happen. I wasn't annoyed that the story

14:07

16

didn't go in. There was no story. We went up, we

17

knocked on the door, I spoke very briefly with the

18

mother. That was it. I rang my news editor. He told

19

me to come back. And that was essentially the end of

20

my part in any of this. I didn't pursue it any

14:07

21

further. I went on maternity leave very quickly

22

afterwards. And that was it, that was an end of it.

23

392 Q. Okay. If we go down to paragraph L then:

24

25

"As far as I recall, Debbie tried to get the story into

14:07

26

the paper on a second occasion but it was refused

27

again."

28

A. That didn't happen.

29

393 Q. "I spoke to her in Herbert Park before going to our

1 parked cars after a Tuesday conference in the office
2 and I said to her: I don't think that story is true,
3 Debbie, I am always on the side of the victim but on
4 this occasion I think something is wrong with the
5 story. I had concerns that a man's life was ruined in 14:08
6 error."

7
8 Do you recall a conversation of that nature with Alison
9 O'Reilly?

10 A. No. Look, we would have walked back to our cars on a 14:08
11 Tuesday, every Tuesday probably, through Herbert Park
12 and back to where we had parked our cars, and we spoke
13 about matters that we were dealing with. So I possibly
14 told her, walking back on one occasion, that there was
15 an allegation. I don't remember ever saying those 14:08
16 words to her, or her ever saying those words to me.

17 394 Q. She says:

18
19 "Debbie then told me again there was no Pulse number
20 for the case and it was a cover-up." 14:08

21 A. I knew none of that.

22 395 Q. Well, you subsequently became aware of it. Did it
23 appear in the Paul Williams article?

24 A. It was in the Paul Williams article, but I knew none of
25 that. 14:09

26 396 Q. Did you read the Paul Williams article?

27 A. I did, yeah. But this was prior to that. I was on
28 maternity leave when the Paul Williams article was
29 printed.

1 397 Q. "That she was still in touch with the woman she met and
2 that the woman was bringing it further. She said she
3 had a meeting with Fianna Fáil leader, Micheál Martin,
4 and that it was going to get serious. She wanted the
5 case reviewed and was going to submit it to Minister 14:09
6 Frances Fitzgerald as a case that did not get examined
7 properly by the Gardaí. She told me on another" --
8 "occasion" that should be -- "that the woman did meet
9 with Micheál Martin and he sent her file to
10 then-Taoiseach Enda Kenny." 14:10
11
12 Do you remember any conversations along those lines?
13 A. I didn't know anything of that. That was Paul
14 Williams' story. I didn't know anything of that.
15 398 Q. "I asked her how does she know the story is true. She 14:10
16 told me the information she had was coming from the
17 top."
18
19 That is a quote.
20 A. Mm-hmm. 14:10
21 399 Q. "She said: I asked, from your pal Nóirín? And she
22 said yes."
23 A. That didn't happen. First of all, because I have told
24 the Tribunal that there was no communication between
25 myself and Nóirín during that period, and also, 14:10
26 secondly, because I'm not in a habit again of revealing
27 any sources.
28 400 Q. She then goes on, and if we could just look at O then,
29 paragraph O, third line from the bottom:

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"The Guerin Report spoke highly of Maurice McCabe and I told Debbie about it. She described it as gross. She said everyone knew what happened, from politicians to journalists, and that it was a pantomime."

14:11

A. That was a series of text messages.

401 Q. Pardon?

A. That was a series of text messages.

402 Q. Yes.

A. Some of them are out of context in that, just those three lines, they're out of context. And also in relation to the "gross" and the Guerin Report, I believe that there is also a text message missing from that series.

14:11

403 Q. Well, if we just have page 3840 up on the screen there with the 9th May 2014, Alison O'Reilly sends you a message:

14:11

"A highly respected officer held in high regard" --

14:11

That is a quotation.

-- "is how judge Guerin describes McCabe."

And then you answer:

14:12

"I'm fully aware and to be honest I think it is gross."

I mean, that was an opinion that you --

1 A. Can I just point out that there is a text message in
2 between that deleted.

3 404 Q. Deleted?

4 A. That I have here in front of me.

5 CHAIRMAN: well, maybe you would just be so kind as to 14:12
6 add it into the mix then.

7 A. Yeah. The line is regarding, "is how judge Guerin
8 described McCabe... "
9 And the following text is "'Paul Williams and the Indo
10 have an agenda against McCabe,' says Micheál Martin to 14:12
11 pals." And I reply: "I'm fully aware and, to be
12 honest, I think that is gross."
13 So I think that changes the whole context of that
14 communication.

15 MR. KEALEY: sorry, Mr. Chairman, that document is at 14:12
16 page 6368 of the materials.

17 CHAIRMAN: All right. well, let's look at that.

18 405 Q. MR. MARRINAN: what we have here is:
19
20 "I'm fully aware and to be honest I think it is gross. 14:12
21 There is a very messed up girl at the heart of it and
22 no one gives a damn about it, effectively."
23
24 I mean, that is a perfectly valid argument to have.

25 A. Yeah. 14:13

26 406 Q. To have sympathy for what you perceived at the time to
27 be a victim.

28 A. Absolutely. And in that context, I was -- I did have a
29 degree of sympathy for the alleged victim in the case.

1 But just to add, that that "to be honest, I think it's
2 gross", if you read the full context, that would
3 suggest what I'm calling gross is the game-playing
4 that's happening in relation to it and not Sergeant
5 McCabe.

14:13

6 407 Q. Yes, indeed. But, I mean, I think that perhaps we
7 could attach too much significance to messages that are
8 sent --

9 A. Well, I don't -- no, I don't think so. I think that
10 changes the whole context of that conversation.

14:13

11 408 Q. But in any event, I mean, I think that the text message
12 does display that you were concerned about Ms. D?

13 A. I had a degree of sympathy for the girl. I didn't know
14 her. I had met the mother, and, from meeting the
15 mother, I found her to be upset, I found her -- I felt
16 that she believed something had happened with her
17 daughter and, based on that, I found that was my
18 opinion on the matter.

14:14

19 409 Q. And what do you say that led you to believe that from
20 talking to Mrs. D?

14:14

21 A. She was very clearly distressed when I knocked on her
22 door, in the sense that she told me that she had been
23 listening to the news and something about hearing
24 McCabe -- Sergeant McCabe being referred to as a hero.
25 It was quite clear that she was distressed and upset,
26 and it immediately struck me and I found just from -- I
27 found her to be credible and I found her to -- that
28 conversation that I had with her, I found that she
29 certainly believed something had happened.

14:14

1 410 Q. This evidence was given by Mrs. D in relation to her --
2 A. Mm-hmm.

3 411 Q. -- interaction with you?
4 A. Mm-hmm.

5 412 Q. You're familiar with it? 14:15
6 A. I am, yes.

7 413 Q. Yes. And you will be familiar with the fact that she
8 doesn't suggest at all that she had any conversation
9 with you, other than asking what you wanted?
10 A. We had a very brief conversation. We didn't discuss 14:15
11 the allegation at all. We had a very brief
12 conversation.

13 414 Q. And there's no suggestion from her whatsoever that she
14 was upset at the time that you rang on the doorbell or
15 that she had been listening to the news? 14:15
16 A. Well, I found her to be distressed, and I distinctly
17 remember her telling me that she had been listening to
18 the news and I also relayed that back to my news
19 editor, Robert Cox, when I left the door.

20 415 Q. So, in any event, she then goes on in paragraph P to 14:15
21 refer to the appointment of Nóirín O'Sullivan.
22 A. Yeah.

23 416 Q. And then she goes on to talk about trying to get an
24 exclusive story and articles that you wrote in relation
25 to Nóirín O'Sullivan. As far as you're -- you're in a 14:16
26 position to confirm, in relation to Nóirín O'Sullivan,
27 that she didn't brief you negatively about Sergeant
28 McCabe at any time, isn't that right?
29 A. Yeah. I wasn't in communication with Nóirín O'Sullivan

1 at all during the period of time of the terms of
2 reference.

3 417 Q. So is there anything further you'd like to say in
4 relation to Alison O'Reilly's version of events that
5 she has given to the Tribunal that maybe I haven't
6 covered there, because I have skipped some of the
7 issues that I don't think are relevant to the work of
8 the Tribunal?

14:17

9 A. No. Only to say that I have been, for the last
10 year-and-a-half, as baffled as I have been distressed
11 by this.

14:17

12 418 Q. If we could just come back then to the question that I
13 asked you about Alison O'Reilly and her knowing that
14 you would have been in contact or were in contact with
15 Superintendent Taylor. There's a document in volume 26
16 which is put together by the Tribunal investigators,
17 and it's all the contacts from Superintendent Taylor.
18 If we could have it up on the screen, please, it's
19 6984. You see there it starts off on the 1st January
20 and it shows there is a call there from David Taylor to
21 you?

14:17

14:18

22 A. Mm-hmm.

23 419 Q. I'm not going to go through them all, but on that page
24 there are quite a number of calls through the early
25 part of January, and then the following page, 6985,
26 again there are calls to you and also to Paul Williams,
27 a number of them. And then on page 6986, at the end of
28 January there's four calls there, five calls to you.
29 6987, at the end of January there's seven calls there

14:18

1 on that page, going into early February, and then again
2 early February, on 6988, there's only one call there,
3 to you. 6989, this is the 13th February, you will see
4 that there is a call to you - in fact, there's three
5 calls to you, or texts to you, sorry, on that day. 14:19
6 Then, on page 6990, which is the 15th February, there
7 is a call of six minutes and 17 seconds there, to you;
8 and then there's two texts later on that evening, at
9 half nine in the evening; twenty to ten, there's
10 another text; and then there's another call shortly 14:19
11 after that to you, lasting a minute and 30 seconds.
12 These are just the calls that are coming from
13 Superintendent Taylor to you --
14 A. Right.
15 420 Q. -- obviously. So, for some reason, Superintendent 14:20
16 Taylor is contacting you in or around that time?
17 A. Mm-hmm.
18 421 Q. If we then go over the page, at 6991. On the 20th
19 February of 2014, at half past six in the evening, we
20 see a call to you of 12 minutes. 14:20
21 A. Mm-hmm.
22 422 Q. And then we see on the 20th February, after two calls
23 to Eavan Murray -- no, sorry, the following day there
24 is a call -- two calls to Eavan Murray, then on the
25 21/2 there's a call to you. I think that is probably 14:20
26 gone through to a voicemail because it was only seven
27 seconds in duration. And then if we turn over the page
28 at 6992, on the 26th February there are a number of
29 calls, three text messages on the 26th. The 27th,

1 there's a call that appears to have gone through to
2 your voicemail. And then there's another call at 13:59
3 to you, lasting two minutes and 33 seconds. And then
4 on the 28th February there's a call to you lasting
5 three minutes and six seconds. And another call -- 14:21
6 that's 11.13. I'm sorry if I'm going too fast, but
7 pull me back if you are not following me. 11.57, there
8 is another call, four minutes. And then in the
9 afternoon there is another call of a minute 22, all on
10 the 28th February. And then if we turn over the page, 14:21
11 again on the same day, 6993, at 20:14 there is a call
12 that lasts for one minute 32. And then on the 1st
13 February, there's a -- 1st March, I beg your pardon,
14 there's a call lasting 56 seconds at 2000 hours. Then
15 you will see, following on from that, there are a 14:22
16 number of calls to Eavan Murray by Superintendent
17 Taylor. And then there's another call to you on the
18 5th March of 2014 for three minutes and 50 seconds.
19 The reason I'm pointing these out to you is that, you
20 know, these are calls that were made by Superintendent 14:22
21 Taylor; they weren't queries coming from you?
22 A. Mm-hmm.
23 423 Q. But they were calls made by Superintendent Taylor to
24 you --
25 A. Mm-hmm. 14:23
26 424 Q. -- in or around about the time that you went to visit
27 Ms. D.
28 A. Mm-hmm.
29 425 Q. Have you anything to say about, is there any

1 information to give us in relation to those calls and
2 what they were about?

3 A. No. But I would have been speaking to Superintendent
4 Taylor on an ongoing basis throughout that period and
5 it would have been -- most of the communication that I 14:23
6 would have had with Superintendent Taylor would have
7 been towards the weekend, as I work for a Sunday
8 newspaper, and obviously it's at that point that
9 breaking news becomes much more on our radar. So I
10 have no doubt that the vast, not all of the calls, are 14:23
11 to do with us coming up towards the weekend and making
12 calls in relation to breaking news.

13 426 Q. I asked you this this morning, but I will ask it again:
14 Did you tell Superintendent Taylor that you had been to
15 visit Ms. D? 14:23

16 A. Again, I can't answer that question for reasons of
17 source protection. I had on and off the record
18 communication with Superintendent Taylor, and I think
19 that that would put me in a very awkward position if I
20 were to answer that question. 14:24

21 427 Q. Then on the 7th March there's another communication
22 there, we see, at 17:42, of two minutes and 33 seconds
23 duration, which is followed almost immediately by a
24 call to Commissioner Martin Callinan. Then on the 8th
25 March, this was actually the day that Paul Williams 14:24
26 recorded an interview with Ms. D --

27 A. Yeah.

28 428 Q. -- you'll see that there's a number of calls there,
29 starting at 20:48. There's a text from Superintendent

1 Taylor to Martin Callinan. And then, 20:48:31, there's
2 another text to the Commissioner. And then there's a
3 text sent by him at 20:50:34 to the Deputy
4 Commissioner, followed up by a further text at 20:56 to
5 the Deputy Commissioner, and then there's, immediately 14:25
6 after that, a call to you that seems to have gone
7 through to your voicemail at 6 --

8 A. Yeah. The 20:50 to 20:51, yeah.

9 429 Q. So this was a Saturday night; it was at a point in time
10 when Superintendent Taylor is suggesting that he had 14:25
11 received a call, which is denied by Paul Williams, but
12 had received a call from Paul Williams advising him
13 that he was in the D household.

14 A. Mm-hmm.

15 430 Q. And here we have quite a bit of activity between 14:26
16 Superintendent Taylor, the Commissioner, the Deputy
17 Commissioner and then you?

18 A. Mm-hmm.

19 431 Q. So can you help us in relation to that, what he was
20 discussing on the 8th March 2014? 14:26

21 A. No, I don't know what was happening that day. I would
22 assume that there was some breaking news story
23 happening, possibly, but I don't know what was
24 happening.

25 432 Q. Did he tell you in conversations that you would have 14:26
26 had with him subsequent to that, that Paul Williams had
27 visited Ms. D?

28 A. Again, for source protection reasons, I'm not going to
29 answer that question.

1 CHAIRMAN: well, you know, sometimes it can be the case
2 that people have to claim privilege for a genuine
3 reason.

4 A. Mm-hmm.

5 CHAIRMAN: And sometimes it can be the case that they 14:26
6 claim privilege as an illegitimate shield. And
7 unfortunately, I may be in a position where I have to
8 make a decision as to what you are doing here.

9 A. I am not -- I am not --

10 CHAIRMAN: You know, most people don't want to go into 14:27
11 the witness-box, most people don't want to answer any
12 questions, most people don't want to answer
13 correspondence --

14 A. Mm-hmm.

15 CHAIRMAN: -- from this Tribunal. 14:27

16 A. Mm-hmm.

17 CHAIRMAN: And there's a very strong indication of
18 delay and obfuscation coming, it seems, from your side.
19 Now, I'm saying it seems. There may be another
20 explanation. 14:27

21 A. Mm-hmm.

22 CHAIRMAN: I will get through to the end and hear
23 submissions before making my mind up.

24 A. Mm-hmm.

25 CHAIRMAN: But now I'm faced with a situation where you 14:27
26 are asked perfectly straightforward questions about
27 what other people have told the Tribunal and you're
28 saying to me, I can't give you an answer to that for
29 source protection. well, the question that is going

1 through my mind is, how could that possibly have
2 anything to do with source protection? And secondly,
3 is that actually a truthful answer or not.

4 A. It's --

5 CHAIRMAN: Now, I am just putting that out there to you 14:27
6 because, unfortunately, I have to make those decisions.

7 A. Absolutely -- okay. It is absolutely a truthful
8 answer. I would much prefer to be able to come in here
9 and answer all of your questions. It puts me in a very
10 difficult position, but it also puts me in a very 14:28
11 difficult position if I do answer those questions, it's
12 just going to open it up for me. And I am a journalist
13 and, going forward, I have to protect that.

14 CHAIRMAN: This is what David Taylor has told me, and
15 you are simply being asked is he telling the truth in 14:28
16 telling you that.

17 A. He has waived his privilege. It is -- I am the
18 journalist, and, going forward, if I start revealing
19 the contents of conversations that I had with people,
20 it's going to really damage me going forward. And I 14:28
21 think that I am not in a different position to other
22 journalists who have come before this Tribunal.

23 CHAIRMAN: well, you are, I'm afraid, very much, as
24 from what I can see at the moment.

25 433 Q. MR. MARRINAN: It's just, Ms. McCann, one of the 14:28
26 problems that we have is that, you know, I brought you
27 through the letters that went between the Tribunal and
28 you and your solicitor?

29 A. Yeah.

1 434 Q. And the immediate claim of privilege that was made by
2 journalists from your newspaper and you. And, I mean,
3 you had a piece of information that potentially was
4 very relevant to the work of the Tribunal that didn't
5 involve you disclosing any source, and that was the 14:29
6 fact that you had gone to visit Ms. D. And why didn't
7 you tell us about that?

8 A. There was no question that I wasn't going to tell you
9 about that. It was -- I was under the impression that
10 we were dealing with the privilege issue, and when it 14:29
11 came to a time when I would be -- when that had been
12 dealt with, I would have absolutely told you about
13 that. There was no question of ever concealing that.

14 435 Q. Ah, well, now, look, you know, I mean, we can go
15 through the letters, I can open them up. I mean, they 14:29
16 were asking for any information. The Chairman, in his
17 opening remarks - they were, in fact, broadcast - was
18 calling for any information?

19 A. The privilege issue was being explored first. And at
20 that point, when that had been dealt with, it was going 14:30
21 to open it up so that I could tell you exactly my
22 account.

23 436 Q. Well, you see, the only way that the Tribunal -- it's a
24 point that has been made by Alison O'Reilly, and I'm
25 not supporting Alison O'Reilly in this regard because 14:30
26 we're neutral in this regard, but it may well be
27 considered to be a valid point. She came forward at
28 the very first instance and provided a statement to the
29 Tribunal and in that statement this fact is disclosed,

1 albeit through hearsay, what she had heard from you.
2 Superintendent Taylor didn't tell us about this either,
3 even though, apparently, he knew.

