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SEANAD ÉIREANN ON 16 FEBRUARY 2017

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1921, ON 17 FEBRUARY 2017

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

HELD IN DUBLIN CASTLE
ON WEDNESDAY, 13TH JUNE 2018 - DAY 91

91

Gwen Malone Stenography
Services certify the
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in the above-named
action.

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1 THE HEARING RESUMED, AS FOLLOWS, ON WEDNESDAY, 13TH
2 JUNE 2018:

3
4 MR. FANNING: Just before Mr. Mallon is recalled to
5 resume his evidence, from yesterday evening, there was 10:07
6 one observation I wanted to make if now was a
7 convenient time to make it. And it arose out of a
8 questioning or line of questioning engaged in by
9 Mr. McDowell with Mr. Mallon yesterday and then an
10 intervention on your part, Chairman, and it's to be 10:07
11 seen in the transcript from yesterday, day 90 at page
12 206, if that perhaps could be put up on the screen.
13 And your intervention, Chairman, was in the middle of
14 the page:

15
16 "Gentlemen, gentlemen, there is a question here which I 10:08
17 may or may not be reporting on which is how responsible
18 was it to publish the article because I take it,
19 Mr. McDowell, that that is your particular line here?
20 Mr. McDowell: Yes." 10:08

21
22 Now just arising out of that, two observations: I have
23 looked closely at the terms of reference overnight,
24 Chairman, and it seems to me that the question of how
25 responsible it was to publish any particular article is 10:08
26 not an issue that falls within any of the terms of
27 reference, and if there is to be a disagreement about
28 that we can put in perhaps a written submission or deal
29 with it in a more elongated way, but I would simply

1 offer the proposition that it's not captured by any of
2 the terms of reference. And the consequence that I say
3 follows from that is that it's an illegitimate line of
4 questioning for Mr. McDowell to pursue with that
5 witness or with any future witness, whether or not 10:09
6 a piece of journalism was responsible. And similarly,
7 Chairman, it's not a matter which the Oireachtas has
8 asked you to report upon. And I'm putting down that
9 marker at this stage for fear that it's an issue that
10 could arise again with future witnesses. 10:09
11 CHAIRMAN: Mr. McDowell, would you like to say
12 anything?
13 MR. McDOWELL: well, I was only trying to be agreeable.
14 But my line of questioning was as to the degree of
15 knowledge of the witness as to what was on the tapes 10:09
16 and the importance he attached to it. That was the
17 main thrust of my questioning. And I fully accept that
18 it's not a term of reference of this Tribunal to work
19 out whether people were responsible or not responsible.
20 CHAIRMAN: well, I actually wonder, Mr. McDowell. I 10:09
21 actually wonder. Because you have raised that point
22 before when Mr. Williams was in the witness-box on day
23 11 and it was specifically raised with him as to what
24 he checked, what he didn't check, was it the right
25 thing to do to publish this, wouldn't people know, 10:10
26 wasn't it the right thing to ask for Sergeant McCabe's
27 point of view, which wasn't done. And furthermore,
28 reading the terms of reference, obviously the main
29 issue is whether there are directions or instructions

1 by the commissioners to contact the media to brief them
2 negatively, to draw the attention of journalists to an
3 allegation of criminal misconduct, what the
4 commissioners knew in relation to an allegation of
5 criminal misconduct and to investigate contacts between 10:10
6 members of An Garda Síochána and media and broadcasting
7 personnel. That's what the terms of reference say.
8 Now, in the event, and this is one of the things that's
9 actually on the table, that from within An Garda
10 Síochána that interview was arranged, which it was, who 10:10
11 arranged it? Was it responsibly arranged? Was it
12 right or was it wrong for journalism to respond in that
13 context? That is how I see it at the moment. Now --
14 MR. McDOWELL: But there is another slight angle to it
15 and maybe Mr. Fanning would concede the following. 10:11
16 That, if there was a campaign to denigrate Sergeant
17 McCabe, and if a newspaper determined to publish that
18 article without going to Sergeant McCabe about it, it
19 indicated that there was abroad a feeling that he was
20 fair game for that kind of article. And that might 10:11
21 weigh in your mind, Chairman, as to whether there was a
22 campaign to, I don't want to use the term smear him,
23 but a campaign to denigrate him in public by reference
24 to the D allegation.
25 MR. FANNING: If I could respond to that. 10:12
26 CHAIRMAN: Yes, of course you can, Mr. Fanning, and I
27 am not going to cut you off, but in due course. It's
28 just, I tend to worry about this, Mr. McDowell, because
29 we spent actually a lot of time and it hasn't helped me

1 in terms of actually focusing on the issues as to
2 whether people were for or against Sergeant McCabe. I
3 mean, I think I stated my view before by quoting my
4 friend who says vis-á-vis music critics, they build you
5 up and then they cut you down. If you are a public 10:12
6 figure people are entitled to take a view. That
7 doesn't necessarily mean there is anything malicious
8 behind it. But what really worries me and what
9 concerns me is the contacts between members of An Garda
10 Síochána and media and broadcasting personnel, whereby 10:12
11 anything negative came out against Sergeant McCabe in a
12 way, in particular, that referred him to the D
13 allegation, and this is the only -- these four articles
14 are the only such four articles that exist in that
15 regard. Now, we know that Chief Superintendent 10:13
16 O'Reilly had a hand in it, we know that the member of
17 the D family who is a member of An Garda Síochána, had
18 a hand in it, and then the details become blurred and
19 there are certain statements and there are certain
20 denials, but -- 10:13

21 MR. McDOWELL: Chairman --

22 CHAIRMAN: No, the reason that I mentioned that
23 yesterday was specifically that line of
24 cross-examination was pursued by you on day 11, and
25 that's what I assumed you were doing yesterday. 10:13

26 MR. McDOWELL: well, Chairman --

27 CHAIRMAN: It's not a criticism at all, Mr. McDowell,
28 you know.

29 MR. McDOWELL: -- I do ask the -- I mean, there is a

1 big danger, and I am going to say this at the end of my
2 final submissions, if I can, there is a big danger of
3 silo thinking in relation to the various modules here.
4 The fact is that the Tribunal has now evidence which it
5 may accept or may reject, that the Commissioner -- the 10:13
6 former Commissioner of An Garda Síochána was
7 disseminating disparaging material about Sergeant
8 McCabe in the months of December to February of 2013,
9 2014. The fact is that a relatively senior member of
10 An Garda Síochána seems to have played a pivotal role 10:14
11 in the Williams articles. These things may be seen by
12 the Tribunal as entirely separate and unconnected
13 events, or the view might be taken that there was a
14 general disposition to raise the Ms. D allegation
15 against Sergeant McCabe with a view to discrediting him 10:14
16 in the public eye and that the Williams articles in
17 particular and the manner in which they were arranged
18 by way of interview, tends to support that proposition.
19 That is all I am saying.

20 CHAIRMAN: Yes. Well, at the moment I have no view but 10:14
21 the reason that I intervened and said what I did was
22 because I had remembered what you had said on day 11
23 and I am not saying you did so irresponsibly, but
24 Mr. Fanning you wanted to add a submission and I am
25 very anxious to hear it. 10:15

26 MR. FANNING: Very briefly, just to say I believe there
27 is a clear dichotomy. Mr. McDowell and the Tribunal
28 are clearly entitled to inquire into the factual
29 circumstances in which newspapers came to write

1 articles concerning Sergeant McCabe to the extent that
2 they bear on the terms of reference. So, in particular
3 the interview conducted by Mr. Williams with Ms. D, the
4 circumstances in which Mr. Williams was contacted, how
5 that story came to him, all of that is entirely 10:15
6 legitimate and I've never raised any issue about that.
7 But insofar as Mr. McDowell is now veering into, as it
8 were, the editorial decision within the newspaper as to
9 the publication of articles, the editing of articles,
10 what prominence to afford them, whether or not to name 10:15
11 Mr. Williams, those are editorial decisions in the
12 newspaper and absent any evidence that An Garda
13 Síochána had anything to do with those issues, they are
14 not really the subject of the Tribunal's concerns, it
15 seems to me. 10:16

16 CHAIRMAN: I just don't know at the moment,
17 Mr. Fanning. I am not sure you are right about that.
18 I just look at term of reference [h]:

19
20 "To investigate contacts between members of An Garda 10:16
21 Síochána and media and broadcasting personnel, relevant
22 to whether there was a campaign to contact the media to
23 brief them negatively, whether Superintendent Taylor
24 was directed to draw journalists' attention to an
25 allegation of criminal misconduct and whether they had 10:16
26 knowledge of any allegation of criminal misconduct."

27
28 I think it's on the table, I'm afraid, Mr. Fanning. I
29 really do. Now, unless -- I don't know,

1 Mr. McGuinness, did you want to say anything about it?
2 MR. MCGUINNESS: well, Chairman, I think it's fair to
3 say that in terms of any explicit term of reference
4 relative to whether an article was reasonably published
5 or not, which is the way Mr. Fanning couched it, I 10:17
6 don't think it's necessarily implicit in the terms of
7 reference that the Tribunal can, as it were, adjudicate
8 on the appropriateness or otherwise of the publication
9 of an article, which may be the subject-matter of a
10 private law dispute between Sergeant McCabe. And it 10:17
11 may not be, perhaps I'm wrong in that. But in the
12 context of what Mr. McDowell's inquiries were, which
13 were related to the factual basis for different
14 matters, what witnesses knew, it is obviously relevant
15 for the Tribunal to inquire into the state of 10:17
16 knowledge, the motivation of different parties, whether
17 they were manipulated in any way, I'm not obviously
18 asserting that as a fact at the moment, but the extent
19 to which the Gardaí may have had some background
20 involvement or not is clearly part of the terms of 10:17
21 reference. So I think there is a division there.
22 CHAIRMAN: Yes. I mean, the other thing that worries
23 me, Mr. Fanning, is that there has been evidence to the
24 effect that Irish News and Media effectively act at the
25 behest of the Garda Commissioner vis-à-vis their 10:18
26 employees, a particular employee in question who called
27 to the door of the Garda Commissioner, and then says
28 she was dismissed. Now, there has to be a limit to the
29 extent to which I go into that, there has to be. But

1 nonetheless, that is the allegation, and the inference
2 that I'm being asked apparently to draw out of it is
3 that the Garda Commissioner rings and says jump and
4 they say how high? Now, that is what is there. I'm
5 not saying that I place any credence in it, I'm not 10:18
6 saying that I am going to actually rerun this
7 employment dispute again or the apology or what it
8 means or anything else like that. But I just want to
9 see where it gets us. I can't cut it off, I really
10 don't think I can cut it off. 10:19

11 MR. FANNING: Yes, save for the fact that the very
12 question that was posed yesterday as to whether or not
13 an article was responsible is a nebulous and subjective
14 standard, it's not a legal standard and that does
15 clearly go beyond the terms of reference. But I'm not 10:19
16 going to press the matter any further, Chairman. I
17 have made my observations at this point. If you think
18 it would be helpful to have further submissions at a
19 later stage in a more controlled way we will deal with
20 it that way. 10:19

21 CHAIRMAN: You have made your observations and I do
22 note what you say and I think I would benefit from
23 submissions at the end, yes, on that particular point.

24 MR. FANNING: Very good, Chairman.

25 MR. MÍCHEÁL O' HIGGINS: Chairman, can I say, just in 10:19
26 relation to the point you have just made in relation to
27 the Gemma O'Doherty aspect of matters, could I simply
28 ask you to simply note that we might simply reserve our
29 position on behalf of An Garda Síochána in making

1 appropriate submissions in relation to the relevance,
2 if any, of that set piece, as it were. Can I just
3 simply say, you used the expression that "there was
4 evidence that", and it ultimately be our submission
5 that there has been an opinion offered by Ms. O'Doherty 10:20
6 which in fact does not amount to evidence within the
7 acceptable meaning of that term but ultimately that
8 will be a matter for submissions in due course.

9 CHAIRMAN: No, I take your point. I mean, the plain
10 reality is this: There was a call to the Garda 10:20
11 Commissioner's door, that did create some disturbance
12 within Irish News and Media, there was a meeting and
13 that is to say with David Taylor and certain higher
14 executives, but the role played in that regard by the
15 Garda Commissioner is one where it would take, I would 10:20
16 imagine, quite firm deductions to be made to enable one
17 to get to the conclusion that he was necessarily behind
18 it. So that may help.

19 MR. MÍCHEÁL O' HIGGINS: Yes. We would say
20 particularly, Chairman, in the circumstances where the 10:21
21 INM executives appear to be at one to indicate An Garda
22 Síochána in fact did not play any role in directing
23 whatever steps they chose to take.

24 CHAIRMAN: well, yes.

25 MR. HARTY: Chairman, there is a witness under 10:21
26 cross-examination about this precise issue and
27 certainly the suggestion from Mr. O'Higgins as to the
28 evidence that witness is going to give, while that
29 witness is under cross-examination, is inappropriate at

1 this stage. Submissions can be made later as to the
2 evidence that is heard, but in the circumstances
3 whereby the witness is currently under
4 cross-examination in relation to precisely this issue,
5 the suggestion from Mr. O'Higgins as to how exactly 10:21
6 steps were taken and why, I would suggest is
7 inappropriate at this stage by way of submission and
8 the matter should be left open to a later stage.
9 CHAIRMAN: well, the best thing to do is to get on with
10 things. 10:21
11 MR. HARTY: Yes.
12 MS. LEADER: Mr. Mallon, please.
13
14 MR. IAN MALLON CONTINUED TO BE CROSS-EXAMINED BY
15 MR. HARTY AS FOLLOWS: 10:22
16 1 Q. MR. HARTY: Mr. Mallon, yesterday you gave evidence
17 that you called Gemma O'Doherty and you asked her to
18 desist and move away from the house, just get away from
19 the house, just go home and we can discuss it the
20 following morning, that is your recollection, is that 10:22
21 correct?
22 A. That's correct.
23 2 Q. What discussion did you have with her the following
24 morning?
25 A. Sorry, sir, can you repeat the question? 10:22
26 3 Q. What discussion did you have with her the following
27 morning?
28 A. I'm not sure about -- I received an email off
29 Ms. O'Doherty the following morning with regards to

1 discussions. I know the matter was raised then to the
2 managing editor, Michael Denieffe, and I think he may
3 have had the discussion with her then.

4 4 Q. I see. And did you have any other part in relation to
5 any of that? 10:23

6 A. Not that I'm aware of, bar maybe there was an email
7 exchange, but, no.

8 5 Q. And you are absolutely clear about your recollection of
9 the conversation you had with her on the night?

10 A. I am, absolutely. 10:23

11 6 Q. You see the difficulty with that is that nobody
12 suggested that Gemma O'Doherty spent any time at the
13 Garda Commissioner's house other than asking whether or
14 not that is where he lived and that she then left.
15 That is her version of events and that is the Garda 10:23
16 Commissioner's knowledge of the events. So she was
17 there, she says, for a matter of seconds?

18 A. I'm not arguing with the length of time that she was
19 there. I'm just arguing with the fact that she -- I am
20 just making the point that I was aware that she was 10:23
21 there.

22 7 Q. Yes. But she wasn't there when you spoke to her.

23 A. Sir, I wasn't aware of whether she was there or not.
24 My assumption when I rang her was I asked her, I said,
25 Gemma, are you at the Garda Commissioner's house or 10:23
26 words to that effect and if so, please can you move
27 away and we'll just discuss this tomorrow or discuss
28 the proper protocols that are in place. And there are
29 protocols in place when it comes to matters of, as it's

1 called, door-stepping, particularly senior, you know,
2 particularly the head of the police, that she could
3 have gone through the Garda Press Office or at the very
4 least with all reporters when they are sent on a
5 doorstep or when they volunteer to go on a doorstep, 10:24
6 that it's run through the senior editorial figure at
7 the time or the head of news, as I was then. And I
8 wasn't aware that she had planned to do that that
9 night.

10 8 Q. But the difficulty with it is, is that she wasn't there 10:24
11 when you spoke to her and surely she told you that
12 straight away?

13 A. I don't have a recollection of whether she was there or
14 not. I assumed, I suppose, when I spoke to her that
15 she had still been there, but whether she was there or 10:24
16 not the fact is she went there and I wasn't aware of
17 it, was my primary concern.

18 9 Q. Did you ask her what she was there for?

19 A. I don't -- I don't think so, I'm not sure. I'm not
20 sure, sorry. 10:25

21 10 Q. Surely if you are ringing up a journalist who you
22 believe to be hanging around the front door of the
23 Garda Commissioner's house, surely you'd ask her why
24 she was there?

25 A. No, as I said, my primary motivation was that fact that 10:25
26 she had not gone through the proper protocols of trying
27 to make contact with the Garda Commissioner, not that I
28 was aware of, i.e. vis-á-vis through the Garda Press
29 Office first of all, or at the very least discuss the

1 matter with me first, where she comes to me and says,
2 look, I am thinking of going to the Garda
3 Commissioner's house because there are very serious
4 issues I believe which need to be answered and then we
5 would have taken steps to put in place the appropriate 10:25
6 provisions.

7 11 Q. Mr. Mallon, what are the protocols in relation to the
8 contact of various different people in INM?

9 A. Well, somebody who is contactable through a Press
10 Officer directly, one would take that step first of all 10:25
11 and I wasn't sure whether Ms. O'Doherty had tried to
12 interview the Garda Commissioner or speak to him
13 through the Garda Press Office.

14 12 Q. But you should have asked her surely whether or not
15 there was a personal matter or a matter in his function 10:26
16 as Garda Commissioner that she was at his door?

17 A. Well, I didn't believe that she was at his door on
18 personal matters.

19 13 Q. In respect of a matter that related to his personal
20 car, for example, driving his own car on the day in 10:26
21 question?

22 A. I didn't get into the nuances of the story at that
23 particular time.

24 14 Q. Why didn't you get into the nuances of the story?

25 A. Because, sir, as I said, I didn't agree that any of our 10:26
26 reporters, Gemma O'Doherty or anybody, should go to the
27 house of the Garda Commissioner at that time. I
28 absolutely -- and I stand over that.

29 15 Q. And does that apply to everybody?

1 A. It would apply to all senior figures; you know, Chief
2 Justices, Taoisigh, Government Ministers, anybody who
3 has been infrastructure set up where they can be
4 contacted and contactable through spokespeople or Press
5 Office, that would be the normal channel of inquiry, 10:26
6 first of all.

7 16 Q. Where does that stop? In relation to a company that
8 you'd have to go through the Press Office of a company
9 in relation to the personal affairs of a director of
10 that company? 10:27

11 A. That would generally be the way, sir. But I mean, if
12 that option was blocked off well then, we would discuss
13 further options or further possibilities.

14 17 Q. And is that protocol printed anywhere?

15 A. Sorry? 10:27

16 18 Q. Is that protocol printed anywhere?

17 A. Is that protocol printed anywhere?

18 19 Q. Yes.

19 A. I am not sure, I will have to check that.

20 20 Q. And did you -- 10:27

21 A. But it's a given for any news reporter or journalist
22 that they do know these protocols.

23 21 Q. How can they know protocols? Did you tell
24 Ms. O'Doherty what the protocol was in relation to
25 contacting the Garda Commissioner about his own 10:27
26 personal driving offences?

27 A. Well, it's just a normal thing within journalism that
28 journalists would know that if there was a doorstep to
29 be had or to be done that they would come true the

1 proper editorial channel of first of all.

2 22 Q. And when ou spoke on the phone did you give
3 Ms. O'Doherty any opportunity to explain why she was
4 there?

5 A. Sir, I have already said this, I wasn't interested in 10:27
6 why she was there, I was just interested that there was
7 some concern by the wife of the Garda Commissioner, who
8 I believe was the distressed or I was told was
9 distressed, and my immediate concern was look, let's
10 get out of here and we will talk about it morning. 10:28

11 23 Q. It wasn't your evidence yesterday that the wife of the
12 Garda Commissioner was distressed?

13 A. I am sorry, sir?

14 24 Q. It wasn't your evidence yesterday that the wife of the
15 Garda Commissioner was distressed? 10:28

16 A. I think I gave about two minutes evidence on this
17 yesterday evening before proceedings were drawn to a
18 close, so I didn't get into this.

19 25 Q. Tom Brady was the person who called you? Tom Brady was
20 the person who called you? 10:28

21 A. I believe so, yes.

22 26 Q. And who called him?

23 A. I'm not sure.

24 27 Q. What information did Tom Brady give you?

25 A. If it was Tom, somebody spoke to me, I think it was Tom 10:28
26 Brady, he would have said, I believe he would have said
27 Gemma O'Doherty is at the Garda Commissioner's house, I
28 said leave it with him I will give her a call.

29 28 Q. Did you ask him who told him that?

1 A. I didn't, sir. As I said, this was kind of an
2 emergency situation where we were asked could we get
3 our reporter away from the Garda Commissioner's house.
4 29 Q. You see, where I am having a difficulty is, you are
5 employed at the time in a news gathering organisation, 10:28
6 isn't that correct?
7 A. Yes.
8 30 Q. You seem remarkably disinterested in information?
9 A. That's a very disingenuous -- I mean, I have already
10 outlined, I got a very late call about one of my 10:29
11 reporters --
12 31 Q. How late?
13 A. -- who was at the home of the Garda Commissioner, whose
14 wife was distressed, could I please get her away from
15 there. That was my only -- 10:29
16 32 Q. How late? How late?
17 A. I believe it was after nine o'clock, 9:00pm.
18 33 Q. Yes. Ms. O'Doherty wasn't at the house?
19 A. She says she wasn't at the house.
20 34 Q. Sorry, the Garda Commissioner says she wasn't at the 10:29
21 house?
22 A. Fair enough. I got the call --
23 35 Q. Nobody said she was at the house, except you and it
24 wasn't put to Ms. O'Doherty when she gave evidence that
25 she was at the house when you rang her? 10:29
26 A. I assumed, I have already said this, I just assumed she
27 was at the house the way I got the call.
28 36 Q. And what I am saying to you, you are remarkably
29 disinterested in the facts when you phone

1 Ms. O'Doherty?

2 A. I was interested in one fact and the --

3 37 Q. Just one fact?

4 A. At that particular time the fact being that one of my
5 reporters was at the home of the Garda Commissioner. 10:29

6 38 Q. And why was that fact the only fact that you were
7 interested in?

8 A. Because I'd received a call saying that the wife of the
9 Garda Commissioner was distressed. And I am sorry, I
10 didn't have time to go into all other aspects or all 10:30
11 other facts and that is why I outlined to Ms. O'Doherty
12 look, we will pick it up tomorrow.

13 39 Q. And you didn't pick it up the tomorrow, following day?

14 A. I would have raised it with the managing editor,
15 Michael Denieffe, at the appropriate channel. 10:30

16 40 Q. You didn't mention anything about Ms. O'Doherty ruining
17 everything?

18 A. I certainly did not. And before you ask, I certainly
19 didn't use the phrase that I would -- RTÉ would be on
20 to her. I have no idea where she is coming from with 10:30
21 those statements.

22 41 Q. Why didn't you instruct your counsel or your lawyers
23 that that didn't happen?

24 A. Well, I am telling you -- because I am giving you now
25 that in testimony, it certainly did not happen. 10:30

26 42 Q. At no stage was Ms. O'Doherty questioned about the
27 details of that conversation.

28 A. Sir, I'd like to just maybe wonder a little more why
29 Ms. O'Doherty wasn't probed on that particular phrase

1 that, number one, she had ruined everything, as I was
2 purported to have said or the RTÉ reference, because I
3 have no idea where that is coming from and I don't know
4 what she means, what she means when she said I had said
5 to her that she had ruined everything. I just don't -- 10:31
6 that doesn't compute.

7 43 Q. She gave her evidence, she wasn't questioned on your
8 behalf or on behalf Independent News & Media in
9 relation to that. It was taken without question. She
10 said she was at dinner with her husband, that was taken 10:31
11 without question.

12 A. Say that again.

13 44 Q. She said she was at dinner with her husband in
14 O'Connell's Restaurant in Donnybrook when you phoned
15 her. She said she came down -- that you spoke to her 10:31
16 in an extremely angry manner, that was taken without
17 question.

18 A. Sorry sir, that is not correct. I was not extremely
19 angry. Absolutely incorrect.

20 45 Q. You weren't extremely angry? 10:31

21 A. I think you will see by the content of her email the
22 following morning which was rather friendly, it
23 didn't -- it wasn't the email of a person who was in
24 conflict with me and if you want to pull up the email
25 again itself for the Tribunal, Chairman, I have no 10:32
26 problem with that because there was no conflict
27 whatsoever.

28 46 Q. Really?

29 A. She was a colleague.

1 47 Q. She was a colleague or an employee?
2 A. She was a colleague of mine and an employee of the
3 company.
4 48 Q. Was she an employee as well? Were you senior to her?
5 A. I was senior to her, yes. 10:32
6 49 Q. And you had phoned her that evening, you say without
7 even checking the facts, to give out to her, to get
8 away from the Garda Commissioner's house?
9 A. No, not in those terms. Without checking the facts,
10 the facts as I received them from somebody whom I 10:32
11 trust, had been told that she had been at the Garda
12 Commissioner's house.
13 50 Q. Did you not trust Gemma O'Doherty?
14 A. Are -- is it not correct Ms. O'Doherty had been at the
15 Garda Commissioner's house? 10:32
16 51 Q. Do you not trust Gemma O'Doherty? I will ask the
17 questions.
18 A. That is not the issue here.
19 52 Q. Well, it is the issue, because you got one piece of
20 information from one journalist, you then phone another 10:33
21 journalist. You say you trusted the information that
22 you got from Tom Brady, I'm asking you did you not
23 trust the information you could receive from Gemma
24 O'Doherty?
25 MR. FANNING: With the greatest of respect to 10:33
26 Mr. Harty, I can't see how this line of questioning
27 assists any inquiry of the Tribunal.
28 CHAIRMAN: Mr. Harty, perhaps if it were somewhat more
29 concise we might get there. I'm sure you are pursuing

1 a line because you feel it's relevant, at the moment
2 it's not completely apparent as to why, so --

3 MR. HARTY: I will get to the point.

4 53 Q. You might not be able to assist us any further,
5 Mr. Mallon.

10:33

6 A. Sorry, sir?

7 54 Q. Ms. O'Doherty says that things went downhill for her
8 effectively in Independent News and Media after that
9 evening, were you involved in the decision to make
10 Ms. O'Doherty compulsorily redundant?

10:34

11 MR. FANNING: Chairman, I am objecting to that
12 question. That clearly cannot be anything to do with
13 the Tribunal's concerns.

14 CHAIRMAN: well, I think if the question were at the
15 behest of anyone in Garda Síochána or in consequence of
16 ruining a relationship with An Garda Síochána, did you
17 seek to terminate, if that is -- now, obviously there
18 may well be an assumption there, Mr. Fanning, but if
19 the question is asked and the answer is no or the
20 answer is yes, then we see if there is anything else
21 which may support it.

10:34

10:34

22 MR. FANNING: Very good.

23 MR. HARTY: I am simply trying to round off
24 Mr. Mallon's involvement in it. If he wasn't involved
25 in the decision to make Ms. O'Doherty compulsorily
26 redundant the matter ends with his evidence at that
27 point.

10:34

28 CHAIRMAN: Mr. Harty, are you pursuing the line that
29 Irish News and Media decided to get rid of

1 Ms. O'Doherty because she had infringed on a
2 relationship which was very valuable and are you in a
3 position to produce any evidence that even if they
4 thought that, that it was pursuant to any suggestion
5 from Garda Headquarters? 10:35

6 MR. HARTY: well, in relation to Mr. Mallon --

7 CHAIRMAN: I am just saying that, and if you want to
8 ask any questions along that line, I have no problem
9 with that.

10 MR. HARTY: I suppose the question is, if Mr. Mallon 10:35
11 wasn't involved in the decision in relation to
12 Ms. O'Doherty's employment then there is no further
13 questions to ask Mr. Mallon in relation to that.

14 CHAIRMAN: well, he may know something about it; he may
15 know that it's accurate, he may know that it's 10:35
16 inaccurate, he may know that there was no such talk in
17 the office, for instance. He may know that, I don't
18 know.

19 55 Q. MR. HARTY: Mr. Mallon, the first question before we
20 get to that point: In relation to the decision to send 10:35
21 two editors to Harcourt Terrace to meet with an
22 assistant commissioner and Superintendent Taylor, were
23 you involved in that decision?

24 A. No, I wasn't.

25 56 Q. Do you have any idea how that decision came about? 10:35
26 A. No, I don't.

27 57 Q. In relation to the decision as to who was to be made
28 redundant -- compulsorily redundant or offered
29 voluntary redundancy in Independent News and Media,

1 were you involved in those decisions?
2 A. I was involved in many of the voluntary redundancy
3 processes with INM. When those situations became
4 involuntary, if you like, I was not part of those
5 decisions or that process. 10:36
6 58 Q. Not part of the decision-making as to who would be
7 selected --
8 A. Sorry, sir, as I stated already, voluntary redundancy
9 programmes I was involved with, with HR, when those
10 situations became involuntary for people didn't want to 10:36
11 go I had no hand, act or part in that process.
12 59 Q. Okay. Ms. O'Doherty has said that she was -- that the
13 attitude to her changed in the newsroom after that. I
14 am going to allow you the opportunity -- after that
15 evening -- I am going to allow you the opportunity 10:36
16 comment on that, her view in relation to that.
17 A. That's absolutely incorrect.
18 60 Q. But she was in fact made compulsorily redundant?
19 A. Not that day -- was it?
20 61 Q. No. 10:37
21 A. No.
22 62 Q. I appreciate that.
23 A. Sorry?
24 63 Q. I appreciate that. I have no further questions. Thank
25 you. 10:37
26 CHAIRMAN: All right.
27
28
29

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

2 64 Q. MR. Ó MUIRCHEARTAIGH: Thank you, Chairman. Good
3 morning, Mr. Mallon, my name is Fíonán
4 Ó Muircheartaigh. I represent Alison O'Reilly. I just
5 want to ask you a few questions about the video that 10:37
6 was taken of Paul Williams' interview with Ms. D. Now,
7 it's just to try and, first of all, tie down some
8 dates. I think there is agreement that Mr. Williams
9 had his interview with Ms. D on Saturday the 8th March
10 2014, and Ms. Dearbhail McDonald, in her evidence 10:37
11 yesterday, explained how she was furnished with
12 information a number of days before the 14th March,
13 which happens to be the following Friday, at which
14 there was a meeting she attended, I think she said with
15 yourself and Stephen Rae and I saw it somewhere in the 10:38
16 papers yesterday that on that occasion the video was
17 downloaded by Caoimhe Gaskin. Now, it's just to try
18 and nail down some facts. There was evidence the day
19 before that, I think it was on Monday, that we had
20 Eavan Murray, and she had gone up and met the D family 10:38
21 and she said it was immediately, it was in very close
22 proximity to the interview with Paul Williams and when
23 she was speaking, she said that the D family, that was
24 probably Mr. and Mrs. D and not Ms. D, that they were
25 very concerned about the situation that had arisen. 10:39
26 And I asked her what exactly they were concerned about,
27 and they said they were particularly concerned about
28 the video. Now, what I'm trying to track down is, who
29 had access to this video? Who was responsible for the

1 video? Have you any idea of that? In the period
2 between the 8th March and 15th March -- or 14th March,
3 sorry.

4 A. Well, sir, with any sensitive information -- sensitive
5 material such as a video of an interview which a 10:39
6 decision has yet to be taken as to whether to publish
7 or not, very few people would have -- and nobody really
8 would have access to that video except for the digital
9 editor and obviously the videographer in this case
10 Caoimhe Gaskin. 10:40

11 65 Q. So, is Caoimhe Gaskin digital editor?

12 A. No. Fionnuala O'Leary is the digital editor.

13 66 Q. And what is Caoimhe Gaskin's role or status in the
14 organisation?

15 A. That is a videographer. That is like a photographer 10:40
16 except a videographer.

17 67 Q. So she obtained this video. I mean, was this a tape or
18 was it a digital file or what was it?

19 A. I would imagine it was a digital file.

20 68 Q. You see, without going into the meeting on the 14th 10:40
21 March, which we understood that, among other things,
22 you discussed the legal review of Dearbhail McDonald,
23 the question really is, were there other issues in
24 relation to the publication of this material discussed
25 at that meeting? 10:40

26 A. I think, sir, from my statements yesterday, I don't
27 have great recollection, I don't have much -- any
28 recollection of that meeting, let alone the content of
29 it.

1 69 Q. But you see, what is troubling me is that in the
2 evidence of Ms. D given on day 10 of this Tribunal, we
3 understand that the premise on which this whole process
4 took place was that she wanted her side of the story to
5 get out in a controlled way, and yet two or three days 10:41
6 after the interview took place, the family were very
7 concerned about the video, and I'm just wondering if
8 the family shared that concern with Eavan Murray, would
9 they not have shared the concern with Independent
10 Newspapers? 10:41

11 A. Sir, I think it's important to understand that any
12 person or persons who volunteer themselves to be part
13 of a story, i.e. to be interviewed, in this case to be
14 interviewed on video, their immediate motivation is for
15 that story to be published. Now, I just want to finish 10:41
16 that point because this is very important. And the
17 amount of people, back to my own reporting days over
18 the years where I would have gone and interviewed
19 people, would ring you the following day and ask why
20 the story hadn't appeared in the paper, because they 10:42
21 would have a very preconceived notion as to how the
22 story would evolve and that is usually always
23 immediately. And obviously the steps were taken and
24 the checks were made and the decision ultimately not to
25 publish that video was made. And I can see the 10:42
26 concerns of anybody who has, as I say, you know, lent
27 themselves to be part of an interview process and then
28 for the interview not to be carried, would feel
29 somewhat disenfranchised by the whole process, but that

1 is not my concern.

2 70 Q. I think that is not quite the question, maybe I didn't
3 put it clearly, but you haven't had the benefit of
4 being here when Ms. D gave her evidence, but certainly
5 the sense I have of that and the sense I have of 10:42
6 Mr. D's evidence in relation to this entire process,
7 was that an interview would be held and an article
8 prepared that would give her perspective of matters,
9 and there was no suggestion that the video was for
10 anything other than a record for the journalist 10:43
11 concerned, and what concerns me about this really is
12 that, first of all, there is the question of who had
13 access to the video, who knew about this interview, who
14 knew how long the interview was, who knew that there
15 was a very troubled lady at the centre of this thing, 10:43
16 there was physical evidence of this interview.

17 MR. FANNING: Chairman, firstly, this isn't a question,
18 secondly I don't understand why it's being put to this
19 witness, and thirdly, I don't understand how any of the
20 question, if it ever becomes a question, is related to 10:43
21 any interests of Alison O'Reilly.

22 CHAIRMAN: well, I'm just trying to tease it through
23 and I am thinking to myself, if one agrees to appear on
24 video in the context of an interview, why does one do
25 that? I suppose, Mr. Ó Muirheartaigh, that is the 10:44
26 main point. I mean, lots of people change their minds
27 and we have had a discussion of it may seem like a good
28 idea today but in five years' time to, I suppose, out
29 yourself, let us say, as a rape victim, which is

1 something that occurs frequently in the Central
2 Criminal Court, that people have these thoughts. But
3 maybe you would be so kind as to just ask a question
4 which is pertinent to the point because I'm not sure
5 that I'm there. The evidence certainly of Mr. Mallon 10:44
6 has been pretty straightforwardly that people agree to
7 be interviewed because they want to get things in the
8 newspaper. And people agree to be videoed, I would
9 assume, it's either for the purpose of verification but
10 why would that be needed? A tape-recorder would do. 10:44
11 And why would one start worrying about it if you have
12 set up circumstances so that you can't be seen or there
13 are guarantees as to whether an actor's voice is used?
14 I am not sure I am getting your drift at the moment.

15 71 Q. MR. Ó MUIRCHEARTAIGH: well the point, first of all, 10:45
16 Chairman, is that at least four people had seen this
17 video by the 14th March. Isn't that the case? Because
18 there were three people and Caoimhe Gaskin at the
19 meeting on 14th March?

20 A. Correct. 10:45

21 72 Q. And so, at least four people had seen it, and the video
22 editor, whoever was responsible in the organisation,
23 also had access to it?

24 A. I think Caoimhe Gaskin may have edited it also, but I
25 am not sure of that. 10:45

26 73 Q. So the point is that -- and to answer one of
27 Mr. Fanning's questions, the reason I'm interested in
28 this is because my client was told of an interview.
29 Now, there was an interview. My client was told of the

1 general order of the length of this interview, and
2 without somebody having seen that tape or without
3 somebody having been told about the tape and its
4 contents, her informant could not have known that. And
5 that is why I am concerned about the fact that this 10:46
6 tape was doing the rounds with at least four people in
7 Independent News & Media. And it would appear from the
8 evidence of Eavan Murray that this was after the
9 parents had expressed their concern about the video.
10 CHAIRMAN: So, Mr. Ó Muircheartaigh, just before you 10:46
11 answer that question, is the point, the relating of the
12 detail that she was sitting on the couch and hugging
13 herself? Is that the point you are making?
14 MR. Ó MUIRCHEARTAIGH: It is the point. And the point
15 that there was an interview for an hour or thereabouts. 10:47
16 CHAIRMAN: All right.
17 MR. Ó MUIRCHEARTAIGH: And how could anyone know that
18 if they didn't see or heard about this video?
19 CHAIRMAN: Yes. All right. Do you see the point, that
20 the video was widely discussed, that its contents if it 10:47
21 wasn't widely watched would have been widely discussed
22 in the office?
23 A. Yes, Chairman. And I disagree that it was widely seen.
24 I mean, it would have been seen by the reporter
25 obviously who did the interview, the videographer, the 10:47
26 head of news, as I was then, the chief -- the
27 editor-in-chief and the head of digital and I think,
28 according to the statements, also in the room would
29 have been the editor of the Irish Independent, and that

1 really isn't widely discussed and seen around the
2 place. That is a small group of very, very senior
3 editors who would always have meetings and discussions
4 and would view materials in-lodge, which would be
5 absolute. So I think it's important also maybe to go 10:47
6 back to your clients or if your client has in any way
7 indicated how she got this information, because any
8 detail of the video would not, I can say that most
9 confidently, would not have come from any senior
10 executive within INM. And I think there was a view 10:48
11 that your client or someone close to your client had
12 mentioned that the alleged victim in this case had sat
13 huddled and on a couch and all that, when my belief,
14 having indicated yesterday that I couldn't remember
15 seeing the video but having spoken to somebody who said 10:48
16 that she was quite erect and she was quite confident
17 and eloquent in the video, so I don't know where your
18 client has got that information from but it's not
19 correct.

20 74 Q. MR. Ó MUIRCHEARTAIGH: Just on that point. My client 10:48
21 has told this Tribunal what she was told. She has not
22 said what was on the video. She was told that there
23 was an interview. But this is really about what
24 happened then. The second point I want to try and
25 establish is: I mean, even if people other than the 10:49
26 four people we have mentioned in Irish News and Media
27 hadn't seen this video, is it possible that other
28 people in Irish News and Media knew there was a video
29 to back up Paul Williams' story, to authenticate it,

1 for example? would that be knowledge that was, other
2 than with the four people concerned?

3 A. I would doubt that. I would say it would be very much
4 in-lodge.

5 75 Q. And my last question really is: whatever the truth is 10:49
6 about the video, did Irish News and Media know at the
7 time on the 14th march, or any time before the
8 publication in April, of the concern that we have heard
9 here that was expressed by the D family in relation to
10 this video and what was coming from it, and did they 10:49
11 publish regardless?

12 A. Sir, the video wasn't published.

13 76 Q. The video wasn't published but the articles of
14 Mr. Williams were based on that interview, which was a
15 video. 10:50

16 A. Sorry, what were the concerns of the family in regard
17 to the articles?

18 CHAIRMAN: well, Mr. Ó Muircheartaigh, that may well be
19 a point, but certainly no one in the D family expressed
20 any concern about those articles and furthermore the 10:50
21 follow-up was to continue contact with Mr. Williams for
22 the purpose of arranging a political interview and
23 indeed they were meeting in a hotel and having tea and
24 buns and then going to Leinster House together. So it
25 wouldn't appear to me that there is any evidence that 10:50
26 the family were concerned. Quite the opposite; it
27 would seem that they were quite pleased. I use that in
28 the lowest possible sense. Quite content that the
29 articles had been published. In line with what

1 Mr. Mallon said, that people generally contact
2 newspapers in order to see something in print.
3 MR. Ó MUIRCHEARTAIGH: Chairman, I was just trying to
4 reconcile it with Ms. Murray's evidence she gave on
5 Monday in that regard. 10:51
6 CHAIRMAN: what was that, remind me?
7 MR. Ó MUIRCHEARTAIGH: well, on Monday she said when
8 she went to meet the D family.
9 CHAIRMAN: Oh, they were concerned.
10 MR. Ó MUIRCHEARTAIGH: They were concerned. And I said 10:51
11 what were they concerned about and she said
12 particularly about the video. That is my recollection.
13 Now, I could be wrong in this.
14 CHAIRMAN: No. I understand where you are coming from,
15 thank you. 10:51
16 77 Q. MR. Ó MUIRCHEARTAIGH: My very last question, you will
17 be glad to hear, Mr. Mallon, is: whatever the context
18 in relation to the views of the D family or the content
19 of the interview, would you accept that, and this
20 touches on the point that was discussed at the very 10:51
21 outset of this meeting, would you accept that the
22 sequence of articles had the effect of propagating
23 unwarranted speculation in regard to the character of
24 Maurice McCabe and wasn't that the most likely outcome
25 of publishing these articles? 10:52
26 A. Sorry, sir, could you just repeat the last bit of your
27 question?
28 78 Q. Certainly.
29 CHAIRMAN: I think the point is this: If you look at

1 the articles, it may be some time since you saw them, I
2 don't know whether it is or not, but I mean what they
3 say is a girl who says she was sexually assaulted by a
4 serving garda wants her case to be reinvestigated
5 because she feels the investigation wasn't proper. 10:52
6 That indicates the subtext is, no one is saying it's a
7 cover-up, but that a less good job was done because it
8 was a Garda member than if it was, say, an ordinary
9 person at a discotheque. So Mr. Ó Muircheartaigh's
10 question is: By publishing an article like that did it 10:52
11 not focus attention on Sergeant McCabe or speculation
12 as to whether it was Sergeant McCabe, because as you
13 will appreciate several people have given evidence to
14 say well, when I read the article I assumed it was
15 Sergeant McCabe being talked about or I deduced it was? 10:53
16 So that is the question.

17 A. At the time I did not see that -- no, I didn't. On the
18 basis that Sergeant McCabe wasn't named in the article.
19 But I mean, that was at the time.

20 79 Q. MR. Ó MUIRCHEARTAIGH: would you accept that anybody in 10:53
21 the know would know that this must be a whistleblower?

22 A. No. Absolutely not.

23 CHAIRMAN: Mr. Lehane, I think yesterday you were
24 perhaps unnecessarily shortened, and the reason I am
25 coming back to you is I am not exactly sure as to the 10:53
26 point you wished to make to Mr. Mallon, that is not
27 your fault, it's pressure of time, A, and secondly,
28 because at the end of the day I didn't completely
29 understand it, so if you wished to put a couple of

1 points I would be very glad to hear them.

2 MR. LEHANE: I am grateful for that, Chairman. I think
3 the point I was trying to make to Mr. Mallon --

4 CHAIRMAN: You can put it to him, if you wish.

5 MR. LEHANE: I am going to address you first because I 10:54
6 don't think it's necessary for me to ask Mr. Mallon any
7 further questions. It was simply directed to the use
8 of terminology surrounding the allegations in
9 Independent News and Media at the time and I have
10 ascertained his evidence in relation to that. And it 10:54
11 will just be a submission to you at the end of the day,
12 Chairman, in relation to the differences between my
13 client, Ms. Harris, and Mr. Mallon, and it will be a
14 matter for you to resolve.

15 CHAIRMAN: Yes. But I had a difficulty yesterday with 10:54
16 saying that paedophilia was in any way, if you like, an
17 improper word because it is a word used in scientific
18 circles.

19 MR. LEHANE: Exactly. Chairman, paedophilia, and I
20 think the word yesterday, the Greek word -- but the 10:54
21 point is, is that if the word -- there is a dispute as
22 to whether or not the word was used to describe this
23 activity by another witness who is going to come to
24 this give evidence to this Tribunal, whereas Ms. Harris
25 says it was used and the other individual denies it 10:54
26 would be used. And my submission would be it would
27 nothing to unusual to find the word paedophile used or
28 the words kiddie fiddler used. Mr. Mallon has given
29 his evidence, I was just probing in relation to whether

1 he had heard this given that the allegations were being
2 discussed in a very open way according to his evidence
3 in Independent News & Media.
4 CHAIRMAN: well, your evidence yesterday was that there
5 wasn't any question of you discussing Sergeant McCabe 10:55
6 and paedophilia and there certainly was no question of
7 you being shut down by Anne Harris and said, well, this
8 is nonsense and no one is to talk like that in my
9 presence? I don't mean it as strongly as that, but
10 that being the general message. 10:55
11 A. That's correct.
12 CHAIRMAN: Yes. All right.
13 MR. LEHANE: Thank you, Chairman.
14
15 THE WITNESS WAS THEN CROSS-EXAMINED BY MR. MÍCHEÁL 10:55
16 O' HIGGINS:
17 80 Q. MR. MÍCHEÁL O' HIGGINS: Just one question, Mr. Mallon,
18 arising from this morning's questions. Mícheál
19 O'Higgins on behalf of An Garda Síochána. Do you
20 happen to know was Ms. D given or did she seek a copy 10:56
21 of the video file or video of the interview?
22 A. I don't know, I have no knowledge.
23 MR. MÍCHEÁL O' HIGGINS: Thank you.
24 MR. FANNING: Chairman, just a couple of short issues
25 arising for Mr. Mallon. 10:56
26
27
28
29

THE WITNESS WAS EXAMINED BY MR. FANNING:

- 1
- 2 81 Q. MR. FANNING: Mr. Mallon, on a number of occasions in
3 the course of your evidence, in particular in relation
4 to the viewing of the video, you've had to tell the
5 Chairman that you can't recollect certain matters, and 10:56
6 just to put your inability to recollection certain
7 matters from 2014 in its proper context for the
8 Chairman; I think you are no longer working in
9 journalism?
- 10 A. That's correct. 10:56
- 11 82 Q. When did you leave the employment of Independent News &
12 Media?
- 13 A. August 2015.
- 14 83 Q. And I think you took up a position with the Football
15 Association of Ireland? 10:56
- 16 A. That's correct.
- 17 84 Q. And what was that position and how long did you hold it
18 for?
- 19 A. I was Director of Communications for two-and-a-half
20 years, up until March of this year. 10:56
- 21 85 Q. And in March of this year I think you have moved on to
22 different role?
- 23 A. Yes, Mr. Fanning, I am now a communications consultant
24 working with UEFA.
- 25 86 Q. Yes. So it's fair to say arising out of that, that 10:57
26 really for the last three years you haven't worked in
27 journalism and whilst in this hall a lot of people's
28 focus has been very much on Sergeant McCabe for many
29 years, what would you say about your own focus or

1 interest in affairs concerning Sergeant McCabe in the
2 last three years?

3 A. At the time, and I did state this yesterday, at the
4 time it was -- it had the potential to be a big story,
5 it wasn't a story that was primarily on my focus with 10:57
6 all the other stories that I would have been working on
7 or working with reporters about. In the intervening
8 years away from journalism, looking at how the whole
9 Maurice McCabe story has evolved, it has been quite --
10 you know, it's been an extraordinary thing. I would 10:57
11 say, I would say, Chairman, that in relation to me not
12 recollecting a number of matters yesterday, none of
13 those were particularly difficult matters had I
14 recollected them or recalled them. And unfortunately
15 just because of time, and as Mr. Fanning has pointed 10:58
16 out career changes, I just have no -- had no
17 recollections of them. But I mean, as I say, as I sat
18 looking back at the story over the last couple of
19 years, it has been an extraordinary evolution.

20 87 Q. All right. Now, just an issue in relation to 10:58
21 Ms. O'Doherty and the line of questioning that
22 Mr. Harty pursued with you, I just want to put certain
23 information to you that was put to Ms. O'Doherty when
24 she gave evidence. It's in the transcript of day 82,
25 page 209. And this may or may not be something that 10:58
26 the Tribunal Chairperson is ultimately interested in
27 but insofar as Mr. Harty was pursuing this issue with
28 you, at page 209 of day 82, I put to Ms. O'Doherty
29 certain facts concerning Independent Newspapers in 2013

1 and a round of redundancies, and I'm not sure if
2 it's -- it's just about to come up on the screen,
3 perhaps. And you'll see that the long question, 558,
4 sets out that:

5
6 "It was a matter of public record that INM was heavily
7 indebted in 2013, that it sold its South African
8 business to pay down debt, that it raised money from
9 its existing shareholders, it formed a cost-cutting
10 plan for a redundancy programme which was announced in
11 a circular to all staff by the then chief executive of
12 INM, Vincent Crowley, on 26th April 2013, and that the
13 round of redundancies ultimately incorporated 43 job
14 losses in INM, 29 of which were editorial and six of
15 which were initially non-voluntary. "

16
17 And I ultimately put it to Ms. O'Doherty that she was
18 the only person who challenged the legality of a
19 redundancy. Now, Mr. Mallon, what do you say about
20 those facts that were put to Ms. O'Doherty?

21 A. Sorry, specifically, Mr. Fanning?

22 CHAIRMAN: I think what you are expected to say is
23 those are the statistics, that is what was happening,
24 if that indeed be the case.

25 A. Yes. I mean, the figures would appear to tally.

26 88 Q. MR. FANNING: And would accord with your recollection.

27 A. Yes.

28 MR. FANNING: Thank you, Mr. Mallon.

29 MS. LEADER: Just, sir, I want to clarify one thing.

1 The recording of the interview with Ms. D was made
2 available to the Tribunal. It hasn't been circulated
3 as yet.

4 CHAIRMAN: Yes. And it won't be circulated.

5 MS. LEADER: Yes. It was made available through
6 Mr. Williams' solicitor. 11:00

7 CHAIRMAN: Yes.

8 MS. LEADER: There are two questions I wanted to ask
9 you, Mr. Mallon.

10 11:01

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

12 89 Q. MS. LEADER: The Tribunal has heard that Superintendent
13 John O'Reilly was the person who facilitated contact
14 between the D family and Mr. Williams. Do you know
15 Superintendent O'Reilly? 11:01

16 A. No, Ms. Leader.

17 90 Q. All right. And the next question: We have heard from
18 Eavan Murray who at the relevant time was a journalist
19 with The Sun and also called to the D family, that she
20 was aware that Independent News & Media were about to
21 do a big story in relation to this matter. Did that --
22 does that surprise you in any way? 11:01

23 A. No. Does it surprise me? I don't know where she would
24 have got that information from. I mean, the story
25 which appeared wasn't a big story per se -- 11:01

26 91 Q. All right.

27 A. -- at the time, so...

28 92 Q. Okay. You didn't speak to her?

29 A. No, I don't know her. No.

1 93 Q. And are you aware of anybody speaking to Ms. Murray in
2 relation to the upcoming story?
3 A. Absolutely not. Not within INM.
4 MS. LEADER: Thank you very much.
5 CHAIRMAN: Mr. Mallon, I was thinking of asking you 11:02
6 whether it's easier to deal with footballers or
7 journalists, but I don't think it's within the terms of
8 reference so I won't. Thank you.
9 A. I'll answer that privately, sir.
10 CHAIRMAN: Thank you. 11:02
11
12 THE WITNESS THEN WITHDREW
13
14 MR. MCGUINNESS: The next witness is Mr. Paul Williams.
15 CHAIRMAN: It will be appreciated that Mr. Williams is 11:02
16 being recalled because of certain new things that have
17 come up and it's necessary, therefore, to bring him
18 back. We have been over obviously a great deal of it,
19 it perhaps would help if Superintendent Taylor were
20 here or if you have up to date instructions, Mr. Ferry, 11:02
21 in that regard?
22 MR. FERRY: Well, he is not in a position to be here
23 this morning, Chairman.
24 CHAIRMAN: Well, I can't insist obviously that he
25 should be here. It just may be helpful to you. In the 11:03
26 event that you have clear instructions, that's fine. I
27 am sure the Garda would allow him to attend from his
28 other duties in the event that he wished to attend.
29 But I obviously can't require anyone to attend apart

1 from to give evidence.

2 MR. FERRY: He is actually abroad, he is on leave
3 today, and that's --

4 CHAIRMAN: No, that's fine. If he is not here, he is
5 not here. But once you are happy you have instructions 11:03
6 in the event that anything that comes up that is
7 necessary.

8 MR. FERRY: well, in the event of something arising we
9 will be limited to contacting him by phone.

10 CHAIRMAN: That is perfectly fine. 11:03

11 MR. FERRY: Thank you.

12

13 MR. PAUL WILLIAMS, HAVING BEEN SWORN, WAS DIRECTLY
14 EXAMINED BY MR. MCGUINNESS:

15 94 Q. MR. MCGUINNESS: Mr. Williams, you gave evidence on day 11:04
16 11, on the 18th July last, and you are probably
17 familiar with the evidence that you've given --

18 A. Yes. Most of it, yeah.

19 95 Q. -- on that occasion. I don't intend to go into it in
20 any detail again, but a couple of matters do arise from 11:04
21 that and then arising out of other information. But
22 can I just ask you something that wasn't touched on on
23 the previous occasion: what was your knowledge of
24 Sergeant McCabe in relation to different issues over
25 the years? Did you take an interest in Sergeant 11:04
26 McCabe's story, and if so, from when?

27 A. No. When the whole Maurice McCabe story kicked off
28 with the Public Accounts Committee I think that was the
29 time when he went public, I think that was the first

1 time.

2 96 Q. And had you written anything about him up to that point
3 in time?

4 A. No.

5 97 Q. Okay. Can I just ask you to look at page 7547, and 11:05
6 this is an article, it's in volume 27, an article
7 written by Mr. Mooney in The Sunday Times in November
8 2010, and if we just scroll down to the first couple of
9 paragraphs. It relates to the Byrne/McGinn inquiry and
10 Sergeant McCabe is identified there in the second 11:05
11 paragraph and in the third paragraph.

12 A. Yes.

13 98 Q. And did that story sort of come to your attention?

14 A. I would have been aware of that as well, yeah. That
15 was in the public domain. Whatever was in the public 11:05
16 domain at the time I was aware of.

17 99 Q. So you'd be up to date, as it were, about matters, in
18 that regard at the time?

19 A. Yes, the same as everybody else.

20 100 Q. And at the bottom of the page then there is reference 11:06
21 to:
22

23 "A second internal investigation was launched last
24 month after Sergeant McCabe disclosed he had downloaded
25 hundreds of files and reports from Pulse, the Garda 11:06
26 computer system. And McCabe produced two boxes of
27 files at a meeting with Byrne and the inquiry team
28 members at the Hillgrove Hotel in County Monaghan on
29 October 11th. The meeting was called to inform McCabe

1 of the outcome of Byrne's investigation."