4 A. The fact of the visit to Ms. D's house?

5 437 Q. Yes. On his own account, he knew that you had been to 14:30
6 visit Ms. D. He also knew that Eavan Murray had been
7 to visit Ms. D.

8 A. From what I know of Alison's statement, it was made
9 about a month before I made my own to the investigators
10 and it was made subsequent to Brendan Howlin naming 14:31
11 her. She was very adamant that she did not want to be
12 named in relation to that and she was only making that
13 statement because Brendan Howlin had identified her.

14 438 Q. No, you're missing the point entirely. The point is
15 that this Tribunal would not have known about your 14:31
16 visit to Ms. D.

17 A. It would have learnt of it a month later when I came to
18 meet your investigators, I was very straightforward in
19 relation to that matter.

20 439 Q. I think the Chairman is only too familiar with the 14:31
21 processes that the Tribunal has engaged with, with
22 Mr. Kealey, who is acting on your behalf, in trying to
23 seek out information, and this claim of privilege has
24 been put up as some sort of blanket to protect, it
25 would seem, journalists giving any information? 14:31

26 A. That is not the case, that is not the case.

27 440 Q. Well, this information couldn't possibly be covered by
28 source protection, isn't that right?

29 A. The privilege -- I am a journalist. I have on and off

1 the record conversations with people all of the time.
2 If I start to disclose the conversations, that just
3 leaves me open, going forward.

4 441 Q. Are you sure you didn't discuss these matters with
5 Superintendent Taylor since he made his protected 14:32
6 disclosure?

7 A. Absolutely, yes.

8 442 Q. Did you cut off all communication with him?
9 A. I vaguely recall speaking to him once or twice after he
10 left the Press Office, but yeah, essentially I haven't 14:32
11 spoken to him in quite a while.

12 443 Q. Since he got arrested and --
13 A. Yeah, I haven't spoken to him since that.

14 444 Q. You've had no contact at all --
15 A. No. 14:32

16 445 Q. -- with him in relation to it?
17 A. No.

18 446 Q. We then just move on with the phone records and we go
19 down through, because you went on maternity leave --
20 A. Mm-hmm. 14:33

21 447 Q. We see a lot of contacts between Superintendent Taylor
22 and Paul Williams.
23 A. Mm-hmm.

24 448 Q. And then we see on the 15th March of 2014, there's a
25 contact, a call from Superintendent Taylor to Eavan 14:33
26 Murray at 17:04, do you see that?
27 A. Yeah.

28 449 Q. It's just half a minute. But he phones you immediately
29 afterwards and he's on the phone for a minute, and then

1 he phones you again, it seems to be a very short call,
2 and then he phones Eavan Murray.

3 A. Mm-hmm.

4 450 Q. Was there any story that yourself and Eavan Murray were
5 interested in and discussing with Superintendent 14:34
6 Taylor?

7 A. I don't know what day of the week that was, the 15th.
8 I don't know what was happening that week.

9 451 Q. Again, it's a Saturday, if that helps you?

10 A. It was a Saturday? 14:34

11 452 Q. Yes.

12 A. Well, that would have been the day before that we go to
13 print, the day that we go to print, we're a Sunday
14 newspaper, so it was probably to do with a breaking
15 news story that day. 14:34

16 453 Q. And then 21:00, nine o'clock that evening, he's on the
17 phone to you again, 21:05, 21:10, 21:13 and then again
18 22:11. Presumably you've already gone to print at that
19 stage, isn't that right?

20 A. Not necessarily. It would be very close to going to 14:34
21 print.

22 454 Q. And then we can see contacts over at page 7000, there's
23 three contacts there. 21st March, 12:32, a minute
24 long, and, immediately afterwards, almost as soon as
25 he's put down the phone he's ringing Eavan Murray. Do 14:35
26 you see that?

27 A. Yeah.

28 455 Q. 12:33.

29 A. But we're only seeing the communication between him and

1 11:55, again into voicemail; and then at 12:07 there's
2 a call to Eavan Murray lasting 30 seconds; and then
3 there's another one at 12:27:55, again to Eavan Murray;
4 and then there's a text sent to you at 12:38.

5 A. Mm-hmm. 14:38

6 461 Q. Sorry, 15:38. There's then, at seven o'clock, there's
7 a call to Eavan Murray; 17:20, there's a call to Eavan
8 Murray; and then at 17:25 there's a call to Paul
9 Williams that appears to have gone into voicemail. And
10 then later on that day there's a series of further 14:38
11 calls to Eavan Murray and to -- text messages, and a
12 call to Paul Williams. It's Sunday; you're no longer
13 working?

14 A. No.

15 462 Q. David Taylor is in contact with the person who wrote 14:38
16 the article, Paul Williams?

17 A. Mm-hmm.

18 463 Q. On Ms. D?

19 A. Mm-hmm.

20 464 Q. He's in contact with you, a person who had shown an 14:38
21 interest in the story?

22 A. There was one text.

23 465 Q. And he is in contact with Eavan Murray --

24 A. Mm-hmm.

25 466 Q. -- who is a person who had an interest in the story? 14:39
26 A. Mm-hmm.

27 467 Q. I mean, one could conclude from that that what was
28 going on was some form of discussion by text or call
29 about Paul Williams' article on Ms. D?

1 A. I was on maternity leave, I had a very, very young baby
2 at that point. It's one text to me. I don't know what
3 was discussed in that text.

4 468 Q. But you're saying there was no such discussion, are
5 you, or was there? 14:39

6 A. I'm saying -- I'm again saying that I can't -- I can't
7 disclose my conversations with Superintendent David
8 Taylor for reasons of source protection.

9 469 Q. Well, he wasn't -- under no circumstances could he be
10 considered a source at this time. I am really just 14:39
11 asking you was -- when this appeared in the newspaper,
12 an article that clearly was referencing Ms. D and not
13 named but clearly a reference to anybody who knew
14 anything about it, a reference to Sergeant McCabe, that
15 here are four people who apparently had an interest in 14:40
16 this, perhaps talking about Paul Williams' article. I
17 mean, there's no protection of source in relation to
18 that.

19 A. I don't remember the contents of that text message. My
20 daughter was maybe two weeks old. But again, I can't 14:40
21 get into the ins and outs of conversations that I would
22 have had at that time with any source.

23 CHAIRMAN: I know, but, I mean, you keep coming back to
24 this, and it's like as if, you know, I think, you think
25 or somebody thinks or somebody advising you thinks that 14:40
26 I'm not aware of the rulings of the European Court of
27 Human Rights on journalistic privilege. Well, I
28 actually am a member of the European Court of Human
29 Rights, I'm sworn in as a member of the European Court

1 of Human Rights, I've sat on the European Court of
2 Human Rights. I know about this stuff.

3 A. Mm-hmm.

4 CHAIRMAN: And I'm not asking you to reveal any source.
5 I'm simply asking you, and Mr. Marrinan is simply 14:41
6 asking you, look, this is what David Taylor says, now
7 is it true or is it untrue?

8 A. Superintendent --

9 CHAIRMAN: I can't see for the life of me how that is
10 the revelation of a source. 14:41

11 A. Superintendent Taylor was a point of contact and also a
12 source, and discussing my conversations with him is
13 opening myself up to revealing sources.

14 CHAIRMAN: No, but, you see, the point is, I don't want
15 any information. Let's suppose -- look, the Clerkin 14:41
16 investigation, for instance, if we can just take that,
17 and again let's not get entangled in what would be a
18 tangent, but the Clerkin investigation clearly
19 indicated that when David Taylor left the Press Office
20 he was in contact with a number of journalists and was 14:41
21 giving them information which he shouldn't. Now, the
22 Gardaí obviously had a problem with that. And the
23 reason that there would be a problem with that is, as
24 you know, as we both know, that if details in relation
25 to particulars - for instance, how did somebody die, 14:42
26 were they strangled, were they stabbed as well, how
27 many stab wounds, what was the nature of the weapon, if
28 that got into the public media and then, let's say,
29 someone who is a suspect was arrested, and all of that

1 was in the public media, the allegation could be that
2 the person simply recited it because he was high up in
3 the Gudjonsson Suggestibility Scale. That is the kind
4 of thing. Now, I'm not asking about any of that, no
5 one is asking about any of that. That, to my mind, may 14:42
6 well be covered by journalistic privilege. In any
7 event, I'm not looking into it. But I'm in the very
8 strange situation that you were left off the list of
9 people to whom David Taylor besmirched Maurice McCabe
10 and then at a late stage you were added on together 14:43
11 with Eavan Murray.

12 A. Mm-hmm.

13 CHAIRMAN: You went up to the house.

14 A. Mm-hmm.

15 CHAIRMAN: You apparently phoned him to tell him what 14:43
16 you'd done, that is what he tells me, and then every
17 time you are asked any question about that, you say
18 journalistic privilege, journalistic privilege,
19 journalistic privilege. well, for a start, I have to
20 know the facts and circumstances on which you are 14:43
21 basing that, and then, secondly, I actually need to
22 know that you are actually telling me the truth,
23 because I can tell you, I'm not an idiot, and I have
24 sat here for very close to 90 days, and I know,
25 subject, of course, to hearing submissions in 14:43
26 accordance with In re Haughey, that an awful lot of
27 people haven't told me the truth.

28 A. I'm telling you the truth to the best of my ability. I
29 would much prefer to be able to come in here and answer

1 every single question.

2 CHAIRMAN: No, I know that, but that is not answering
3 my question.

4 A. But that's my position. I would much prefer to be able
5 to come in here -- 14:44

6 CHAIRMAN: It's not a question of adopting a position.
7 If you think you have journalistic privilege, I will
8 certain listen to that, but you have to give me the
9 facts and circumstances upon which you claim to base
10 it. 14:44

11 A. Because --

12 CHAIRMAN: And at the moment I just can't see how it
13 arises, and unfortunately at the moment a reasonable
14 person might see this as a complete smokescreen. I'm
15 not saying whether I see it that way or not, but I'm 14:44
16 here to listen. So let's carry on as best we can.

17 470 Q. MR. MARRINAN: Sorry, just finally, you'll appreciate
18 that the reason that I am probing you and asking you
19 these questions is because it's my duty to put these
20 matters to you and, by and large, I am putting to you a 14:44
21 scenario that may support the statement made by
22 Superintendent Taylor, and he is the one who has
23 appealed to people and journalists to come forward.

24 A. Mm-hmm.

25 471 Q. That he doesn't need any protection, that he's calling 14:45
26 on journalists that he says that he was briefing
27 negatively to tell the truth.

28 A. Mm-hmm.

29 472 Q. That's his position.

1 A. Mm-hmm.

2 473 Q. Do you know, I mean, that is not something that we put
3 together. I mean, could it ever be right that a source
4 could be left in jeopardy by a journalist exposed to
5 being condemned as a liar when you know that that's not 14:45
6 so and that the truth is that he was in contact with
7 you? Could that be in any way healthy for journalism,
8 for the truth or anything else?

9 A. I am in a position where I am trying my best to defend
10 not only my own career as a journalist but also assist 14:45
11 to the Tribunal. It is a very difficult position to be
12 in. By revealing the contents of my communication and
13 conversations with a source, is leaving me very much
14 open as a journalist to not be trusted when I continue
15 my career as I intend to do. 14:46

16 474 Q. Well, I mean, it would naturally follow that the
17 sources may not trust you in the future for the very
18 reason that you abandoned them in their hour of need?

19 A. Well, certainly not for source protection reasons.

20 475 Q. But, you see, that point could be advanced. I mean, if 14:46
21 Superintendent Taylor is telling the truth and there's
22 a wall of silence from journalists who he says he was
23 briefing negatively, if he is telling the truth but is
24 condemned as a liar because there's no evidence to
25 support him, that would be incredibly unjust to him, 14:46
26 wouldn't it?

27 A. He had every right to waive his privilege in relation
28 to this matter. But I, as a journalist, feel, like,
29 that doesn't release me from my own obligations in my

1 profession as a journalist.

2 476 Q. As a general statement of principle, but in terms of
3 the particular facts of this case, I am suggesting to
4 you that his waiver does release you because, by
5 claiming privilege, you're actually placing him in
6 jeopardy? 14:47

7 A. Privilege on this -- privilege and source protection is
8 a matter that is very important to journalists and it's
9 very important to me. I have to go back to being a
10 journalist when this is over and I have to try and 14:47
11 maintain that level of source protection in relation to
12 my profession.

13 477 Q. If we just have page 218 up on the screen, please.
14 This is what Superintendent Taylor said in his
15 statement to the Tribunal. 14:48

16 CHAIRMAN: Just let's hang on a moment, Mr. Marrinan,
17 if you wouldn't mind, please. I'm just wondering, I'm
18 sorry for interrupting you and I know this is
19 important, but a question there that Mr. Marrinan asked
20 you about leaving the source out to hang out to dry, if 14:48
21 it were a case that in the Central Criminal Court
22 somebody said, you know, I'm accused of murder but I
23 happen to know that I am not guilty because at the
24 particular time when I'm alleged to have been
25 committing this murder, I was having a meeting with 14:48
26 Alison O'Reilly and we were discussing the following,
27 which was a matter off the record, would you just say,
28 I'm not giving evidence in the Central Criminal Court
29 with a view to exonerating that person, I'm going to

1 leave that person out to dry and if they can get
2 convicted of murder even though I have evidence which
3 can suggest that they are, in fact, telling the truth
4 about that, well that's a matter for them, and I have
5 my career to think about, and also privilege is mine, 14:49
6 not the person with whom I am speaking, would you
7 really do that?

8 A. It's very extreme.

9 CHAIRMAN: well, it's not. This is very extreme, you
10 know, this is really very extreme. 14:49

11 A. I have been thinking --

12 CHAIRMAN: Just think about it. I mean, there is a man
13 who was the Garda Press Officer who is saying the
14 Commissioner and the Deputy Commissioner, in various
15 ways and with various degrees of responsibility, 14:49
16 decided, because they didn't like Maurice McCabe, to
17 literally destroy his character by spreading around
18 allegations of sexual abuse. Now, if you know anything
19 that is more serious than that, that's fine. But that
20 is not extreme, that is not an extreme example. This 14:49
21 is what we are talking about here.

22 A. I have been very clear on the fact that no member of An
23 Garda Síochána ever maligned Sergeant McCabe to me. I
24 have been clear on that.

25 CHAIRMAN: But, you see, I don't know in what context 14:50
26 you are actually using that kind of language. Like,
27 'orchestration', for instance, doesn't appear --

28 A. That was in response to a particular question.

29 CHAIRMAN: Hang on a minute. 'Orchestration' doesn't

1 appear anywhere in the terms of reference. Malign,
2 malign means speaking badly about something. If
3 necessary, we can define all the terms. And you are
4 saying today - and I am hearing it for the very first
5 time, by the way; you never said it to the 14:50
6 investigators beforehand, you never said any such
7 thing - I was never briefed negatively by any garda in
8 relation to Maurice McCabe. Can I tell you what I
9 think that actually means.

10 A. Mm-hmm. 14:50

11 CHAIRMAN: That they never said -- that no member of
12 the Garda ever said to you that he was accused of sex
13 abuse in the past, no member of the Garda ever said to
14 you that there is a person who lives up in Cavan who
15 may tell you more about this, no member of the Garda 14:50
16 ever said to you that he was a child abuser, no member
17 of the Garda ever said to you that he was embittered
18 against the force by reason of an investigation, no
19 member of the Garda ever said that he was driven by
20 agendas against the Gardaí, no member of the Garda ever 14:51
21 said to you that he was a person who was liable to make
22 things up or was, in fact, so obsessed by whatever
23 cause he was pushing forward that he couldn't be
24 trusted. Now, that is what I understand that to mean.
25 You may not understand the same thing, but that is 14:51
26 actually what you are telling me.

27 A. I sought out the information in relation to --

28 CHAIRMAN: well, again, please, you know, I am saying
29 one thing and then you answer, and I'm sorry for

1 cutting you off, but you give me a pre-prepared --

2 A. It's not --

3 CHAIRMAN: No, a pre-thought-out speech. Maybe you
4 would address what I have put to you.

5 A. I am addressing that, in the sense that I made my own 14:51
6 inquiries in relation to the Ms. D allegation. Nothing
7 was handed to me on a plate, or anything like that. I
8 went out of my way to try and, as best I could, firm up
9 the allegations, and they were with confidential
10 sources of mine that I did that. 14:52

11 CHAIRMAN: But not David Taylor?

12 A. I'm not saying -- I can't answer that question.

13 CHAIRMAN: All right. Well, that is fine. Well, then
14 I will reach whatever conclusion I have to reach. Not
15 David Taylor. Because, you know, David Taylor is a 14:52
16 member of An Garda Síochána, even now he's a member of
17 An Garda Síochána, he was actually a superintendent, he
18 was head of the Press Office, and you are refusing to
19 tell me whether it was him who gave you any detail as
20 to Ms. D or where Ms. D lived and you are refusing to 14:52
21 tell me as to whether, having visited Ms. D, you ever
22 spoke to him on the telephone, and, at the same time,
23 you're saying to me that, I have no evidence of any
24 orchestrated campaign by Garda management to malign
25 Maurice McCabe. And he is part of Garda management, he 14:52
26 is a superintendent.

27 A. Mm-hmm.

28 CHAIRMAN: And furthermore, you're also saying to me, I
29 was never briefed negatively by any garda in relation

1 to Maurice McCabe.

2 A. I'm trying my best to answer, to assist the Tribunal in
3 its work, in the best way that I can possibly can,
4 whilst still maintaining my own source protection.

5 CHAIRMAN: well, you know, other people have had 14:52
6 trouble in relation to this thing, Ms. McCann, and
7 other people have had difficulties as well, and, you
8 know, there it is. I think the truth is the most
9 important value that actually exists in life, but there
10 it is. 14:53

11 A. And so do I.

12 CHAIRMAN: I am glad to hear it.

13 478 Q. MR. MARRINAN: Just page 218 Ms. McCann, thanks. This
14 is just an answer from Superintendent Taylor, it's from
15 his statement. This is a reference to yourself and 14:53
16 Eavan Murray from the Irish Sun going up to visit
17 Ms. D. His answer is:

18

19 "I was aware that they were going up there. I did not
20 discourage it. I don't know if I knew Ms. D's name. I 14:53
21 knew that Ms. D lived up in Cavan. I don't know if I
22 knew their address. I don't think so. I do remember
23 Debbie McCann and Eavan Murray contacting me separately
24 and telling me at the time that they were going to do a
25 story before each of them went up to Cavan. I never 14:53
26 had the whole details of the Ms. D allegations."