2

3 And then over the following page, it says:

4

5 "McCabe lodged a complaint against Byrne alleging 11:06
6 assault and false imprisonment after Byrne refused to
7 let him leave the hotel with the files and attempted to
8 call in the Gardaí. It's understood McCabe later
9 surrendered the files."

10

11:06

11 And it records that Nacie Rice was to investigate that.
12 And presumably you were aware of that at the time?

13 A. You have reminded me of it there now. Just, there has
14 been so much material about this.

15 101 Q. Yes, yes. Now, the following year, some material came 11:07
16 to appear in public through public representatives, of
17 Pulse records that had been leaked?

18 A. What year are you talking about, sorry?

19 102 Q. 2011. I don't know if you remember a controversy 11:07
20 involving members of the Dáil disclosing names of
21 people who had had penalty points --

22 A. Are you referring to me?

23 103 Q. -- quashed.

24 A. I was named in the Dáil, with Ronan O'Gara, yeah.

25 104 Q. You were one of those named? 11:07

26 A. Myself and Ronan O'Gara, yes.

27 105 Q. And there was a reference I think to an unnamed judge
28 at that time and --

29 A. I just recall who was named.

1 106 Q. Yes.

2 A. Yes.

3 107 Q. And ultimately, obviously the O'Mahony inquiry started
4 and presumably you were aware that that was going on at
5 the time? 11:07

6 A. Again, it was whatever was in the public domain.

7 108 Q. Yes. Can I just ask you, I think after you were named
8 in the Dáil, was there some publications relating to
9 you put into the public domain by journalists and
10 newspapers? 11:08

11 A. It was widely reported at the time.

12 109 Q. Yes. And what was your reaction to that, if I may ask?

13 A. I was -- well, it was -- I was surprised, I didn't
14 see -- I didn't know it was coming. I was named by, I
15 can't even remember the TD, I think it may have been 11:08
16 Joan Collins, maybe.

17 110 Q. All right. Deputy Collins?

18 A. Yeah. I didn't know anything about it prior. I had --
19 it was -- my reaction to it was that I was surprised
20 that I was named, that I was named like that, but I had 11:08
21 nothing to hide. It was in relation to an incident
22 with a fixed penalty notice that I had done basically
23 by the book, that I applied, I appealed and I wrote to
24 whom it concerns.

25 111 Q. Yes. And did you respond to any interviews that were 11:08
26 requested of you by journalists when they were writing
27 about the story, did you explain what had happened?

28 A. I don't think anyone -- I don't think I was asked for a
29 comment.

1 112 Q. Okay. And in terms of where the material had come
2 from, did you associate that leak and your naming with
3 Sergeant McCabe?
4 A. No, I never had any evidence that Sergeant McCabe was
5 behind that. 11:09
6 113 Q. Yes. I mean, obviously evidence is one thing and
7 suspicion or speculation is another thing, but did you
8 speculate that the so-called whistleblowers, one or
9 other of them, had leaked that information, including
10 about you? 11:09
11 A. No, because I didn't -- I didn't equate Deputy Collins
12 with either of the whistleblowers at the time, and I
13 didn't know who was responsible for it. It was a
14 surprise that I was named but I had nothing to hide, I
15 didn't do anything wrong, so it was out there in the 11:09
16 public domain, so what?
17 114 Q. Yes. Yes. But there had been a press conference
18 apparently organised by a number of deputies in
19 Buswells, I think it made a lot of publicity at the
20 time; they were sitting at a table with bundles of 11:10
21 files that they had received from whistleblowers, and
22 they were apparently about to also name names. Were
23 you aware of that story at the time?
24 A. I don't recall that, no.
25 115 Q. All right. In any event, Ms. Harris told the Tribunal 11:10
26 of Mr. Ryan's article on the 5th April -- or 5th May
27 2013 about Sergeant McCabe. Did you know Mr. Ryan?
28 A. I just know him like I know any of the rest of people
29 working in the Indo. I know his name, I met him once

1 or twice or three times. I don't work in there so I
2 don't socialise with anybody.

3 116 Q. Yes. I understand it's not your practice to keep a
4 desk or an office in there --

5 A. No. 11:10

6 117 Q. -- and you come and go and you work, as it were, from
7 outside?

8 A. I rarely ever visit the place.

9 118 Q. Would that be unusual for a journalist?

10 A. Well, I am a freelance, I am an independent contractor 11:10
11 so I work for other people as well.

12 119 Q. All right. Okay. But anyway, he had apparently
13 written a story moving the whistleblower saga along,
14 suggesting that a number of deaths had occurred as a
15 result of the activities of drivers who had had their 11:11
16 penalty points quashed, and did you pick up on that
17 element of the story at all?

18 A. No, no.

19 120 Q. OK. All right. I think when you came here on the 10th
20 July, last year, you told the Chairman that you hadn't 11:11
21 been aware of the details of the Ms. D allegation at
22 all before you went up to see her?

23 A. That's correct.

24 121 Q. And as I recall, you told the Chairman that you hadn't
25 heard anything other than a vague general rumour about 11:11
26 Sergeant McCabe?

27 A. Yes.

28 122 Q. But that was unrelated, as I understand your evidence,
29 unrelated by you to any sexual assault, is that right?

1 A. That's correct.

2 123 Q. And you weren't aware, therefore, of the original
3 allegation made against him, until sometime in 2014?

4 A. The D family made me aware of the allegations.

5 124 Q. And you hadn't been briefed on the allegation by any 11:12
6 member of An Garda Síochána?

7 A. No, I had not.

8 125 Q. And I think you were very clear in your denials or your
9 evidence in relation to that on the last occasion, and
10 when the investigators went back to you in April of 11:12
11 this year, that you were never negatively briefed by
12 the commissioners, Commissioner Callinan --

13 A. That's correct.

14 126 Q. -- Commissioner O'Sullivan, and in particular also by
15 Superintendent Taylor? 11:12

16 A. That's correct.

17 127 Q. Okay. But did you become aware from a colleague of
18 yours who had written an article in the Sunday
19 Independent, Mr. Colum Kenny, on 2nd March 2014, where
20 he named Sergeant McCabe, apparently it would seem for 11:12
21 the first time, as having been the subject-matter of a
22 serious investigation of an accusation made against
23 him? Perhaps we could look at that, volume 15, page
24 3881. This was published in the Sunday Independent,
25 2nd March 2014. It related primarily to the issue of 11:13
26 the loss of a computer, but if we go down towards the
27 end of the page, it says:

28

29 "It's understood that McCabe had also been subjected to

1 a serious accusation by senior garda that was
2 subsequently referred by Gardaí to the DPP who found no
3 basis on which to pursue the matter."

4
5 And then it goes back to the issue of the computer. 11:13
6 Were you aware of that story published at that time?

7 A. I never seen that story, no. I wasn't aware of it at
8 all, no.

9 128 Q. So that didn't alert you to an accusation that had been
10 made against Sergeant McCabe? 11:14

11 A. Well, I wasn't aware of that story, no. I must have
12 missed that, week of the Sunday Indo. I don't see the
13 paper every week.

14 129 Q. You don't get a free copy sent to the house. So that
15 wasn't then the source of any information, as far as 11:14
16 you were concerned?

17 A. No. But last year, just to be absolutely clear, I laid
18 out exactly how I came involved in this whole situation
19 from start to finish.

20 130 Q. And that's the phone call from Detective Superintendent 11:14
21 O'Reilly, is that --

22 A. That Mr. D had contacted him and said that Ms. D wanted
23 to talk to me.

24 131 Q. Yeah.

25 A. After she had been visited by a number of journalists. 11:14
26 That's how all of that came to my attention.

27 132 Q. Okay. And are you referring there to the content of
28 the phone call with Mr. D or the visit to Mr. D? Did
29 you receive the phone call first from Mr. D or did you

1 ring him?

2 A. Oh, I think he rang me.

3 133 Q. He rang you?

4 A. Yeah, yeah.

5 134 Q. Okay. But did he tell you in the phone call that 11:15
6 people had been in contact with him or that people had
7 visited him?

8 A. Well, I can't recall whether he told me that on the
9 phone. I went down to see them on a Wednesday, so
10 whether he told me when I went down there, I was 11:15
11 certainly told that, that is my recollection of it;
12 that two journalists had called to the house and Ms. D
13 wanted to talk about this now.

14 135 Q. Yes. Well, you see, Ms. Murray has suggested in her 11:15
15 evidence that she had contacted Mr. D and then
16 subsequently visited him. Is it possible you were told
17 a journalist had called, that is physically, or that
18 they had, and in fact both attended the house?

19 A. I can't remember the specifics but my understanding
20 would be that they both had visited the house, that is 11:15
21 my understanding. I didn't dwell on it any longer.

22 136 Q. I mean, could Mr. D have simply told you that two
23 journalists had called or called to the house?

24 A. No, he named the two journalists.

25 137 Q. He named the two journalists, did he? 11:16
26 A. Yeah.

27 138 Q. Okay. And is it possible that he named them when he
28 visited -- when you visited him on the 5th?

29 A. Quite possibly, yeah, but they would have given me a

1 brief of what was going on.

2 139 Q. Okay. But just going back to your state of knowledge.
3 Is it your evidence that you weren't aware prior to the
4 5th March 2014 of any rumour in relation to Sergeant
5 McCabe involving any sexual assault? 11:16

6 A. None, there was no specific rumour.

7 140 Q. You had heard nothing about the 2006 investigation at
8 all from anyone?

9 A. No, because it was -- it was, as I said to you, it was
10 a rumour out there, that he may have had a grievance 11:16
11 with his own authorities, that he had fallen out with
12 him, that was it. It was -- it was very, very vague.

13 141 Q. Yes. And you can't recall who you heard -- where you
14 heard that first, is that right?

15 A. No. 11:17

16 142 Q. And is it your evidence that you certainly didn't hear
17 that from Superintendent Taylor?

18 A. I never heard that from Superintendent Taylor.

19 143 Q. Okay. Were you sort of close to Superintendent Taylor
20 or what was your relationship with him? 11:17

21 A. It was a professional relationship.

22 144 Q. Okay.

23 A. I only really talked to him about that time, around
24 20 -- he came in, I was really only dealing with him
25 from 2013 onwards. 11:17

26 145 Q. Mmm. We know, of course, that Deputy John McGuinness,
27 who was chairing the PAC committee, he himself named
28 Sergeant McCabe as the whistleblower relative to the
29 penalty points issue, whose evidence they hoped to take

1 the following week, and so his name was out there in
2 connection with that as of the 23rd January 2014. Had
3 you attended Leinster House or is that the sort of set
4 piece event you cover?

5 A. No. 11:18

6 146 Q. No?

7 A. No.

8 147 Q. Okay. And had you heard from -- you hadn't heard from
9 any other journalist of anything more specific then in
10 relation to Sergeant McCabe? 11:18

11 A. No.

12 148 Q. Okay. Mr. Kenny, who wrote this article, apparently
13 did so subsequent to an encounter that he had in the
14 Houses of the Oireachtas where he said he got this
15 information effectively from two other journalists who 11:18
16 told him about it?

17 A. Mm-hmm.

18 149 Q. Now, Mr. Brady and Mr. Reynolds I think dispute the
19 occasion on which that occurred or whether it occurred,
20 but would you be surprised if there was a story going 11:18
21 around like that and you hadn't heard about it?

22 A. I wouldn't -- I don't mix in the Dáil, the political
23 circles, I don't go to press conferences, I don't go to
24 crime scenes, so I wasn't mixing with the general
25 milieu, within the milieu, but no, I didn't hear any 11:19
26 specific allegation before I met the D family.

27 150 Q. Yes. But I mean, would you presumably maintain good
28 relations with other crime journalists who cover
29 stories for other papers --

1 A. Yeah, I do.

2 151 Q. -- or crime correspondents, or Mr. Reynolds? Do you
3 maintain relations with Mr. Reynolds?

4 A. Well, I would see Paul Reynolds if we were at a
5 conference or something, say a Garda conference or 11:19
6 something like that. I wouldn't see him very often,
7 but I know him and he is a very decent guy.

8 152 Q. You are both very experienced, long-term --

9 A. A very fine journalist.

10 153 Q. -- very fine journalists covering the same general 11:19
11 territory in a sense, isn't that right?

12 A. Mm-hmm.

13 154 Q. But going back to my question. Would you be surprised
14 if you didn't or hadn't heard of a sort of a serious
15 story going the rounds, such as was apparently going 11:19
16 the rounds about Sergeant McCabe?

17 A. I mean it wasn't doing the rounds like that, so that is
18 why I didn't hear it, I'm sure.

19 155 Q. You would be confident that you would hear any story
20 going the rounds? 11:20

21 A. Oh, look, there's a lot of journalists like to think
22 they know everything about everything. I didn't know
23 anything, a lot of things were going on. You know, we
24 weren't in the know to that extent and I didn't hear
25 any allegation like that. 11:20

26 156 Q. Yes. Yes. Ms. McCann gave evidence to the Tribunal
27 suggesting that she knew you and she would have spoken
28 to you from time to time and in this sort of period
29 that we are talking about. Have you any recollection

1 of that?

2 A. No, this was evidence -- last week, wasn't it?

3 157 Q. Yes.

4 A. Yeah, I remember reading about that. I know Debbie
5 McCann, yes. 11:20

6 158 Q. But I mean, would you talk to her about current issues,
7 things that were going on?

8 A. No, I think was she asked did I tell her about the
9 story? Absolutely not. I am 30-odd years in this
10 business, we are in the process, from the time we went 11:20
11 to college we were taught the most important thing in a
12 journalist's life is to get an exclusive. It's
13 inculcated in my culture that you do not talk to other
14 journalists about any story you are working on. It is
15 treated very privately, until such time as you can 11:21
16 publish it.

17 159 Q. One perhaps can understand that. Did you know
18 Ms. Murray at all?

19 A. No.

20 160 Q. You see, in a written document which was circulated the 11:21
21 other day, she suggested that it was known to The Sun
22 newsroom that the Independent were apparently intent on
23 running sort of a special exclusive relating to the
24 Ms. D story over --

25 A. I heard that -- 11:21

26 161 Q. -- in early March. Were you surprised to hear that?

27 A. I was very surprised to hear that, yes.

28 162 Q. Okay. Now, she said that that came from her news
29 editor, Mr. Fergal O'Shea. Did you know Mr. O'Shea at

1 all?

2 A. I knew him years ago when I was temporary, I was about
3 two years with the News International, which ran the
4 News of the world and The Sun, and I left there in
5 2012, so I haven't seen -- I very rarely worked with 11:21
6 him anyway at the time, but I don't know him.

7 163 Q. All right. In any event, is it your evidence you
8 hadn't neither spoken to Ms. McCann or Ms. Murray about
9 the D story as you were working on it?

10 A. Absolutely sure of that. 11:22

11 164 Q. Okay. Now, in terms of your contacts with
12 Superintendent Taylor, I think you made your mobile
13 phone telephone records available for a period in
14 March, from the 4th March to the 11th March --

15 A. Mm-hmm. 11:22

16 165 Q. -- available to the Tribunal, in an unredacted form?

17 A. Yes.

18 166 Q. And I think redactions were agreed with the Tribunal
19 investigators of any irrelevant numbers, isn't that
20 correct? 11:22

21 A. Yes.

22 167 Q. And at page 7421 of volume 27, is the redacted version,
23 and I think that shows a call from you to Mr. D on the
24 6th March, isn't that correct?

25 A. I don't know what day that was. Is that a Thursday, 11:23
26 was it?

27 168 Q. Well, that would appear to be the Thursday, if you'd
28 been up on the Wednesday, the 5th?

29 A. I was up on the 5th. The 5th I was up there, yes. So

1 6th, the next day, yes.

2 169 Q. Do you recall what that would have been about? It's a
3 short enough call.

4 A. To Mr. D?

5 170 Q. Yes. 11:23

6 A. I don't recall, no. Maybe it was arranged that -- they
7 wanted me to come back to see them to meet their
8 daughter or something.

9 171 Q. That is just one thing I wanted to be clear about, to
10 clarify one issue. When you went up on the 5th, 11:23
11 obviously Ms. D wasn't there, and Mr. D and Mrs. D told
12 you about her and the state she was in, as it were, and
13 what she wanted to do and what she wanted to achieve,
14 and was it clear to that you she wanted to get her
15 story out there about what had happened to her at the 11:24
16 hands of Sergeant McCabe?

17 A. She had made the decision based on the fact that, I
18 think she said it here as well, that she was concerned
19 there was so much publicity around Maurice McCabe. But
20 before that, my understanding has been the reason she 11:24
21 always talked to me was because she was quite
22 disconcerted, to say the least, that journalists who
23 called to her home unsolicited, that is what they told
24 me, the family, and knew her name, and knew her
25 address, knew that she had made an allegation. And 11:24
26 they were -- they were -- she, as a result of that,
27 said she wanted to speak out about it.

28 172 Q. Yes. But obviously she was able to speak for herself,
29 but did you understand from the visit to her parents on

1 the 5th that she wanted to speak about everything, she
2 wanted to tell you everything about it?

3 A. Well, I didn't know what she was going to talk about
4 until I met her properly. You know, you don't know
5 what somebody is going to say to you until you meet 11:25
6 them.

7 173 Q. But you obviously approached this with a degree of
8 caution and you actually turned up with Ms. Gaskin, the
9 videographer. But presumably you had discussed that
10 with Mr. and Mrs. D on the 5th? 11:25

11 A. Yes, I did, yes.

12 174 Q. And I mean, you wouldn't want to give them a shock by
13 arriving up with a crew or --

14 A. It was only -- all done with her agreement, with the
15 family's agreement. 11:25

16 175 Q. Yes, yes. But I mean, the essence of it is that you
17 had made it clear or you had proposed and sought their
18 consent on the 5th to have it videoed, if they were --
19 if she was agreeable?

20 A. I don't know exactly when this was discussed but it was 11:25
21 understood and they agreed to it.

22 176 Q. Yes. Yes. It's just Ms. Murray, in her evidence,
23 appears to have been told that they were talking to
24 you, which was correct?

25 A. Mm-hmm. 11:26

26 177 Q. And that she consulted with them when she called and
27 seems to have had sort of a lengthy enough conversation
28 with them about the wisdom of doing the video
29 interview, which would suggest that she had perhaps,

1 after her call to Mr. D on the phone, had then visited
2 perhaps on the 6th or 7th. But certainly as of the
3 position on the 8th, are you clear in your own mind
4 that both Mr. and Mrs. D told you unequivocally that
5 two journalists had actually called to the house? 11:26

6 A. That is my understanding, yeah.

7 178 Q. Okay.

8 A. I am aware of obviously of that evidence being given, I
9 think it was this week or last week, I am losing my
10 track of days, but the D family themselves I am sure 11:26
11 could clear that up. I am telling you what I remember
12 and what I am aware of.

13 179 Q. Yes. well, obviously the legal representatives on
14 behalf of the Ds didn't contest Ms. Murray's evidence
15 about the nature of the conversation that she said she 11:27
16 had with them and in fact agreed with it. So it does
17 appear clear that --

18 MR. KELLY: well, Chairman, sorry, I am reluctant
19 intervene here but Mr. Buckley was here the last day
20 and he put very squarely to Ms. Murray that the meeting 11:27
21 couldn't have taken place after Mr. Williams was at the
22 property.

23 MR. MCGUINNESS: I think, in fairness to --

24 MR. KELLY: So the conversation couldn't have taken
25 place of that nature because the video hadn't taken 11:27
26 place, it's self-evident.

27 CHAIRMAN: Give me the point again, Mr. Kelly.

28 MR. KELLY: Sorry, Chairman. I am sorry, I would have
29 had Mr. Buckley here --

1 CHAIRMAN: You are fine.

2 MR. KELLY: we have to jump in and out.

3 CHAIRMAN: Tell me what is the point you are making?

4 MR. KELLY: Mr. Buckley put to Ms. Murray the other day
5 that the D family say that she called to the house 11:27
6 before Mr. Williams and he related it to a particular
7 birthday in the family, which was on the 4th march. So
8 the conversation in relation to a video having taken
9 place could never have taken place.

10 CHAIRMAN: In other words, being worried about the 11:28
11 video was not a conversation that they could have had?

12 MR. KELLY: That is fair, Chairman. And I think in the
13 evidence last year, if Mr. McGuinness goes back to the
14 transcript, I don't have the reference here, but I
15 think Mrs. D certainly said when Eavan Murray did call 11:28
16 to the house, that they did sit down and have a chat
17 for a while and there was some discussion. But of
18 course Ms. Murray wasn't here last year to put anything
19 to Mrs. D.

20 MR. MCGUINNESS: I mean, if I stand corrected I stand 11:28
21 corrected on the transcript, it's there to be
22 consulted. But in any event --

23 CHAIRMAN: I don't think you got anything wrong,
24 Mr. McGuinness. I think the plain reality of it is,
25 the D family's account of it is that the two 11:28
26 journalists called and it was due to that build-up of
27 pressure, if you like, that they said well, if there is
28 going to be a story we need to take control of it. It
29 wasn't in consequence of one calling. That seems to me

1 to be the essential fact. Now, in the event that there
2 was a call and there was a discussion about a video, by
3 the time -- on the timing that we are looking at, at
4 the time that Ms. Murray called, it doesn't seem to me
5 that there could have been either a video or an 11:29
6 arrangement for a video.

7 MR. McGUI NNESS: Yes. well, I'm just exploring with
8 the witness as to what may have been said.

9 CHAIRMAN: I am not saying you are doing anything
10 right, quite the opposite, yes. 11:29

11 MR. McGUI NNESS: which may illuminate the issue.

12 180 Q. In any event, just touching on the video itself,
13 obviously your solicitors and Independent News and
14 Media made the video available to the Tribunal on a
15 key, isn't that correct? 11:29

16 A. That's correct, yes.

17 181 Q. And we have obviously seen the video and it's there for
18 interested parties if they wish to make a request to
19 see it, but you are the only person facing the camera
20 in the video, isn't that correct? 11:30

21 A. Correct, yes.

22 182 Q. And the video is shot with you sitting on a chair
23 asking Ms. D questions?

24 A. That's correct, yes.

25 183 Q. She has her back to the camera, her face is never 11:30
26 visible, it's shot from an angle behind her left
27 shoulder looking over that towards you?

28 A. Mm-hmm.

29 184 Q. And her profile is, I think is never actually seen in

1 the video?

2 A. I think the side of her face and her hair.

3 185 Q. The side of her head but not the side of her face. And
4 she appears to be sitting on a chair, is that
5 correct? 11:30

6 A. I think so. It's a long, long time since I saw it, but
7 the Tribunal have the video.

8 186 Q. Yes. And there is a white sofa in the background to
9 your right and behind you, I don't know if you recall
10 that. 11:30

11 A. I think it was in the sitting room of the house.

12 187 Q. Yes. Now, can you recall, was that edited? Is that an
13 edited version that the Tribunal has received?

14 A. No.

15 188 Q. No. It looked to me like a one-take -- 11:30

16 A. It was a one-take.

17 189 Q. -- interview?

18 A. I was actually -- I had kept that on my laptop and I
19 gave that to the Tribunal. As far as I know it was
20 never edited. 11:31

21 190 Q. Yes. It looks like an experienced uninterrupted flow
22 of questions and answers --

23 A. Yeah.

24 191 Q. -- which you are controlling in the sense that you are
25 doing the interview, is that right? 11:31

26 A. That's correct.

27 192 Q. And it's not edited then according to you?

28 A. No.

29 193 Q. You are certain about that anyway?

1 A. Absolutely.

2 194 Q. Now, just one point: It happens when some people make
3 statements in the police stations, whether as witnesses
4 or accused, they often look for a copy of their
5 statement. Was there any discussion about giving Ms. D 11:31
6 a copy of the video or was there a copy given to her or
7 sent to her?

8 A. No, not -- no, I don't believe so.

9 195 Q. Just going back to the phone record there, there does
10 appear to be a text sent to her, just there, it's quite 11:31
11 visible, on 9th March, at five to one in the morning
12 and then there is two more later the same day. Have
13 you any recollection what they are about?

14 A. No, I don't.

15 196 Q. Okay. And then there seems to be an eight-minute call 11:32
16 on the next day, the 10th March, again with Ms. D.
17 Have you any recollection?

18 A. That is the Monday, is it?

19 197 Q. Pardon?

20 A. Is that Monday the 10th? 11:32

21 198 Q. That would seem to be the Monday, if the 8th was a
22 Saturday. Have you any recollection what that was
23 about?

24 A. I don't have any recollection what that was about, no.

25 199 Q. Okay. It's followed by a call to Superintendent Taylor 11:32
26 on the 10th, then. Also a call for one minute thirty.
27 That appears to be your first call to Superintendent
28 Taylor after the interview, is that correct?

29 A. It looks like, yeah, that's correct, yes.

1 200 Q. And it appears to support your evidence that you hadn't
2 phoned him on the 8th from the house --
3 A. That's correct.
4 201 Q. -- or from near the proximity of the house.
5 A. That's correct. 11:33
6 202 Q. And does that fortify in your recollection that you
7 hadn't phoned him to say, guess where I am now?
8 A. I never said that.
9 203 Q. Pardon?
10 A. I never said that to Mr. Taylor. 11:33
11 204 Q. Yes. On the other hand, just looking at the record
12 there, just going back up the page, there is a call to
13 Superintendent Taylor, it would appear, from your
14 phone, on the 7th, at 14:48?
15 A. Mm-hmm. 11:33
16 205 Q. Do you recollect making that call?
17 A. That was six seconds, so I probably left a message on
18 his phone.
19 206 Q. Yes. Can you recollect what that was about?
20 A. I do recollect what that was about. It was about 11:34
21 another story I was working on where somebody had been
22 arrested. It was to do with fraud and the person had
23 been arrested. It was a much bigger story for me at
24 the time and there was solicitors' letters flying
25 around about it. And all I can say about that is, yes, 11:34
26 I do recall around that time we got a solicitor's
27 letter, I think on the Friday, and I do remember that
28 story, yeah.
29 207 Q. And why would you be talking to Superintendent Taylor

1 about that?

2 A. On that occasion the person had been arrested for
3 fraud, it was a very serious -- potentially was a very
4 serious story, nothing happened from it. But it
5 involved a well-known receiver and it was very serious 11:34
6 allegations of fraud, the person was arrested and I
7 wanted to confirm was the person arrested.

8 208 Q. Okay.

9 A. That is what I can recall about that.

10 209 Q. And it was to confirm an arrest, is that it? 11:34

11 A. Yes.

12 210 Q. Okay. And did he confirm the arrest?

13 A. I think so. I can't recall, I remember working on the
14 story. I had a copy -- I had a note of it in my diary.

15 211 Q. Okay. It's just if we go to page 4847, which is in 11:35
16 volume 18, we see a five-minute call on the 6th March
17 at 17:52, which is obviously the day before that short
18 call we looked at. So do you recollect what that call
19 was about, when he phoned you?

20 A. Pardon? 11:36

21 212 Q. He phoned you on that date?

22 A. Yeah. I would say it was perhaps to do with that.
23 There was a lot of things going on at that time.

24 213 Q. But you see, there is no other -- there was no other
25 call from Superintendent Taylor in the few days before 11:36
26 that.

27 A. Mm-hmm.

28 214 Q. In fact, a week or so, more than a week before that.
29 So he's phoning you, in fact, the day after you had

1 first being up to the D family.

2 A. Mm-hmm.

3 215 Q. And I am wondering is it possible that you could have
4 told him on that occasion that, you know, guess where I
5 have been? 11:36

6 A. No.

7 216 Q. Okay. Does that resonate in any way with you in terms
8 of any of your conversations with Superintendent
9 Taylor --

10 A. No. 11:36

11 217 Q. -- about telling him where you'd been? Because you are
12 admitting on your own evidence that you certainly did
13 tell him when you phoned him on the 10th, the following
14 week, isn't that right?

15 A. Yes, yes. 11:37

16 218 Q. So I mean, is there any reason why you wouldn't have in
17 fact told him, look, this is on the 6th now, in this
18 five-minute phone call, look I have actually been up
19 there to the Ds and I have got an interview and I am
20 going to do a piece to camera with her? 11:37

21 A. No, I didn't have that conversation with him. I didn't
22 have that kind of relationship with him to tell him
23 something like that. It would have been none of his
24 business until such time as I had something to ask him
25 about. 11:37

26 219 Q. Okay. I mean, that is a logical enough explanation.
27 But we go from the 6th to the 7th on Superintendent
28 Taylor's records here, you have had the six-second
29 message perhaps at 14:48:52 that we saw on page 7421

1 and now you have got this two minute 22 call on the
2 afternoon of the 7th, which is then -- that is the
3 Friday before you go up?

4 A. Yeah.

5 220 Q. So what do you think that call was about? 11:38

6 A. The reason I know it was about the fraud was because
7 I'd discuss it with my solicitor at the time.

8 221 Q. Okay.

9 A. Because we got a solicitors' letters in at that time in
10 relation to this individual and it was moving to a 11:38
11 critical stage.

12 222 Q. Okay. Was this a person who was actually still in
13 custody, is that the point? Was there a time issue?

14 A. I can't remember whether he was arrested but he was
15 arrested around this time in that period of a number of 11:38
16 days, I believe.

17 223 Q. Okay. Would you have any problem writing down the name
18 of the arrested person on a piece of paper?

19 A. I don't want -- I don't want to go into any further
20 about it because my solicitor knows the name of the 11:38
21 person, but I don't -- it's not -- it's to do with
22 sources and other information. I have volunteered as
23 much as I can to you about that.

24 224 Q. I am sorry, Mr. Williams, I must have misunderstood
25 you. I thought you had got the solicitor's letter 11:38
26 arising out of something that you had written about the
27 person?

28 A. No, no. Because I was asking questions, I called to
29 this person's office on a number of occasions.

1 225 Q. All right. Well, in any event, just staying on this
2 record -- well, in fact, perhaps going back to your
3 record at 7421. It does show a one minute 30 second
4 call from you to Superintendent Taylor on the 10th, and
5 it's helpful to have that, obviously. That seems to, 11:39
6 as it were, fortify your evidence in the sense that
7 your recollection was that you had phoned him the
8 following week with your request for information?
9 A. Correct.

10 226 Q. Okay. And you told the Tribunal what you asked of him 11:40
11 the last time and you are clear in your recollection of
12 that, and you're pinning that to this phone call, is
13 that right?
14 A. Yeah, but that was when I contacted him, when I came
15 back the following working week. 11:40

16 227 Q. Yes. Well, did you give him -- did you explain to him
17 why you were looking for the various bits of
18 information that you told the Chairman about the last
19 time?
20 A. Yes. I said I had interviewed Ms. D, I wanted to know 11:40
21 had an investigation taken place, had there been
22 arrests, there was an issue about Noel Cunningham, I
23 think was the guard's name who was in charge of it,
24 that she had a number of issues in relation to that
25 original investigation and I needed to check them to 11:40
26 find out did this actually happen.

27 228 Q. Yes. I think you also told him, or am I wrong about
28 this it, you asked him about a Pulse entry at that time
29 or was that on a subsequent call?

1 A. Pardon, sorry?

2 229 Q. Did you ask him on that call about a Pulse entry?

3 A. No, I think that came up subsequently.

4 230 Q. All right. Going back to 4847 then, there is -- from
5 the 13th of -- there is a short message from him 11:41
6 apparently to you on the 11th at 15:49, I don't know if
7 you see that in the middle of the page? And you then
8 on your records have a number of calls to him on the
9 11th at 15:52, which is shortly after that perhaps
10 voice message that he left on the 11th. Do you recall 11:42
11 him getting back to you quickly about some of the
12 information?

13 A. I can't recall the actual, how quickly it was or
14 otherwise. I do know that he did come back with the
15 information but I can't help you on that. 11:42

16 231 Q. Yes. It's just, he appears to have a five-minute
17 conversation with you, according to your records, at
18 15:55 -- sorry, 15:52 on the 11th. Do you see that
19 there?

20 A. Yeah, I see that, yes. 11:42

21 232 Q. And then it's not immediately after, after that call,
22 but it's the next call recorded on your phone bill that
23 you are ringing Mr. D?

24 A. Mm-hmm.

25 233 Q. Do you recollect why you were ringing Mr. D? 11:42

26 A. I can't recall, maybe I was checking something with
27 him. I don't remember.

28 234 Q. It's just, if we go to Pulse inquiries, we have a
29 record of Pulse inquiries relating to Sergeant McCabe.

1 I don't know if you have actually seen this in the
2 documents but it's at 7029 and it's a record of
3 inquiries on incidents associated with Maurice McCabe,
4 and we need to turn that on its side.
5 CHAIRMAN: You possibly need to take out the volume and 11:43
6 have a look at it because it's impossible.
7 MR. McGUI NNESS: Yes. It's very indistinct there.
8 That is at 7029 in volume 27.
9 CHAIRMAN: Or 26.
10 MR. McGUI NNESS: I am sorry, volume 26. 11:44
11 CHAIRMAN: I think it's better, if you wouldn't mind,
12 Mr. Williams, just pull out that volume 26, just to
13 have a look at it.
14 MR. McGUI NNESS: I think it's on the left-hand top
15 there. 11:44
16 A. What page is this?
17 235 Q. 7029.
18 CHAIRMAN: It does become readable when you take it
19 out.
20 236 Q. MR. McGUI NNESS: And in the left-hand column of the 11:44
21 page there is a number of incident numbers, and --
22 A. What is this from, sorry? I am sorry, I don't know.
23 237 Q. It's headed: "Inquiries on incidents associated with
24 Maurice McCabe." It's a record of people who searched
25 Pulse in relation to Sergeant McCabe. 11:44
26 A. Okay, thanks.
27 238 Q. And it shows a number of inquiries made by Mr. D over
28 the years. There's several in 2013, in July 2013. But
29 there is one then, it's the seventh from the bottom.

1 A. The 23/3?

2 239 Q. Yes, 23/3. So it appears that Mr. D made a Pulse
3 inquiry at that time on the 23rd March. Had you asked
4 him to make that inquiry in this phone call that we
5 have just looked at? 11:45

6 A. No, no.

7 240 Q. Okay. And did Mr. D, irrespective of whether you asked
8 him, did he come back to you with confirmation about
9 what was on Pulse?

10 A. Who, sorry? 11:45

11 241 Q. Mr. D?

12 A. It was he, as I said last year, told me that the
13 incident wasn't recorded on Pulse. And I put that
14 to -- and his daughter had an issue with that so I put
15 that to Dave Taylor at the time. I don't know whether 11:46
16 I put that subsequently to him.

17 242 Q. Okay. Well, did Superintendent Taylor come back and
18 confirm that it wasn't on Pulse?

19 A. That's correct, yeah.

20 243 Q. Yes. Okay. Now, the attitude that you took I think on 11:46
21 the previous occasion when you came and gave evidence
22 was that as Superintendent Taylor had come forward as
23 the source of these confirmations to you of this
24 material, that you had no difficulty, because he had
25 waived his privilege, of being able to confirm that he 11:46
26 had told you these things, and I think you clearly
27 treated his waiver and his coming forward as enabling
28 you to confirm that you got this information from him?

29 A. That is why I came -- that is why I cooperated with the

1 Tribunal; all the parties involved gave me a waiver and
2 that is why I helped in any way I could.

3 244 Q. Yes. And you saw no difficulty in that from your point
4 of view as a journalist?

5 A. No. 11:47

6 245 Q. But had you been speaking to Commissioner O'Sullivan
7 prior to -- in the weeks prior to going up to Ms. D?

8 A. I do -- I saw that note. Yes, there was phone records
9 that Ms. O'Sullivan was speaking to me before I went up
10 there, yeah. 11:47

11 246 Q. Because you seem to have had two very lengthy phone
12 conversations with her on the 21st February and 24th
13 February. If we could look at page 4849 --

14 A. Mm-hmm.

15 247 Q. -- of the phone records. And I think these were 11:47
16 produced to you by the investigators? You have seen
17 these before?

18 A. That's correct.

19 248 Q. And they show, on the 21st of February 2014, at 11:53,
20 there is a 20-minute call from the Commissioner to you? 11:48

21 A. Yeah. She was the deputy commissioner at that time.

22 249 Q. Deputy commissioner?

23 A. She was in charge of operations.

24 250 Q. So what was that about, can you recollect?

25 A. what I can tell you about that was that it would be 11:48
26 very well known that for many, many years I have had a
27 very difficult personal security situation involving
28 myself and my family and my home. At this time there
29 was, a big issue had arisen in relation to that

1 security, and I had gone to her, I mean it was -- well,
2 I suppose to put it mildly, and I don't want to go into
3 the specific details but there was certainly going to
4 be a big row about it.

5 251 Q. Well, when had you gone to her? 11:48

6 A. I can't recall, it was around that time. This
7 incident -- there was a security reduction as a result
8 of the cutbacks in 2013 and then there was another
9 proposed one in the beginning of '14, which I was very
10 concerned about. 11:49

11 252 Q. Well, what does the phone call relate to, then?

12 A. Trying to resolve the problem.

13 253 Q. You see, you were confronted with these phone contacts
14 in interviews with the investigators and you didn't
15 give the explanation that you are giving now? 11:49

16 A. Because I didn't want to because I didn't feel -- I
17 felt it was confidential, and that is very confidential
18 information.

19 254 Q. But on the last occasion when you were here,
20 Mr. Williams, you may recall that you told the Chairman 11:49
21 just in the context of being contacted by Detective
22 Superintendent O'Reilly and knowing Superintendent
23 O'Reilly that it was he who had been involved in
24 matters relating to your personal security and
25 arranging it, because of issues that -- 11:50

26 A. I was explaining how I knew him.

27 255 Q. Pardon?

28 A. I was explaining how I knew him.

29 256 Q. But had he not been responsible for and of assistance

1 in dealing with those security issues?

2 A. Well, the reason -- I was giving you the reason why I
3 knew him.

4 257 Q. Yes?

5 A. That my mother had lived in Leitrim. 11:50

6 258 Q. Yes?

7 A. I explained that Sligo-Leitrim was -- the part of
8 Leitrim we were in was covered by Cavan-Monaghan. He
9 would have been liaising, there was a number of
10 incidents through the years that have been concerned. 11:50
11 Also I was a witness in a murder trial.

12 259 Q. In Sligo?

13 A. That is how he knew me and had my number. That is what
14 I was explaining.

15 260 Q. But had he not had some responsibility in relation to 11:50
16 security issues that you have concerns over at the
17 time?

18 A. That would only be down in Leitrim, when I was down.

19 261 Q. Pardon?

20 A. That was only to do with when I was down in Leitrim. 11:50
21 They would have put protection down there.

22 262 Q. But I mean, you were quite friendly with Assistant
23 Commissioner O'Mahony who was actually the assistant
24 commissioner in charge of Crime and Security?

25 A. Mm-hmm. 11:51

26 263 Q. And are you saying that you didn't go to the assistant
27 commissioner with these concerns that you had at this
28 time?

29 A. I know Assistant Commissioner O'Mahony, I know him for

1 quite a number of years, we happen to live in the same
2 area. I saw this was brought up last week, I think, in
3 relation to that we would meet socially, yes, and
4 the -- but not frequently, I might not see him for
5 months. I decided that because he was in Crime and 11:51
6 Security, it was an awkward issue to be bringing up
7 with somebody that you may be bumping into socially,
8 and there was going to be a row about it and I decided
9 I would just go to the person in charge, and it would
10 just -- and also, by the way, in relation to John 11:51
11 O'Mahony, the fact that I knew him socially, if you
12 know John O'Mahony, there are very -- he observes very
13 strict boundaries.

14 264 Q. Yes. But I mean, isn't that all the more reason why he
15 would be able to deal with it professionally or depute 11:52
16 his -- a detective chief superintendent under his
17 control to deal with it professionally?

18 A. A decision had been made at a very high level that I
19 disagreed with and feel very uncomfortable talking
20 about this because it is sensitive and I understand 11:52
21 everything that I say here will be reported, so I am
22 not going to go into the specific details. But, I felt
23 that I would talk to the deputy in charge of operations
24 because ultimately the decision that I was concerned
25 about was her decision. It passes up the line. And I 11:52
26 was very, very concerned about it and that is putting
27 it mildly.

28 265 Q. Well, you see, there is a 20-minute -- or an
29 18-minute -- nearly a 19-minute phone call with her the

1 following -- two days later there, on the 24th
2 February, so what is that phone call about?

3 A. Which one is that, sorry?

4 266 Q. It's there on the 24th February, 13:52, a phone call of
5 18 minutes 51 seconds. 11:53

6 A. I don't know, I don't know -- I couldn't tell you what
7 the specific conversations and the conversations were
8 about, but I know what they were about -- I know
9 generally what they were about, what I was annoyed
10 about, what was being discussed, but I don't know the 11:53
11 specifics.

12 267 Q. Okay. Well, are you saying that the Commissioner gave
13 you some reassurance about matters, your security
14 matters?

15 A. I think eventually they were sorted out. 11:53

16 268 Q. Or made some decision?

17 A. Pardon?

18 269 Q. Are you saying the Commissioner made some decision
19 about it?

20 A. Well, I don't know if she made a decision or who made 11:53
21 the decision, a decision was made.

22 270 Q. Yes. But was something different put in place for you,
23 is that what you are saying?

24 A. I don't want to go into it specifically.

25 271 Q. Well, I am not asking you to go into the detail. 11:53

26 A. I was no -- there was no major favours -- there was no
27 favours done for me. It was something I was very
28 seriously concerned about for my family's safety
29 particularly. There had been a lot of issues around

1 security around my family for many, many years. And I
2 believe I had got it resolved. That's what I can say
3 about it.

4 272 Q. Well, was there any discussion in those conversations
5 about Sergeant McCabe?

11:54

6 A. Absolutely not.

7 273 Q. Now, the video piece that you shot with Ms. D, was it
8 in the back of your mind, as it were, that it would be
9 shot in such a way that it might be published on-line?

10 A. I hadn't thought about that because at the time we
11 were -- the Indo group had gone sort of what we call
12 platform agnostic, as they call it, where they -- you
13 would -- it wasn't just a photographer anymore, it was
14 a videographer, and when you did a story you tended to
15 video it as well so you had -- so if, in the event you
16 needed it, it could be used on all platforms, but also
17 it was a very good -- particularly, this was a
18 sensitive story, so it was a good tight record of what
19 I discussed with her, which I gave to the Tribunal.

11:54

11:55

20 274 Q. Yes. Ms. McDonald gave evidence yesterday of being
21 involved in some sort of stress-testing process in
22 relation to the proposed article. Were you aware of
23 that at the time or is that something that you had --

11:55

24 A. I was aware they were stress-testing it because I came
25 back, I met some of the senior executives in the Indo
26 in that week, and they decided, it's their decision to
27 run the story, or whatever, how they want to handle it,
28 and they -- I just understood that they were
29 stress-testing it. I'd never had any discussions with

11:55

1 Derbhail McDonald about it, I don't know what she
2 actually did until the I saw the statements only last
3 month.

4 275 Q. Yes. And is she correct when she suggested that the
5 article published was different from the article
6 proposed by you or written originally by you? 11:56

7 A. I can't recall the changes that were done. When a
8 story is written, because it goes through the lawyers,
9 it's rinsed through several layers, the story can
10 change several times, you can change -- the nuance of 11:56
11 the story can change, there's subtle words and that
12 that lawyers will see to pull out. And Derbhail is a
13 legally-minded journalist.

14 276 Q. Yes.

15 A. She understands these things. 11:56

16 277 Q. Yes, yes. It's just we haven't been provided with the
17 story as you originally wrote it. Is there a version
18 of that available, and can you make that available to
19 the Tribunal?

20 A. I don't know if I have it. I don't know. 11:56

21 278 Q. Pardon?

22 A. I don't know if I have it because my computer will
23 change a few times since, but I don't recall. I would
24 have given them -- I would have given them the video, I
25 would have given them a verbal sort of briefing on it 11:56
26 and I probably wrote up the version. It wouldn't be a
27 huge amount different to what appeared in the paper,
28 because as I said to you from the beginning, it was --
29 the story wasn't so much about her, what she claimed

1 happened, but it was about the investigation and her
2 problems with the investigation.

3 279 Q. Yes.

4 A. And it was also -- always going to be heavily
5 anonymised. 11:57

6 280 Q. Yes. Now, I did ask you this question the last time
7 about your issue of notes, but I just want to be clear,
8 did you furnish, whether it's the news desk or the
9 editor or whoever, with a written story in advance of
10 their, as it were, screening it, legaling it, 11:57
11 stress-testing it?

12 A. Well, there was --

13 281 Q. And, if so, was that a physical copy or was that an
14 electronic copy submitted to them?

15 A. I can't recall, maybe it was printed out, but, as I 11:57
16 say, what eventually appeared wasn't very different
17 because the person wasn't going to be identified.

18 282 Q. Yes. Well, in what way was it different, in fact?

19 A. I can't recall the specifics.

20 283 Q. Okay. Now, on the last occasion I asked you whether 11:58
21 you had any notes of any of the confirmations that
22 Superintendent Taylor gave to you when he phoned you
23 back with them at any stage, and you undertook to look
24 for those notes. Have you found any notes?

25 A. No, I didn't find them. What I did find, I did find 11:58
26 notes from the time I interviewed Ms. D. But I
27 couldn't find the other notes, no.

28 284 Q. Yes. Now, when you were having the sort of to and fro
29 with Superintendent Taylor, I know obviously from your

1 answers that you have not categorised that as being a
2 negative briefing, but you were being supplied with
3 information which, on one view, might be thought to be
4 inappropriate to be supplied to a journalist, to
5 confirm details of a sexual assault investigation 11:59
6 against a serving member whose name is in the public
7 domain at that time. Would you not consider that
8 provision of information to be part of a smear or
9 inappropriate release of information to you?

10 A. No, I didn't. I told you last year, and I tell you 11:59
11 again today, that I ask questions for a living.

12 285 Q. Yes.

13 A. And people answer them. Otherwise -- and also, I
14 wanted to know was this, was there this investigation,
15 did it take place. 11:59

16 286 Q. Yes.

17 A. Was what I was being told, was it the truth.

18 287 Q. Yes. The Tribunal has heard from other journalists
19 that, whether they took it as a precaution or a matter
20 of fairness, they actually approached Sergeant McCabe, 11:59
21 we have heard evidence from a number of them who
22 actually approached Sergeant McCabe to get his side of
23 the story. I am just wondering, it doesn't appear that
24 you did that, am I right about that?

25 A. I didn't do that, no. 12:00

26 288 Q. And is there any reason why you didn't do that?

27 A. Because he wasn't going to be identified at the time
28 and, like, this would have been following the editorial
29 meeting, so, no. We were dealing with -- it was the

1 fact that the Garda investigation may have been flawed.

2 289 Q. Yes. We have heard from, obviously, Ms. McCann, who
3 had penalty points quashed and was somewhat concerned
4 that it might be -- might embarrass her if it came out.
5 And you had penalty points quashed, that was made 12:00
6 public for whatever motive it was made public. And the
7 Commissioner then had penalty points published -- or
8 that it was made public as well. It seems sort of an
9 odd coincidence that two of you would go up to Ms. D
10 and -- in the context of where the Commissioner had 12:00
11 taken a very public stance against Sergeant McCabe.
12 Would you like to comment or respond to that in any
13 way?

14 A. Well, you can draw a narrative from that and a
15 conclusion from that. However, that is not the reason 12:01
16 why I was up there.

17 290 Q. Obviously, Ms. O'Doherty in her original statement to
18 the Tribunal suggested that there were rumours that you
19 had had access to the investigation file. Now, we have
20 dealt with that. She, I think, clarified it to the 12:01
21 extent that, as far as I understand it, she wasn't
22 suggesting that you had necessarily physical possession
23 of it, but you appear to have received details relating
24 to it from Superintendent Taylor. And I am just
25 wondering, did you receive any more details, can you 12:01
26 recall, in any of the conversations that you had with
27 Superintendent Taylor?

28 A. Superintendent Taylor confirmed that there had been an
29 investigation, he confirmed that the file was sent to

1 the DPP and it came back, there was to be no
2 prosecution, which was run in that very short
3 anonymised story.

4 291 Q. Yes. And can I just ask you about the interest that he
5 must have shown in it when you phoned him on the 10th 12:02
6 March, or otherwise, and subsequently. Did you tell
7 him -- did you give him a blow by blow of what had --
8 how the interview had gone?

9 A. No, I kept it very straight. This was critical, this
10 was critical about the guards. It was yet another 12:02
11 allegation against the Garda organisation.

12 292 Q. Yes. But in terms of keeping it straight, obviously he
13 was Press Officer, presumably you'd take it that he'd
14 be anxious to know if there was some new -- some new
15 arrow coming out of the blue alleging some Garda 12:02
16 misconduct or a failure to investigate something
17 properly. Did he show interest in the story you had?

18 A. He showed interest enough to come back with a response.

19 293 Q. Yes.

20 A. I can't recall what the -- you know, it's four years 12:02
21 ago. I don't recall exactly what the cadence of his
22 voice was, what his mood was, or anything like that.

23 294 Q. Yes. No, I understand that. You said you played it
24 fairly straight. But, I mean, did you tell him that
25 you'd got the interview and -- did you give him the 12:03
26 bones of it?

27 A. Oh, absolutely, yes.

28 295 Q. And what was his reaction? You must have some sort of
29 recollection of how he reacted to that?

1 A. I can't recall. As I say, my recollection was all
2 fairly straight.

3 296 Q. Well, what do you mean by 'straight'? I am not just
4 quite clear what you --

5 A. He didn't go into anything, he didn't start gossiping, 12:03
6 or anything like that, no. To be absolutely clear, the
7 waivers were given by all the protagonists, and that is
8 why I cooperated with the Tribunal. If Mr. Taylor
9 negatively briefed me in any other regard, apart from
10 what I've told you and what is on the record, then I 12:03
11 would tell you, and I would also tell you if Martin
12 Callinan had given me that information, I would also
13 tell you very clearly if Nóirín O'Sullivan had given me
14 that information, because they have given waivers, and
15 I don't have anything to hide in relation to these 12:04
16 people.

17 297 Q. Okay. Just going back to the phone records again at
18 page 4847. This is sort of the period when your
19 article came out on the Sunday, on the 12th April.
20 There appear to have been -- 12:04

21 A. The Sunday -- I don't think it was a Sunday. I think
22 it was a Monday --

23 298 Q. You think it was a Monday?

24 A. -- the story came out. I think the story was
25 published -- it was the Irish Independent, it wasn't 12:04
26 the Sunday Independent.

27 299 Q. It wasn't the Sunday Independent. Okay. But that was
28 just slightly confusing, because it appears on one
29 version of it to have been dated on the 12th, which I

1 thought was a Sunday. But in any event, it came out in
2 the Irish Independent, and Superintendent Taylor
3 appears to have tried to call you on the 12th, on the
4 evening of the 12th.

5 A. If it was the 12th -- probably -- that was possibly the 12:04
6 eve of publication, because it was five weeks down the
7 road or six weeks down the road from the time I
8 interviewed Ms. D, so -- and we were going to publish.

9 300 Q. Okay. Well, do you recollect ringing him back or
10 talking to him about the article, saying that, look, 12:05
11 it's ready to go or it's coming out tomorrow or --

12 A. No, I think I was -- they were all last-minute queries.

13 301 Q. Pardon?

14 A. Last-minute queries.

15 302 Q. Yes. But, you see, I think is the 12th not the date of 12:05
16 the actual publication?

17 A. I can't recall, but I -- it's in my head, if it's the
18 12th, and you say it's a Sunday, it couldn't be. I
19 would presume it was a Monday, in my mind. I don't
20 know why. 12:05

21 303 Q. It's just that it would appear from the timing that
22 those calls are after it has been published.

23 CHAIRMAN: The 12th April '14, by the way, was a
24 Saturday.

25 MR. McGUI NNESS: A Saturday. Thank you, Chairman. 12:05
26 Sorry.

27 304 Q. So it's the Irish Independent on the Saturday.

28 A. I don't know why it was in my head about the Monday,
29 Chairman.

1 305 Q. But is it your evidence that you would have checked,
2 had it checked through with it before you published it
3 as well?

4 A. Yes.

5 306 Q. Okay. And what were you checking at the last minute, 12:06
6 if I could ask you?

7 A. We were trying to get some more detail about, is there
8 any more detail, was there anything else there, you
9 know, was there any more information regarding the
10 DPP's decision, or whatever, it could have been that. 12:06
11 You know, it was there for a long time at this stage.

12 307 Q. Okay. But presumably --

13 A. And was there any new developments, was there -- did he
14 find out anything more, anything new.

15 308 Q. But presumably he would have to know what you were 12:06
16 including, really, to be able to comment on whether
17 there was anything else that you ought to put in it.
18 Did you run the copy of it by him, as it were?

19 A. No, no, he knew what the text -- he knew the text of
20 the story because of the questions I asked him. 12:06

21 309 Q. Okay. But had you filled him in after, as it were,
22 your article had gone through the formal process, it
23 had been looked at by the editors, it had been legaled,
24 stress-tested and then was coming out in a form, albeit
25 slightly different than you had written it, did you 12:07
26 tell him at that stage, look, I have got the go-ahead
27 now and this is what is going to be in it?

28 A. No. Didn't have that kind of conversation with him.

29 310 Q. But, I mean, you must have said something to him?

1 A. We are publishing the story tomorrow, whatever, and,
2 you know, perhaps I had last-minute questions for him.
3 That is the only way I can interpret the interaction
4 there.

5 311 Q. Okay. And can you recollect what his reply was? 12:07

6 A. I don't, but I don't think it made any difference to
7 the story.

8 312 Q. And you received a text from Commissioner O'Sullivan on
9 the day the article appeared then. If we perhaps just
10 look at that, 4849. It's the second-last entry there 12:08
11 at the bottom of the page. Do you recall getting that?

12 A. No, I don't.

13 313 Q. Okay. And can you assist the Tribunal what that might
14 be in relation to?

15 A. I don't -- one thing I can tell you, though, is that 12:08
16 Nóirín O'Sullivan never discussed the Maurice McCabe
17 case with me.

18 314 Q. Okay. And the only other relevant contact then is
19 almost a week later, where she appears to have had a
20 short call with you on the 18th April. Can you assist 12:08
21 the Tribunal about that matter?

22 A. I can't recall.

23 MR. McGUINESS: Okay. would you answer any more
24 questions, Mr. Williams. Thank you.

25 CHAIRMAN: Mr. McDowell, I am very familiar, as you 12:09
26 will appreciate, with what has gone before, and I just
27 wanted to point that out to you, not with a view to
28 foreshortening anything.

29 MR. McDOWELL: Chairman, I want to point something out

1 to you - I have no questions for the witness.