27

28 Is any part of that the truth?

29 A. I can't answer that question.

1 479 Q. "I never had the minutiae of the exact allegations by
2 Ms. D against Sergeant McCabe."
3
4 From your discussions with Superintendent Taylor, is
5 that the truthful statement? 14:54
6 A. I can't answer that question.
7 480 Q. "I never saw the investigation file."
8
9 Is that a truthful statement from your discussions that
10 you had with Superintendent Taylor? 14:54
11 A. I can't answer that question.
12 481 Q. "I did not know that it was Mr. D's daughter that made
13 the allegations against Sergeant McCabe" -- or "I did
14 know", sorry.
15 14:54
16 "I don't think I gave these journalists any information
17 about the address of Ms. D."
18 A. Mm-hmm.
19 482 Q. Is that the truth?
20 A. I can't answer that question. 14:54
21 483 Q. "I recall they had a fair amount of information
22 themselves."
23
24 That appears to be correct?
25 A. I had sources on the issue. 14:55
26 484 Q. Pardon?
27 A. I had many sources on the issue, or a variety of
28 sources on the issue.
29 485 Q. "I was aware that they were going to go to the house.

1 Yes. I did not discourage them attending Cavan. I
2 would have encouraged them."

3

4 Is that the truth?

5 A. I can't answer that question.

14:55

6 MR. MARRINAN: Thank you. Would you answer any other
7 questions.

8 CHAIRMAN: All right. Look, before we go on, there is
9 just two things. No one is going to be rude to you,
10 and I'm going to make sure that happens, all right.

14:55

11 And then, secondly, I really want an estimate from
12 counsel, and I'm actually going to stick you to this,
13 do you know that, as to how long people are going to be
14 with you, because I think you need to know when you're
15 going to be finished here. And, you know, whether you
16 are right or you are wrong in relation to anything you
17 have done, you are absolutely entitled to respect, so I
18 am not looking at anybody in saying this, by the way.

14:55

19 MR. McDOWELL: Not more than 15 minutes.

20 CHAIRMAN: 15 minutes. Right. Mr. O'Higgins?

14:55

21 MR. MICHAEL O' HIGGINS: Erring on the side of caution,
22 Judge, half an hour, but I will be aiming for 20
23 minutes.

24 CHAIRMAN: All right. Thank you.

25 MR. GILLANE: Chairman, I have no questions.

14:56

26 CHAIRMAN: No questions.

27 MR. HOGAN: Chairman, I just wanted to clarify a few
28 matters. Less than a minute.

29 CHAIRMAN: Yes, Mr. Hogan.

1 MR. DOYLE: Doing my best, Chairman, I suppose I'll
2 certainly be 30 minutes, maybe 45.

3 CHAIRMAN: Yes.

4 MR. WHELAN: I will be, at most, ten minutes, Judge.

5 CHAIRMAN: That adds up to about an hour-and-a-half. 14:56
6 would you prefer to try and do it now or would you
7 prefer to get away?

8 A. I would prefer to do it now.

9 CHAIRMAN: You would prefer to do it now, all right.
10 Well, I know some people have to travel, etcetera, 14:56
11 etcetera, but I'm sorry, that's -- if people are
12 actually going to do this, and I'm going to put on a
13 stopwatch, and if that's how it's going to be done,
14 well then let's do it. Right. Mr. McDowell.

15 14:56

16 THE WITNESS WAS CROSS-EXAMINED BY MR. McDOWELL:

17 486 Q. MR. McDOWELL: Ms. McCann, my 15 minutes has started
18 now, so I'd better be brief. I'm appearing for
19 Sergeant McCabe, as you know. Could I ask you this:

20 we know in this Tribunal that Paul Williams has 14:57
21 informed us that, having visited Ms. D, he inquired of
22 Superintendent Taylor and received confirmation that
23 Sergeant McCabe had been investigated, that a file had
24 been sent to the DPP for a sexual assault, that a file
25 had been sent to the DPP and the DPP had confirmed and 14:57
26 decided that there should be no prosecution. Right.
27 we know that Paul Williams told us this.

28 A. Mm-hmm.

29 487 Q. And those three things are true, aren't they, to the

1 best of your knowledge now?

2 A. Mm-hmm, yes.

3 488 Q. Do you think that Superintendent Taylor was maligning
4 Sergeant McCabe by imparting those facts to Paul
5 Williams? 14:58

6 A. I think that there was an allegation and it was a
7 matter of fact.

8 489 Q. Yes.

9 A. I don't think that the allegation and the fact that an
10 allegation had happened is maligning somebody. 14:58

11 490 Q. Yes, that is the point I'm coming to. You see, I think
12 you -- I am putting this to you now fairly and
13 squarely.

14 A. Mm-hmm.

15 491 Q. And we're going to be brief. 14:58

16 A. Mm-hmm.

17 492 Q. That you have been very, very careful in your language,
18 and that, as an old English poet said, there is the
19 well-measured truth that tells the blacker lie. And on
20 this occasion, I am suggesting to you that, in saying 14:58
21 that there was no orchestrated campaign or smear by any
22 member of An Garda Síochána, you are carefully
23 distinguishing that from a situation which a guard
24 tells you a fact about Sergeant McCabe. Do you
25 understand me? 14:58

26 A. I had a variety of sources in relation to this issue.

27 493 Q. Yes. Would you answer the question I'm putting to you?

28 A. Yeah.

29 494 Q. Do you understand?

1 A. I do understand the question, yeah.

2 495 Q. I'm suggesting to you that you are distinguishing
3 between a guard saying this man was accused of sexual
4 abuse in 2006, or whatever it is, and a file was sent
5 to the DPP and the DPP directed no prosecution, you are 14:59
6 saying in your own mind, that is not a smear, that is
7 not maligning the man, that is purely giving a
8 statement of fact to Mr. Williams?

9 A. The information that I received, I received because I
10 went out and sought it. Nobody was handing this 14:59
11 information to me.

12 496 Q. Sorry. I didn't ask you whether you were handing it or
13 not. I'm asking you, are you distinguishing between a
14 smear, on the one hand, and somebody telling you a fact
15 which is true, on the other? 14:59

16 A. I'm distinguishing it in the sense that it wasn't
17 given -- this information wasn't given to me in the
18 sense to try and smear somebody. I went out and sought
19 it.

20 497 Q. Yes. And Paul Williams claims that he went and asked 14:59
21 Superintendent Taylor for this information and was
22 given it, isn't that right?

23 A. Yeah.

24 498 Q. Do you regard that as a smear; if you ask
25 Superintendent Taylor was this man accused of abusing a 15:00
26 young girl, was there an investigation, was a file sent
27 to DPP and did the DPP direct no prosecution, that is
28 not a smear in your mind if he answered those questions
29 truthfully, is that right?

1 A. If Paul Williams went out and David Taylor was a source
2 on the matter and he looked for the information and he
3 got a factual response --

4 499 Q. Yes. Is that a smear? Would you answer the question,
5 yes or no. 15:00

6 A. Well, I don't feel like the sources that I got this
7 information from were smearing Maurice McCabe.

8 500 Q. Sorry, I just asked you about that scenario with
9 Mr. Williams --

10 CHAIRMAN: I am just going to intervene. I'm sorry, 15:00
11 Ms. McCann, we actually will be here all night. There
12 is a specific question.

13 A. Yeah.

14 CHAIRMAN: And I will repeat it, and again, I'm sorry
15 for interrupting Mr. McDowell and yourself in relation 15:01
16 to your dialogue.

17 A. Mm-hmm.

18 CHAIRMAN: But the question is this: If a garda
19 officer, and every garda is an officer --

20 A. Mm-hmm. 15:01

21 CHAIRMAN: -- tells a journalist a particular person
22 had an allegation against them and they were
23 investigated --

24 A. Mm-hmm.

25 CHAIRMAN: -- is that maligning that person? That is 15:01
26 the question you're being asked.

27 A. No. In the context of my job, no, I ask questions all
28 the time, and I don't consider the person responding to
29 my question as maligning a person, no.

1 501 Q. MR. McDOWELL: So that if Superintendent Taylor tells
2 the truth --

3 A. Mm-hmm.

4 502 Q. -- to Paul Williams, he's not maligning Sergeant McCabe
5 or smearing him, is that your point of view? 15:01

6 A. If Paul Williams asked questions, specific questions in
7 relation to the allegation, and he got a truthful
8 answer from David Taylor, then, in my opinion, no, that
9 is not a smear. In the sense that I am a journalist
10 and I ask questions all the time of Gardaí, and, by me 15:02
11 getting those answers back in return, I don't consider
12 them maligning the character of all the people that I
13 am referring to.

14 503 Q. Fair enough. We're agreed on that.

15 A. Yeah. 15:02

16 504 Q. So when you tell this Tribunal, on your oath, that you
17 were never aware of any Garda smear campaign --

18 A. Mm-hmm.

19 505 Q. -- you aren't saying that the telling of a truthful
20 answer to a question about Sergeant McCabe could be 15:02
21 part of a smear campaign?

22 A. I am not saying that David Taylor was a source on this
23 or not.

24 506 Q. No, I am not asking you that. I am just asking you to
25 face up to what your evidence actually means, because 15:02
26 words have meaning on occasion. And I am putting it to
27 you that you are very carefully distinguishing between
28 factual statements about Sergeant McCabe made by any
29 Garda source and a smear, on the basis that they are

1 true or untrue or whether they were asked for by a
2 journalist or volunteered, is that your frame of mind?

3 A. Yes. Well, that would suggest that I -- if I were to
4 go out and ask questions of any individual in the
5 course of my work, that I would be maligning the person 15:03
6 who is responding to me as maligning and smearing
7 people across the board. That is not how it works.

8 507 Q. So that if any member of An Garda Síochána said to you
9 Ms. D has made an allegation many years ago against
10 Sergeant McCabe and a file was sent to the DPP after an 15:03
11 investigation and it was -- the DPP directed no
12 prosecution, that is not a smear?

13 A. I had -- no, I had a variety of sources on this matter,
14 some were Gardaí and some were not.

15 508 Q. Yes. 15:03

16 A. And by me asking them that question and getting back a
17 factual answer, I don't believe that they were smearing
18 him.

19 509 Q. You see, that is the whole point. We won't push it
20 much further on this point because my 15 minutes is 15:04
21 rapidly eroding. But I want to put it to you that you
22 have come here, using formulaic evidence, to
23 effectively mislead this Tribunal as to the source of
24 your information?

25 A. I absolutely have not. I have been answering the 15:04
26 questions to the best of my ability in this matter.

27 510 Q. I see. Now, the second point I just want to ask you
28 is: You said that before you asked Mr. Cox on the day
29 before you travelled up to Ms. D's home, you said, you

1 had the details and you elaborated on that and you said
2 that you understood what the allegation was and that
3 you had the DPP's directions?
4 A. I didn't have the DPP's directions. I understood that
5 the DPP had directed no prosecution in the case. 15:04
6 511 Q. Yes.
7 A. I didn't know the full content of the DPP --
8 512 Q. You didn't know the terms of the DPP's directions?
9 A. No.
10 513 Q. I see. But you had the details. What did you have by 15:04
11 details in terms of the allegation of abuse?
12 A. It was an allegation of inappropriate touching, is what
13 I can recall having at that time.
14 514 Q. So somebody with knowledge of the facts had said that
15 her allegation was inappropriate touching. Did you 15:05
16 know anything about a couch or playing hide and seek?
17 A. I don't believe I did at that time, no.
18 515 Q. Have you any idea how Alison O'Reilly could imagine
19 that you told her about this after your visit?
20 A. I have no idea how Alison O'Reilly learned about a 15:05
21 couch.
22 516 Q. But she couldn't have just imagined it, because it does
23 seem to coincide with the facts, isn't that right?
24 That's the allegation that was made?
25 A. Yeah. 15:05
26 517 Q. Isn't that right?
27 A. I don't know if that was subsequently written in
28 articles, I don't know.
29 518 Q. I see. Well, in any event, you said that you had the

1 details and that you knew the DPP's direction before
2 you confronted Mrs. D on her doorstep?

3 A. Mm-hmm.

4 519 Q. So what you were looking for was confirmation of the 15:06
5 inappropriate touching allegation and the fact that no
6 prosecution was directed against Sergeant McCabe, that
7 is why you went up there, isn't that right?

8 A. I was looking to expand on the information that I had
9 at the time, yes.

10 520 Q. And, you see, I've got to suggest to you that the 15:06
11 account you have given of your meeting with Mrs. D,
12 you've now said that she seemed upset?

13 A. Yeah.

14 521 Q. And you've implied that she was upset by reason of the 15:06
15 abuse that she was alleging had taken place against her
16 daughter?

17 A. No. I said that what -- no, she didn't go into the
18 specifics of the allegation at all with me. What I
19 said was that she came out and she -- when I said who I
20 was, she mentioned that she had been listening to the 15:07
21 news and she didn't -- she couldn't -- she had to turn
22 it off because she couldn't listen to Sergeant McCabe
23 being referred to as a hero.

24 522 Q. I see. You see, the point is that Mrs. D never said 15:07
25 anything of the kind when she gave evidence to this
26 Tribunal.

27 A. Okay.

28 523 Q. She said she had a very vivid recollection and she said
29 she did not make any remarks of that kind to you.

1 A. Well, that is my recollection of it. And I also,
2 within five minutes of leaving the house, rang my news
3 editor and relayed that information to him precisely.

4 524 Q. And I have got to suggest to you that -- who is that,
5 to Mr. Cox, who is not giving evidence, is that right? 15:07

6 A. Yes, yes.

7 525 Q. And who hadn't told the Tribunal -- hasn't assisted the
8 Tribunal by making a statement, is that right? You
9 know he hasn't given a statement in, don't you?

10 A. Yeah, I'm aware, yeah -- well, I think he is giving -- 15:07
11 he is --

12 526 Q. You know he didn't respond to the Chairman's appeal for
13 information, don't you? Now, could I ask you, what was
14 the date of your visit to the D household?

15 A. We have gone back over records to try and establish 15:08
16 that, and I don't know. It was sometime in and around
17 the end of February, start of March time.

18 527 Q. And did you get mileage allowance, or anything like
19 that?

20 A. Yeah, and we have gone back through all of that. 15:08

21 528 Q. And does the mileage show that trip?

22 A. I'm pretty poor at putting in my mileage at the best of
23 times, but, no, there is nothing that we can find
24 documentary-wise to suggest when I was up in Cavan.

25 529 Q. You see, we know that, according to Mr. D -- 15:08

26 A. Mm-hmm.

27 530 Q. -- that it was only after your trip --

28 A. Mm-hmm.

29 531 Q. -- and after Eavan Murray's visit --

1 A. Mm-hmm.

2 532 Q. -- and after he was contacted on Facebook, he alleged,
3 by Mick O'Toole --

4 A. Okay.

5 533 Q. -- Michael O'Toole -- 15:08

6 A. Yeah.

7 534 Q. -- that he decided to confide in Chief Superintendent
8 Reilly and make an arrangement with Mr. Williams.

9 A. Okay.

10 535 Q. So we are talking about a very narrow window of time, 15:09
11 aren't we; late February, early March?

12 A. Yeah, we are, yeah. And Mrs. D mentioned that she saw
13 that I was pregnant, so I was obviously clearly
14 pregnant when I called to the door.

15 536 Q. And did Mrs. D say that you mentioned that you were 15:09
16 going to be induced?

17 A. No, I was never going to be induced.

18 537 Q. She said you were.

19 A. Well, that's not -- I was never going to be induced.
20 In fact, I had my daughter early. 15:09

21 CHAIRMAN: Honestly, I really don't want to go into
22 that.

23 MR. McDOWELL: I don't want to go into your -- the
24 private matters of your pregnancy.

25 CHAIRMAN: I mean, people say these things, and 15:09
26 sometimes they imagine things, so, yes.

27 538 Q. MR. McDOWELL: well, I've got to suggest to you that we
28 are talking about a very narrow window of time between
29 late February and the 8th March when Mr. Williams goes

1 up and makes contact with the D family.

2 A. Yes.

3 539 Q. And I've got to suggest to you that you must have been
4 aware, having had what looked like an important story,
5 you must have been aware when Mr. Williams published a 15:10
6 similar story a month later, isn't that right?

7 A. I was aware, yeah.

8 540 Q. And were you disappointed?

9 A. I can't say I would use the word 'disappointed', no.
10 Like, every journalist who knocks on a door hopes to 15:10
11 get as much as information as they can out of that
12 doorstep. I get knocked back all the time when I knock
13 on doors. I don't think it would have been playing on
14 my mind or I would have been particularly disappointed
15 over it, no. 15:10

16 541 Q. I see. And you said that you -- I think you've
17 conceded to Mr. Marrinan that you had ongoing
18 discussions with Alison O'Reilly about the allegation
19 against Sergeant McCabe, is that right?

20 A. We would have discussed the allegation, yes. 15:10

21 542 Q. And you said that she had a slightly different position
22 from yours. Would you just tell the Tribunal now in a
23 couple of short sentences what was her position and
24 what was your position on this issue?

25 A. Em, I guess I was a little bit more sceptical in 15:11
26 relation to Sergeant McCabe at the time, only purely
27 based on the fact that I knew of this allegation and
28 probably based on me having met with Mrs. D at the
29 door. And Alison O'Reilly was not. She was probably

1 more of the view that what was -- that, you know -- I
2 don't really know -- I can't really explain what her
3 position of it was. But certainly I would have been
4 coming from it as, you know, I had met Mrs. D, I'd
5 learned of the allegation and I probably would have had 15:11
6 an opinion based on that.

7 543 Q. You see, I'm suggesting to you, Ms. McCann, that the
8 pair of you had radically different views of this
9 matter; Alison O'Reilly took Sergeant McCabe at his
10 word, and you were of the view that -- 15:12

11 A. You see --

12 544 Q. Sorry, just let me finish.

13 A. Sorry.

14 545 Q. -- you were of the view that Ms. D was very seriously
15 damaged as a result of sexual abuse at the hands of 15:12
16 Sergeant McCabe, that was your position.

17 A. I was of that -- and I probably was putting two and two
18 together and coming up with I don't know what, but I
19 was of that view based purely on the fact that I knew
20 of the allegation and I had met Mrs. D at the door. 15:12
21 So, yeah. But in terms of having --

22 546 Q. And what did Mrs. D say at the door about her daughter?

23 A. She didn't say anything about her daughter at the door.

24 547 Q. So how could you possibly come to a view, based on a
25 non-imparting of information, about whether the 15:12
26 allegation was true or untrue?

27 A. I just saw that she was upset at the door, she was
28 quite clearly upset at the door.

29 548 Q. She was upset at the door, that you arrived.

1 A. It wasn't --

2 549 Q. And she gave evidence here of that.

3 A. Her distress was not -- I would knock on people's doors
4 on a weekly basis as part of my job. I would try my
5 very best to be as polite and sensitive as I possibly 15:13
6 can. She wasn't upset by my being there. She was -- I
7 was of the opinion that she was upset at listening to
8 the news. That is what was relayed to me.

9 550 Q. So let's boil this down.

10 A. Yeah. 15:13

11 551 Q. You, on the basis of a complete hunch --

12 A. Mm-hmm.

13 552 Q. -- took the view that the allegation which you'd heard
14 in outline --

15 A. Yeah. 15:13

16 553 Q. -- and which you can't even give us any detail of
17 now --

18 A. Yeah.

19 554 Q. -- was likely to be true because you'd heard the
20 allegation itself and because Mrs. D looked upset on 15:13
21 the door when you arrived, but didn't discuss the
22 allegation with you, is that your evidence?

23 A. Yeah. It was very much sort of a -- yeah. And as I
24 said, I probably --

25 555 Q. Is that your evidence? 15:13

26 A. It is my evidence, yeah.

27 556 Q. Do you want to add anything to that?

28 A. No. I probably came away with a bit of, kind of a gut
29 reaction to how I found her at the door. I found her

1 to be credible. I put two and two together and I came
2 up with --

3 557 Q. And you got 22?

4 A. I have never met Ms. D, I don't know anything about her
5 state of mind. 15:14

6 558 Q. That is the whole point. And I'm suggesting to you
7 that Alison O'Connor's [sic] evidence is correct and
8 that you were radically of the view that Sergeant
9 McCabe was a perpetrator of child abuse and that this
10 was done -- this conclusion you arrived at was totally 15:14
11 on intuition or hunch --

12 A. That's absolutely --

13 559 Q. -- once somebody somewhere told you that such an
14 allegation had been made?

15 A. That is absolutely not true. To suggest that her 15:14
16 evidence --

17 560 Q. well, let's deconstruct that, please. First of all,
18 did you have any further information, other than the
19 allegation that you had been told about, about your
20 source or sources and your meeting with Ms. D and her 15:14
21 being -- her looking upset?

22 A. No.

23 561 Q. well, then, how could you possibly say there is a very
24 messed-up girl at the heart of it and nobody gives an
25 eff, how could you possibly say that? 15:15

26 A. Because, again, I had -- I had come to that opinion
27 based on hearing the allegation and based on meeting a
28 mother at the door.

29 562 Q. But listen, the DPP heard the allegation.

1 A. Mm-hmm.

2 563 Q. Superintendent Cunningham heard the allegation.

3 A. Yes.

4 564 Q. He investigated it.

5 A. Mm-hmm. 15:15

6 565 Q. And the DPP, we now know, said that there was no
7 offence disclosed at all.

8 A. Mm-hmm.

9 566 Q. So how could you come to the view that this girl had
10 been seriously effed up by abuse in these 15:15
11 circumstances?

12 A. No, I didn't come to the view that she had been abused
13 in any way; I came to the view that she was messed up,
14 yes, I came to that view.

15 567 Q. By what? By what? 15:15

16 A. Based on the fact that her -- on meeting her mother,
17 her mother clearly believed something had happened.

18 MR. McDOWELL: I think my 15 minutes is up now.

19 CHAIRMAN: If you want to ask a couple more questions,
20 please. And again, I'm trying to make sure that you 15:16
21 don't have to be here for longer than you need to.

22 568 Q. MR. McDOWELL: There's just one or two points. As I
23 understand your claim of privilege here - and I'm going
24 to leave it to other people to argue about it because
25 Sergeant McCabe is not going to be making substantial 15:16
26 submissions on privilege as a point - but as I
27 understand your claim of privilege, is that it's in
28 respect of off-the-record remarks that may or may not
29 have been made to you by Superintendent Taylor, is that

1 right?

2 A. Yes.

3 569 Q. And obviously you're not claiming it in respect of
4 on-the-record remarks, because that would be absurd,
5 isn't that right? 15:16

6 A. Yes, of course, yeah.

7 570 Q. And, you see, surely, and I put it this way to you,
8 surely the McCabe family are entitled to a little bit
9 of the truth here today?

10 A. Absolutely, yes. 15:16

11 571 Q. And surely former Commissioner Callinan and
12 Commissioner O'Sullivan are entitled to a little bit of
13 the truth --

14 A. Yeah, absolutely.

15 572 Q. -- from your mouth? 15:17

16 A. Absolutely, yes.

17 573 Q. And if it were the case that Superintendent Taylor had
18 never imparted any information to you in relation to
19 Sergeant McCabe of a factual kind --

20 A. Mm-hmm. 15:17

21 574 Q. -- concerning these allegations, surely you would not
22 damage your reputation or future as a journalist by
23 simply confirming that on oath to the Tribunal now?

24 A. Sorry, I don't --

25 CHAIRMAN: Maybe if you look at the question again. 15:17
26 So, if Superintendent Taylor had never imparted any
27 information to you --

28 A. Mm-hmm.

29 CHAIRMAN: -- of a factual variety --

1 A. Mm-hmm.

2 CHAIRMAN: -- about Sergeant McCabe --

3 A. Mm-hmm.

4 CHAIRMAN: -- would you simply confirm that now on oath
5 to the Tribunal? 15:18

6 A. would I confirm that he has disclosed information of a
7 factual --

8 575 Q. MR. McDOWELL: Concerning allegations of sexual abuse
9 against Sergeant McCabe?

10 A. Again -- 15:18

11 576 Q. Surely you can answer that question, truthfully and on
12 oath?

13 A. well, again, I'm getting into -- I'm going back into
14 the same situation I have been in, in the sense that
15 you are asking me to disclose conversations that I had 15:18
16 with a -- on an off-the-record basis.

17 577 Q. One last point to make to you. Just for your own
18 information --

19 A. Yeah.

20 578 Q. -- I will be making a submission at the end of this 15:18
21 module --

22 A. Okay.

23 579 Q. -- that your failure to give a straight answer to that
24 last question I put to you, strongly implies that
25 Superintendent Taylor did impart information to you 15:18
26 about Sergeant McCabe. I just want to give you one
27 last opportunity to consider whether I'd be justified
28 in making that submission.

29 A. would you be justified?

1 580 Q. Yes.

2 CHAIRMAN: In other words, do you want to say anything
3 about that? what Mr. McDowell is saying to me, that I
4 ought to draw an inference from --

5 A. Again, I -- 15:19

6 CHAIRMAN: Just hang on a -- listen, I know it's easy
7 to rush into things. Sorry, what Mr. McDowell is
8 saying to me on behalf of Sergeant McCabe is that he's
9 going to say to me - well, he's saying it to me now -
10 that I would be justified in drawing an inference that 15:19
11 you're not telling the truth and that you're concealing
12 the truth in relation to matters because of the nature
13 of what Superintendent Taylor, in fact, told you, which
14 you're unwilling to impart to the Tribunal. That is
15 what he is saying. Do you want to say anything about 15:19
16 that?

17 A. Well, I'm not -- like, I absolutely don't want that
18 inference to be taken from what I am saying. I am
19 saying it because I am being asked to disclose
20 conversations that were off the record from a source at 15:19
21 the time. That is what I am being asked to disclose.
22 And I don't feel I can do that.

23 CHAIRMAN: So, Mr. O'Higgins, it is twenty past three.

24

25 THE WITNESS WAS CROSS-EXAMINED BY MR. MICHAEL 15:19
26 O'HIGGINS:

27 581 Q. MR. MICHAEL O'HIGGINS: Thank you. Can I ask that page
28 5258 be put up on the screen, please. Just while we're
29 waiting, Ms. McCann, I appear for Superintendent Taylor

1 and I am going to get through the material as quickly
2 as I can. I am aiming for 20 minutes. 5258 is on the
3 screen now. This is Superintendent Taylor's contact
4 with you.

5 A. Mm-hmm. 15:20

6 582 Q. I just want to draw to your attention, going through
7 from the bottom of the page there's calls from the 12th
8 June, and following on to page 5262, up to the 12th
9 April the following year --

10 A. Mm-hmm. 15:20

11 583 Q. -- there are approximately, by my calculation, about
12 164 contacts between him and you?

13 A. Okay.

14 584 Q. And they are spread fairly evenly over the months - 21,
15 9, 15, 8, 15, 25, 10, 21 in January, 23 in February, 17 15:20
16 in March and 1 in April. Now, it seems a fair
17 observation to make that in all of that contact, and
18 his contact with you is just a snapshot of him
19 returning calls, perhaps, or ringing up to find out
20 something, it seems inconceivable, with that level of 15:21
21 communication between the two of you, that Sergeant
22 McCabe wasn't discussed by you, isn't that so?

23 A. We would have been in communication on a weekly basis
24 throughout each week and we would have -- there was
25 ongoing communication between us. 15:21

26 585 Q. In fairness, you've just summarised my emphasis on the
27 fact of communication, but the question I was asking
28 you was: The volume of communication seems to me to
29 reach an inconceivable -- it is otherwise than

1 inconceivable that you didn't talk to my client about
2 Sergeant McCabe?

3 A. I think the volume of communication is broken down to
4 about three or four communications per week, so it's
5 not -- do you know, for a Garda Press Officer it's 15:22
6 not -- it's probably the same amount as any other crime
7 journalist, do you know, if not maybe a little bit less
8 for some and more for others.

9 586 Q. Well, let's put the records aside. I'm saying that
10 during that period, it is inconceivable you didn't have 15:22
11 discussions with Superintendent Taylor about Sergeant
12 McCabe?

13 A. Well, it was during a period of when the penalty points
14 scandal was very much big in the news, so I'm sure
15 Sergeant McCabe's name would have been mentioned. 15:22

16 587 Q. Well, you're doing that by process of elimination. I'm
17 asking you to look into your memory, your recollection
18 of the exchanges you had with him, and tell me whether
19 you had discussions with him about Sergeant McCabe?

20 A. Again, I'm not going to answer that question because 15:23
21 I'm not going to -- I'm not going to tell you
22 conversations that I had with somebody that were off
23 the record.

24 588 Q. Well, I'm inferring, first of all in neutral terms,
25 that you did have discussions with him, do you follow 15:23
26 me?

27 A. Okay.

28 589 Q. And you're accepting that without saying the word
29 'yes'?

1 A. I am accepting that I had discussions with him?
2 590 Q. About Sergeant McCabe?
3 A. I'm not accepting that at all. I'm telling you that I
4 can't answer --
5 591 Q. You can't answer? 15:23
6 A. -- about the contents of our communication.
7 592 Q. Well, could I just give you one of the reasons why I'm
8 asking that, because notwithstanding there has been a
9 Tribunal of Inquiry which has been sitting now for
10 quite a while, it seems to me that the conversations 15:23
11 that you could have been having with them about
12 Sergeant McCabe, are very limited, do you understand
13 what I mean by that?
14 A. Sorry, can you say that again.
15 CHAIRMAN: I think you should explain 'very limited', 15:23
16 what do you mean by that, Mr. O'Higgins?
17 593 Q. MR. MICHAEL O' HIGGINS: well, what I am saying is,
18 first of all, as a working brief, I'm taking it,
19 yourself and Superintendent Taylor discussed Sergeant
20 McCabe, and I'm taking, as a corollary of that, that, 15:24
21 at the end of the day, whatever these discussions were,
22 there could only actually have been a small number of
23 areas that were discussed between you and actually a
24 small number of things that could have been said about
25 him. Do you follow me? 15:24
26 A. Yes.
27 594 Q. And what I am anxious to ascertain is, simply, what was
28 said between you about Sergeant McCabe, because it
29 seems to me you could only have had conversations along

1 the following lines: totally officious and official
2 exchanges which were neutral, instances where
3 Superintendent Taylor was speaking well of Sergeant
4 McCabe or instances where he was speaking badly of him,
5 and I would want to know what you say happened so I can 15:24
6 test your response against what the client says.

7 A. I can't answer -- I can't answer questions that relate
8 to communications that I had with an off-the-record
9 source.

10 595 Q. Did you have similar discussions, any type of similar 15:25
11 discussions with Commissioner Callinan?

12 A. I can't answer that question.

13 596 Q. Did you have any similar discussions with Commissioner
14 O'Sullivan?

15 A. I can't answer that question. But at the time I wasn't 15:25
16 in communication with either Commissioner Callinan or
17 then-Deputy-Commissioner O'Sullivan.

18 597 Q. Well, is that not answering the question?

19 A. In a roundabout way.

20 CHAIRMAN: well, it does answer the question, 15:25
21 Mr. O'Higgins, it does answer the question. If you're
22 not talking to someone, they can't tell you something.
23 So if you weren't talking to either of them, so that's
24 fine. And you're saying throughout the 23-month period
25 I'm concerned with -- 15:25

26 A. Yeah.

27 CHAIRMAN: -- no, you weren't talking to them.

28 A. I possibly met the Commissioner at a press --

29 CHAIRMAN: No, that's fine. Yes, you meet them over

1 some kind of tea party, or whatever, that's fine.

2 MR. MICHAEL O' HIGGINS: My memory could be fallible on

3 this, but did you do an interview with Commissioner

4 O'sullivan after she came to office?

5 A. I did, yes. 15:26

6 598 Q. well, that is contact during the relevant period?

7 A. That's not --

8 599 Q. That is outside the period.

9 CHAIRMAN: It's just after it.

10 MR. MICHAEL O' HIGGINS: I beg your pardon. 15:26

11 CHAIRMAN: Because the first thing she did was to

12 move --

13 600 Q. MR. MICHAEL O' HIGGINS: And I think you'd attended a

14 book launch, Paul williams' book launch, did you?

15 A. I did, yes. 15:26

16 601 Q. was that after the period?

17 A. It was.

18 602 Q. It was?

19 A. Yeah.

20 603 Q. All right. So -- 15:26

21 CHAIRMAN: He complained that Gardaí attending book

22 launches are very well known not to buy the book. I

23 don't know if you had any such conversation with him?

24 I am sure that is not true, by the way.

25 A. I'm sure that is a complaint for every author. 15:26

26 604 Q. MR. MICHAEL O' HIGGINS: Do you see, Ms. McCann, what

27 our difficulty is? I have to put my client's case.

28 A. Mm-hmm.

29 605 Q. Even if you are maintaining that, yes, we had

1 discussions about Sergeant McCabe but the discussions
2 were benign in nature or at least didn't do Sergeant
3 McCabe down in any way, I would be entitled to ask
4 questions about that to test your answers, do you
5 follow me? 15:27

6 A. Yes.

7 606 Q. Do you see the disadvantage I am under?

8 A. Yes.

9 607 Q. You do take note of the fact, and I know I'm being
10 repetitive here because it's been said already many 15:27
11 times, that my client has said he doesn't object to you
12 saying to the Tribunal what the discussions were about?

13 A. Yes. But I don't feel that releases me from my
14 obligations.

15 608 Q. Do you accept that you had a conversation with him 15:27
16 before you went up to Ms. D's house?

17 A. Again, I can't answer that question.

18 609 Q. Well, could I just put to you --
19 CHAIRMAN: well, in that very broad terms it's clear
20 that you did, because, I mean, if there's 150, or 15:28
21 whatever it is, contacts --

22 A. Yeah.

23 CHAIRMAN: -- and that's only him ringing you or
24 texting you, presumably there's more on your side.

25 A. We were speaking -- 15:28

26 CHAIRMAN: So you did have a conversation?

27 A. -- multiple times each week, so yes.

28 610 Q. MR. MICHAEL O' HIGGINS: I mean, I am --
29

1 "Specifically in the context of being asked whether you
2 provided any information to Debbie McCann which led her
3 to attend at the home of Ms. D?"
4 A. Mm-hmm.
5 611 Q. And he says that he remembers you contacting him and 15:28
6 telling him at the time that you were going to do a
7 story and you were going up to Cavan. Did that happen?
8 A. I can't answer that question, again for source
9 protection reasons. But to tell somebody, anybody,
10 that I was going to do a story, is just not true, it's 15:28
11 not the case. I went --
12 612 Q. Sorry?
13 A. That I was going to do a story, that's just simply not
14 true. I didn't tell anybody that because I didn't know
15 what was going to happen on that door. And we 15:29
16 actually -- to the best of my knowledge of what
17 happened that week when I did knock on Ms. D's door, it
18 was very much on a let's go up and see what happens,
19 and that was it.
20 613 Q. Okay. 15:29
21 A. There was nothing more to it than that.
22 614 Q. Well, okay, on a tentative basis, did you disclose to
23 him that you were going to go up tentatively and probe
24 it?
25 A. Again, I'm not going to answer that question. 15:29
26 615 Q. And he says -- now, the statement is a little bit
27 unsatisfactory because he's answering the question with
28 respect to yourself and Eavan Murray at the same time,
29 he's applying his mind to both, but even making

1 allowance for that, he says that you had a fair amount
2 of information yourself. Can you comment on that?

3 A. I'm not going to comment on the details of the
4 conversations that I had with Superintendent Taylor.

5 616 Q. And he says: 15:29
6
7 "I was aware you were going to the house. I didn't
8 discourage you, I would have encouraged you."
9

10 Did that happen? 15:30

11 A. Again, I'm not going to comment on the details of any
12 communication that I had with Superintendent Taylor.

13 617 Q. I should put to you, because it has been put to you by
14 Mr. Marrinan, and I don't want any unnecessary
15 ambivalence about this, I am in the unusual position, 15:30
16 Ms. McCann, that I'm probably the only person in the
17 room who is, in advancing their client's case, has to
18 advance that they did very inappropriate things, do you
19 understand me?

20 A. Mm-hmm. 15:30

21 618 Q. But I cannot advance the theory put by Mr. Marrinan
22 that he directed you to go to the house.

23 A. Mm-hmm.

24 619 Q. And I'm just, in the interests of clarity and on my
25 client's instructions, I am putting it to you that he 15:30
26 didn't direct you to go to the house?

27 A. Excuse me?

28 620 Q. I am putting it to you that he didn't direct you to go
29 to the house?