2 CHAIRMAN: All right. Well, then, Mr. Ferry, have you
3 any questions?

4 MR. FERRY: Yes, Chairman.

5 CHAIRMAN: Appreciating, again, that, just looking back 12:09
6 on the 11th, and again I am not trying to foreshorten
7 you, Mr. Ferry, your client's case is that there was
8 only one phone call, it happened on the day, or
9 certainly it was represented as happening on the day,
10 that is to say the Saturday the 8th March. There was 12:09
11 no conversation about confirmation in relation to Pulse
12 or the DPP, and that Mr. Williams had said to
13 Superintendent Taylor that the article he was going to
14 write was about Maurice McCabe destroying this young
15 girl's life. Now, those are the questions that were 12:10
16 put before on instructions.

17 MR. FERRY: Yes, that was back July last year.

18 CHAIRMAN: No, I am happy -- I just wanted to put that
19 in focus, and if it's of use to you, it's of use to
20 you. If it's not, it's not. 12:10
21 MR. FERRY: Yes.

22

23 THE WITNESS WAS CROSS-EXAMINED BY MR. FERRY:

24

25 315 Q. MR. FERRY: Hello again, Mr. Williams. We already 12:10
26 dealt with some of this matter last July. And as you
27 know, I am John Ferry.

28 A. That's correct, I understand.

29 316 Q. And I am representing Superintendent Taylor here at the

1 Tribunal. And Superintendent Taylor's position is that
2 in relation to the matter the Chairman has just
3 addressed, that his evidence to the Tribunal in
4 relation to there being the one call, that that was in
5 relation to your visit to the home of Ms. D, and that, 12:11
6 as the Chairman has alluded to, that that was by way of
7 you just providing information that you had been at the
8 house and that you had conducted an interview with the
9 lady in question. However, Superintendent Taylor has
10 given evidence to the Tribunal that, in relation to the 12:11
11 issues of negative briefing, that there had been prior
12 communications with you over a period of time and, in
13 relation to that, that you are one of the journalists
14 that he says that he was negatively briefing in
15 relation to Sergeant McCabe. Now, in relation to the 12:12
16 evidence that you have given to the Tribunal today and
17 again last July, I think you said that you put a number
18 of queries to him in relation to the investigation and
19 the nature of the investigation and recommendations of
20 the DPP, et cetera. Now, Superintendent Taylor's 12:12
21 instructions are that that conversation would have
22 occurred but it would have occurred in the course of
23 different conversations he had with you from the middle
24 of 2013 onwards and that that would have been something
25 that would have been previously discussed with you in 12:12
26 relation to Maurice McCabe?

27 A. Well, I have outlined very clearly, because there is a
28 waiver and I've made no issue about sources or not
29 cooperating, I have told this Tribunal truthfully all

1 my interactions with Mr. Taylor in relation to this. I
2 am very -- all I can say, Mr. Ferry, is that I am very
3 confused as to what Mr. Taylor is saying, because the
4 reason I took the very difficult decision to sit down
5 and go and access my phone records, which I am 12:13
6 absolutely loathe to do, and I did it about a month
7 ago, was because he had clearly stated that I had rang
8 him and put in adverted commas a quote that he reports
9 that I made to him when I phoned him allegedly from
10 Ms. D's house, I had no choice but to break my own 12:13
11 rules on that and go and -- my lawyer worked out a way
12 of doing, that is why I gave you my phone records,
13 Chairman.

14 317 Q. Yes. I am just trying to get a reference here,
15 Mr. Williams. Now, yes, I appreciate what you are 12:14
16 saying there and I saw your statement where you
17 referred to the previous encounter where he said there
18 was the one interaction. But what I'm saying to you is
19 that when I got instructions from him and what we --
20 what he provided to the Tribunal on your last day at 12:14
21 the Tribunal, that that was specific in relation to the
22 visit to Ms. D's house, that there was the one call
23 from you where you told him that you had been in
24 Ms. D's house, but that was not the limit of
25 Superintendent Taylor's contacts with you in relation 12:14
26 to Sergeant Maurice McCabe, and he is saying that there
27 had been previous conversations, and there have been
28 other witnesses here, and again, you have not been
29 privy to this, but Superintendent Taylor's evidence has

1 been that he was instructed by Martin Callinan to
2 negatively brief journalists in relation to Sergeant
3 McCabe, and that the way he did that was that if an
4 opportunity presented itself at the time when the
5 Maurice McCabe case was high profile and if he was in 12:15
6 conversation with journalists, that he would drop that
7 into the conversation, and he says that he had done
8 that with you on a number of occasions prior to you
9 visiting Ms. D's house.

10 A. That is incorrect. 12:15

11 318 Q. So what I'm putting to you is that the briefing that
12 there had been an allegation of sexual assault, that
13 there had been an investigation by the Gardaí and that
14 the DPP had recommended no prosecution, and that, as a
15 result of that, Sergeant McCabe had an agenda of 12:15
16 revenge against the Gardaí and he was motivated by
17 maliciousness against the Gardaí, now Superintendent
18 Taylor says that that conversation occurred with you
19 prior to your visit to Ms. D's house. And that while
20 you are giving evidence here today to say that that is 12:16
21 the information you got from Superintendent Taylor
22 after the visit to Ms. D's house, his instructions are
23 that such a conversation would have taken place in
24 relation to his negative briefing but at a time prior
25 to the interview with Ms. D. Do you understand what he 12:16
26 is saying?

27 A. I do understand and it's totally incorrect. Because
28 last year, I think on the instructions from Mr. Taylor,
29 you said to me that I rang him and that was the only

1 conversation he had with me at all about Dave Taylor --
2 or about Maurice McCabe. That is what I think I was
3 asked last year here.

4 319 Q. Yes.

5 A. I did not -- just absolute clarity, he did not lead 12:16
6 me -- the whole narrative around this, from the very
7 beginning, when the issues were conflated and I got
8 eviscerated both on social media and by my own
9 colleagues about this, the implication was that I was
10 part of a smear campaign and an effort made to 12:17
11 deliberately be directed by Dave Taylor on behalf of
12 Martin Callinan. The reason I ended up in Ms. D's
13 house was because for -- as I have outlined in detail,
14 I got a call one day from John O'Reilly who said the
15 father of this girl wanted to talk to me. I went down 12:17
16 to talk to the family. They told me that two other
17 journalists had visited, unsolicited; how did they know
18 her name, where did they -- how did they know where she
19 lived, all of these issues. And that was the reason
20 she was talking to me. So therefore, I had no prior 12:17
21 discussion about this at all with Dave Taylor.

22 320 Q. Yes. And I want to be clear from my own position,
23 Mr. Williams, is that you are saying you were
24 eviscerated, that you were part of a smear campaign.
25 What the evidence of Superintendent Taylor is, is that, 12:18
26 not that you were -- that -- he is saying that you were
27 being used as part of a smear campaign in that you were
28 being negatively briefed, but he is not suggesting that
29 the journalist would have known that they were part of

1 a campaign or known that they were being negatively
2 briefed deliberately, so I'm not saying that you were
3 in cahoots --

4 A. Well, Mr. Ferry, what you are saying is effectively
5 that Ms. D was working in cahoots with him then. That 12:18
6 is the only interpretation I can put on that. But why
7 did she want to come and talk to me? why did she ring
8 her dad and say: I am coming home from college, I want
9 to talk to this guy?

10 321 Q. Well, I haven't mentioned that aspect of it yet. What 12:18
11 I'm dealing with it is the negative-briefing element
12 that you -- that you have said here this morning that
13 you rang Superintendent Taylor and you'd certain
14 queries and you put that in a context that that took
15 place after the visit to Ms. D's house and that you 12:19
16 were looking to clarify certain matters, but what I'm
17 saying is that that had -- those conversations with
18 Superintendent Taylor had already occurred in that you
19 were aware, from talking to Superintendent Taylor from
20 mid-2013 onwards, that there had been allegations, 12:19
21 et cetera, against Maurice McCabe?

22 A. No.

23 322 Q. And they had been investigated. So that was something
24 that you already had knowledge of, Mr. Williams --

25 A. That is untrue. 12:19

26 323 Q. -- that is what my instructions are. And in relation
27 to his evidence to the Tribunal, where you say that,
28 you know, on the last day he said that was the only
29 conversation. When he was here, he did give evidence

1 and state that what he meant was that there was no
2 further contact in relation to Maurice McCabe with you
3 after you contacted him about the Ms. D interview, that
4 after that -- that any contacts after that were related
5 to different queries that you had? 12:20

6 A. There was a lot of things going on at that time, there
7 was a lot of queries.

8 324 Q. Yes.

9 A. I don't understand the point you are making. The point
10 you are making is that I contacted now Dave Taylor the 12:20
11 following week after interviewing Ms. D, put my
12 questions to him and then we had no further
13 conversation about it, is that what you are saying to
14 me? Because I am confused.

15 325 Q. Well, you see, first of all, it's not -- it is 12:20
16 confusing, but it makes no sense for us to say that
17 there was no -- that there was only one call from you
18 to Dave Taylor, because there is phone records now have
19 been produced and there is -- you know, there is
20 hundreds and hundreds of contacts during the period 12:20
21 that the Chairman is dealing with. So you were a
22 journalist that is in contact with the Press Office as
23 part of your work, which is natural, so -- so, on the
24 last occasion, when we spoke about there being the one
25 contact, what I am saying to you is, Superintendent 12:20
26 Taylor is saying there was one contact in relation to
27 your visit to Ms. D's house. He did not know you were
28 going to Ms. D's house and he received a call from you
29 saying that you had -- you were there in the vicinity

1 or just recently carried out an interview.

2 A. He said guess where -- that I -- quoted me as saying:
3 'Guess where I am?' It wasn't a paraphrase, it was in
4 quotes. I never had that conversation with Mr. Taylor.

5 326 Q. But in relation to the one contact that's -- if I could 12:21
6 just -- do you follow me now, that he is saying there
7 was one contact with you in relation to your visit to
8 Ms. D's house, that you rang him?

9 A. I have to say, Mr. Ferry, I am, to be very fair to you,
10 I am very confused as to what Mr. Taylor, his position 12:21
11 is.

12 327 Q. Well, that is probably my fault, Mr. Williams.

13 A. I don't think it's your fault, I think it's the --
14 CHAIRMAN: Look, I can probably summarise it, and it is
15 this: vis-à-vis the phone call which was either on the 12:21
16 day or on some day proximate to the day you were down
17 there, he says that you called but that there was only
18 one phone call, there was no conversation about
19 confirmation or the DPP and that you were telling him
20 that you were there and that you were about to write a 12:22
21 story about how Maurice McCabe had destroyed a
22 perfectly innocent girl's life.

23 A. Yes, I recall that.

24 CHAIRMAN: In other words, that you weren't seeking any
25 confirmation or any details. But the case now being 12:22
26 put to you is, that the reason that phone call was in
27 that format was because he had previously briefed you
28 about the allegation, about it going to the DPP, about
29 the DPP saying no, there should be no prosecution, but

1 that Maurice McCabe had, and I am going to use the Jack
2 Charlton phrase again, become a bitter little man in
3 consequence of that and had agendas against the Gardaí
4 and was driven by revenge and that he had already told
5 you that, so there was no reason to have any 12:22
6 conversation about Pulse or the DPP over the phone in
7 or around the time you were down there. So that is
8 basically the case that is being made to you.

9 A. That is incorrect.

10 328 Q. MR. FERRY: And the -- but do you follow now what I'm 12:22
11 saying or what Superintendent Taylor is saying?

12 A. Yeah. So my visit was a culmination of his work,
13 basically?

14 329 Q. No, no, that's -- Superintendent Taylor's clear that he
15 had no knowledge of you going to Ms. D's house prior to 12:23
16 that call.

17 A. Okay.

18 330 Q. Now --

19 CHAIRMAN: And that is the other -- the other part of
20 the case is that he didn't know you going down there, 12:23
21 he didn't direct you down there and nor did he direct
22 anybody else down there or give out any information
23 whereby they might go down there.

24 A. But he never directed me down there anyway. That is
25 all I can say, Chairman. 12:23

26 CHAIRMAN: I appreciate that is your case. And in that
27 respect, you are on the same page.

28 331 Q. MR. FERRY: Yes. And under cross-examination by
29 Mr. McDowell on Day 75, Superintendent Taylor, in reply

1 to a question, put a time-line on when he was, as I
2 say, negatively briefing you, and it's at page 134 on
3 Day 75, and it's at line 11. He was asked by
4 Mr. McDowell:
5
6 "I see" -- 12:24
7
8 And this is in relation to you, Mr. Williams. He says:
9
10 "And as I understand your evidence, you say that you 12:24
11 did inform him that there had been a complaint of
12 sexual assault against Sergeant McCabe in 2006 and that
13 he was motivated, his complaints, his current
14 complaints were motivated by a desire" --
15 A. I don't see it. 12:24
16 332 Q. Sorry, it's not on the screen.
17 A. You are ahead of me.
18 333 Q. I am sorry. I will wait for it to come up. It's at
19 page 134 and it's line 11 is what I was reading from.
20 So he was being cross-examined by Mr. McDowell. At the 12:25
21 top of the page, we will take it perhaps from the top,
22 in fairness, and he says:
23
24 "Prior to the Ms. D interview episode, what was your
25 relationship with Mr. Williams?" 12:25
26 A. I see that now, yes.
27 334 Q. And Superintendent Taylor says:
28
29 "Well, he would contact me and contact the Press Office

1 in relation to ongoing stories. He never turned up at
2 any crime scenes or press conferences or formal events
3 like that.

4 Q. He was a lone wolf, was he? He was not in the
5 pack, is that it? 12:25

6 A. Well, he had his own distinctive practice.

7 Q. I see. And as I understand your evidence, you say
8 that you did inform him that there had been a complaint
9 of sexual assault against Sergeant McCabe in 2006 and
10 that he was motivated, his complaints, his current 12:26
11 complaints were motivated by a desire to have revenge
12 against An Garda Síochána, that's your evidence, is it?

13 A. That's correct.

14 Q. And can you put any -- given that you claim that
15 you got this instruction in mid-2013, are we to take it 12:26
16 that you imparted this information to him on more than
17 one occasion in late 2013?

18 A. It would be during 2013 and, as I say, it would be
19 various conversation pieces around Sergeant McCabe.

20 Q. I see. And are you saying that you had no inkling 12:26
21 whatsoever that he was making contact with the D family
22 or Ms. D to investigate her, to investigate her story?

23 A. Absolutely not."

24
25 So that's -- that's Superintendent Taylor's evidence to 12:26
26 the Tribunal, Mr. Williams. And in relation to his
27 earlier -- the version -- or the instructions that I
28 got in July last year and he says that you were ringing
29 him to inform him of where you were, his instructions

1 are that there would have been no need for you to put
2 questions to him in relation to had there been an
3 allegation, had it been investigated, what was the
4 outcome of the investigation, nor would there have been
5 any need to follow up with a query about Pulse, because 12:27
6 you, as with many other journalists, had already been
7 briefed by Superintendent Taylor in relation to that
8 information and were fully aware of it. Do you
9 understand what I'm saying? So there is no need for
10 you to ring up to verify because Superintendent Taylor 12:27
11 had already told you of all of this?

12 A. I understand what you are saying. I understand what
13 you are saying.

14 335 Q. Yes.

15 A. He never briefed me, never discussed Maurice McCabe 12:27
16 with me until I phoned him after I interviewed Ms. D.
17 I am absolutely sure about that. I have no doubts in
18 my mind in relation to that, with Mr. Taylor. I hardly
19 new Taylor in 2013, for a start. I wouldn't have a
20 conversation with him. He hasn't given any dates, 12:28
21 times, places. I didn't go to crime scenes, I didn't
22 go to conferences, press conferences, so I don't know
23 what he is claiming.

24 336 Q. Yes. Well, the phone records that I have been provided
25 with are dated from the 28th January 2013, and that's 12:28
26 from Superintendent Taylor's contact with you,
27 Mr. Williams, and I have been provided with four pages,
28 and up until the start of June 2014, there is around
29 about, on a rough guesstimate, there is about 100

1 different contacts?

2 A. 100 contacts between January 2013 and July of 2014, you
3 are saying?

4 337 Q. To -- sorry, I am wrong now in my timeline here. Just
5 bear with me. From January '13 to June '13, no, there 12:29
6 would be a lot less than that, there would be about
7 maybe 25 or 30.

8 A. 25 to 30 calls?

9 338 Q. Prior to the middle of 2013, which is a period --
10 A. In the six months? 12:29

11 339 Q. Yeah. So -- but the contacts on these sheets were --
12 these records are starting just from January 2013. I
13 don't know if there had been contact with him in 2012,
14 but he would have been in the Press Office from that
15 period on, you know. So there would have been -- there 12:29
16 is records of telephone contact between you, obviously,
17 in your role.

18 A. Mm-hmm.

19 340 Q. But one of the other things that you have referred to
20 is that one of your queries was that you had then rang 12:29
21 back to ask Superintendent Taylor was the Ms. D matter
22 recorded on Pulse.

23 A. Mm-hmm.

24 341 Q. Now, I don't have the records, but my instructions are
25 that Superintendent Taylor has never conducted any 12:30
26 query or asked for any query to be made on Pulse in
27 relation to Ms. D or at that time or around that time,
28 but I don't have access to those records to put it to
29 you, Mr. Williams, but that's -- they are my

1 instructions in relation to that aspect of your
2 evidence. I don't know if that could be checked out.
3 The Tribunal, I am sure, will look into that. So, in
4 other words, he is saying you didn't -- there was no
5 queries, there was no queries asked of him because you 12:30
6 already knew what was required or what the briefing had
7 been in relation to that aspect of --

8 A. That's incorrect, Mr. Chairman.

9 CHAIRMAN: All right. I don't want to rush anybody,
10 but it's now half past twelve so I am having my lunch. 12:30
11 Thank you.

12
13 THE HEARING ADJOURNED FOR LUNCH

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15 12:31
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1 THE TRIBUNAL RESUMED, AS FOLLOWS, AFTER LUNCH:

2
3 MR. McGUI NNESS: Mr. williams, please.

4 342 Q. MR. FERRY: so what I finished with before lunch,
5 Mr. williams, was that, in effect, the decision of 13:34
6 Superintendent Taylor is that there would have been no
7 need for you to be ringing him with the queries that
8 you're suggesting you had for him, because you were
9 already aware of all those details, that's where I
10 finished up before lunch. And I think that you have 13:34
11 said that as part of the evidence that you gave here
12 before, that you were reported on and you were
13 eviscerated and it was alleged that you were part of a
14 smear campaign, and I've already said to you that is
15 not what Superintendent Taylor is saying. He's not 13:34
16 saying that you had knowledge of it, but he was saying
17 that you were one of the journalists that he was
18 instructed that he was briefing negatively.

19 A. Mmm.

20 343 Q. And you have also -- the evidence has been that there 13:35
21 were three journalists that attended at the house of
22 Ms. D. And I think your evidence is that you had no
23 knowledge -- your evidence this morning, am I correct,
24 was that you had no knowledge of the allegation of the
25 sexual assault prior to attending Ms. D's house. Now, 13:35
26 we have had evidence before the Tribunal,
27 Superintendent Taylor has given evidence that he was
28 negatively briefing 11 journalists, I think, in the
29 list, there's nine to start and then there's another

1 two that came into the equation. So he was saying that
2 he was providing them all with that information,
3 including that there had been an allegation of sexual
4 assault. And of the three that attended at the house,
5 the other two journalists had given evidence to the 13:36
6 Tribunal that, prior to attending, that they had been
7 given information about Maurice McCabe which included a
8 negative element about him, and by that I mean that
9 they had, in addition to being told about the fact that
10 there had been an investigation, they were also told 13:36
11 that there was a negative aspect to it and that there
12 was an allegation, and both of them have given
13 evidence, that is Eavan Murray and Ms. Debbie McCann,
14 that they were aware that there was an allegation of
15 sexual assault before travelling to Cavan. Are you 13:36
16 with me?

17 A. Yeah.

18 344 Q. And we've had evidence from journalists here from a
19 number of newsrooms, and a number of them, I think
20 Michael O'Toole, Mr. Conor Lally, gave evidence that as 13:37
21 far as back as 2010/2011, that they were aware of
22 rumours about Sergeant McCabe, including negative
23 elements about him, that there was an issue with him.
24 I think Mr. Lally said that he had had a falling-out.
25 He knew about the investigation. In actual fact, they 13:37
26 had very specific details of the allegation, the
27 investigation. One of them even gave evidence of the
28 guards recommending no prosecution. His information
29 was that precise. But then went on to say that he had

1 had a falling-out with Garda management, and that was
2 the start of it. So as far back as 2010/2011, they
3 were reporting that there was rumours going around in
4 their circles in journalism. So we have a situation
5 where, at the very least, in various newsrooms around 13:38
6 Dublin, there was negative rumours about Sergeant
7 McCabe, and, out of all those journalists, three
8 travelled to Cavan to try and interview Ms. D. Two of
9 them have given evidence that they were aware of the
10 sexual allegation against Sergeant McCabe before 13:38
11 travelling to Cavan. Now, I have to put it to you
12 that, of all of those journalists, you're the one
13 journalist that has the most contact with members of An
14 Garda Síochána, and that's, in fairness to you, part of
15 your career to date and you have suffered a personal 13:38
16 price in relation to your own, perhaps, freedom of
17 movement, because you've referred -- I mean, I'm not
18 going to go there, but you have taken a strong line in
19 the journalist world in relation to crime, and that's
20 in fairness to you. But you have given direct evidence 13:39
21 that, rather than talking to the people on the front
22 line, you have a direct line of communication to the
23 deputy commissioner and to the assistant commissioner
24 in relation to those posts at the time in question,
25 2013/2014, so rather than talking directly to your 13:39
26 local Garda station, you were able to talk personally
27 on the phone to the deputy commissioner and to an
28 assistant commissioner if you needed to, isn't that
29 correct?

1 A. That's correct.

2 345 Q. Yeah. And prior to travelling up there, and again,
3 this morning, you replied to me when I said that, I
4 wasn't suggesting that you were in cahoots with
5 Superintendent Taylor, with the guards, I think you 13:39
6 replied by saying, well, what I was saying was that
7 Ms. D was working with -- was in cahoots with Dave
8 Taylor and that the only interpretation you could put
9 on it was that, and you said: "Why did she come and
10 talk to me? why did she ring her dad and say: I'm 13:40
11 coming home from college, I want to talk to this guy?"
12 Well, as I understand the evidence before the Tribunal,
13 the reason why she wanted to talk to you or ended up
14 talking to you was because a local detective
15 superintendent had put her in contact with you. 13:40

16 A. Do you want me to answer that?

17 346 Q. Yeah. Am I correct in my understanding?

18 A. I stand over my evidence that I gave last year and what
19 I have given today. And the D family have given that
20 evidence as well. 13:40

21 347 Q. So when you said earlier on in reply to me, you said,
22 "Why did she come and talk to me?", you've already
23 given evidence as to why she came and talked to you, it
24 was because a local detective superintendent who knew
25 all the parties had put them in contact with you and 13:41
26 had phoned you in advance of the interview with Ms. D.

27 A. I explained the whole run-up to that incident. Ms. D
28 had -- her home had been visited by two journalists,
29 she was concerned about it. I've made this -- it's all

1 there on the record, what I have said, in relation to
2 my testimony last year and this year. There's no point
3 in going over it again. Sorry.

4 CHAIRMAN: You've nothing to add? what you are saying
5 is --

13:41

6 A. I don't have anything more to add, no, Chairman.

7 348 Q. MR. FERRY: Yes. But you had received a call from a
8 detective superintendent in that area?

9 A. I said last year, to be absolutely clear, absolutely
10 clear to that detective superintendent, he didn't want
11 to know about this. What he told me was that I had
12 been asked, this man here, his daughter wants to talk
13 to you, is it okay if I give him your number, he is
14 going to -- they just want to call you and have a chat
15 with you, it's something to do with Maurice McCabe. I
16 made it very clear last year, and it would be very
17 unfair to him to try and drag him into the middle like
18 he was some conspirator as well. He was not. And that
19 is the truthful account of what happened. And that is
20 all --

13:41

13:42

13:42

21 349 Q. Yes.

22 A. Only one account can take place. That's it.

23 350 Q. Yes. But in fairness to my client, you replied earlier
24 on to me with those questions back, that, in other
25 words, the only interpretation you could put on it was
26 that, according to what I was saying, was that Ms. D
27 was in cahoots with Dave Taylor and that's why they
28 rang you. So I'm representing the interests of my
29 client, who's position is that he had no knowledge of

13:42

1 your visit to Ms. D whatsoever, and what I am putting
2 to you, that while you have asked that question back
3 towards Superintendent Taylor, why did you come and
4 talk to me, the evidence to the Tribunal is clear, that
5 there was a direct chain of communication as to why 13:43
6 Paul Williams went to speak to Ms. D and that involved
7 a Detective Superintendent Reilly phoning you and then
8 you arranging to go to the Ms. D's. So while you've
9 asked that question, it's clear that Superintendent
10 Taylor -- there's no evidence Superintendent Taylor had 13:43
11 anything to do with you going to the Ms. D household.
12 Do you understand? And isn't that the position,
13 Mr. Williams? Isn't it the position that
14 Superintendent Taylor had nothing to do with your visit
15 to Ms. D's household? 13:43

16 A. You're right, my evidence was that Superintendent
17 Taylor did not know I was going up there.

18 351 Q. Yes.

19 A. And I did not know until I rang him afterwards with the
20 queries I had. That's it. 13:43

21 352 Q. Yes. And taking everything into the equation, of the
22 three journalists that travelled to Ms. D's house, two
23 of them have admitted that they knew what the
24 allegation was before they went there, that there was
25 an allegation of sexual assault. So, in circumstances 13:43
26 where you had been talking to the local detective
27 superintendent, that you're a journalist of very high
28 standing in crime journalism in Dublin, that it appears
29 to have been widespread in newsrooms about the

1 allegations around Maurice McCabe, isn't it very
2 unusual that the one man who gets the interview knows
3 nothing about the allegation whatsoever?

4 A. I've explained all of this, Mr. Chairman.

5 353 Q. Yes. And just in conclusion, I put it to you that
6 whatever about those other sources, Superintendent
7 Taylor had previously briefed you in relation to the
8 allegation.

13:44

9 A. That is Superintendent Taylor's position, and I have my
10 own position. Our positions are irreconcilable at the
11 moment and there's nothing more I can do or say about
12 it.

13:44

13 MR. FERRY: Thank you, Mr. Williams.

14 CHAIRMAN: Are there any other questions?

15 MR. HARTY: Yes.

13:45

16

17 THE WITNESS WAS CROSS-EXAMINED BY MR. HARTY:

18

19 354 Q. MR. HARTY: Mr. Williams, my name is Mark Harty. I am
20 here on behalf of Gemma O'Doherty. I have some brief
21 questions to ask you. You said earlier on today that
22 you don't give away -- journalists don't give away an
23 exclusive, they don't reveal it to other journalists,
24 is that correct?

13:45

25 A. That's correct.

13:45

26 355 Q. But journalists do share information, don't they?

27 A. Sometimes they do, sometimes they don't. It depends if
28 they are working together on a story.

29 356 Q. But in terms of, if you, for example, are working on a

1 story that somebody else had reported on a number of
2 years earlier, sometime earlier, you would contact them
3 to get information from them in relation to it?
4 A. Sorry, the acoustics, I can't hear very well.
5 CHAIRMAN: I'm sorry about that, Mr. Williams. It's 13:45
6 also difficult to pick you up.
7 A. Sorry. Is that better, Chairman?
8 CHAIRMAN: Mr. Harty, if you wouldn't mind, just if you
9 would put the microphone pointing upwards a wee bit and
10 maybe you would just ask that question again. 13:45
11 MR. HARTY: Yes.
12 357 Q. It is the case that if you are working on a story and
13 there had been previous stories written about it
14 sometime earlier, you would contact the journalist
15 who'd written the earlier story, wouldn't you? 13:46
16 A. Contact who? Sorry, I can't --
17 358 Q. If you are working on a story --
18 CHAIRMAN: It's a hypothetical kind of question. In
19 other words, it's a question about journalistic
20 procedure. 13:46
21 MR. HARTY: Method.
22 A. Sorry, I don't get who --
23 CHAIRMAN: It's not directed specifically to any
24 particular person; it's just about how journalists
25 operate. That's the question at the moment. 13:46
26 A. Oh, right. I understand, Chairman. If you were
27 working on a newspaper and there was a couple of people
28 working together on the same story, yes, you would be
29 collaborating.

1 359 Q. MR. HARTY: But also if somebody had worked on an
2 earlier story, for example, and that was related to
3 your story in some way, you would check with them in
4 relation to their facts, wouldn't you?
5 A. I don't know. It'd have to be a specific example. I 13:46
6 don't know.
7 360 Q. Have you ever contacted another journalist about a
8 piece that you're writing which might have referenced a
9 piece that they had written some years previously or
10 sometime previously? 13:46
11 A. I can't recall off the top of my head, but that's the
12 wonders of the Internet now; everyone's stuff is
13 on-line so you can look up what they wrote before.
14 361 Q. And you wouldn't check with them?
15 A. Probably wouldn't be any need to. 13:47
16 CHAIRMAN: I suppose you're going back -- I think this
17 is Mr. Harty's question. Let's suppose, there was a
18 thing many years ago called the Dowra scandal. Now, I
19 don't know was it a scandal or not, I'm forming no view
20 on it, but I do know it happened a long time ago, and 13:47
21 it was about a sergeant who was supposed to be a sound
22 man, or whatever. Now, if you were visiting that story
23 or some aspect of that - again, I am making no comment
24 on it one way or the other - and you knew a journalist
25 had written about it, let us say, 20 years 13:47
26 previously --
27 A. Of course, yes.
28 CHAIRMAN: -- and you wanted to check a few facts.
29 A. Yes, of course.

1 CHAIRMAN: I think that is all Mr. Harty is asking you.

2 A. Yes, of course.

3 362 Q. MR. HARTY: Yes. And that wouldn't be uncommon?

4 A. Probably not. It depends -- as I say, it depends from
5 incident to incident. 13:47

6 363 Q. Of course. Similarly, in relation to a story that, for
7 example, there was no mechanism for publishing it
8 because of the difficulties with it being a matter
9 which is under investigation - in other words, an
10 exclusive that you couldn't publish, for whatever 13:47
11 reason, that information could have been shared between
12 journalists as well, couldn't it?

13 A. I don't know.

14 364 Q. Right. Gemma O'Doherty contacted you, isn't that
15 correct, in relation to a story that she was writing? 13:48

16 A. Gemma O'Doherty contacted me about, Chairman, about
17 seven/eight years ago, yeah.

18 365 Q. About the Fr. Niall Molloy story?

19 A. It was about the Fr. Niall Molloy, yes.

20 366 Q. She was writing about the Fr. Niall Molloy story and it 13:48
21 featured to a very small extent in a book that you had
22 written?

23 A. Yeah, it was a book I published, yeah. It featured
24 aspects of the Fr. Niall Molloy case, yeah.

25 367 Q. And she contacted you about that. She also wrote -- 13:48
26 when did you move to Independent Newspapers or when did
27 you start contributing to Independent Newspapers as
28 your principal?

29 A. I was -- I started working sort of freelance, in the

1 absence of a contract, around the beginning of 2013,
2 and before that --

3 368 Q. And as freelance, you didn't maintain a desk in
4 Independent News?

5 A. I didn't work inside there. I had no real reason to go 13:49
6 there. I work alone, I work from home. And I have
7 other outlets that I work for as well.

8 369 Q. But you would attend -- in terms of pieces that you
9 were proposing to submit to Independent News & Media, I
10 take it you would attend editorial meetings in relation 13:49
11 to those?

12 A. I attended one editorial meeting about this case, yeah.

13 370 Q. I'm just talking about in general?

14 A. Pardon?

15 371 Q. In general, would you attend editorial meetings? 13:49

16 A. No, no, no, I wouldn't, no. Not in general, no, no.

17 372 Q. You wouldn't ordinarily attend editorial meetings?

18 A. I attended a conference that -- I recall attending a
19 news conference between the senior executives about
20 this case after I interviewed Ms. D. 13:49

21 373 Q. And that was the only editorial meeting you have
22 attended in Independent News & Media?

23 A. Sorry?

24 374 Q. Is that the only editorial meeting you have attended,
25 you ever attended -- 13:50

26 A. Oh, no, I would have had --

27 375 Q. -- in Independent News & Media?

28 A. No, I would have had -- like, we would have had -- when
29 we did the Anglo tapes, for example, we were on that

1 for months, and there was only three of us knew about
2 it, and we did have a number of conferences, but that
3 was a very, very comprehensive and involved situation.
4 So I would have been for that. But by and large, no.
5 If I could avoid going into the Indo, I would avoid it. 13:50

6 376 Q. You said in your evidence on Day 11, you questioned
7 whether or not Ms. O'Doherty was a journalist.

8 A. Sorry, can you say that again. The acoustics --

9 377 Q. Mr. Williams, when you were giving evidence on Day
10 11 -- 13:50

11 A. Mm-hmm.

12 378 Q. -- you were questioned by Mr. Dignam about
13 Ms. O'Doherty, and he said, at page 87 of that:
14
15 "Statement of Gemma O'Doherty, I think she is a fellow 13:50
16 journalist, a reporter?"
17
18 To which you responded:
19
20 "If she is a journalist." 13:51

21 A. Mm-hmm. That's correct.

22 379 Q. Are you telling this Tribunal that you did not know or
23 still do not know whether Gemma O'Doherty is a
24 journalist?

25 A. That was in the context of Ms. O'Doherty had left the 13:51
26 business some years earlier and I believe she wasn't
27 working as a journalist.

28 380 Q. No, you then went on and said:
29

1 "I don't know her."

2 A. I don't know her, that's correct.

3 381 Q. "I have never worked with her."

4 A. I have never worked with her, that is also correct.

5 382 Q. Well, in fact, you had, because she had contacted you 13:51
6 about the Fr. Niall Molloy story, isn't that correct?

7 A. Well, I can explain that to you if you want.

8 383 Q. Go ahead.

9 A. She contacted me, Judge -- I brought out a book called
10 'Bad Fellas' in 2011. It was a sort of a comprehensive 13:51
11 history of the evolution of organised crime in Ireland
12 from the '60s to the present day. There was a piece in
13 it about John Traynor in the context of that gang with
14 Martin Cahill, 'The General', and John Gilligan and the
15 murder of Veronica Guerin, and Traynor was a player in 13:52
16 all of that. And there was this part where I told the
17 story again about the return of a file on Fr. Niall
18 Molloy. Gemma O'Doherty rang me about that in 2011, I
19 can't recall when, but it was after -- it was post the
20 time the book came out. So the book came out I think 13:52
21 for the Christmas market, so it was probably late 2011.

22 384 Q. So are you saying to this Tribunal that when you said
23 "if she's a journalist", you mean if she is still a
24 journalist, is what you meant to say?

25 A. I understood her to have left the business in 2014, 13:52
26 2013, some time around then.

27 385 Q. That's not what you said. You said "if she is a
28 journalist". Are you saying to the Tribunal that when
29 Gemma O'Doherty was giving evidence -- or making a

1 statement to this Tribunal about her recollection while
2 she was working as a journalist, that your question "if
3 she is a journalist" was whether or not she still
4 remains working as a journalist?

5 A. That's correct.

13:53

6 386 Q. You were fully aware that she was a journalist in 2013?

7 A. She was a journalist in 2011 when she rang me, that's
8 for sure, yeah.

9 387 Q. Yes. She had been a journalist for, I think, 18 years,
10 17, 18 years in Independent News & Media, isn't that
11 correct?

13:53

12 A. I never worked with her. I don't know the woman. I
13 spoke to her twice on the phone. I don't know how long
14 she is a journalist or anything, Judge.

15 CHAIRMAN: It seems a distinction is being drawn
16 between answering a query and working on a story
17 jointly together.

13:53

18 MR. HARTY: Yes.

19 CHAIRMAN: That is, it seems to me, what is being said,
20 Mr. Harty.

13:53

21 MR. HARTY: Yes.

22 388 Q. She wrote articles, in fact, which featured you, isn't
23 that correct?

24 A. I beg your pardon?

25 389 Q. She wrote an article which featured you as part of the
26 subject matter about the penalty points?

13:53

27 A. When did she do that and what was the story?

28 390 Q. When she was -- it was -- I don't have a copy of it in
29 front of me. She referenced it in her own evidence

1 that she had mentioned you in one of her stories about
2 the cancellation of penalty points.

3 A. She may have. I don't recall it.

4 391 Q. Okay. But anyway, you do accept that Gemma O'Doherty
5 was a journalist for all relevant times for all of 13:54
6 this, isn't that correct?

7 A. I don't know, I'm not familiar with Gemma O'Doherty's
8 CV as a journalist or otherwise at the moment so I
9 can't help you on any of that. I thought at the time
10 she was no longer a journalist. You're saying she is a 13:54
11 journalist, I accept she's a journalist.

12 392 Q. Lone-wolf reporters who don't go to offices, I presume
13 they still read newspapers?

14 A. They do.

15 393 Q. Are you saying to this Tribunal that you've never read 13:54
16 Gemma O'Doherty's by-line in a newspaper?

17 A. After she left the Irish Independent, I didn't, no.

18 394 Q. She did, in fact, have other articles after that,
19 Mr. Williams. They've also been referenced here.

20 A. I don't know. 13:54

21 395 Q. Right.

22 A. I didn't see it.

23 396 Q. Is the Irish Independent the only newspaper you read?

24 A. I scan through them. You don't get to see the papers
25 every day, unfortunately. You look at them on the app. 13:54
26 You will scan through what's the main headlines, you
27 know. I don't have the luxury of sitting down and
28 reading the papers cover to cover every day, and you
29 miss the Sunday papers if you are away or something

1 like that. No.

2 397 Q. So I take it you know very little about Gemma O'Doherty
3 then?

4 A. That's correct.

5 398 Q. Right. So I take it that when you're saying, 13:55
6 commenting on people and their relationship, you're not
7 suggesting that Gemma O'Doherty is a politician?

8 A. Gemma O'Doherty and politicians, what, sorry?

9 399 Q. Yes. Were you suggesting that she's a politician?

10 A. Sorry? 13:55

11 400 Q. You gave evidence, Mr. Williams --

12 A. Yeah.

13 401 Q. -- that the only people who were spreading the
14 narrative that you were too close to An Garda Síochána
15 were politicians, criminals and subversives, so I am 13:55
16 just asking you which of those categories do you
17 believe Gemma O'Doherty falls into?

18 A. She's a journalist. She's not a politician, she's not
19 a terrorist.

20 402 Q. Yeah. 13:55

21 A. I said that that narrative was developed by this
22 particular group, with the assistance of some of her
23 colleagues. I'm not thinking of Gemma O'Doherty at
24 all. This started back in 2006, 2005. The crime
25 journalists in particular have been consistently since 13:56
26 demonised by colleagues in the business as well, in a
27 very unfair way. People who do -- I'm thinking of Mick
28 O'Toole or Paul Reynolds or any of these guys. And
29 that is the comment I was making. I was asked a

1 general -- it was a general comment about the state of
2 the business, or whatever, last year.

3 403 Q. But you now accept that Gemma O'Doherty doesn't fall
4 into those categories and she is, in fact, a
5 journalist, and wasn't one who was spreading an unfair
6 narrative about you? 13:56

7 A. Pardon?

8 404 Q. You accept that Gemma O'Doherty doesn't fall into those
9 categories, was in fact a journalist and was not one
10 who was spreading an unfair narrative about you? 13:56

11 A. Gemma O'Doherty I didn't include when I was making that
12 comment to the Tribunal last year, Chairman. I can't
13 answer it any further than that.

14 MR. HARTY: Thank you very much, Mr. Williams.

15 CHAIRMAN: Yes, Mr. Ó Muircheartaigh. 13:57

16

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

18

19 MR. Ó MUIRCHEARTAIGH: Thank you, Chairman.

20 405 Q. Mr. Williams, my name is Fíonán Ó Muircheartaigh and I
21 represent Alison O'Reilly. And there are just three
22 topics where you might be able to give us some
23 information to clarify points that have arisen where
24 there may be some conflict of recollection about dates
25 and things. The first is a relatively small matter,
26 but whether you can cast any light on your recollection
27 in relation to were you told anything about Eavan
28 Murray's visit to Cavan. And just to give you a bit of
29 context on that. On Monday of this week, Eavan 13:57

1 Murray's direct evidence was to the effect that she was
2 instructed to go to Cavan by her news editor because
3 there was a big story breaking in Irish News & Media.
4 She further said, I think, that, having phoned the D
5 family in advance, she met the parents, the parents of 13:58
6 Ms. D, and they expressed concern about a video that
7 formed part of your interview. Now, that was strongly
8 suggestive of, and it's not for me to determine, that
9 her visit was after your visit to Cavan. Now, we know,
10 and everybody is agreed, Debbie McCann visited before 13:58
11 you went to Cavan. And the question is, simply: Were
12 you told by Mr. and Mrs. D that they had been visited
13 by Eavan Murray prior to your going to Cavan?

14 A. Yes.

15 406 Q. You were told that? 13:58

16 A. My evidence is as it was last year and what I have said
17 today. They told me that two journalists had called to
18 their home, the D family. As I say, that is an issue
19 that only the D family can clarify. I'm only telling
20 you what I was told by them when I went to -- 13:58

21 407 Q. And did they give you the two names at that stage,
22 Mr. Williams?

23 CHAIRMAN: Did you get the two names, is what you are
24 being asked? Did you get two names?

25 A. Yes, I did. Yeah. 13:59

26 408 Q. MR. Ó MUIRCHEARTAIGH: And those names were Debbie
27 McCann and --

28 A. Debbie McCann and Eavan Murray, yeah.

29 409 Q. And just one last point on that: You visited Cavan

1 twice? You visited Cavan twice, you visited on the 5th
2 March and 8th March, or something of that order?

3 A. That's right.

4 410 Q. And were you told that on the first visit or the second
5 visit? 13:59

6 A. Oh, the first visit.

7 411 Q. That you very much. That clears that up. Now, the
8 second point is about the video. Now, were you aware
9 that concerns were expressed by the D family to
10 Ms. Murray about the video? That is her evidence. 13:59

11 A. No, Chairman, they never expressed any concerns about
12 the video. In fact, they agreed to the recording of
13 the interview.

14 412 Q. To your knowledge, did Ms. D or her family ever ask for
15 a copy of the video? 14:00

16 A. No, they did not.

17 413 Q. Now, the last point I'd like to touch on is in relation
18 to David Taylor's confirmations to you. And this is
19 more about general process and procedure when you're
20 dealing with the Gardaí and the Press Office, but if 14:00
21 someone is arrested, would it be the norm of the Press
22 Office to confirm the identity of someone about whom a
23 complaint is made?

24 A. It can do, yes.

25 414 Q. I know they can do, but would it be the norm of the 14:00
26 Press Office to confirm the identity of someone about
27 whom an allegation is made?

28 A. Well, I put the queries - you're talking about these
29 specific queries - I put those queries, I asked those

1 questions of Superintendent Taylor and he answered
2 them. I don't know what -- and that's the specific
3 case I'm talking about. So I can only answer in that.

4 415 Q. Mr. Williams, I'd like to understand, this isn't
5 addressed to you, this is about the way the Gardaí 14:01
6 handle these kind of things normally and what they may
7 do and what they do do and what they should do. Now,
8 would it be the norm for the Press Office to confirm in
9 relation to anybody in this room that an allegation had
10 been made about them, a file had gone to the DPP, is 14:01
11 that the norm? Is that acceptable?

12 A. Well, that's a big question to ask me, if that is
13 acceptable or not. I'm telling you what happened in
14 this case, and the questions I asked and the responses
15 I got. That is all I can talk about, is this case. 14:01

16 416 Q. Because the reason I'm asking these questions is that
17 an interpretation could be put on it that if
18 information is released that an allegation which was
19 found to be baseless was made about somebody in this
20 room, and it's confirmed to anybody, press or 14:02
21 otherwise, that such an allegation was made, and that
22 it was of the level that a file went to the DPP, that
23 that, in itself, would constitute negative briefing,
24 particularly if it related to something as heinous as a
25 sexual assault? 14:02

26 A. People, well-known people are being arrested all the
27 time, and supposed to be, you know -- it's supposed to
28 be an investigation that wasn't supposed to be in the
29 public domain, you see their names in the papers all

1 the time in relation to these things. So it depends, I
2 suppose, on who the reporter is talking to. I don't
3 know.

4 MR. Ó MUI RCHEARTAIGH: Thank you very much,
5 Mr. Williams. 14:02

6 CHAIRMAN: I think we are in the position, I think,
7 where it is clear that whatever conversations that
8 there were with Deputy Commissioner O'Sullivan, were in
9 relation to a security matter. She has given evidence
10 to that effect as well. Any conversations with Martin 14:03
11 Callinan seem to have been perfunctory and there was
12 certainly no negative briefing, to use that awful
13 phrase, in relation to Sergeant McCabe. That's where I
14 am at the moment. I'm not saying I accept it, but
15 that's the evidence at the moment. 14:03

16 MR. MÍCHEÁL O' HIGGINS: Yes. well, Chairman, that will
17 dispense with half of the very short few questions I
18 was going to ask.

19 CHAIRMAN: Yes, I'm not trying to -- it may be helpful
20 you understand where I am at at the moment, but I can't 14:03
21 say that I accept anything. That is just the evidence,
22 yes.

23 MR. MÍCHEÁL O' HIGGINS: Of course. I'm obliged,
24 Chairman. That is of assistance.

25
26 THE WITNESS WAS CROSS-EXAMINED BY MR. MÍCHEÁL
27 O' HIGGINS: 14:03

28
29 417 Q. MR. MÍCHEÁL O' HIGGINS: Mr. Williams, Mícheál O'Higgins

1 Micheál on behalf of An Garda Síochána, in particular
2 former Commissioner Nóirín O'Sullivan and former
3 Commissioner Martin Callinan. Can I ask you just now,
4 I'm going to ask you a couple of questions about the
5 Ms. D articles upon which a considerable amount of 14:04
6 focus has been placed. In your view, would it have
7 been responsible journalism to say to the young woman
8 who approached you to publish her perspective, would it
9 have been responsible journalism to say to her, I'm not
10 going to entertain you, I'm not going to interview you, 14:04
11 because, for instance, as it has been put, Sergeant
12 McCabe is a national hero, would that have been a
13 responsible position?

14 A. You have to listen to everybody who comes to talk to
15 you. If somebody comes to talk to you about 14:04
16 allegations, you're not going to tell them to go away
17 because there's a certain public narrative going on.
18 You talk to the person and you listen to them.

19 418 Q. Well, as part of the same issue, can I ask you this:
20 would it have been responsible journalism, in your 14:04
21 view, to have said to Ms. D or to her family members
22 who approached you initially, I'm not going to
23 interview Ms. D or I'm not going to entertain her
24 request because what she is seeking to do is to make a
25 complaint against the Gardaí concerning misgivings she 14:05
26 has in how her complaint was investigated back in 2006,
27 would that have been a responsible journalistic
28 position to adopt?

29 A. No.

1 419 Q. Can I ask you then in relation to the -- well, are you
2 satisfied that it was truly the position that Ms. D
3 wanted her perspective explored and actually an article
4 published about it?

5 A. She certainly wanted to tell her story. It's all very 14:06
6 obvious in the video of the interview I gave to the
7 Tribunal. It's all there.

8 420 Q. Yes.

9 A. She makes it very clear and I challenge her on that, I
10 challenged her about her motives in that interview. 14:06

11 421 Q. Yes. And, in particular, she was anxious, was she, to
12 voice her criticism of the Garda conduct of the
13 investigation into the original complaint?

14 A. That's correct.

15 422 Q. And she also wanted, didn't she, to voice a follow-up 14:06
16 criticism she appears to have had, or perhaps her
17 family member had, concerning the fact that An Garda
18 Síochána did not put up on Pulse the initial details?

19 A. She felt that was very serious.

20 423 Q. Right. So far as you are in a position to do so, are 14:06
21 you happy to, if I could use this term, debunk the
22 suggestion that your articles on Ms. D were in any way
23 commissioned or instigated at Garda Headquarters?

24 A. They were -- the protagonists in this case have all
25 signed waivers, that is why I have had no issue in 14:07
26 relation to privilege. If anybody briefed me
27 negatively about Maurice McCabe, I would say it.
28 Number two, one thing that hasn't been said is that
29 if -- when you go back to the editors, you say where

1 the story came from, you tell them what it is about,
2 who you talked to. If it had come from the guards, you
3 would have to say that, and it wouldn't pass muster,
4 because 'they would say that, wouldn't they' would be
5 the response. Here, we had the principal, the primary 14:07
6 source of the allegation, coming forward wanting to
7 express her concerns about the investigation.

8 424 Q. Yes.

9 A. So it had nothing to do with Garda Headquarters, good,
10 bad or indifferent. 14:08

11 425 Q. Were you aware or did you subsequently become aware
12 that Sergeant McCabe's side appeared to have been told
13 about the proposal to write the articles on Ms. D prior
14 to their actual publication, is that something you
15 knew? 14:08

16 A. I only discovered that in April gone by when I met with
17 the -- or I think when my solicitor was furnished with
18 some statements from the Tribunal.

19 CHAIRMAN: I'm actually missing something there. How
20 do you mean now, Mr. O'Higgins? It's the detail I'm 14:08
21 missing. Where --

22 MR. MÍCHEÁL O' HIGGINS: I'm referring there to the
23 earlier evidence of Ms. McDonald, Dearbhail McDonald,
24 in that she made contact with a representative of
25 Mr. McCabe's side to, as it were, fact-check the story 14:08
26 that is yet to be published.

27 CHAIRMAN: Okay. All right. I see what you mean. I
28 thought it was kind of more in the way of --

29 MR. MÍCHEÁL O' HIGGINS: And she says that in her

1 statement and confirmed it in evidence.

2 CHAIRMAN: Yes, yes. No, I understand. That was a
3 perfectly legitimate exercise as opposed to taking
4 sides, or anything like that.

5 MR. MÍCHEÁL O' HIGGINS: Oh, no, there is no suggestion 14:09
6 whatsoever that there was anything illegitimate or
7 improper in that.

8 CHAIRMAN: All right.

9 MR. MÍCHEÁL O' HIGGINS: Or improper in the party from
10 whom she sought confirmation engaging in that process 14:09
11 at all, nothing improper suggested.

12 CHAIRMAN: Okay.

13 426 Q. MR. MÍCHEÁL O' HIGGINS: And lastly then, Mr. Williams,
14 can I ask you this: You, as well as being a print
15 journalist, it is the case, isn't it, that you also 14:09
16 present a radio show on Newstalk Radio currently?

17 A. I do, yes.

18 427 Q. And you have been doing that for a number of years?

19 A. About exactly 20 months. I remember every day of it.

20 428 Q. I beg your pardon? 14:09

21 A. I remember every day of it.

22 429 Q. It's an early-morning start?

23 A. 4:30 every morning, Chairman.

24 430 Q. Yes. During the week or -- just during the week?

25 A. Oh, Monday to Friday. 14:10

26 431 Q. Yes. Can I ask you this: Insofar as it might be
27 suggested that -- well, can I put it bluntly: You have
28 directed criticism, have you not, not only at An Garda
29 Síochána on that programme, but, quite routinely, you

1 are directing criticism, in fact, in the direction of
2 former Commissioner Nóirín O'Sullivan, right up until
3 the time she retired?

4 A. And Garda management and also in the Irish Independent.

5 432 Q. And it would be fair to say you are not a cheerleader 14:10
6 for the guards or for Nóirín O'Sullivan?

7 A. Absolutely not.

8 MR. MÍCHEÁL O' HIGGINS: Thank you.

9 CHAIRMAN: All right. Mr. McGuinness, was there
10 anything else? 14:10

11 MR. MCGUINNESS: Yes.

12

13 THE WITNESS WAS RE-EXAMINED BY MR. MCGUINNESS:

14

15 433 Q. MR. MCGUINNESS: Mr. Williams, you may recall this 14:10
16 morning I was asking you about a couple of phone
17 contacts that you had with Superintendent Taylor on the
18 6th and 7th March, and you explained that by reference
19 to an arrest and solicitors letters, and can you
20 confirm that, in fact, you instructed your solicitor to 14:11
21 offer the Tribunal the facility of seeing those
22 letters, which he has on his computer, to verify those
23 facts, if necessary?

24 A. I discussed that with my solicitor at lunchtime. I
25 think he may be able to help you on that. 14:11

26 434 Q. Yes. And he has made that offer to the Tribunal.

27 A. Yes. The letters came in around that time.

28 435 Q. All right. Thank you. Secondly, Mr. Ó Muircheartaigh
29 was asking you about the video, and obviously just in

1 the context of your contacts with Ms. D after the 8th
2 March, there is, I think, five texts and three or four
3 phone calls within the space of three days?

4 A. Mm-hmm.

5 436 Q. Have you any recollection what the texts or the phone 14:11
6 calls were about?

7 A. I can't, I can't.

8 437 Q. All right. Can I ask you this question then: In the
9 context of the video interview, did you ask her to sign
10 any document in connection with that or what it would 14:12
11 be used for?

12 A. No.

13 438 Q. Or did you explain to her who might see it or where it
14 might go or who might have access to it?

15 A. I explained to them that -- well, first of all, it 14:12
16 wasn't going anywhere, and it didn't go anywhere as far
17 as I'm concerned, but that, you know, it would be all
18 down to what we would find out afterwards. There was
19 no guarantees that anything was going to be published
20 or that any story was going to make it anywhere into 14:12
21 the public domain.

22 439 Q. Yes. But did she ask for it to be shot on an anonymous
23 sort of basis, if you know what I mean, without
24 revealing her face?

25 A. When you're talking to people who are making an 14:12
26 allegation like that, that would be the intuitive way
27 of doing it anyway.

28 440 Q. I'm just wondering then, can you exclude the
29 possibility that some of the texts or phone calls

1 afterwards might have related to some discussion about
2 what might happen it or concerning a worry in relation
3 to it?

4 A. The D family, Ms. D didn't express any fears to me
5 about anything like that, and then I'm sure you can ask 14:13
6 them yourself, whatever.

7 441 Q. All right. And just one final matter. The
8 investigators asked you about this and you were shown a
9 document, if we could look at page 4852. This is a
10 letter dated -- purported to be dated the 26th February 14:13
11 of 2014, and Sergeant McCabe, when being interviewed by
12 Mr. Guerin, read a fragment of it to Mr. Guerin in
13 connection with an allegation of sexual assault of a
14 minor.

15 A. I'm aware of this, yeah. 14:13

16 442 Q. So that was on the 1st April. And he told Mr. Guerin
17 that his counsel had got it from the Irish
18 Independent --

19 A. I read the statement --

20 443 Q. -- a couple of weeks earlier than that? 14:13

21 A. He told Mr. Guerin that he got it -- that his counsel,
22 Mr. McDowell, got it from Dearbhail McDonald in the
23 Irish Independent. I read that. In 2014, this was?

24 444 Q. Yes.