1 A. Well, nobody directs me to do anything, other than my
2 news editor.

3 621 Q. And nor did he conceive of the idea that you would go
4 to the house.

5 A. I'm not going to answer that question. 15:31

6 CHAIRMAN: In other words, the question really at the
7 bottom, the bottom line of the question is: Did he
8 assist in terms of giving any information as to where
9 the house was, as to who the persons involved were, as
10 to whether people might be willing to talk, or anything 15:31
11 like that, to you? That is really Mr. O'Higgins'
12 question. I'm not asking you; he's asking you that.
13 And your answer is?

14 A. Again, I can't disclose confidential conversations that
15 I would have had. 15:31

16 622 Q. MR. MICHAEL O' HIGGINS: And similarly on that front, he
17 didn't give you any of those details because he didn't
18 have them, and any conversation he had with you was
19 after you had told him you were going up there. Can
20 you confirm or deny that? 15:32

21 A. I'm not going to disclose the details of any
22 conversations we had.

23 CHAIRMAN: Well, there was certainly a conversation
24 afterwards because you were in contact regularly, but
25 what you're saying is you're not going to say -- 15:32

26 A. We were in contact on an ongoing basis.

27 CHAIRMAN: -- what anybody said or what you said to him
28 after being in the house?

29 A. That's my position, yes.

1 CHAIRMAN: Yes. And you're not even going to go so far
2 as to say, yes, I did tell him I was in the house and
3 the following happened, like you've told me?
4 A. Yeah, well, you know --
5 CHAIRMAN: You met Mrs. D at the door, she remarked on 15:32
6 you being pregnant, she was upset that she'd just heard
7 something about Maurice McCabe on the radio in a hero
8 context and had turned off the radio?
9 A. Mm-hmm.
10 CHAIRMAN: You're saying you can't tell the Tribunal 15:32
11 that you said that, for instance, to David Taylor, if
12 you did?
13 A. Well, no, because again we're getting into me
14 communicating with a contact of mine that was at times
15 off the record, and I don't want to get into the 15:32
16 communications that we had. I can't disclose the
17 details of those conversations.
18 623 Q. MR. MICHAEL O' HIGGINS: And again, although I'm not a
19 party to and I'm not going to get involved in any
20 difference or conflict between your account and 15:33
21 Ms. O'Reilly's account --
22 A. Mm-hmm.
23 624 Q. -- there is just one point I do want to make; insofar
24 as Ms. O'Reilly quotes you as saying that my client
25 told you that this young girl was in a terrible state, 15:33
26 or words to that effect --
27 A. Mm-hmm.
28 625 Q. -- my instructions are Superintendent Taylor never said
29 that to you and indeed was not privy and did not have

1 any information as to the young girl's state of mind.

2 A. Again, I'm not going to comment on that.

3 626 Q. Just finishing up, you mentioned murmurings.

4 A. Mm-hmm.

5 627 Q. Can I just ask you in just the most thumbnail sketch, 15:33
6 what were the murmurings, what were they saying, when
7 did you hear them, who said them?

8 A. I don't know when I heard them. They were very vague,
9 from what I remember at the time, and it wasn't until I
10 went to actively firm up the information that I became 15:34
11 aware of what the allegation really was.

12 628 Q. Well, we can take it that, however vague they were,
13 they were sufficiently credible to take them to the
14 next level?

15 A. Yes. 15:34

16 629 Q. Now, do you have any idea who told you this?

17 A. No. Sorry, do I have any idea who told me what?

18 630 Q. Who was the first person that said there's a
19 question-mark over Sergeant McCabe about sexually
20 assaulting a minor, or words to that effect? 15:34

21 A. I don't know if I knew that level of detail before
22 actively seeking it out, a minor and all of that. I
23 don't remember -- I can't remember the person who told
24 me.

25 631 Q. Well, take it to the next level then. There was 15:34
26 some -- enough tittle-tattle to make a few calls. Do
27 you remember who told you that?

28 A. That specific allegation?

29 632 Q. Yeah.

1 A. I do remember the person who told me that, but I'm not
2 going to disclose that here.

3 633 Q. Can you tell us whether it was a guard or a civilian?
4 A. There were multiple sources that I was speaking to in
5 relation to this at the time. Some were Gardaí, some 15:35
6 were not.

7 634 Q. And were they confirming across a broad spectrum?
8 A. Not all confirming, no.

9 635 Q. Was there sufficient to amount to a broad spectrum,
10 sufficient confirmation that is? 15:35
11 A. Yes, that we felt that we could go and knock on the
12 door, yes.

13 636 Q. So does that suggest then that this information was in
14 circulation and available to journalists?

15 A. Well, no, I had to actively seek it out. I had to 15:35
16 make --

17 637 Q. I appreciate that.
18 A. -- my own inquiries.

19 638 Q. It didn't come in the envelope, but it was available,
20 the broad spectrum of information was out there and 15:35
21 readily available if you knew the right persons to ask?

22 A. Well, that is the same with every story that we would
23 look at.

24 CHAIRMAN: well, I mean, that could be important. So
25 is the allegation in relation to the matter, the DPP's 15:35
26 direction, etcetera, you said it was from a source and
27 that is what I wrote down; you're now saying it was
28 from multiple sources, both Garda and civilian?

29 A. Yeah, I don't think I have ever -- I don't know where I

1 have said 'source', but I think I've always said there
2 were a variety of sources.

3 CHAIRMAN: well, I could have written you down wrong
4 now this morning, but that is what I wrote down. So it
5 is multiple sources, Garda and civilian? 15:36

6 A. Mm-hmm.

7 639 Q. MR. MICHAEL O' HIGGINS: And was my client one of those
8 sources?

9 A. Again, I'm not going to comment on that. I can't
10 answer that question. 15:36

11 640 Q. Finally, could I ask you to go, please, to page 5264.
12 This is a letter that was written by the in-house
13 solicitor to the Tribunal. I will direct your
14 attention to -- this is page 5264 and the penultimate
15 paragraph beginning with the sentence "That said". Do 15:37
16 you see there it says in three or four lines --

17 CHAIRMAN: oh, sorry, this is a letter written by the
18 in-house solicitor of --

19 MR. MICHAEL O' HIGGINS: Yes, to the Tribunal.

20 CHAIRMAN: what is the name of the company? Is it 15:37
21 Irish --

22 MR. MICHAEL O' HIGGINS: DMG Media Ireland.

23 CHAIRMAN: what does that stand for?

24 MR. McDOWELL: Daily Mirror Group.

25 A. Mail. 15:37

26 CHAIRMAN: All right. So that is written to the
27 Tribunal?

28 MR. MICHAEL O' HIGGINS: It is.

29 CHAIRMAN: Sorry, Mr. O'Higgins, I thought you said the

1 solicitor to the Tribunal.

2 MR. MICHAEL O' HIGGINS: Sorry, to --

3 CHAIRMAN: No, it's fine. Anyway, sorry, you were at a
4 point, yes.

5 MR. MICHAEL O' HIGGINS: 2nd March this year. 15:37

6

7 "That said, the fact that any person in the Press
8 Office, or otherwise, had open communication with a
9 journalist does not mean that he or she cannot be a
10 confidential source of information. Such interactions 15:37
11 happen all the time. Thus, government or party
12 political press officers can speak on the record to a
13 journalist, they can then separately or indeed as part
14 of the same conversation speak on condition of
15 confidentiality and the press are obliged to respect 15:38
16 that confidence."

17

18 Isn't that right?

19 A. Mm-hmm.

20 641 Q. And then it goes on in the next paragraph: 15:38

21

22 "For the avoidance of any doubt, however, I can confirm
23 that none of the open communications that Ms. McCann
24 had with Detective Superintendent Taylor relate to
25 matters falling within the terms of reference of the 15:38
26 Tribunal."

27 A. Mm-hmm.

28 642 Q. Does that seem to follow that the ones that are not
29 open communications do fall within the terms of

1 reference?

2 A. No, I'm just not commenting on them, full stop. I'm
3 not saying that they do and I'm not saying that they
4 don't.

5 643 Q. Well, is that not a slightly different question to what 15:38
6 you were saying, what was said? I mean, I'm asking it
7 in a much more broad format.

8 CHAIRMAN: well, you know, this language, I mean, if
9 somebody says to somebody, do you eat ice-cream and
10 broccoli? And the person says, well, I certainly 15:38
11 eat-ice cream but I am saying absolutely nothing about
12 broccoli. I mean, what's the answer to the question?

13 A. Well, I'm being asked to comment on my off-the-record
14 communications with Superintendent Taylor.

15 CHAIRMAN: I mean, on-the-record communications I 15:39
16 presume we know about, because it's utterly futile.
17 They'll get into the newspaper and saying: Today
18 Superintendent Taylor disclosed that.

19 A. Mm-hmm.

20 CHAIRMAN: And it would be the front page of whatever 15:39
21 newspaper you care to think of.

22 A. Mm-hmm.

23 CHAIRMAN: The Irish Daily Mail.

24 A. Mm-hmm, mm-hmm.

25 CHAIRMAN: with his name there and maybe a nice 15:39
26 photograph as well. So these on-the-record
27 communications --

28 A. Yeah.

29 CHAIRMAN: -- and then off-the-record communications.

1 A. Mm-hmm. But the off-the-record, that is where the
2 source issue comes into it.

3 644 Q. MR. MICHAEL O' HIGGINS: Yes, but can you -- I'm not
4 trying to prise an answer from you, but can you clarify
5 for me, is it the case that you're not willing to say 15:39
6 whether the off-the-record address issues raised in the
7 terms of reference?

8 A. I'm telling you that I can't say that they did and I
9 can't say that they didn't.

10 645 Q. And I think I probably know the answer to this, and 15:40
11 this is my final question, but I notice in the
12 statement Ms. O'Reilly refers you as referring to John
13 Wilson as a lunatic.

14 A. Mm-hmm.

15 646 Q. And that's sort of a phrase that -- or a phraseology 15:40
16 that has come up in evidence in the case. What's the
17 source for that, can you tell us?

18 A. I don't remember saying that. I don't remember knowing
19 a huge amount about Garda Wilson at the time. To my
20 mind, that didn't happen, so there's no source. 15:40

21 MR. MICHAEL O' HIGGINS: All right. Thank you very much
22 Ms. McCann.

23 CHAIRMAN: Did you have any questions?

24 MR. GILLANE: No, Chairman.

25 CHAIRMAN: So, Mr. Hogan, you're appearing on behalf 15:40
26 of?

27 MR. HOGAN: I just have a few short questions.

28 CHAIRMAN: But you're appearing on behalf of the
29 witness?

1 MR. HOGAN: Sorry, Chairman?
2 CHAIRMAN: You're appearing on behalf of Daily Mirror
3 Group, no?
4 MR. HOGAN: No, I am appearing on behalf of Ms. D and
5 the D family. 15:41
6 CHAIRMAN: Oh, right. Well, if there is any question
7 to be asked, yes. Do you want to clarify something?
8 MR. HOGAN: I just want to clarify a couple of things.
9 CHAIRMAN: Sorry, Mr. Kealey, I will certainly come to
10 you, but I think the right place for you to be is at 15:41
11 the end.
12
13 THE WITNESS WAS THEN CROSS-EXAMINED BY MR. HOGAN:
14 647 Q. MR. HOGAN: So, Ms. McCann, I just wanted to confirm a
15 number of things with you. One is that I don't think 15:41
16 you received any invitation from the D family, either
17 Ms. D or Mr. or Mrs. D to visit the house when you did?
18 A. No, no.
19 648 Q. You did it on your own initiative?
20 A. Well, I did it after getting guidance from my news 15:41
21 editor, yes.
22 649 Q. And you never had any meeting or discussion with Ms. D,
23 isn't that correct?
24 A. No, never.
25 650 Q. You never interviewed her? 15:41
26 A. No, never.
27 651 Q. And just in relation to some of the evidence that you
28 have given today in relation to what you took away from
29 the conversation, the brief conversation that you had

1 with Mrs. D --

2 A. Mm-hmm.

3 652 Q. -- and the suggestion that Mrs. D led you to believe
4 that -- or led you to form the opinion that she had
5 been through a hard time or that Ms. D had been through 15:42
6 a hard time --

7 A. Mm-hmm.

8 653 Q. -- I have to suggest to you that no conversation was
9 had between you and Mrs. D that you could have formed
10 that opinion from? 15:42

11 A. That is my recollection of it, and I immediately
12 relayed that information back to my news editor at the
13 time.

14 654 Q. And I have to suggest to you, Ms. McCann, that, in
15 fact, Mrs. D was upset and she was upset because you 15:42
16 had arrived on her doorstep unannounced, seeking to ask
17 her questions?

18 A. I didn't get that sense from her. I got the sense that
19 she was upset from listening to the radio, and that is
20 what I relayed back to my news editor. It was all very 15:42
21 polite and nice. There was no animosity, or anything,
22 there at all.

23 655 Q. In her own words in her evidence, she said she was
24 horrified when you turned up on her doorstep --

25 A. Mm-hmm. 15:43

26 656 Q. -- asking her questions. And, in fact, she said in
27 evidence that it was you who suggested to her that she
28 must have been through a hard time. You said that to
29 her, that was her evidence.

1 A. I remember introducing myself and telling her why I was
2 there.

3 CHAIRMAN: You might have said something like that, is
4 that the idea?

5 A. I possibly did, I don't -- 15:43

6 CHAIRMAN: Yes.

7 A. Yeah.

8 657 Q. MR. HOGAN: She said in her evidence:

9
10 "She said she --" 15:43

11
12 That is you, Ms. McCann.

13
14 "-- said something to me like, I know you have been
15 going through a hard time. There's a bit of rumours. 15:43
16 She said something about the whistleblower and I just
17 looked. She wasn't directly in front of me, she was
18 almost to the side of me. I just looked to the side of
19 her and that was all I said, we're not speaking to
20 anybody. And that was all the dealings I had with 15:43
21 her."

22
23 And she had no conversation of any substance with you.
24 A. Well, I recollect having a conversation, a very brief 15:43
25 conversation, where she mentioned listening to the
26 news, and I am fairly certain it was the News at One
27 that she had been listening to.

28 MR. HOGAN: I have no more questions. Thank you.

29 CHAIRMAN: Yes. All right.

1 MR. MICHAEL O' HIGGINS: Sorry, Chairman, I wonder
2 should I just put one question formally.

3 CHAIRMAN: Yes, well, if you wish, please.
4

5 THE WITNESS WAS FURTHER CROSS-EXAMINED BY MR. MICHAEL 15:44
6 O' HIGGINS:

7 658 Q. MR. MICHAEL O' HIGGINS: Sorry, Ms. McCann, the Chairman
8 has been understandably vigilant as we put our cases.

9 A. Yeah.

10 659 Q. And I just want to put to you that my client, 15:44
11 Superintendent Taylor, did brief you about Sergeant
12 McCabe's background, the investigation in 2006, and
13 indicated to you that that was part of his motivation
14 and agenda in bringing forward other complaints.

15 A. Again, I can't comment on that. 15:44

16 CHAIRMAN: I took that as implied in the questions
17 already. All right. So, Mr. Doyle, and it's now
18 quarter to four.

19 MR. DOYLE: Thank you, Chairman.
20

21 THE WITNESS WAS CROSS-EXAMINED BY MR. DOYLE: 15:44

22 660 Q. MR. DOYLE: Declan Doyle is my name, Ms. McCann, and I
23 appear for Ms. Alison O'Reilly. Mr. Marrinan, on
24 behalf of the Tribunal, and Mr. McDowell, have put
25 certain things to you; forgive me if I trespass upon 15:45
26 them again.

27 A. Yes.

28 661 Q. I'm very conscious of the time constraints and the
29 desire to get this finished this afternoon.

1 A. Yes.

2 662 Q. So I want to put to you in a general way --

3 A. Okay.

4 663 Q. -- that the statement made by Ms. Alison O'Reilly to
5 the Tribunal on the 7th June 2017 is true? 15:45

6 A. It's not.

7 664 Q. All right. Now, I will try and deal as quickly as I
8 can with the specifics, but a lot of them have already
9 been covered by counsel for the Tribunal and indeed
10 Mr. McDowell. So I will very quickly go through them, 15:45
11 I suppose.

12 A. Mm-hmm.

13 665 Q. Do you quibble with the statement that:
14
15 Towards the end of 2013 and early 2014, my colleague, 15:45
16 Debbie McCann, told me the Garda whistleblower, Maurice
17 McCabe, who had lifted the lid, and so on, was a child
18 abuser?

19 A. Mm-hmm.

20 666 Q. You utterly refute that, do you? 15:46

21 A. I refute using that language yes.

22 CHAIRMAN: And it's important in answering Mr. Doyle
23 that if you have, for instance, a different version of
24 the conversation, such as, we discussed child abuse and
25 Maurice McCabe and an allegation but I did not say that 15:46
26 in categorical terms, that you should say that to him.

27 A. Yeah.

28 CHAIRMAN: I just want to make that clear, Mr. Doyle.

29 A. It was around that time that we would have been

1 discussing the allegation. Now, when we say
2 'discussing the allegation', it wasn't an ongoing
3 discussion that we were having. It was, there were a
4 few conversations around that time. It wasn't
5 something that I was particularly focused on at that 15:46
6 point.

7 667 Q. MR. DOYLE: well, again, could I put it to you this
8 way, adopting something that Mr. McDowell said: Is it
9 not fair to say, and I'm putting it to you that these
10 are Ms. O'Reilly's instruction, that you were very 15:46
11 invested in the anti-Garda-McCabe side of the debate,
12 if you like, that was your strong view?

13 A. No, I wasn't very invested in the story at all. I had
14 heard an allegation and I was investigating that
15 allegation. 15:47

16 668 Q. You gave evidence to Mr. McDowell there a short time
17 ago that the basis of your position on the McCabe
18 question, if I can term it like that --

19 A. Yeah.

20 669 Q. -- was, you accept that you had an opposite position 15:47
21 from that of Ms. O'Reilly?

22 A. Yeah, to an extent, yes.

23 670 Q. Well, more than to an extent, I'm suggesting to you.
24 I'm suggesting to you that you had a strong position on
25 the credibility, or otherwise, of Maurice McCabe's 15:47
26 allegations, and that that position was against Maurice
27 McCabe?

28 A. No. The position was different in the sense that I
29 knew -- I had heard of an allegation and I had

1 confirmed the existence of an allegation where she had
2 met with Sergeant McCabe. That's where the difference
3 came.