25 A. I saw that, yeah. 14:14

26 445 Q. And Sergeant McCabe then made a statement explaining
27 his understanding of it. But the relevant portion is
28 on page 4855, if we could perhaps just look at that.
29 We've also been informed that Prime Time received this

1 at the end of February.

2 And we belatedly received a copy of that, a version of

3 that letter from them since.

4 A. Prime Time received it when?

5 446 Q. In February 2014. 14:14

6 A. Is this the same document?

7 447 Q. Yes.

8 A. Oh, right, okay.

9 448 Q. But just in the context of this issue as to whether it

10 came to the Independent, did you ever see this letter 14:14

11 before?

12 A. The first time I ever heard about this document was in

13 April when the Tribunal contacted my solicitor, and I

14 saw it then the next day. I had no knowledge of it,

15 never saw it before in my life. 14:15

16 449 Q. And you heard no talk of it, about having been received

17 or --

18 A. Never heard of it.

19 450 Q. -- going the rounds --

20 A. No. 14:15

21 451 Q. -- or going to any other news organisations --

22 A. No.

23 452 Q. -- or chitchat. Ms. Hannon referred to it in a

24 broadcast in July 2016 on a Prime Time programme.

25 A. No. 14:15

26 453 Q. Did you pick up the reference from that at any stage?

27 A. No.

28 454 Q. In any event, this played no part in your knowledge or

29 information or decision-making?

1 A. No, and I also am very cognisant that my colleague
2 Dearbhail McDonald made a very unambiguous statement
3 stating that she never saw this document and never gave
4 it to Mr. McDowell.

5 455 Q. No, I understand that, but I am just --

14:15

6 A. So I don't know the provenance of it, I don't know
7 where it came from.

8 MR. MCGUINNESS: I'm just anxious to get your evidence
9 on the matter to advance matters. Thank you very much,
10 Mr. Williams.

14:15

11 CHAIRMAN: It's kind of important maybe,
12 Mr. McGuinness, given that this is on the screen, to
13 note that, in fact, the details there are completely at
14 variance with the complaint as such, just in case
15 anyone takes it at face value, it's a poison pen
16 letter.

14:16

17 MR. MCGUINNESS: I'm not asking about the detail.

18 CHAIRMAN: No, no, I appreciate that, but I'm just
19 thinking from the point of view of people looking at it
20 for the first time, they may jump to a conclusion.

14:16

21 MR. MCGUINNESS: Yes.

22 CHAIRMAN: Thank you very much.

23

24 THE WITNESS THEN WITHDREW

25

14:16

26 MS. LEADER: The next witness, sir, is Mr. Paul
27 Reynolds. Mr. Reynolds' interview with the Tribunal
28 investigators is in volume 18, beginning at page 5088
29 of the materials, and volume 20 onwards deals with the

1 broadcasts on the 9th May 2016.

2

3 MR. PAUL REYNOLDS, HAVING BEEN SWORN, WAS DIRECTLY
4 EXAMINED BY MS. LEADER:

5

14:16

6 MR. REYNOLDS: Good afternoon, Chairman.

7 456 Q. MS. LEADER: Mr. Reynolds, you're the crime
8 correspondent with RTÉ, and I think you've held that
9 position for over 20 years, is that correct?

10 A. That's correct.

14:17

11 457 Q. If you would outline your career in journalism and how
12 you got to that position, please, in summary, for the
13 Tribunal.

14 A. I have been a journalist for almost 30 years. I have
15 been employed by RTÉ for about 27 years, and I have
16 been their crime correspondent since 1996, since the
17 murder of Veronica Guerin.

14:17

18 458 Q. Okay. And I think you know former Commissioner
19 Callinan and former Commissioner O'Sullivan, and if you
20 would explain briefly, please, how that association, if
21 we can call it association, developed? 14:17

22 A. Well, I know them because they're senior gardaí and I
23 have interviewed them on the record on television, on
24 radio, plenty of times, and I have a personal -- or, I
25 beg your pardon, I have a professional and personable
26 relationship with them. 14:18

27 459 Q. And I think, in particular, former Commissioner
28 O'Sullivan said that, I think the phrase was, you went
29 up through the ranks together, is that roughly correct?

1 A. No, I wouldn't dispute that.

2 460 Q. And what about Commissioner Callinan, would he be more
3 senior, perhaps?

4 A. Well, he was more senior.

5 461 Q. Yes. 14:18

6 A. Perhaps we did go up through the ranks together, but --

7 462 Q. You'd know him on the same basis, is that --

8 A. Pretty much so. I would have dealt with him at court
9 cases. He was at some high-profile cases in the
10 Special Criminal Court. 14:18

11 463 Q. Okay. And Superintendent Taylor?

12 A. Yes.

13 464 Q. How long do you know him?

14 A. I first him when he was appointed Press Officer.

15 465 Q. Okay. And that was in 2012? 14:18

16 A. That is correct.

17 466 Q. Did you have any previous knowledge of him in any way?

18 A. No.

19 467 Q. All right. Now, just, obviously you've long dealings
20 with the Garda Press Office, and if you could just 14:18
21 outline generally did the way the Press Office worked
22 vary from press officer to press officer?

23 A. No, not particularly.

24 468 Q. All right. And if you could explain to me how your
25 dealings with the Press Office worked, so with 14:19
26 Superintendent Taylor, it was the same with every
27 other --

28 A. It's pretty straightforward: If something happens or
29 if I hear about something and I need to check

1 something, I just contact them and they give me the
2 official line or the details that they have available,
3 and that's it.

4 469 Q. And when you're contacting the Press Office, is it in
5 any particular way? Is it by phone? By email? 14:19

6 A. Usually by phone.

7 470 Q. Okay. And in relation to meetings, face-to-face
8 meetings, do you have any face-to-face meetings with
9 the Garda Press Office?

10 A. You'd meet press officers at particular scenes, press 14:19
11 conferences, murder scenes, that sort of thing.

12 471 Q. All right. When Superintendent Taylor was appointed to
13 the Garda Press Office, did you make it your business
14 to introduce yourself to him, or anything like that?

15 A. Yeah, I met him when he became the Press Officer and I 14:20
16 made him aware of me and he became aware of me, because
17 he is the Press Officer for the Garda Síochána and I'm
18 the crime correspondent for the national broadcaster, I
19 needed to have a relationship with him as much as I
20 needed to have a relationship with every other press 14:20
21 officer.

22 472 Q. And was that arranged in a formal way or was it more --

23 A. No, actually what happened was, the previous press
24 officer, John Gilligan, when he was leaving the post,
25 he made an arrangement for a number of crime reporters 14:20
26 to meet Superintendent Taylor in an informal setting.
27 So that is where I first met him.

28 473 Q. Right. Now, in relation to Sergeant McCabe, have you
29 met him other than in the context of this Tribunal?

1 A. No, I have never met him.

2 474 Q. All right. And obviously never --

3 A. At least I don't think I have.

4 475 Q. All right. I think you may have phoned him on
5 occasion, is that correct? 14:20

6 A. Yes.

7 476 Q. We will come to that in due course.

8 A. Okay.

9 477 Q. Right. Obviously you were aware he was a person of
10 interest in Garda circles and media circles? 14:21

11 A. A person of interest?

12 478 Q. Well --

13 A. That has a particular connotation in Garda circles.

14 479 Q. Sorry, yes. Maybe a public figure, somewhat public
15 figure? 14:21

16 A. Well, he became a public figure when his name was first
17 mentioned, as far as I know, in the Public Accounts
18 Committee.

19 480 Q. Okay. When do you --

20 A. January 2014. 14:21

21 481 Q. All right. Were you aware of him before that?

22 A. I think I would have been aware of him probably from
23 the middle of 2013. Now, I know, and I've only become
24 aware of this at this Tribunal, there was an article in
25 The Sunday Times in 2010, and I think I would have read 14:21
26 that article at the time.

27 482 Q. Right. That is the article --

28 A. By John Mooney, where he was first named in public.

29 483 Q. Yes.

1 A. But I had forgotten about that. I may have read it,
2 but I wouldn't have connected it, if you know what I
3 mean? I may have recognised the name at the time but
4 I'd forgotten about it. But the only time I became
5 aware of him was really in relation to the penalty 14:22
6 points issue, and that would have been around 2013.

7 484 Q. Okay. And did you know anything about the Byrne/McGinn
8 investigation?

9 A. I didn't really. I just knew it was ongoing, but I
10 wasn't really aware of the details of it. 14:22

11 485 Q. All right. And were you aware of any association
12 Sergeant McCabe had with that investigation?

13 A. No, not at the time. Obviously, since, the O'Higgins
14 Commission has reported.

15 486 Q. All right. Now, I think, I won't open them unless you 14:22
16 want to, but you're aware that former Commissioner
17 Callinan, former Commissioner O'Sullivan and
18 Superintendent Taylor have signed waivers in relation
19 to --

20 A. Yeah. 14:22

21 487 Q. -- any contacts they had with the media in relation to
22 Sergeant McCabe?

23 A. I'm aware.

24 488 Q. And you've no reason to think that they were signed
25 otherwise than freely, isn't that right? 14:22

26 A. I don't know.

27 489 Q. Well, do you have?

28 A. Well, I don't know, I don't know. Well, I mean, they
29 signed the waivers.

1 490 Q. Yes. And you're aware of Superintendent Taylor's wish
2 that journalists would cooperate with the Tribunal and
3 speak freely to the Tribunal in relation to any
4 dealings he said that he had with journalists in
5 relation to Sergeant McCabe? 14:23

6 A. I'm aware he has expressed that, yes.

7 491 Q. And you're aware he expressed that publicly here when
8 he gave evidence to the Tribunal?

9 A. Mmm.

10 492 Q. Now, if I could ask you what knowledge you had in 14:23
11 relation to the D allegation and how that came about,
12 please, and when?

13 A. I think I first heard that there had been an allegation
14 some time around 2013, but I heard it all together, if
15 you know what I mean, I heard there had been an 14:23
16 allegation but that there was nothing to do it, and
17 then I heard four facts in relation to it: I heard the
18 fact that there was an allegation, I heard the fact
19 that there was an investigation, I heard the fact that
20 a file had been sent to the DPP and I heard the fact 14:24
21 that there was no prosecution. And that's it.

22 493 Q. Okay. So you think that was in or around --

23 A. I think it was in around 2013.

24 494 Q. And can you be any more precise than that?

25 A. I can't, to be honest with you, because once I heard 14:24
26 that the DPP had decided there was no prosecution, it
27 was -- as far as I was concerned, it was nothing to do
28 with me as a reporter.

29 495 Q. Okay. So just to recap on that, you heard four facts.

1 Now, you knew it was Sergeant McCabe, is that correct?
2 A. I think I did, yeah. Well, yeah, I did.
3 496 Q. Yes. Was that said to you, do you think or --
4 A. Yeah, I think it was in the context of the penalty
5 points when the issues were being raised and that this 14:24
6 had emerged.
7 497 Q. All right.
8 A. It had emerged that there was -- there had been an
9 allegation, but there was nothing in it.
10 498 Q. So there was an allegation? 14:24
11 A. And there was nothing in it.
12 499 Q. Nothing in it. And the nature of the allegation --
13 A. And then I became aware -- child abuse, as far as I
14 understand. There was an allegation of abuse made
15 against him. 14:25
16 500 Q. And at that time did you know it was child abuse or an
17 allegation --
18 A. Sexual abuse, I think.
19 501 Q. And did the word 'child' or --
20 A. Perhaps 'minor' or 'child', yes. 14:25
21 502 Q. And file went to the DPP?
22 A. File went to the DPP. Investigated, file went to DPP,
23 no prosecution.
24 503 Q. All right. And you say that was in or around 2013?
25 A. Mmm. 14:25
26 504 Q. Did you hear it again after that?
27 A. I don't think I heard it -- I may have, but I always
28 heard it in the context where there was no prosecution.
29 I mean, it was always -- I can't -- I can't really say

1 I did, because I wasn't particularly concerned with it,
2 but I can't really say I didn't either. But if I did,
3 it was always in the context that there was nothing in
4 it, that everybody seemed to know there was nothing in
5 it. Anybody I knew, knew there was nothing in it. 14:26

6 505 Q. Well, what you say in your statement is:
7
8 "I heard of an allegation of sexual wrongdoing had been
9 made against Sergeant McCabe. It would be impossible
10 to recollect when or where I first heard about it, but 14:26
11 I do know that the allegation was circulating for a
12 time in media, Garda and political circles."
13

14 I knew I wasn't the only one that was aware of it.
15 506 Q. All right. So just to break that down a little bit, 14:26
16 did you hear it in media circles and then differently
17 in Garda circles and in political circles?
18 A. I knew it was in the -- I knew that people knew about
19 it.

20 507 Q. Yes. 14:26
21 A. I knew politicians knew about it, I knew journalists
22 knew about it, I knew Gardaí knew about it, but I also
23 knew myself about it and I knew there was nothing in
24 it.

25 508 Q. Okay. Did you make any further inquiries about it in 14:26
26 relation to satisfying yourself that the DPP had
27 directed no prosecution?
28 A. Well, once I was told that, once I was told there was
29 no prosecution, that was the end of it.

1 509 Q. Okay. And you're happy to take that without checking
2 that out further?

3 A. Oh, yeah, because, well, I believed then and I believe
4 now that if there was something in it, I would have
5 heard about it because it would have gone through a 14:27
6 process.

7 510 Q. Yes.

8 A. There would have been a charge, there would have been a
9 court case, there would have been something public and
10 on the record that I would have been able to identify, 14:27
11 and there was nothing like that.

12 511 Q. And that was your thought process?

13 A. Yeah, I knew once -- once I was told the DPP had said
14 there was nothing, I knew there was nothing, because
15 there was nothing in any formal sense. We would have 14:27
16 known if there was a court case, we would have known if
17 there was an arrest.

18 512 Q. Right. And when you heard about it, was that linked in
19 any way to Garda McCabe's supposed motivation?

20 A. No. 14:27

21 513 Q. Okay. Was it ever suggested when you heard about it at
22 that time in 2013, that Sergeant McCabe was somewhat
23 embittered as a result of the investigation?

24 A. No, I've never heard that, and that didn't make sense
25 to me. 14:28

26 514 Q. All right. And why do you say that?

27 A. Because he was exonerated.

28 515 Q. All right. And that's your thought process --

29 A. Yes.

1 516 Q. -- with that. All right. Now, if I can just deal with
2 what Superintendent Taylor says in relation to you and
3 give you an opportunity to respond to it. If I could
4 first of all go to Day 74, it will come up on the
5 screen in front of you, it's at page 122. And 14:28
6 Superintendent Taylor is being asked about a list of
7 nine journalists he provided to the Tribunal here, and
8 what he is saying is, at line 13:
9
10 "Here's a list of nine there --" 14:29
11
12 That is the question to Superintendent Taylor, do you
13 follow me?
14 A. Yes.
15 517 Q. "-- isn't that correct? The context of that is these 14:29
16 are the journalists identified by you as having been
17 briefed negatively about Maurice McCabe in the terms
18 you've told us you received your instruction."
19
20 And further down there, he refers to you at line 25: 14:29
21
22 "Mr. Reynolds there, that's Mr. Reynolds of RTÉ, is it?
23 A. That's correct."
24
25 So he's nominating you as one of nine journalists at 14:30
26 that stage that he briefed negatively in relation to
27 Sergeant McCabe.
28 A. Mmm.
29 518 Q. That is what he says there. Now, in relation to you in

1 particular, it's at page 126 of the transcript, again,
2 at line 12:

3
4 "Q. Can you help us perhaps as to how you say you
5 briefed Mr. Reynolds or not? 14:30

6 A. I did.

7 Q. Can you help us as to how you said you did it on
8 any particular occasion?"

9
10 And the answer is: 14:30

11
12 "As I have said previously, it was opportunistic, where
13 the situation would present it, it would be at scenes,
14 at press conferences, commissioner conferences, where
15 we'd have conversations on the margins and the matter 14:31
16 would come up. I cannot identify specific dates but it
17 was opportunistic."

18
19 All right. You see that there?

20 A. Mm-hmm. 14:31

21 519 Q. And in relation to the matter of negative briefing,
22 what Superintendent Taylor says, that constituted
23 telling people about the D allegation and linking it in
24 to Sergeant McCabe's motivation in making complaints in
25 relation to low Garda standards and penalty points. 14:31

26 All right. And what do you say in relation to negative
27 briefing generally or specifically in relation to
28 Superintendent Taylor?

29 A. Well, that didn't happen. And anybody who knows how

1 reporters work in the field, knows that that, you know,
2 couldn't happen the way it is explained there. If I
3 can give you an example, Chairman. For example, I go
4 to a lot of murder scenes. They're busy places. I
5 arrive with a camera crew or a satellite van. I get at 14:31
6 the scene. I have to find out what is going on, what
7 happened, what are the details. I'm moving around, I'm
8 trying to identify if there are any eyewitnesss. I'm
9 trying to -- we're trying to, you know, for everything,
10 to try and find parking for the satellite van and 14:32
11 trying to find location for a live view. You're trying
12 to find out what happened, who the victim is, what the
13 situation is, what the circumstances are. You're
14 waiting for the guards to arrive, you're waiting for,
15 is there going to be a press briefing, there may be a 14:32
16 press briefing and whether it's at the scene or whether
17 it's at the Garda station, and the senior officer will
18 arrive and that is usually when the press officer will
19 arrive. So the press officer will be in the company of
20 the senior investigating officer. But when Dave Taylor 14:32
21 was the Press Officer, more often than not he would do
22 it himself. I would be just one of a number of
23 journalists there. There's a thing called the huddle,
24 where the microphones are set up, we're in a group, and
25 in many cases I tend to be asking all the questions 14:32
26 because I have responsibility both to television and
27 radio, so we tend to try and put an elongated interview
28 on the radio, and you're asking questions about the
29 murder and the circumstances, you're getting as much

1 information as you can so you can broadcast it. Once
2 you have that information, you're gone to the satellite
3 van, you're trying to get the stuff together. The idea
4 that someone would come in, or, you know, that a press
5 officer would sidle over to you and -- in the middle of 14:33
6 a particular story and try and talk to you about
7 something completely innocuous, completely different,
8 you know, it doesn't make sense, really, and it's
9 not -- it wouldn't happen. And how was I separated,
10 you know, the goat, how was I separated from the sheep 14:33
11 within the huddle, that we're all there, we're all
12 trying to work on this story, so how was I separated
13 for this particular negative briefing, how were
14 journalists separated, how were other journalists not
15 separated? It just doesn't make sense to me. I can't 14:33
16 see how it is possible.

17 520 Q. Okay. Well, I think Mr. O'Toole, when he gave
18 evidence, seems to be of a similar view. Maybe he
19 didn't expand on it as much as you have.

20 A. Probably didn't go on as long as I did. 14:34

21 521 Q. I think, yes. Well, what about commissioner
22 conferences, so, would there be an opportunity there
23 for negative briefing?

24 A. Journalists tend to move in a herd.

25 522 Q. Yes. 14:34

26 A. So, I mean, the idea that he would introduce this
27 particular issue completely out of the blue within a
28 situation and within a context, just doesn't make
29 sense. And the idea that, from his previous evidence,

1 that he would say that people like me would just -- you
2 know, we might be animated and chatting away and then
3 suddenly he would introduce this Sergeant McCabe story
4 and we would freeze and we would just listen and we
5 would take it all in and we would say nothing and we 14:34
6 wouldn't respond, as if we just sort of went into a
7 daze or -- and soaked in all this information, and then
8 when that was finished we could go back to normal,
9 being animated and chatty, you know, it doesn't -- it
10 just doesn't make sense to me. 14:35

11 523 Q. All right. Now, I don't think he specifically says he
12 spoke to you on the phone in relation to the matter,
13 but if I can just maybe go through the phone contacts
14 Superintendent Taylor had with you. They begin at page
15 5127 and they start on the 3rd August 2012, and I think 14:35
16 they go on until page 5139 of the materials in relation
17 to you. They stop in June 2014. So there are a lot of
18 contacts there.

19 A. Yes. There was a lot of things happening.

20 524 Q. Yes. And maybe if you could explain how those 14:35
21 contacts, what are they about? And not every one of
22 them, but just in general terms. Were any of them in
23 relation to --

24 A. I'm the crime correspondent for RTÉ.

25 525 Q. Yes. 14:36

26 A. I cover crime stories, justice stories, for radio,
27 television, on-line, and I cover it on a 24-hour basis.
28 And there are organised crime feuds, there are murders,
29 there are drug seizures, there are gun seizures.

1 There's a crime story nearly every day of the week.
2 Some media outlets, some newspapers, almost focus
3 solely on crime, and there's a crime story on the front
4 page of the newspapers nearly every day. So there's
5 always a crime story to be covered. I think in 14:36
6 relation to -- I do, on average, 200 television stories
7 every year and they're all crime and justice stories.
8 And as regards that contact with the Garda Press
9 Office, is a necessity in my business.

10 526 Q. Right. So can I take it from that, you weren't 14:36
11 speaking to Superintendent Taylor in relation to the D
12 matter?

13 A. No.

14 527 Q. You're happy to confirm that?

15 A. I'm sure of that. I don't even know who Ms. D is. 14:37

16 528 Q. All right. If I could just turn page 5140, it's a list
17 of your contacts -- no, I should say Commissioner
18 O'sullivan's contacts with you. From September 2012
19 there's some, October 2012, December 2013, January
20 2014, February 2014, March 2014, April 2014 and May 14:37
21 2014. You see that? It's reasonably regular contact
22 with the former Commissioner?

23 A. I had no contact with the former Commissioner, either
24 former Commissioner in relation to the terms of
25 reference of the Tribunal. 14:37

26 529 Q. So in relation to Commissioner Callinan's contacts, I
27 think they were also --

28 A. The same applies for him.

29 530 Q. Page 5141 of the materials. You see there, they're

1 November, December 2012, January, February, May,
2 August, December 2013, February 2014 and March 2014.
3 And you can confirm in relation to the terms of
4 reference --

5 A. Not related. 14:38

6 531 Q. All right. Did you ever speak to the Commissioners
7 about Sergeant McCabe?

8 A. I'm not sure. I don't -- I don't believe so.
9 Certainly not in relation to any negative connotation.

10 532 Q. Okay. 14:38

11 A. Definitely not.

12 533 Q. And when you say 'negative connotation', are you
13 specifically referring there to motivation for making
14 complaints?

15 A. Sure. 14:38

16 534 Q. Being otherwise than a genuine concern for low Garda
17 standards?

18 A. Sorry, could you repeat that.

19 535 Q. Well, his motivation being otherwise than being
20 genuinely concerned about low standards in An Garda 14:39
21 Síochána?

22 A. Oh, no, he was genuinely concerned.

23 536 Q. Yes. And did any of the Commissioners suggest
24 otherwise to you?

25 A. No, no, no. 14:39

26 537 Q. All right. If I could just turn to Professor Kenny,
27 what he says in relation to the matter. He has made
28 contact with the Tribunal and he has nominated you as
29 the journalist he spoke to in 2014 who told him that --

1 or suggested to him that he should talk to the boys up
2 there in relation to Sergeant McCabe, and he took it
3 that it meant Cavan-Monaghan. All right. And he has
4 specifically suggested that this took place sometime
5 around a committee meeting in the Dáil and, in 14:39
6 particular, one in February 2014, 19th February 2014.
7 A. Well, the first time I heard about this was when this
8 was brought up last week. And when I was given the
9 detail of the statement, I was able to check -- of
10 Mr. Kenny's statement, I was able to check, and I 14:40
11 wasn't at the committee meeting where he says this
12 conversation took place. I wasn't detailed on duty
13 that day for that committee meeting. I wasn't there
14 that day, I was ill that afternoon. And the
15 conversation that he alleges didn't happen. 14:40
16 538 Q. Okay. Well, he seems very sure that he spoke to you in
17 particular in relation to Sergeant McCabe, and he's not
18 suggesting that it was by way of spreading gossip about
19 Sergeant McCabe, or anything like that; he's suggesting
20 that he specifically sought out information in relation 14:40
21 to Sergeant McCabe, looking for the benefit of your
22 experience, long experience in reporting crime-related
23 matters.
24 A. I never spoke to him about Sergeant McCabe.
25 539 Q. Okay. Well, how can you be certain of that? 14:41
26 A. I know it didn't happen. Well, I mean, to be honest
27 with you --
28 540 Q. Leaving aside the date, the date is wrong --
29 A. Well, if you look at his statement, first of all. I

1 mean, it is factually incorrect, first of all, that I
2 wasn't there at that time.

3 541 Q. Okay.

4 A. Secondly, I was here for some of his evidence last week
5 when he said that his corroboration for the 14:41
6 conversation was that the fact that he, quote, took
7 immediate steps to check the veracity of this
8 conversation that he was supposed to have with me and
9 he said he went straightaway to Sergeant McCabe and
10 that Sergeant McCabe showed him the DPP's directions, 14:41
11 and it was pointed out to him at the Tribunal that
12 Sergeant McCabe couldn't have done that. So not only
13 was the -- did the conversation not happen, but the
14 corroboration that he used for the conversation didn't
15 happen. 14:41

16 542 Q. All right. So you're pointing out that it couldn't
17 have happened on that particular date, is that correct?

18 A. Well, it definitely didn't happen on that particular
19 date.

20 543 Q. Okay. And I am suggesting to you perhaps Mr. Kenny got 14:42
21 the date wrong. Could it have happened on any other
22 date?

23 A. Well, first of all, the conversation didn't happen.

24 544 Q. Yes.

25 A. That's the first thing. 14:42

26 545 Q. Yes.

27 A. I cover a lot of Oireachtas committees, particularly in
28 relation to the justice and crime matters. It is
29 possible that Mr. Kenny was at one of those meetings

1 and it is possible that he came over to me. But if
2 Mr. Kenny came over to me, I would have acknowledged
3 him and had no further conversation with him. I have
4 no wish to cast any aspersions on Mr. Kenny or get into
5 any dispute or spat with him. The man is mistaken. 14:42

6 546 Q. Okay. And you seem to be very sure that you wouldn't
7 have any conversation with him, why is that the case?

8 A. Well, now, you're pushing me on this, and I don't wish
9 to speak negatively of him.

10 547 Q. Yes. 14:43

11 A. But I can give you a simple answer.

12 548 Q. Yes.

13 A. For the last five years, Mr. Kenny has been writing
14 disparagingly and factually incorrectly about me.

15 549 Q. Yes. Okay. Well, you have made yourself clear in 14:43
16 relation to that.

17 A. And I have no wish to criticise the man.

18 550 Q. Yes. Now, if I could just take you to the O'Mahony
19 inquiry and Sergeant McCabe's cooperation or
20 non-cooperation with the O'Mahony inquiry. If page 14:43
21 7381 of the materials could be brought up on screen,
22 please. Now, as I understand it, this is the text of
23 an RTÉ script.

24 A. That's my copy, I wrote that.

25 551 Q. That's your copy? 14:44

26 A. I wrote that.

27 552 Q. All right. If we just go through it, what it says is:
28
29 "The Garda Commissioner wrote to the whistleblower,

1 Sergeant Maurice McCabe, 14 months ago and told him to
2 cooperate with the investigation into allegations that
3 penalty points had been cancelled. Martin Callinan
4 issued a direction to the sergeant on the 14th December
5 2012 to cooperate with the investigation being carried 14:44
6 out by the Assistant Commissioner John O'Mahony and
7 directing him to bring any information or concerns he
8 had to the inquiry. The Garda Síochána is a
9 disciplined force and members are required to comply
10 with directions issued by the Commissioner. It is 14:45
11 understood that Sergeant McCabe may have been on sick
12 leave for a number of months from December 2012 and did
13 not contact the assistant commissioner until April
14 2013, by which time the investigation had been
15 completed. " 14:45

16
17 And then it goes on and refers to the evidence
18 Assistant Commissioner O'Mahony gave to the Public
19 Accounts Committee in relation to his contacts with
20 Sergeant McCabe once the report had been completed. 14:45
21 Now, where did you get your information for that?