4 671 Q. You said to Mr. McDowell that, and this is at page 147
5 of the transcript of today's evidence, it's only about 15:48
6 15 or 20 minutes ago, perhaps a little more, that your
7 position such as it was on McCabe was based on two
8 things: one, that you knew of an allegation; and, two,
9 your visit to Mrs. D?

10 A. Yes. 15:48

11 672 Q. And I'm suggesting to you that your position on Maurice
12 McCabe was long established before your visit to Ms. D?

13 A. I don't think it was long established, no. I don't
14 remember when I first heard any discussion in relation
15 to the allegation, but I remember specifically knowing 15:48
16 about the allegation very soon -- close to when I
17 visited the house.

18 673 Q. Post when you visited the house?

19 A. Sorry, no.

20 674 Q. Close to? 15:48

21 A. No, I learned the specifics of the allegation in the
22 same week that I went to visit the house.

23 675 Q. Well, I suggest to you that you had had many
24 discussions about this long before your visit?

25 A. I don't think we had had many discussions about this. 15:49
26 Alison O'Reilly's statement said that I would have
27 disclosed this information to her in late 2013/early
28 2014. That was probably around the time that we would
29 have become aware of the allegations -- of an

1 allegation, but not the specifics. So in terms of how
2 many conversations we had, it was over a pretty short
3 period.

4 676 Q. Again, I'm suggesting to you that you are seeking to
5 portray your difference about Maurice McCabe with
6 Alison O'Reilly as minor, matters of small nuance and
7 degree, and I'm suggesting to you that they were a
8 great deal more than that?

15:49

9 A. No, they weren't. And to suggest that it was becoming
10 something that was getting in the way of our friendship
11 at that point, just simply isn't true. That is not the
12 way it was.

15:49

13 677 Q. You said in your statement to the Tribunal's
14 investigators, which is at page 3739, perhaps we could
15 get that up; now that statement was made on the 7th
16 July 2017, isn't that right?

15:50

17 A. Yes, yeah.

18 678 Q. And you were aware of Alison O'Reilly's statement at
19 that time, isn't that right?

20 A. It was -- I think it was produced at that point when I
21 went in to meet the investigators, yeah.

15:50

22 679 Q. Yes. And in answer to a question down at the bottom,
23 you said:

24
25 "I wasn't involved in any orchestrated campaign to
26 malign Sergeant Maurice McCabe. I have no evidence of
27 any orchestrated campaign to malign. The allegations
28 we were looking at at the time were discussed in the
29 office. I certainly didn't negatively brief Alison

15:50

1 O'Reilly. We certainly would have discussed the
2 allegations. As journalists we become aware of the
3 allegations all the time. Our job is to investigate
4 them, see if we can substantiate and publish them if
5 they are in the public interest, but, until proven, 15:51
6 they are only allegations. The allegations were
7 discussed in a private capacity and they were never
8 going to be aired and shared with anybody else."

9
10 And that was your position, in the full knowledge of 15:51
11 the extent of the detail provided in Alison O'Reilly's
12 statement, isn't that right?

13 A. Yes.

14 680 Q. So am I right in characterising your position in July
15 2017 as accepting that the conversations set out by 15:51
16 Alison O'Reilly took place?

17 A. No, I certainly --

18 681 Q. Can I just finish the question? That, as is clear from
19 your statement to the Tribunal's investigators, you
20 accepted that these conversations took place between 15:51
21 you and her?

22 A. Yes.

23 682 Q. You just didn't characterise them as 'negative briefing
24 or an orchestrated campaign'?

25 A. Well, in Alison O'Reilly's statement, she suggested 15:51
26 that I called him all these different types of names
27 and I suggested that I -- and said that I had given out
28 my sources on the issue, and I'm saying that simply
29 didn't happen. We were discussing an allegation. We

1 discussed allegations all of the time.

2 683 Q. Her statement is very detailed.

3 A. It is.

4 684 Q. If you disagree with it as vehemently as you are
5 portraying now -- 15:52

6 A. Mm-hmm.

7 685 Q. -- why didn't you say that to the Tribunal's
8 investigators when they came to see you in July 2017?

9 A. I had already given her my statement. We were produced
10 then with this statement from Alison O'Reilly, and my 15:52
11 statement at the time, that didn't -- her statement
12 didn't change my position on the matter.

13 686 Q. Well, you've a statement made by Ms. O'Reilly --

14 A. Mm-hmm.

15 687 Q. -- at the risk of repeating myself, with which you 15:52
16 strongly and vehemently disagree?

17 A. Mm-hmm, mm-hmm.

18 688 Q. You say she's lying about these things, isn't that
19 right?

20 A. There's no other -- there's no other explanation as to 15:53
21 why on earth she would come up with some story that I
22 had interviewed Ms. D, when that simply didn't happen
23 and I never said it to anybody.

24 689 Q. I will come back to the interview with Ms. D in a
25 moment. I am talking about these allegations and your 15:53
26 opposite positions.

27 A. Mm-hmm.

28 690 Q. You and Ms. O'Reilly --

29 A. Mm-hmm.

1 691 Q. -- you had very opposite position?
2 A. Well, to say very opposite positions, again you're
3 bringing -- there was no emotion involved in this. We
4 were discussing it. It wasn't becoming a big issue
5 between us, and it never did become a big issue between 15:53
6 us. There were other issues, but that certainly wasn't
7 one of them.

8 692 Q. I don't intend to bring any emotion or to suggest that
9 this was an emotional dispute between you and
10 Ms. O'Reilly. What I am saying is that here was a big 15:53
11 news story and that you were strongly of the view that
12 Maurice McCabe's allegations needed to be taken with a
13 large pinch of salt because you had information that he
14 was a paedophile?

15 A. Not needed -- I didn't have information that he was a 15:54
16 paedophile at that point. And the allegation that I
17 became aware of was an allegation of inappropriate
18 touching. Sorry, can you just repeat that last bit?

19 693 Q. I am saying that you -- let me just put it precisely to
20 you - I beg your pardon - the last question I asked 15:54
21 you. I'm sorry, I don't want to mischaracterise this.
22 CHAIRMAN: I will go back and find it for you. You
23 said:
24
25 "I don't intend to bring any emotion or to suggest that
26 this was an emotional dispute between you and
27 Ms. O'Reilly. What I am saying is that here was a big
28 news story and that you were strongly of the view that
29 Maurice McCabe's allegations needed to be taken with a

1 large pinch of salt because you had information that he
2 was a paedophile?"

3

4 That is the question you are being asked.

5 694 Q. MR. DOYLE: And leaving out all questions of emotion, 15:55
6 that was your position?

7 A. I wasn't of the position that the penalty points issue
8 should be taken with a pinch of salt because of the
9 allegation. The allegation was simply, because
10 Sergeant McCabe was a man of prominence at that point, 15:55
11 it was simply just a matter that we were investigating.

12 695 Q. Yes. I am, I suppose, trying to establish from you
13 when you had the level of detail from Ms. O'Reilly with
14 which you so strongly agree -- or, sorry, with which
15 you so strongly disagree -- 15:55

16 A. Yeah.

17 696 Q. -- I want to know why is the Tribunal only hearing
18 about this in the last three or four days?

19 A. In relation to the interview and all of that, why I am
20 disputing -- 15:55

21 697 Q. All of the conversations which Ms. O'Reilly said she
22 had with you and which you appeared to accept that you
23 had with her in your initial statement to the Tribunal,
24 and in the last three or four days the Tribunal is
25 hearing a completely different story -- 15:56

26 A. No, because I was --

27 698 Q. -- and I would like to ask you why is that?

28 A. Because I was specifically asked to put in a statement
29 in relation to Alison O'Reilly's claims, and I did that

1 and I set out my position. I have never accepted any
2 bit of what she was saying.

3 699 Q. And why didn't you tell the Tribunal's investigators
4 that when they interviewed you in July 2017, if you
5 feel so strongly about it? 15:56

6 A. It was always my intention to put my side of the story
7 out there. It was always my intention to speak out on
8 this.

9 700 Q. Well, why didn't you do it when the Tribunal's
10 investigators came to you in 2017? 15:56

11 A. Because her statement didn't change my position, it
12 didn't change my position. And when I was going to be
13 called to give evidence, I was going to clearly set out
14 my position.

15 701 Q. You provided a statement to the Tribunal -- 15:56

16 A. Mm-hmm.

17 702 Q. -- in the way that Ms. O'Reilly provided a statement to
18 the Tribunal?

19 A. Yeah. I have provided three statements to the Tribunal
20 so far. 15:57

21 703 Q. Yes. You provided a supplementary one in March or
22 April of this year --

23 A. Mm-hmm.

24 704 Q. -- dealing with Superintendent Taylor, isn't that
25 right? 15:57

26 A. Yes.

27 705 Q. But it was only three quarters of the way through the
28 cross-examination by your counsel of Ms. O'Reilly --

29 A. Mm-hmm.

1 706 Q. -- that we suddenly heard that, oh, no, you don't
2 accept that any of these conversations took place --
3 A. Mm-hmm.
4 707 Q. -- for the first time. would you agree with me that
5 that is curious? 15:57
6 A. I think in relation to specifics, yes, it probably was
7 the first time, but I don't think I ever said that I
8 agreed with her statement.
9 CHAIRMAN: No, just the point being made by Mr. Doyle,
10 just speaking in round terms, it took a year for you to 15:57
11 say that this never happened.
12 A. I think in my original statement I made clear that I
13 didn't accept that.
14 708 Q. MR. DOYLE: Again, I mean, I can formally put all of
15 the matters which have already been put by counsel for 15:58
16 the Tribunal. I wonder, in the interests of speed,
17 could I adopt Mr. Marrinan's questions on behalf of my
18 client and suggest to you and put to you formally that
19 you did say all of these things?
20 A. I absolutely did not. 15:58
21 709 Q. The conversation over the cup of tea, are you saying
22 that just never happened?
23 A. That's in relation to the penalty points?
24 710 Q. Yes.
25 A. Well, what month was that? 15:58
26 711 Q. It was sometime in 2013.
27 A. Is there a month given to that?
28 712 Q. Late 2013. No. Again, this was all in the statement
29 that you had and you just never saw fit to --

1 A. Well, you see, the penalty points issue was much -- was
2 prior to all of that, and I had discussed that in
3 conference at that point. That wasn't late 2013 that
4 the penalty points issue became prominent.

5 713 Q. Well, can I come then to this question about your trip 15:59
6 to Cavan.

7 A. Yeah.

8 714 Q. I take it you accept now the evidence of everyone, and
9 indeed your own evidence, there was no question of your
10 ever having spoken to Ms. D? 15:59

11 A. There was no question of me ever having met or spoken
12 or had any communication with Ms. D.

13 715 Q. But you successfully persuaded your news editor, and
14 indeed the editor of the newspaper, Mr. O'Donnell, that
15 this was a good plan for you to go and talk to Ms. D in 15:59
16 Cavan?

17 A. 'Persuaded' is the wrong word. I would have relayed
18 the information that I had received and he would have
19 made a call.

20 716 Q. And your desire to do so, I suggest to you, fits in 16:00
21 with your take on the whole McCabe story, doesn't it,
22 at the time?

23 A. In relation to any matter that we investigated, when
24 people of prominence are in the news, we look at
25 various different angles in relation to it. That was 16:00
26 just one angle that we were looking at.

27 717 Q. What were the other angles that you were looking at?

28 A. I specifically did very little on the penalty points
29 issue. It was very much driven by political

1 journalists.

2 718 Q. So is this the -- when you say 'we'?

3 A. As a newspaper.

4 719 Q. Yes, well, you as the crime correspondent --

5 A. Mm-hmm. 16:00

6 720 Q. -- you were dealing with the Maurice McCabe

7 whistleblowing allegations, isn't that right?

8 A. No, I wasn't, no.

9 721 Q. No?

10 A. No. 16:00

11 722 Q. Well, what was your interest in this?

12 A. My interest in it was that I was able to clarify the

13 details on the allegation.

14 723 Q. The allegation of inappropriate sexual conduct or

15 sexual abuse -- 16:00

16 A. Mm-hmm.

17 724 Q. -- by Maurice McCabe?

18 A. Mm-hmm.

19 725 Q. Well, how did you become interested in that in the

20 first place? 16:01

21 A. Maurice McCabe was very much in the headlines at the

22 time. The political journalists were really running

23 the show in relation to all of that, I had very little

24 dealings with any of it, and because his name was very

25 public at that point and there was the suggestion of a 16:01

26 possible allegation, I, because of my position, I

27 checked it out, was able to check it out.

28 726 Q. Yes. Your editor, Mr. O'Donnell, conceded yesterday,

29 which it's not a secret, everybody knows it, that crime

1 correspondents' principal sources are members of the
2 Gardaí, isn't that right?

3 A. Principally members of the Gardaí, but there's a
4 variety of different sources.

5 727 Q. Yes. And without getting into anything more specific 16:01
6 or which would tend to identify sources than that, I
7 suggest to you that your information about the
8 allegations, and so on, came from sources within the
9 Gardaí?

10 A. I have said that the information came from Garda 16:02
11 sources and other sources.

12 728 Q. Yes. Will you accept that the principal source for
13 this story was from within the Gardaí, your knowledge
14 about the allegation?

15 A. Yeah. The principal source probably was. Yeah. 16:02

16 729 Q. Can I also put it to you formally that you said this on
17 occasions to Alison O'Reilly?

18 A. I didn't. I don't disclose any sources to individuals.

19 730 Q. You know, forgive me, Ms. McCann, this is repeated 16:02
20 mantra-like by you and a lot of your colleagues, nobody
21 is suggesting that as a matter of practice journalists
22 go round disclosing their sources.

23 A. Mm-hmm.

24 731 Q. But what we are talking about, I'm struggling to 16:03
25 believe frankly that professional journalists don't
26 actually discuss their sources with each other.

27 A. Well no, I don't -- well, I don't. And I don't discuss
28 them with my news editor. I don't discuss them with
29 anybody. I keep them to myself. And in retrospect --

1 732 Q. Do you never talk to each other; that's a great story
2 you did last week about so and so --

3 A. Of course --

4 733 Q. -- that was fantastic, you must have had great sources,
5 yeah, I did? I'm not talking about names, I'm just 16:03
6 saying it stretches my credibility that two
7 professionals don't, in the way that two doctors might
8 talk about a patient or something?

9 A. Why would I reveal my sources?

10 734 Q. That is not the question I'm asking you. I'm not 16:03
11 asking you about revealing your sources in some
12 principled way. I'm suggesting to you that you have
13 and do have conversations with colleagues in which the
14 type of source that got you a good story is discussed?

15 A. No. Absolutely not. And to suggest that I would have 16:04
16 revealed my sources just based purely on the fact that
17 we were colleagues and friends at the time is just not
18 true. And if I did that, which I didn't, I would be
19 very much wrong in the sense that here we are with a
20 former friend and colleague of mine who is purporting 16:04
21 to reveal my sources.

22 735 Q. I suggest to you and I'm putting it to you that you did
23 tell her that she should be sceptical about the
24 allegations, is that right?

25 A. Skeptical of which allegations? 16:04

26 736 Q. Sorry, I beg your pardon, that is probably my client to
27 you. That you told Alison O'Reilly to be careful that
28 Maurice McCabe is manipulating you?

29 A. No, I did not. I didn't say that. And I wouldn't say

1 that.

2 737 Q. But that was your view, wasn't it?

3 A. That he was manipulating her, no.

4 738 Q. That the media was being manipulated and it had all
5 jumped on the McCabe bandwagon, that was your view, 16:05
6 wasn't it?

7 A. My view was that, no, I certainly did not believe that
8 Sergeant McCabe was manipulating the media. I
9 certainly did not believe that. I had, I became aware
10 of an allegation, and I investigated that allegation. 16:05

11 739 Q. That brings us to the text messages, Ms. McCann.

12 A. Yes.

13 740 Q. You got a text from Alison O'Reilly?

14 A. Mm-hmm.

15 741 Q. Do you want to put that up in front of you there? 16:05

16 A. Mm-hmm.

17 742 Q. It's at 3840 of the materials. This is in the wake of
18 Séan Guerin's report, isn't that right?

19 A. Yes.

20 743 Q. And Alison O'Reilly texting you quoting: 16:06
21
22 "A highly respected officer held high in high regard is
23 how judge Guerin describes McCabe. . ."

24

25 A. Mm-hmm. 16:06

26 744 Q. The next text which has escaped from me --

27 A. Mm-hmm.

28 CHAIRMAN: It says "Paul Williams and Indo have agenda
29 against McCabe says Micheál Martin to pals" and then

1 the reply comes "I'm fully aware".

2 745 Q. MR. DOYLE: Yes. And I know you believe that the text
3 in the middle changes the meaning and context of all
4 this, that will ultimately be a matter for the Chairman
5 if he has to make a finding of fact about this. 16:06

6 A. To my mind it does and I would wonder why it wasn't
7 produced originally.

8 746 Q. Well, again to the best of my instructions it is
9 something to do with the mystery between blue messages
10 and green message, and if there is a suggestion from 16:06
11 you that it was somehow inappropriately deleted by my
12 client that is rejected very strongly --

13 A. Well, I don't know what happened.

14 747 Q. -- on my behalf of my client.

15 A. I don't know what happened. 16:07

16 748 Q. The actual meaning will fall to be found by the
17 Chairman, Judge Charleton, but if you go back to your
18 response "I'm fully aware" now whether that is aware of
19 an agenda or anything else, "to be honest I think it is
20 gross, there is a very messed up girl at the heart of 16:07
21 it and no one gives an eff"?

22 A. Mm-hmm.

23 749 Q. Doesn't that chime precisely with the line that you had
24 been spinning to Alison O'Reilly about your trip to
25 Cavan? 16:07

26 A. From my reading of that what I am calling gross is the
27 game playing that is happening.

28 750 Q. Sorry?

29 A. To my mind from reading that conversation --

1 751 Q. Yes?

2 A. -- is that I am replying that I think it is gross that
3 there is game playing happening. And yes, I felt
4 sympathy for the girl.

5 752 Q. But there is a very messed up girl at the heart of it. 16:08
6 I mean, the language is very similar to the language
7 which Ms. O'Reilly described your conversations
8 post-Cavan with her?

9 A. Well, that is because she had my text.

10 753 Q. So, you're saying she cooked it up in her statement to 16:08
11 the Tribunal, using the language of the text in order
12 to frame you, is that it?

13 A. I'm not -- I don't know what she did, all I'm saying is
14 my position on the matter.

15 754 Q. You came back from Cavan with your tail between your 16:08
16 legs, isn't that right?

17 A. I absolutely did not come back with my tail between my
18 legs.

19 CHAIRMAN: No, I don't think it is fair to say that she
20 came back with -- she came back not having succeeded, 16:08
21 but I would imagine that, it's the kind of thing, if
22 you don't have a thick enough skin to get used to that,
23 I suppose you're in the wrong kind of job, that's how I
24 think about it anyway.

25 MR. DOYLE: I understand that. 16:09

26 CHAIRMAN: Yes.

27 MR. DOYLE: I'm going to suggest to the witness that
28 firstly -- we better do it in sequence.

29 755 Q. I'm putting to you that you did say to my client that

1 you had interviewed Ms. D.

2 A. I did not.

3 756 Q. And I suggest to you that you also provided colour and
4 detail about sitting on a sofa and Ms. D with her arms
5 around herself in a very distressed manner. 16:09

6 A. I didn't. I never interviewed Ms. D. I never met her.
7 I never -- I know nothing of her.

8 757 Q. You use the words "in a terrible state" can I suggest
9 that, "the woman was in a terrible state"?

10 A. I didn't meet her, I don't know what state of mind she 16:09
11 was in.

12 758 Q. You subsequently denied that Dave Taylor told me the
13 girl was in a bad way?

14 A. Mm-hmm.

15 759 Q. Are you denying that that happened or are you saying 16:10
16 that you can't reveal any --

17 A. No, I'm saying I'm denying that I told her that.

18 760 Q. Oh, right. Did Dave Taylor say to you that this girl
19 was in a bad way?

20 A. Again, I can't answer that question. 16:10

21 761 Q. It's remarkably similar, isn't it, to the "there's a
22 very messed up girl at the heart of it", is that a
23 coincidence?

24 A. What is your point?

25 762 Q. That your concern about this very messed up girl -- 16:10

26 A. Yeah.

27 763 Q. -- appears in your text --

28 A. Mm-hmm.

29 764 Q. -- and the allegation that Dave Taylor told you that

1 this girl is in a very bad way?

2 A. well, she would have known, because we had sent texts,
3 she would have known my feelings towards the girl, that
4 I had a degree of sympathy for her.

5 765 Q. Again are you saying that Ms. O'Reilly's 16:11
6 characterisation in her statement to the Tribunal is
7 tailored in some way to accommodate your text which you
8 know is damaging to your position, is that what you are
9 saying?

10 A. I'm not saying that. I'm setting out my position as 16:11
11 best I can.

12 766 Q. Again I put it to you that the conversation in her
13 Herbert Park took place as you went back to your cars.

14 A. We regularly had conversations in Herbert Park as we
15 went back to our cars. 16:11

16 767 Q. And was one of those conversations - I put it to you it
17 was - Alison O'Reilly saying to you Debbie, I'm very
18 concerned about this, I'm very concerned about this,
19 I'm very concerned about your whole take on the Maurice
20 McCabe thing, I think there's something wrong with the 16:12
21 story, are you saying that that never happened?

22 A. I don't believe that conversation happened.

23 768 Q. I am very concerned that this man's life has been
24 ruined, and that you responded by saying that you were
25 still in touch with the woman? 16:12

26 A. I have never been in touch with Ms. D. Ever. And I
27 wouldn't have told Alison that either. Because
28 everybody in my newsroom knew that I had never been in
29 Ms. D.

1 769 Q. And I suggest to you that Alison O'Reilly then said to
2 you how do you know that, how do you know this story
3 about Maurice McCabe is true? And you said well, I
4 have it from the top. You know, that's not disclosing
5 necessarily your sources; I have it from the top, Dave 16:12
6 Taylor, Nóirín O'Sullivan, that you said these things.
7 A. I didn't say -- well, I don't believe I said any of
8 these things.

9 770 Q. And that she said is this from your pal Nóirín and you
10 said yes? 16:13

11 A. I did not. I wasn't in contact with Nóirín O'Sullivan
12 during that period of time at all.

13 771 Q. Does your term "your pal Nóirín" said in an ironic way
14 by a friend, a mate, does that sound real or unreal to
15 you? 16:13

16 A. What do you mean does it sound real or unreal?
17 CHAIRMAN: Is it a likely kind of remark among pals
18 discussing things casually? That is all you're being
19 asked really.

20 A. It probably is, yeah, a likely comment, but I certainly 16:13
21 wouldn't have told her that Nóirín O'Sullivan gave me
22 any information because she did not and I certainly
23 wouldn't have told her because I'm not in the habit of
24 revealing sources and I'm also not in the habit of
25 being a braggart either. 16:13

26 CHAIRMAN: Mr. Doyle, it's 4:15 you've possibly done
27 your duty, but there may be a couple of other questions
28 you wish to put.

29 772 Q. MR. DOYLE: There is one thing you said in your

1 evidence, you said earlier today, and these are the
2 last two matters, you said earlier today "I think I
3 knew at the time that there may have been tickling
4 involved".

5 A. Mm-hmm. 16:14

6 773 Q. This is about inappropriate touching.

7 A. Mm-hmm.

8 774 Q. "But I think that's all I knew."

9 A. Mm-hmm.

10 775 Q. How did you know that? 16:14

11 A. As I said, the rumours, the murmurings that I was
12 hearing at the time are particularly vague -- sorry,
13 this is going up to the house after confirming the --
14 from whatever sources that I had contact with
15 obviously. 16:14

16 776 Q. Yes. It's my understanding that the only place that
17 that appeared was in the Garda file which has now been
18 circulated by the Tribunal this afternoon.

19 CHAIRMAN: No, I don't think the word tickling ever
20 appeared in the Garda file. 16:14

21 MR. MARRINAN: It does, sir.

22 CHAIRMAN: Does it?

23 MR. MARRINAN: Yes.

24 CHAIRMAN: All right. well, I am not remembering it
25 now. It wasn't only circulated, by the way, Mr. Doyle, 16:15
26 this afternoon. We have had this thing, the relevant
27 parts of it discussed for a long time.

28 MR. DOYLE: I'm sorry, Chairman, I missed that?

29 CHAIRMAN: Necessity -- maybe just point out -- look, I

1 could be getting this wrong, and I apologise, I may be
2 interrupting you in the wrong, where is the tickling
3 bit.

4 MR. MARRINAN: Page 11.

5 MR. DOYLE: It was my understanding, Judge, that the 16:15
6 only reference to tickling in the public domain was in
7 the Garda investigation file into the original
8 allegations against Maurice McCabe.

9 CHAIRMAN: Sorry, is thi Superintendent Cunningham, is
10 it? Yes, sorry, okay. I didn't mean in the Garda 16:15
11 file, I meant in a statement made by anybody in
12 relation to the event. No, it never appeared in that.
13 This is his summary and all the rest of it. But it is
14 there. If you look at that.

15 16:16
16 "It's of interest to note that Ms. D recalls being
17 tickled by Maurice McCabe. A natural reaction to a
18 child being tickle is to squirm..."

19
20 So, he is saying, look, how could allegation possibly 16:16
21 arise, if you like, innocently but incorrectly, that is
22 what he is talking about. Yes, I am sorry, I
23 misunderstood your point.

24 777 Q. Mr. Doyle: And the reason I am raising it with the
25 witness is that as far as we know that is the only 16:16
26 place that there was reference to tickling, it's the
27 first time it came into the public domain. So, I'm
28 suggesting to you that you had the Garda file, is that
29 right?

1 A. No, I don't. And I have never had sight of any Garda
2 file.

3 778 Q. You never had sight of any Garda file? 16:16

4 A. No.

5 779 Q. Where do you think you got the information that there
6 was tickling involved? 16:16

7 A. I got it from a source.

8 780 Q. All right. But if the only reference in the public
9 domain to tickling was in the Garda file would it be
10 fair to assume that that source had access to the Garda 16:17
11 file?

12 A. I don't know.

13 MR. DOYLE: Thank you. I don't have any more
14 questions.

15 CHAIRMAN: Yes, thank you. Was there any questions 16:17
16 Mr. Whelan?

17

18 THE WITNESS WAS CROSS-EXAMINED BY MR. WHELAN AS
19 FOLLOWS:

20 781 Q. MR. WHELAN: I have a couple of questions. I had three 16:17
21 but I only need to deal with one of them, in that you
22 emphasised to -- sorry, Noel Whelan is my name, I
23 appear on behalf of An Garda Síochána and retired --
24 for some reason there's a delay on the mic starting.

25 CHAIRMAN: Just press it. 16:17

26 782 Q. MR. WHELAN: Thank you. One of the questions I don't
27 have to ask you because you emphasised to Mr. Doyle
28 that you never spoke to Nóirín O'Sullivan about Maurice
29 McCabe or any of the related matters from Ms. D or

1 anything like that, isn't that correct?

2 A. Yeah, I think I made that clear in my statement.

3 783 Q. And you made that clear in your statement and you've
4 made it clear now in evidence.

5 A. Mm-hmm. 16:17

6 784 Q. Can I ask you a question on behalf of one of the
7 retired questions you know well, retired Detective
8 Superintendent John McMahon, again just to clarify
9 because he's not a witness to the Tribunal but his name
10 has been mentioned in context, he in a statement to the 16:18
11 Tribunal in July of last year said, as you said,
12 yourself that what he did have the --

13 A. John McCann.

14 785 Q. John McCann, excuse me, sorry. Your father. That
15 where, as you said yourself, in the normal way you had 16:18
16 father/daughter conversations about current events --

17 A. Mm-hmm.

18 786 Q. -- and that after he retired in July 2013 --

19 A. Mm-hmm.

20 787 Q. -- as we know Maurice McCabe related issues, if I use 16:18
21 that phrase, were current events and you discussed
22 that, but that he never said anything negative to you
23 and had no direct knowledge of anything in relation to
24 Maurice McCabe, isn't that correct?

25 A. Absolutely, yeah. 16:18

26 788 Q. And he says in his statement that he did not know and
27 still doesn't know who Ms. D was?

28 A. Mm-hmm.

29 789 Q. And that he never gave you any information in respect

1 of Ms. D or her family, isn't that correct?

2 A. Absolutely.

3 790 Q. Can I just deal then with the last question that
4 Mr. Doyle put to you?

5 CHAIRMAN: I'm sorry, I'm just tending to wonder how 16:18
6 are you able to tell me that but not tell me anything
7 about David Taylor?

8 A. Well, he's my father. That is my dad, like, he's not a
9 source.

10 CHAIRMAN: I know he's your dad, yes. 16:19

11 A. He's not a source of mine. He's my father.

12 CHAIRMAN: But if he said anything to you he'd become a
13 source, wouldn't he, despite being your father? And in
14 which case you would be telling me I can't tell you
15 anything. 16:19

16 791 Q. MR. WHELAN: One other question and then one other
17 point I think it is appropriate to put to you, and the
18 question first: Arising from Mr. Doyle's last
19 question, there is indeed at page 10 of Superintendent
20 Cunningham's report a reference to a description by 16:19
21 Ms. D --

22 A. Yes.

23 792 Q. -- that tickling was involved.

24 A. Yes.

25 793 Q. And firstly, and the Chairman will of course know this, 16:19
26 that wasn't of itself a public document. In fact,
27 Superintendent Cunningham was careful to emphasise the
28 steps he took to limit its circulation even within An
29 Garda Síochána --

1 A. Mm-hmm.

2 794 Q. -- given the issues that were involved?

3 A. Mm-hmm.

4 795 Q. Now, as it were, the details have become more general,
5 but he was informed of that report by Ms. D? 16:20

6 A. Mm-hmm.

7 796 Q. Isn't it possible, and you've said you're not going to
8 identify any sources, that whoever told you, be they a
9 guard or a non-guard --

10 A. Mm-hmm. 16:20

11 797 Q. -- heard the detail from somebody who heard the detail
12 who heard the detail from perhaps somebody who heard a
13 rumour either from Ms. D, through that indirect route
14 or from within An Garda Síochána, isn't that right?

15 A. Yeah, it's possible, I don't know where they got their 16:20
16 information from.

17 798 Q. My last point is this: our clients, former
18 Commissioner Martin Callinan and former Commissioner
19 Nóirín O'Sullivan, have executed waivers on
20 journalistic privilege. 16:20

21 A. Mm-hmm.

22 799 Q. You have been shown them previously and they are
23 extensive and comprehensive waivers of which they take
24 a view, frees, liberates any journalist from any sense
25 of obligation to them that arose from any privilege 16:20
26 that might ever have existed off the record or
27 otherwise.

28 A. Mm-hmm, mm-hmm.

29 800 Q. Many journalists named by Superintendent Taylor as

1 having been briefed by him have come forward to say
2 they had no such conversations as you had --

3 A. Mm-hmm.

4 801 Q. -- with them about Sergeant McCabe. Similarly our
5 clients take the view, and I think it's important that 16:21
6 I say, Mr. McDowell has already referred to it, as had
7 the Chairman, but it's important that our clients
8 emphasise that they take a similar view of
9 Superintendent Taylor's waiver; that Superintendent
10 Taylor's waiver should similarly liberate any 16:21
11 journalists from any obligation touching on
12 journalistic -- and that not only is it in the general
13 public interest of establishing the truth, which is the
14 function of this Tribunal, but in the specific and
15 particular interest of our clients, given the nature of 16:21
16 the awful and defamatory allegations made by
17 Superintendent Taylor about his systematic, as it were,
18 maligning of Sergeant McCabe, that it's in their
19 interests that you would answer the questions about
20 what information or not Superintendent Taylor did give 16:21
21 to you in those conversations? I just need to put to
22 you that and ask you to revisit your decision on it.

23 A. I think I have set out my position on that in relation
24 to that.

25 CHAIRMAN: But she is certainly saying, look, I never 16:22
26 spoke to Nóirín O'Sullivan or Martin Callinan in any
27 way and to do with anything about Maurice McCabe.

28 MR. WHELAN: Yes.

29 CHAIRMAN: It just never came up and besides, we

1 weren't in any way close and it was kind of meeting at
2 a function or something.

3 MR. WHELAN: We are just emphasising that our clients'
4 view, similar in respect of Superintendent Taylor as
5 such, the waiver should be interpreted as liberating
6 this journalist. 16:22

7 CHAIRMAN: Yes. Well, perhaps we will discuss that at
8 the end, but you appreciate that is the plea --

9 A. Yeah.

10 CHAIRMAN: -- on behalf of his clients and he wants to
11 know what your answer is to that. 16:22

12 A. Yeah, I appreciate that is their position, but I have
13 my own position on this.

14 MR. WHELAN: Thank you, Ms. McCann.

15 CHAIRMAN: Was there anything then, Mr. Kealey? 16:22

16

17 THE WITNESS WAS THEN EXAMINED BY MR. KEALEY AS FOLLOWS:

18 802 Q. MR. KEALEY: Ms. McCann, I just have a couple of small
19 questions. You know who I am. I am Michael Kealey,
20 your solicitor before the Tribunal. 16:22

21 A. Mm-hmm.

22 803 Q. You were still working for the Irish Mail on Sunday on
23 the 8th February 2017, you hadn't gone on maternity
24 leave when Brendan Howlin made his remarks to the
25 Dáil -- 16:23

26 A. Yeah.

27 804 Q. -- to the effect that he had direct knowledge that
28 Nóirín O'Sullivan was saying effectively bad things
29 about Sergeant McCabe --

1 A. Mm-hmm.

2 805 Q. -- to journalists?

3 A. Mm-hmm.

4 806 Q. You were aware of that at the time?

5 A. I was aware of that. 16:23

6 807 Q. It caused considerable controversy at the time?

7 A. It did, yes.

8 808 Q. Had you any idea at that time that you were the
9 journalist who was apparently being described by Deputy
10 Howlin? 16:23

11 A. Absolutely not.

12 809 Q. You received a letter from the Tribunal on 22nd May
13 2017 in which it was stated that you were in fact the
14 journalist --

15 A. Mm-hmm. 16:23

16 810 Q. -- to whom Nóirín O'Sullivan made these allegations --

17 A. Mm-hmm.

18 811 Q. -- and that this had been told to Deputy Howlin by
19 Alison O'Reilly?

20 A. Mm-hmm. 16:23

21 812 Q. Do you remember getting that letter?

22 A. I do, yes.

23 813 Q. How did you feel?

24 A. I felt horrified. I felt that, I felt that I was going
25 to have to defend myself against stuff that simply 16:24
26 wasn't true. I felt like I was in the most impossible
27 position, because of privilege as well as everything
28 else, but that they were complete untruths and I was
29 then in a position to where this stuff was being put

1 out there, it was being written about, it was all over
2 social media, and it very much distressed me.

3 814 Q. On the 20th April this year Clare Daly TD made a
4 statement to the Tribunal of Inquiry which you
5 subsequently received a couple of days later?

16:24

6 A. Yeah.

7 815 Q. Do you remember that?

8 A. I do, yeah.

9 816 Q. Do you recall that in that statement Clare Daly
10 produced in evidence two letters to her from a
11 gentleman called Alan Crohan?

16:24

12 A. Yeah.

13 817 Q. And do you recall that Alan Crohan in the course of
14 that produced to Clare Daly TD for the purposes of
15 raising this matter in the Dáil a series of text
16 messages which had been passed between you and Alison
17 O'Reilly?

16:25

18 A. Yeah.

19 818 Q. How did you feel whenever you saw that material?

20 A. Well, I felt that this was being suggested -- sorry,
21 can you ask that again?

16:25

22 819 Q. How did you feel whenever you discovered that prior to
23 Alison O'Reilly making contact with Deputy Howlin that
24 there had previously been contact with another TD,
25 Clare Daly, in which allegations were being made about
26 you?

16:25

27 A. Well, I guess I was further distressed in the sense
28 that there had already been an attempt to raise this
29 with a member of the Dáil and when that failed then

1 once again another attempt was made and that distressed
2 me even further.

3 820 Q. How did you feel in that context when you saw for the
4 first time the entire of the text exchange that had
5 passed between you and Alison O'Reilly?

16:25

6 A. I felt like the entire exchange was being held back for
7 some reason, probably to show me in a bad light and I
8 found that to be again distressing.