22 CHAIRMAN: Just going to that question, Ms. Leader.

23 MS. LEADER: Yes.

24 CHAIRMAN: I know it's been mentioned umpteen times,
25 but if you would just put a date on it, if you wouldn't 14:45
26 mind, this particular thing.

27 MS. LEADER: Maybe the writer could tell us, because
28 it's not specifically --

29 A. It's 24th February, isn't it, 2014?

1 553 Q. 24th February 2014?
2 A. Yeah, that's correct.
3 554 Q. You wrote it on that date?
4 A. Yes.
5 555 Q. Is that correct? And where did you get your 14:46
6 information for that?
7 A. I had sight of the direction.
8 556 Q. The direction?
9 A. And I wrote it on the basis of the direction.
10 557 Q. Okay. And was it on the basis of the direction alone? 14:46
11 A. Yes.
12 558 Q. Okay. Did Superintendent Taylor give you the
13 direction?
14 A. No.
15 559 Q. Okay. It was somebody else? 14:46
16 A. Yes.
17 560 Q. Okay. Now, I think it was suggested to Sergeant McCabe
18 that you tried to contact him after writing this?
19 A. Can I give you the chronology of this, just to clarify
20 it, because it's been spoken a lot about. 14:46
21 561 Q. Yes.
22 A. This is a report that went on-line.
23 562 Q. If you just take your time.
24 A. Yes. No, this is a report that went on-line at 14:28.
25 563 Q. On the 24th February? 14:46
26 A. On the day.
27 564 Q. Yes.
28 A. I saw the direction, I reported the fact that the
29 direction had been given to Sergeant McCabe.

1 CHAIRMAN: we're talking now about the direction of the
2 14th December 2012.

3 A. That's correct.

4 CHAIRMAN: Yes.

5 A. That's correct, Chairman, yes. But I had also sought a 14:46
6 response on the record from Garda Headquarters and I
7 had also sought a response from Sergeant McCabe. I got
8 a response from Garda Headquarters an hour,
9 hour-and-a-half later.

10 565 Q. MS. LEADER: If you just stop there. Was that on the 14:47
11 phone or was it --

12 A. It was on the phone.

13 566 Q. On the phone?

14 A. From Superintendent Taylor, who gave me the official
15 line -- as the official Garda Press Officer, he gave me 14:47
16 the official Garda line, that the Garda Commissioner
17 said this was a direction, and I changed -- I updated
18 the story with this development. And if you look at
19 then the copy from four o'clock on, the story was that
20 the Garda Commissioner says he told Sergeant McCabe to 14:47
21 cooperate with the inquiry, and continued in that vein.
22 I also sought a response from Sergeant McCabe. I
23 didn't speak to him until later that evening and he
24 declined to give me a response, which is his right. He
25 told me he was giving his response to Prime Time, which 14:47
26 he did. Prime Time broadcast that response. And when
27 I saw that response, I incorporated it into -- I
28 updated the report again to include his comments and
29 his view of the situation, and that was broadcast that

1 night and on to the next morning into the Morning
2 Ireland programme on the radio bulletins. The story
3 never appeared on television.

4 567 Q. Okay. So just in relation to this particular text, the
5 Garda Commissioner wrote to the whistleblower Sergeant 14:48
6 McCabe, that was the first time you wrote it, is that
7 correct?

8 A. That's the first --

9 568 Q. Draft?

10 A. Well, no, it's actual a copy. 14:48

11 569 Q. Okay.

12 A. It's the first story. But the stories, you know, they
13 change and develop throughout the day.

14 570 Q. And when you say it's the first story, so it appeared
15 at what time? 14:48

16 A. It appeared on-line --

17 571 Q. On-line.

18 A. -- at twenty-eight minutes past two.

19 572 Q. Twenty-eight minutes past two.

20 A. And it was changed, I think, before four o'clock. 14:48

21 573 Q. Okay. So that is your first --

22 A. Report.

23 574 Q. The first report. You spoke to Superintendent Taylor
24 after the first report, is it?

25 A. I may have spoken to him before it, looking for a 14:49
26 response.

27 575 Q. Yes.

28 A. But he came back to me with the response, which I
29 incorporated and put it on the record.

1 576 Q. All right. So a second version --
2 A. Yeah.
3 577 Q. -- appears. And the Garda Commissioner writing doesn't
4 appear in the second version?
5 A. It does. 14:49
6 578 Q. It does?
7 A. Yeah, it begins with -- the second version begins with
8 "The Garda Commissioner said -- "
9 579 Q. Said. Okay.
10 A. "-- that he wrote to the whistleblower Sergeant McCabe 14:49
11 14 months ago and told him to cooperate."
12 580 Q. All right. And that appeared?
13 A. From four o'clock on.
14 581 Q. From four o'clock on.
15 A. And then it also appeared -- I did what is called an 14:49
16 audio, which is a radio report.
17 582 Q. Yes.
18 A. And it appeared in the radio reports from five o'clock
19 and six o'clock.
20 583 Q. And that was the Garda Commissioner said he wrote? 14:49
21 A. Yes.
22 584 Q. Yes. And then it was corrected later on?
23 A. Well, it wasn't wrong.
24 585 Q. Yes. No, from Sergeant McCabe's point of view. It
25 wasn't wrong because you got the information from 14:50
26 Superintendent Taylor and you'd seen the direction
27 earlier on?
28 A. I had seen the direction.
29 586 Q. Yes.

1 A. I got a response from Garda Headquarters. I saw the
2 response from Sergeant McCabe, which he declined to
3 give me, but which went out on Prime Time, and then I
4 incorporated it as soon as I possibly could.

5 587 Q. I wonder could you, at some stage this evening, furnish 14:50
6 the later reports to the Tribunal?

7 A. Sorry, I thought the Tribunal already had them.

8 588 Q. It may be possible we have.

9 MR. GILLANE: I think this came up on a previous
10 occasion. I indicated to you, Chairman, it's available 14:50
11 on-line, and you indicated that is enough. But if
12 there is any difficulty, I will speak to Ms. Leader and
13 make sure --

14 CHAIRMAN: Thank you, Mr. Gillane. The problem about
15 things being on-line is, we don't know what bit it is. 14:50

16 MR. GILLANE: No, I will clarify whatever needs to be
17 clarified with Ms. Leader.

18 CHAIRMAN: Yes. No, I appreciate you will, yes.

19 MS. LEADER: Okay.

20 A. Sorry, I presumed you were aware of that to -- the 14:50
21 legal team.

22 589 Q. That is fine. So it was an on-the-record
23 confirmation --

24 A. Yes.

25 590 Q. -- from Superintendent Taylor as the Garda -- 14:51
26 A. An official on-the-record confirmation from the Garda
27 Press Officer.

28 591 Q. We will be able to track those changes once we have
29 the --

1 A. Oh, yeah.

2 592 Q. If -- we may have it already, but certainly I haven't
3 seen it.

4 A. Yeah, yeah.

5 593 Q. That may be my fault. 14:51

6 A. Mm-hmm.

7 CHAIRMAN: Ms. Leader, I'm sorry, just going back, you
8 said, and it may be that I didn't make a note properly,
9 I got the -- 'I had sight of the direction', which is
10 the direction of the 14th December 2012, 'and I didn't 14:51
11 get that from', and I'm sorry, I failed to write down
12 who you didn't --

13 A. From David Taylor, Superintendent Taylor.

14 CHAIRMAN: All right.

15 594 Q. MS. LEADER: I just want to bring up page 5368 of the 14:51
16 materials, which is an email to your colleague,
17 Mr. Burke, from Tony Connaughton in the Garda Press
18 Office. You see Mr. Burke -- and I appreciate this
19 isn't your email now, and I think Mr. Burke, even
20 though he works in RTÉ, may not work with you in that 14:52
21 kind of context?

22 A. No, he doesn't.

23 595 Q. And what Mr. Burke is saying is -- to Superintendent
24 Taylor, and it's four days later, on the 28th February:
25
26 "I hope this email finds you well. In light of
27 statements given --"

28 A. Sorry, I don't have --

29 596 Q. Sorry, I beg your pardon. It begins at the end of the

1 page.

2

3 "In light of statements given in the Dáil during the
4 week and the statement by Garda Sergeant Maurice McCabe
5 with regard to whether Sergeant McCabe cooperated with 14:52
6 the O'Mahony inquiry into penalty points, can you
7 please inform RTÉ's This Week programme whether the
8 Garda Commissioner wishes to add or amend any remarks
9 he has put into the public domain or which have been
10 attributed to him with regard to this matter." 14:53

11

12 You see the email?

13 A. Yeah.

14 597 Q. And Sergeant Connaughton's reply to that is:

15

16 "The Garda Commissioner wishes to confirm that he did
17 not put any remarks into the public domain. Any
18 comments that the Garda Commissioner wishes to put on
19 the public record will be by way of official statement
20 issued by the Garda Press Office or face-to-face 14:53
21 interviews quoting what the Garda Commissioner wishes
22 to convey. The Garda Síochána Ombudsman Commission
23 have been appointed to investigate this matter, and
24 therefore it is inappropriate to comment."

25

26 So, as far as you were concerned, it was the Garda
27 Commissioner who was putting those --

28 A. Well, it was his spokesperson.

29 598 Q. Yes.

1 A. I didn't speak to the Garda Commissioner. I spoke to
2 the Garda Press Officer.

3 599 Q. Which is the same thing, as I understand it?

4 A. Well, I mean, I spoke to the Garda Press Officer, I
5 wrote up the story, it went on-line at four o'clock, 14:54
6 there were no complaints from the Garda Press Officer,
7 and I had spoken to him a number of times later on that
8 evening and there were no complaints from the Garda
9 Commissioner or the Garda Press Office in relation to
10 the inaccuracy of the story. 14:54

11 600 Q. All right. And insofar as you have Sergeant
12 Connaughton saying to Mr. Burke that the Garda
13 Commissioner wishes to confirm that he did not put any
14 remarks into the public domain, that is contrary to
15 your understanding? 14:54

16 A. Well, yeah. I mean, I only saw this email now, so,
17 but --

18 601 Q. Yes.

19 A. -- Tony Connaughton whatever -- is a matter for Tony
20 Connaughton. I know I got an official statement from 14:54
21 the Garda Press Office. I put it on the record and I
22 attributed it.

23 602 Q. Yes.

24 A. So if there was any problems with it, I would have
25 heard. 14:54

26 603 Q. All right. If we just turn to page 5 of the materials,
27 which is the protected disclosure made by
28 Superintendent Taylor. You will be familiar with this.
29 And if we go the second-last paragraph of it, that

1 page, please. Maybe if we start at the third-last
2 paragraph. what he says is:

3
4 "I spoke to various journalists on foot of the
5 instructions as given to me by the Commissioner to 14:55
6 encourage them to write negatively about Sergeant
7 McCabe and to brief against him."

8
9 The next paragraph down is:

10
11 "One particular example was the report of Assistant
12 Commissioner John O'Mahony into the allegations made by
13 Sergeant McCabe. I was instructed by the Commissioner
14 to brief the media that Sergeant McCabe had refused to
15 cooperate with Assistant Commissioner O'Mahony. I 14:55
16 later found out that this was untrue."

17
18 So I know you have nothing to do with whatever went on
19 between Superintendent Taylor and instructions he may
20 or may not have gotten from Commissioner Callinan at 14:56
21 that time. But what I am suggesting to you is, it
22 would seem to be that at least Superintendent Taylor
23 was making it clear to you, as I understand it, that
24 Sergeant McCabe had not cooperated with the O'Mahony
25 inquiry. 14:56

26 A. First of all, I was never briefed by Superintendent
27 Taylor that Sergeant McCabe refused to cooperate.

28 604 Q. Yes.

29 A. I never reported that he refused to cooperate. I was

1 given a statement from Garda Headquarters that said the
2 Garda Commissioner said he didn't cooperate.

3 605 Q. Okay.

4 A. And that is what I published.

5 606 Q. And that is what you were saying in relation to the 14:56
6 whole matter of cooperation?

7 A. Yes.

8 607 Q. And the press release?

9 A. Yes. Well, I'm not saying anything.

10 608 Q. Yes. 14:56

11 A. The direction stands for itself.

12 609 Q. Yes.

13 A. The Garda Commissioner, he makes his point, and
14 Sergeant McCabe then made his point, and we reported
15 all three. 14:57

16 610 Q. Now, if I could just go forward to 2015, and I want to
17 bring you to another query Mr. Burke made to the Garda
18 Press Office, and it's at page 5376 of the materials.
19 And this is an email sent in July 2015, and under the
20 second point on it -- and as I understand it, you don't 14:58
21 work with the RTÉ This Week programme, but I just want
22 to ask you about this. It says:

23

24 "Secondly and separate to the above, RTÉ This Week
25 understands that at a recent session of the Justice 14:58
26 Kevin O'Higgins inquiry, counsel for the Garda
27 Commissioner raised questions over the motivation of
28 Sergeant McCabe for bringing certain matters regarding
29 alleged Garda misconduct to attention."

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And Mr. Burke is asking:

"Does this amount to the view of the Garda
Commissioner --"

14:58

who at that stage was Commissioner O'Sullivan.

-- in terms of her view as to why Sergeant McCabe
raised these issues in the first instance."

14:58

Did you know anything about that?

A. About this question to the --

611 Q. About, first of all, the issue of motivation in the
O'Higgins Commission?

14:58

A. No, it became a controversy when the selected sections
of the transcript were released.

CHAIRMAN: And if you wouldn't mind just giving me the
actual date.

MS. LEADER: The actual date for that is --

14:59

CHAIRMAN: I know it's 2015.

MS. LEADER: -- the 4th July 2015.

612 Q. Did you know anything about the questions that were
being asked of the Garda Press Office?

A. No, they ask their own questions and they get their own
answers.

14:59

613 Q. Okay. And in relation to the leaking of the
transcripts, what time do you put that about?

A. When they appeared on, is it on Prime Time and in the

1 Examiner newspaper?

2 614 Q. In 20 --

3 A. I beg your pardon?

4 615 Q. 2015, is it?

5 A. I don't have the dates of those stories. 14:59

6 616 Q. Yes. The year, perhaps, can you remember?

7 A. No. But I can look it up.

8 617 Q. Yes.

9 A. You know, when they were published, they're a matter of

10 public record. 14:59

11 618 Q. Were you surprised at that or did you pay any heed to

12 it?

13 A. Well, I did pay heed to it because there was an issue

14 over this, whether or not -- it became a public

15 controversy in relation to whether Sergeant McCabe's 15:00

16 motivation was questioned at the O'Higgins Commission

17 and there were selected transcripts leaked.

18 619 Q. Leaked.

19 A. And it became a story. So I made my own inquiries and

20 I then discovered there was more transcripts and that 15:00

21 actually Mr. Justice Kevin O'Higgins had dealt with the

22 issue, and at the end of the transcripts I saw, that

23 the whole issue had been ventilated and outlined and

24 that the last word on it was Mr. Justice O'Higgins'

25 word, which was, that's fine, and he called 15:00

26 Commissioner O'Sullivan as a witness.

27 620 Q. Later on in the year?

28 A. Later on in the year.

29 621 Q. Okay.

1 A. And I did a report to that effect, that the matter had
2 been clarified --

3 622 Q. All right.

4 A. -- at the O'Higgins Commission.

5 623 Q. Okay. And was that while the Commission was ongoing 15:00
6 or --

7 A. No, no. Well, didn't these transcripts come --

8 624 Q. Yes.

9 A. I mean, I think this was 2016 --

10 625 Q. 2016. 15:01

11 A. -- or 2017, actually, wasn't it? Wasn't it after
12 publication of the --

13 626 Q. Yes, that is exactly what I was asking you.

14 A. Yes. Anyway, the O'Higgins Commission report was
15 published. 15:01

16 627 Q. At that stage.

17 A. The findings were made.

18 628 Q. Yes.

19 A. They were reported on. And then subsequently this
20 issue came up in relation to selected parts of the 15:01
21 transcript.

22 629 Q. Yes. In 2016.

23 CHAIRMAN: As I understand the dates - and I'm sorry
24 for being so obsessive about dates but it is so easy to
25 get mixed up - the 25th April '16 was, the O'Higgins 15:01
26 final report was actually presented to the Minister as
27 I understand it, on the 6th May '16 the leaked report
28 was discussed in RTÉ. And I know you're going to be
29 asking about that, Ms. Leader.

1 MS. LEADER: Yes.

2 CHAIRMAN: And on the 11th May the official report was
3 published on the Department of Justice and Equality
4 website. On the 17th May '16 some limited transcripts
5 of the O'Higgins Commission report as to an issue 15:01
6 concerning credit were discussed on Prime Time and I
7 think it seems to be accepted by everybody, that these
8 were very, very limited matters.

9 MS. LEADER: Yes.

10 CHAIRMAN: Then the next thing that happens of 15:02
11 significance is 26th May 2016, when John McGuinness TD
12 mentioned the car park meeting with Commissioner
13 Callinan and vile allegation. So that is the
14 chronology insofar as I am trying to anchor it to
15 something solid. 15:02

16 630 Q. MS. LEADER: Yes. What I was trying to establish
17 Mr. Reynolds was: Did you know about the issue of
18 motivation in July 2015 or was it when --

19 A. No.

20 631 Q. -- the transcripts were leaked in 2016? 15:02

21 A. Yeah. The first time I knew about that was when the
22 transcripts were leaked and became a story.

23 632 Q. Yes. And that was very close in time to when the
24 report was published?

25 A. Well, it was a month after it, is that correct? 15:02

26 633 Q. Yes.

27 A. So the transcripts then became an issue and then I had
28 a look at it and to see well was this, was this
29 actually true and I got some further transcripts and on

1 the basis of them I could clearly see as far as I could
2 see that actually the whole issue had been clarified by
3 Mr. Justice Kevin O'Higgins. At least that was my
4 understanding of it.

5 634 Q. So in July 2015 you had -- 15:03
6 A. No.

7 635 Q. -- idea in relation to the motivation issue?
8 A. No.

9 636 Q. All right. You must have known so in 2016 that the D
10 matter was linked in some way to the motivation issue 15:03
11 when it came -- if you saw the transcripts of the
12 O'Higgins matter?
13 A. No.

14 637 Q. When do you think that happened?
15 A. I don't think the transcripts referred to -- at least, 15:03
16 correct me if I am wrong now, but I don't think -- I
17 don't know if there was a link. Was there is a link in
18 the transcripts with the D and motivation?
19 638 Q. Well, I'm asking you what your knowledge of it at that
20 time. 15:03
21 A. No, I don't -- that's what I'm saying, I don't think
22 there was that link.

23 639 Q. Did you make a link --
24 A. No.

25 640 Q. -- in relation to the D matter and the motivation 15:03
26 matter?
27 A. No, I never reported on the D matter at all.

28 641 Q. That is what I want to establish.
29 A. I know, but you made the link there and I --

1 642 Q. It's okay. If I can go to the broadcasts of the 9th
2 May 2016, the report had been released by the -- had
3 been sent to the Department of Justice at the end of
4 April 2016 and you did a number of broadcasts in
5 relation to it on the 9th May? 15:04

6 A. That's correct.

7 643 Q. And that was prior to publication, the date it was
8 published was 11th May?

9 A. That's correct.

10 644 Q. Okay. Where did you get the report from? 15:04

11 A. I can't tell you where I got the report from.

12 645 Q. If you just establish the basis of why you're not
13 telling the Tribunal where you got the report from; is
14 it privilege you're asserting?

15 A. Yeah, I mean, what I can say to you was, that the 15:04
16 source for my broadcasts was the actual O'Higgins
17 Commission report.

18 646 Q. All right. And it was the final report, is that
19 correct?

20 A. It was the final report. 15:05

21 647 Q. And in relation to where you got the report from,
22 you're not telling the Tribunal that and on what basis
23 are you asserting a privilege?

24 A. Well, I'm exercising privilege over that, yes.

25 648 Q. What form of a privilege? Is it journalistic 15:05
26 privilege?

27 A. Yes.

28 649 Q. Okay. All right. I think if I can just quickly go
29 through the broadcasts, and it's the intention of the

1 Tribunal just to play them but I just want to maybe go
2 through them first of all with you. There were a
3 number of RTÉ broadcasts on the 9th May, isn't that
4 correct?

5 A. That's correct, yeah. 15:05

6 650 Q. Okay. And not all of them were your broadcasts, isn't
7 that correct?

8 A. I presume so, yes. Yes, yes.

9 651 Q. So if I just go through the radio ones first.

10 A. Sure. 15:06

11 652 Q. There was a Morning Ireland one I think at 7:00am?

12 A. That's correct. That's the radio report.

13 653 Q. That's the radio report. There was a second Morning
14 Ireland one at 8:00am, is that correct?

15 A. That's another radio report. 15:06

16 654 Q. Radio report. Then there was a longer, long Morning
17 Ireland report and I think it started in or around half
18 past eight mark or slightly before that?

19 A. It was the second item on Morning Ireland after Michael
20 McGrath, the Fianna Fáil spokesman. There was an 15:06
21 interview with him and then there was a question and
22 answer session with myself and the presenter, Fran
23 McNulty, it was scripted and pre-prepared and it ran
24 for about 15 minutes until about 25 to nine. It
25 crashed the sports news. And then the half eight 15:06
26 headlines.

27 655 Q. And I think that is the one where you got into the
28 various separate chapters of the O'Higgins report?

29 A. That's correct. Nine chapters.

1 656 Q. Sorry?
2 A. Nine chapters.
3 657 Q. Nine chapters. There were certain ones you didn't.
4 And I will deal with that later on.
5 A. Yeah, yeah. 15:07
6 658 Q. Okay. Then there was an item on the Séan O'Rourke
7 programme, is that correct?
8 A. Yes. But I had nothing to do with that.
9 659 Q. You had nothing to do with that. And that was an
10 interview with Lorcan Roche Kelly. It's the first one 15:07
11 on it. And then Mr. Clifford gave an interview. Okay.
12 So that's the fourth RTÉ, the radio broadcasts that
13 day. Then there's the News at One?
14 A. Yes.
15 660 Q. And you were the person on the News at One? 15:07
16 A. Yeah.
17 661 Q. And then at Drive Time, later on that day,
18 Mr. Boucher-Hayes did a piece about the --
19 A. Okay, I didn't hear that and I had nothing to do with
20 that. 15:07
21 662 Q. You had nothing to do with that. So, just in relation
22 to the Séan O'Rourke matter, which is the fourth and
23 the last matter on radio that day, which is the Philip
24 Boucher-Hayes, did you share the report with your
25 colleagues so as they could do a piece? 15:07
26 A. I may have. Conor Kavanagh was the producer of the
27 Today with Séan O'Rourke programme, which that day was
28 presented by Keelin Shanley. He may have asked me for
29 the material and I probably would have sent it over to

1 him. But this was material which was already in the
2 public domain at this stage, and was already on the
3 public record. So I didn't share the actual hard
4 copies of the report, but I did share whatever --
5 663 Q. whatever work you had done? 15:08
6 A. whatever work I had done, yeah. Up to that point.
7 There was fresh work to be broadcast at one o'clock.
8 664 Q. All right. In relation to the Drive Time matter, did
9 you share the report with Mr. Boucher-Hayes?
10 A. I never shared the report with anybody. He didn't 15:08
11 contact me looking for any of it, so I would presume
12 no. But it would have been from whatever, News at One,
13 Morning Ireland, it was all publicly available at that
14 stage.
15 665 Q. And then if I can just go through the TV reports? 15:08
16 A. Sure.
17 666 Q. There was the News at One?
18 A. One o'clock television news.
19 667 Q. And did you a piece on that?
20 A. I did. I wrote a television report and a live ingest. 15:09
21 668 Q. Then you did the six o'clock news?
22 A. Yeah.
23 669 Q. That was the same?
24 A. Same; a package and a live.
25 670 Q. A package and a live. And then there was one for the 15:09
26 nine o'clock news?
27 A. For the nine o'clock news, yeah.
28 671 Q. I don't mean to be disrespectful in any way, but they
29 were --

1 A. They were repetitive, were they?
2 672 Q. Well, a little bit. They mostly covered the same
3 ground, whereas the radio matters were different to
4 each other?
5 A. Well, it's the nature of the beast really. 15:09
6 673 Q. Yes?
7 A. Sorry, it's, radio allows for broader, more time,
8 different type of discussion. Television packages are
9 usually limited to one minute 45 seconds. And I know
10 particularly my packages might seem longer to people 15:09
11 but the reality is they're only usually about 1.45, two
12 minutes.
13 674 Q. I think we're now going to hopefully listen to the
14 radio broadcasts first and I think the sound engineer
15 is organised so as to play them. 15:09
16 CHAIRMAN: Okay, Ms. Leader. There seems to be some
17 misunderstanding as to the hours of the Tribunal. I
18 know I have sat late in relation to some people because
19 I felt it was right to get their evidence done on a
20 particular day and that's a matter of courtesy, and 15:10
21 sufficient onto the day is the evil thereof and any
22 remark made in relation to my courtesy, but we are
23 going to finish with whatever broadcasts there are and
24 then I'm going to rise. Because it's then after four
25 o'clock and there's no compelling reason why I should 15:10
26 stay on.
27 MS. LEADER: I think maybe all of them together is
28 slightly longer than an hour, but we will see how we
29 get on.

1 CHAIRMAN: Yes, we will get to the end of them and that
2 is fine. And I don't really think there is any need
3 for --
4 MS. LEADER: The stenographer.
5 CHAIRMAN: -- yes, Ms. Kelly to take these down. It's 15:10
6 a block. It can be put on to the -- anyway. It's
7 really not necessary to take it down. I really don't
8 think so. Unless Ms. Kelly you feel you ought to.
9 MS. LEADER: I suggested to the stenographer earlier
10 on -- 15:11
11 CHAIRMAN: That she shouldn't.
12 MS. LEADER: -- that there is no necessity.
13 CHAIRMAN: Yes, I don't think there is.
14 MS. LEADER: All of this material has been circulated
15 in an electronic format to the parties before the 15:11
16 Tribunal.
17 CHAIRMAN: Yes.
18 MS. LEADER: If we deal with the radio broadcast first
19 of all.
20 15:11
21 AUDIO RECORDING PLAYED TO THE TRIBUNAL
22
23 CHAIRMAN: Ms. Leader, I'm not sure I really want to
24 listen to the news from two years ago or how many
25 years. 15:15
26 MR. LEHANE: There is an overrun.
27 CHAIRMAN: No. I do appreciate that.
28
29 AUDIO RECORDING PLAYED TO THE TRIBUNAL

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CHAIRMAN: Again I'm sorry, I don't want to sit here, I'm not trying to -- goodness knows, as I said, the bit that actually matters. If we could go on a bit. Have we marked it? Ms. Ní Ghabhann, maybe you will help out down below, if you wouldn't mind. I listened to all this before. 15:16

MS. LEADER: I think I'm being told we just have to listen to it.

CHAIRMAN: We just have to listen it. So let's just listen to it. 15:16

AUDIO RECORDING PLAYED TO TRIBUNAL

MS. LEADER: The next section is the RTÉ broadcast. So maybe it is appropriate to break at this stage. 15:30

THE TRIBUNAL THEN ADJOURNED UNTIL THURSDAY, 14TH JUNE 2018 AT 10:00AM

				7	
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