9 MR. KEALEY: I have no further questions.

10 CHAIRMAN: Was there anything else, Mr. Marrinan.

16:26

11 MR. MARRINAN: Yes, just a couple of matters.

12

13 WITNESS WAS RE-EXAMINED BY MR. MARRINAN AS FOLLOWS:

14 821 Q. MR. MARRINAN: The first matter relates the Garda
15 report that you referred to, where there was a
16 reference to tickling in it. Just dealing with that,
17 can you confirm to the Tribunal that first of all that
18 you didn't speak at any time to Mr. D?

16:26

19 A. No, I have never met Mr. D.

20 822 Q. Can you also confirm to the Tribunal that no member of
21 Tusla or the HSE was your source of information?

16:26

22 A. Again I don't feel like I can answer that question.

23 CHAIRMAN: Well, you know Mr. Marrinan is asking you, I
24 mean there are social workers up there -- and we're
25 talking now, we're not talking about anything to do
26 with names or addresses or anything like that, we're
27 talking about the time when you had heard murmurings,
28 the allegation, gone to the DPP, the ruling of the DPP,
29 tickling being mentioned, and you're simply being asked

16:27

1 that. You said, look, the source principally was a
2 garda but there was also garda and civilian people whom
3 you contacted to confirm details.

4 A. Mm-hmm.

5 CHAIRMAN: what he is simply asking you, I think, at 16:27
6 the moment, and please correct me if I am wrong
7 Mr. Marrinan, is: Details in relation to the
8 allegation, actual details in relation to the
9 allegation, the couch, the party, the tickling, the
10 rubbing from behind, kind of humping allegation, was 16:28
11 that coming from within the social work community,
12 which numbers thousands by the way in this country?

13 A. well, I don't know at the time that I knew of the
14 humping or anything like that.

15 CHAIRMAN: I know, but again I'm sorry, I don't mean 16:28
16 any disrespect, that wasn't the question I asked you.

17 A. Okay.

18 CHAIRMAN: So at the time when you first heard the
19 murmurings, were you getting that from your contacts in
20 social work? 16:28

21 A. In social work?

22 CHAIRMAN: Yes.

23 A. I don't feel like I can answer that question. It's
24 probing and it's just going to, it's going to put me
25 again in an awkward position in relation to source 16:28
26 privilege.

27 823 Q. MR. MARRINAN: well, it's not identifying anybody in
28 particular. The Tribunal obviously is concerned to
29 exclude the possibility that a social worker was

1 leaking information to you in relation to Sergeant
2 McCabe and I really do think you need to answer this
3 question because you're familiar with the work of the
4 Tribunal, particularly the examination of matters last
5 July in the Tusla module? 16:29

6 A. What I will say is that I don't know anybody in Tusla.
7 824 Q. Or the HSE?
8 A. Or the HSE. I think I perhaps have an aunt, but I
9 don't know if she works in some sort of department, but
10 I don't know. 16:29

11 825 Q. Could I just come back finally in relation to your
12 claim of privilege; as I understand it there's no issue
13 here in relation to any concerns that you would have
14 other than David Taylor's waiver of privilege is
15 voluntary? 16:29

16 A. Mm-hmm.
17 826 Q. You're happy that it is voluntary?
18 A. Yeah, absolutely.
19 827 Q. So there's no issue in relation to that?
20 A. No. 16:30

21 828 Q. That he might have been brought under some sort of
22 undue pressure or anything like that?
23 A. No. No. Certainly not.
24 829 Q. So, it's a freestanding --
25 A. Yeah. 16:30

26 830 Q. -- waiver --
27 A. Mm-hmm.
28 831 Q. -- as far as you're concerned?
29 A. Mm-hmm.

1 832 Q. And I understood from your evidence this morning to me
2 that you're also happy that the Tribunal isn't
3 embarking on some sort of fishing expedition whereby
4 we're trying to find out other sources that you may or
5 may not have? 16:30

6 A. Yes.

7 833 Q. Are you completely satisfied that the Tribunal is not
8 attempting to do that?

9 A. Yeah, I am, yes.

10 834 Q. Yes. So it would appear that it's purely on a point of 16:30
11 principle --

12 A. Mm-hmm.

13 835 Q. -- that you've already stated?

14 A. Mm-hmm.

15 836 Q. Okay. Well, thank you very much. Just one final 16:30
16 matter, just to make it clear.

17 A. Yeah.

18 837 Q. Depending -- the Tribunal will review your evidence,
19 but depending on the matters that arose from your
20 evidence today you may be required to come back, but we 16:30
21 are just not sure about the position at the moment.
22
23

24 WITNESS WAS THEN QUESTIONED BY THE CHAIRMAN,
25 AS FOLLOWS: 16:30

26 838 Q. CHAIRMAN: Yes. That is correct. There was just a
27 couple of things that I wanted to ask you. I don't
28 know whether you actually -- it's a busy place, but I
29 didn't realise this was circulated today, I'm talking

1 about this, you're probably read it?

2 A. Yeah, I read it, somebody just handed it to me there.

3 839 Q. CHAIRMAN: All right. I presume you didn't have a
4 chance to actually read through the whole thing?

5 A. No, no. 16:31

6 840 Q. CHAIRMAN: well, Superintendent Cunningham, then
7 inspector, it's a well written document, like
8 conclusion:
9

10 "My conclusion, taking all matters into 16:31
11 consideration --"
12

13 I'm on page 16.

14 A. Yes.

15 841 Q. CHAIRMAN: "-- including the question of whether the 16:31
16 event, if anything, happened constituted a breach of
17 the criminal law it's felt there is no ground for a
18 criminal prosecution."

19 A. Mm-hmm.

20 842 Q. CHAIRMAN: And there's a lot of things that he goes 16:31
21 through under various headings.

22 A. Mm-hmm.

23 843 Q. CHAIRMAN: Including an issue in relation to a funeral,
24 an issue in relation to Sergeant McCabe having to
25 intervene. 16:32

26 A. Yeah.

27 844 Q. CHAIRMAN: He goes through the background of the young
28 lady in question, if you go to page 5 under the heading
29 "Social Work Department Health Services Executive".

1 A. Mm-hmm.

2 845 Q. CHAIRMAN: It's nobody's business obviously except the
3 young lady and her family.

4 A. Mm-hmm.

5 846 Q. CHAIRMAN: And then he goes through the allegation and 16:32
6 incident. But any fair reading of that file would seem
7 to indicate that there was no offence, there was
8 nothing to discuss --

9 A. Yes, absolutely.

10 847 Q. CHAIRMAN: -- there was nothing to see. 16:32

11 A. Yes, absolutely. Yeah.

12 848 Q. CHAIRMAN: It's it just that it seems, I may be wrong
13 about this, the way it was being put over to you, was
14 not to that effect?

15 A. No, it wasn't. It was put to me that there had been an 16:32
16 allegation and that it had been investigated and that
17 the DPP didn't prosecute. That's -- I didn't know the
18 detail within the DPP's directions. I didn't know any
19 of that at that point.

20 849 Q. CHAIRMAN: No, it's just the issue I suppose is this: 16:32
21 That if a fair-minded person reading that would say,
22 look, there's the allegations, there wasn't anything in
23 it --

24 A. Mm-hmm.

25 850 Q. CHAIRMAN: -- it's very hard to know why anybody was 16:33
26 talking about it, whether a garda or otherwise --

27 A. Mm-hmm.

28 851 Q. CHAIRMAN: -- five, ten, fifteen years later.

29 A. Mm-hmm.

1 852 Q. CHAIRMAN: That is the problem.
2 A. Yeah.
3 853 Q. CHAIRMAN: And it is, it is about eight years later.
4 A. Yeah, I guess it was just the matter that it had become
5 so prominent and Sergeant McCabe had become very 16:33
6 prominent and obviously we were looking at all various
7 aspects surrounding all of that and this was just one
8 matter of investigation that went nowhere and was
9 probably never going to go anywhere.
10 854 Q. CHAIRMAN: There is just one other matter that -- I 16:33
11 know, but still, it's hard to know why anyone was even
12 discussing it. It's very hard to know.
13 A. Mm-hmm.
14 855 Q. CHAIRMAN: There's one other matter and that's this. I
15 want to put a hypothetical scenario to you. Let's 16:33
16 suppose a man is accused of fraud and he has been
17 talking about, you know, what was going on within his
18 company and a journalist puts forward a story, and the
19 story indicates that there's fraud within, let's say, a
20 major building society, and he says then publicly oh, 16:34
21 my involvement in this fraud was that I knew such and
22 such and did a few small things, and then he says, for
23 the sake of whatever, I'm releasing any journalist to
24 whom I spoke any obligation in relation to privilege,
25 well the journalist actually knows that what he was 16:34
26 doing was 150 times worse --
27 A. Mm-hmm.
28 856 Q. CHAIRMAN: -- and puts that story on the front page.
29 I'd imagine that that would be the end of that

1 journalist's career vis-à-vis any source, wouldn't it?
2 A. Em, yeah. Well, it's a scenario I haven't really
3 considered, to be honest.
4 857 Q. CHAIRMAN: well, is it the scenario that is operating
5 here in a less extreme way? 16:34
6 A. I feel like a waiver of somebody's privilege from --
7 it's just not releasing me from my obligations. That's
8 how I feel on this matter.
9 858 Q. CHAIRMAN: But I mean, if the evidence is X but the
10 truth is five X are you saying it's five X and giving 16:35
11 all the details and the person making a waiver publicly
12 and simply saying it was merely X, is that what is on
13 your mind in relation to waiving privilege?
14 A. Well no, what I am saying is that anybody who provided
15 me with any information in relation to this, it was 16:35
16 factual information that I was provided with. I wasn't
17 being spun and I wasn't being, you know, given stuff
18 that didn't actually happen.
19 859 Q. CHAIRMAN: well, you see, unfortunately, if you read
20 the actual file -- 16:35
21 A. Mm-hmm.
22 860 Q. CHAIRMAN: -- it really is a question of there's
23 nothing to see here.
24 A. Yeah.
25 CHAIRMAN: Anyway. Look, thank you very much for being 16:35
26 here and I just have to consider everything and it may
27 be that you will be called back. I don't mean to hang
28 that over you like the sword of Damocles, but that is
29 the situation that I'm in as well.

1 MR. DOYLE: Chairman, I'm very sorry to interrupt
2 there's one question that I think on the pressure of
3 the clock -- I don't think it amounts to anything but
4 in case it was suggested at a later stage that I
5 didn't put it --

16:36

6 CHAIRMAN: well, the submission is lasting longer than
7 the question, so please put the question.

8

9 THE WITNESS WAS FURTHER CROSS-EXAMINED BY MR. DOYLE AS
10 FOLLOWS:

16:36

11 861 Q. MR. DOYLE: I was putting Alison O'Reilly's statement
12 to you and the various bits of it --

13 A. Yeah.

14 862 Q. -- and one of the things that I put to you and which
15 you denied was that you had said to her is a
16 paedophile --

16:36

17 A. Mm-hmm.

18 863 Q. -- and a dirty effing B, B-A-S-T-A-R-D?

19 A. Mm-hmm.

20 864 Q. And one of the reasons you advanced for that not being
21 true was I don't use that kind of language --

16:36

22 A. Mm-hmm.

23 865 Q. -- isn't that right?

24 A. Generally I don't.

25 866 Q. Can I just put to you two of the three texts which are
26 before the Tribunal; "It's a farce, everyone knows,
27 from politicians to cops to journalists, it's an effing
28 pantomime" and then "I'm fully aware and to be honest I
29 think it's gross, there's a very messed up girl at the

16:36

1 heart of it and no one gives an eff". So to the extent
2 that you are denying the conversation because you don't
3 use that kind of language I suggest to you that that is
4 simply not true.

5 A. I generally don't use that kind of language and it's 16:37
6 very unfortunate from my point of view that the two
7 texts that are produced contain that language. But I
8 generally don't.

9 867 Q. Thank you.

10 CHAIRMAN: All right. So you might like to sit down. 16:37
11 There's something I need to say now. Thank you.

12
13 THE WITNESS THEN WITHDREW

14
15 16:37

16 CHAIRMAN: We are going to go through some more
17 evidence on Monday, as I understand it, Mr. McGuinness,
18 we have people scheduled, isn't that right?

19 MR. MCGUINNESS: Yes, Chairman. We have five witnesses
20 scheduled for Monday. 16:38

21 CHAIRMAN: Yes.

22 MR. MCGUINNESS: And our intention, subject to your
23 directions, is to maintain that list of journalists on
24 Monday and take their evidence.

25 CHAIRMAN: Yes. 16:38

26 MR. MCGUINNESS: And then should it be necessary to
27 invite submissions with regard to their evidence it's
28 our intention that that would be done on Tuesday
29 morning.

1 CHAIRMAN: And then? well, let's just see about that
2 now.
3 MR. McGUI NNESS: Yes.
4 CHAIRMAN: what are the rest of the witnesses then
5 after that Mr. McGuinness? 16:38
6 MR. McGUI NNESS: well, we had three other witnesses
7 today whose evidence we could not take --
8 CHAIRMAN: Yes.
9 MR. McGUI NNESS: -- and our intention is perhaps to
10 list those for Tuesday afternoon, if that were 16:38
11 possible.
12 CHAIRMAN: well, I think we will list them for Tuesday
13 morning for the moment.
14 MR. McGUI NNESS: Tuesday morning.
15 CHAIRMAN: Yes. Then after that, Mr. McGuinness? 16:38
16 MR. McGUI NNESS: well --
17 CHAIRMAN: No one has asked for anyone to be recalled
18 and no one has brought anyone to our attention who they
19 want called, is that correct?
20 MR. McGUI NNESS: As far as we understand it that is 16:38
21 correct.
22 CHAIRMAN: Yes.
23 MR. McGUI NNESS: we do have witnesses scheduled as per
24 our website notice for wednesday and Thursday also.
25 CHAIRMAN: Yes. 16:39
26 MR. McGUI NNESS: And there may possibly be a spillover
27 into Friday as well.
28 CHAIRMAN: And again, I intend to try and get as much
29 done as possible. At the moment I might indicate that

1 in relation to this, it seems to me it's necessary for
2 me to take the totality of all of the evidence into
3 account and in the event of any issue in relation to
4 privilege being raised beyond what is today, such as
5 the witness being recalled and particular question put 16:39
6 and a direction given, I would need submissions in
7 relation to the relevance of any such matter and how it
8 will assist in terms of a final determination; whether
9 it is necessary in terms of the Tribunal finding facts
10 that this should be embarked upon; obviously the 16:39
11 question of how and when the privilege may apply; I'd
12 need submissions in relation to futility; I would need
13 submissions as to whether I have a discretion; and then
14 I would need a submission in relation to procedure. So
15 that's: Application, relevance, necessity, futility, 16:40
16 discretion and procedure. So people might like to
17 think along those lines. But I'm here awaiting that.
18 And people haven't been slow to say other things and
19 just because we have got to a particular stage in a
20 particular way now doesn't mean that things may not 16:40
21 change. So every witness is subject to recall, but I'd
22 like to see what attitude the parties are taking in
23 relation to this and why they are taking that attitude
24 in the context of those particular points. So Monday.

25
26 THE TRIBUNAL THEN ADJOURNED UNTIL MONDAY, 11TH JUNE
27 2018 AT 10:00AM
28
29

' 11 [1] - 21:20 'disappointed' [1] - 157:9 'discussing' [1] - 186:2 'negative' [1] - 189:23 'orchestrated' [1] - 85:21 'orchestration' [2] - 141:27, 141:29 'Paul' [1] - 119:9 'persuaded' [1] - 195:17 'source' [1] - 177:1 'very' [1] - 167:15 'we' [1] - 196:2 'yes' [1] - 166:29	150 [2] - 170:20, 221:26 15:20 [2] - 133:5, 133:7 15:38 [1] - 134:6 15th [4] - 55:11, 123:6, 131:24, 132:7 16 [2] - 1:6, 219:13 164 [2] - 6:11, 165:12 169 [1] - 74:6 16th [1] - 76:9 17 [3] - 1:10, 123:7, 165:15 17:04 [1] - 131:26 17:20 [1] - 134:7 17:25 [1] - 134:8 17:42 [1] - 125:22 17th [1] - 76:10 18 [1] - 2:29 181 [1] - 6:12 184 [2] - 6:13, 6:14 19 [2] - 73:25, 76:6 1921 [1] - 1:10 1st [3] - 122:19, 124:12, 124:13	19:9, 24:26, 41:25, 46:28, 76:6, 185:15, 194:26, 194:28, 195:3, 208:18 2013/2014 [1] - 25:18 2013/early [1] - 187:27 2014 [25] - 1:4, 18:15, 19:9, 19:19, 24:26, 26:3, 34:9, 41:25, 46:28, 53:25, 76:6, 76:11, 76:12, 77:2, 81:10, 88:25, 91:17, 103:6, 118:16, 123:19, 124:18, 126:20, 131:24, 185:15, 187:28 2017 [17] - 1:6, 1:10, 55:12, 55:22, 55:26, 56:24, 62:13, 69:1, 72:14, 185:5, 188:16, 189:15, 190:8, 193:4, 193:10, 212:23, 213:13 2018 [3] - 1:18, 7:2, 226:27 207 [1] - 6:15 20:14 [1] - 124:11 20:48 [1] - 125:29 20:48:31 [1] - 126:1 20:50 [1] - 126:8 20:50:34 [1] - 126:3 20:51 [1] - 126:8 20:56 [1] - 126:4 20th [3] - 123:18, 123:22, 214:3 21 [3] - 2:25, 165:14, 165:15 21/2 [1] - 123:25 212 [1] - 6:16 215 [1] - 6:17 218 [3] - 6:18, 140:13, 144:13 21:00 [1] - 132:16 21:05 [1] - 132:17 21:10 [1] - 132:17 21:13 [1] - 132:17 21st [4] - 62:13, 72:18, 72:20, 132:23 22 [2] - 124:9, 160:3 223 [1] - 6:19 22:11 [1] - 132:18 22nd [1] - 213:12 23 [2] - 31:9, 165:15 23-month [1] - 168:24 24th [3] - 29:13, 133:4, 133:12 25 [1] - 165:15 26 [2] - 76:24, 122:15	26th [3] - 56:24, 123:28, 123:29 27th [2] - 55:22, 123:29 28th [2] - 124:4, 124:10 2nd [2] - 72:12, 178:5	6480 [2] - 53:19, 53:20 6984 [2] - 76:25, 122:19 6985 [1] - 122:25 6986 [1] - 122:27 6987 [1] - 122:29 6988 [1] - 123:2 6989 [1] - 123:3 6990 [1] - 123:6 6991 [1] - 123:18 6992 [1] - 123:28 6993 [1] - 124:11	
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