

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

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1921, ON 17 FEBRUARY 2017

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

HELD IN DUBLIN CASTLE  
ON THURSDAY, 14TH JUNE 2018 - DAY 92

92

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1 THE HEARING RESUMED, AS FOLLOWS, ON THURSDAY, 14TH JUNE  
2 2018:

3  
4 CHAIRMAN: Just a couple of comments, if I may. First  
5 of all, there is another lecture in the Hardiman 10:02  
6 lecture series which indeed I have been organising for  
7 the last eight years, it is notified to the Bar Council  
8 and to the Incorporated Law Society, so they are  
9 invited, it won't come as a surprise, which means I am  
10 not sitting beyond five or ten past four. Secondly, I 10:02  
11 just ask people to remember that this is not about  
12 whether people are in favour of Maurice McCabe or  
13 against Maurice McCabe. And then, thirdly, that the  
14 task which the Tribunal actually faces today is whether  
15 Commissioner O'Sullivan used briefing material prepared 10:02  
16 in Garda Headquarters in relation to the broadcasts on  
17 RTÉ of the 9th May 2016.

18 MS. LEADER: I think there was a problem in hearing  
19 you, Chairman, at the back of the hall.

20 CHAIRMAN: Yes, the microphone was just turned up a wee 10:03  
21 bit too loud. Thanks. The term of reference that we  
22 are actually looking at now, and it's part of obviously  
23 the overall conclusion of the Tribunal on all of this,  
24 is whether Commissioner Nóirín O'Sullivan, using  
25 briefing material prepared in Garda Headquarters, 10:03  
26 influenced, or attempted to influence, broadcasts on  
27 RTÉ on the 9th May concerning the O'Higgins Commission  
28 report. That's what it's actually about. It's not  
29 about whether people like Maurice McCabe or don't like

1 Maurice McCabe. After all, that would be strange if  
2 that were to be the case because we live in a free  
3 country.

4  
5 MR. PAUL REYNOLDS CONTINUED TO BE EXAMINED BY

10:04

6 MS. LEADER AS FOLLOWS:

7  
8 MS. LEADER: Yesterday evening, sir, we finished  
9 listening to the radio broadcasts that were broadcast  
10 by RTÉ on 9th May 2016, and now it's the intention of  
11 the Tribunal to play the RTÉ television broadcasts  
12 which were on the News at One, the Six One News and the  
13 Nine O'Clock News on the 9th May.

10:04

14  
15 RTÉ TELEVISION BROADCASTS PLAYED

10:05

16  
17 1 Q. MS. LEADER: All right. Now, Mr. Reynolds, they are  
18 the reports as they appeared on RTÉ Radio news on the  
19 9th May 2016, and I just want to first of all refer to  
20 term of reference [k], I don't know if Mr. Kavanagh can  
21 get it up on the screen in front of you, which is what  
22 we are actually looking into today. It's to  
23 investigate whether Commissioner O'Sullivan, using  
24 briefing material briefed in Garda Headquarters,  
25 influenced or attempted to influence broadcasts on RTÉ  
26 on the 9th May 2016, purporting to be a leaked account  
27 of the unpublished O'Higgins Commission report in which  
28 Sergeant McCabe was branded a liar and irresponsible.

10:37

10:37

29 A. That didn't happen.



1 2 Q. Yes. All right. So that's your general reaction --  
2 A. It didn't happen.

3 3 Q. Yes -- to that. Now, first of all, I wonder could we  
4 establish what did happen out of that term of  
5 reference. First of all, the broadcasts on RTÉ on the 10:37  
6 9th May 2016, insofar as you compiled them, where did  
7 your information come from?  
8 A. My information came from the O'Higgins Commission  
9 report.

10 4 Q. All right. And that report at that stage wasn't 10:38  
11 published, it wasn't published until the 11th May 2016,  
12 isn't that right?  
13 A. That's correct.

14 5 Q. Okay. So by definition, the information came from a  
15 leaked copy of that report, isn't that right? 10:38  
16 A. Copies.

17 6 Q. Copies. All right.  
18 A. Some of the information was so sensitive, I had to be  
19 sure that I actually had the final report. So, I  
20 wasn't satisfied with one source, it was too big a 10:38  
21 story, so I had to make sure that I had seen a number  
22 of copies and that I had cross-referenced the contents  
23 of each report to make sure it was the same final  
24 report that I was looking at.

25 7 Q. Okay. Now, I understand that you are claiming 10:38  
26 privilege over where you got the copies of the reports,  
27 but in very general terms, did you satisfy yourself  
28 that they were the same report that you were looking  
29 at?

1 A. Yes.

2 8 Q. All right. And they were multiple copies of the same  
3 report, isn't that correct?

4 A. That's correct.

5 9 Q. And were they -- have you satisfied yourself, and 10:39  
6 beforehand did you satisfy yourself, that they were  
7 copies of the final O'Higgins Report?

8 A. Yes.

9 10 Q. All right. If we can take it one step further; can you  
10 tell us when you got the first copy or second copy or 10:39  
11 maybe the last copy, if you give us the first date?

12 A. I can't be specific in relation to those kind of  
13 details, but in the run-up to it, and you can see from  
14 my notes that I submitted to the Tribunal, that this  
15 was a work in progress, that this was a development. 10:39

16 11 Q. Yes.

17 A. And as -- I won't say how I compiled it, I can't say  
18 when I got the first, second, third, fourth or whatever  
19 number of copies I had, but I think that the reports  
20 speak for themselves and I think if you compare the 10:39  
21 broadcasts with the final published report, you can see  
22 that the content in the broadcasts corresponds to the  
23 detail in the report.

24 12 Q. All right. Well, for instance, we know, the Tribunal  
25 is aware that Mr. Justice O'Higgins sent a copy of the 10:40  
26 final report to the Department of Justice on the 25th  
27 April 2016. So, do you think it was after that date  
28 that you got the first copy of the final report?

29 A. I am not prepared to say.

1 13 Q. All right. Okay. Was it the beginning or end of  
2 April, or are you prepared to say?  
3 A. I am not prepared to say.

4 14 Q. All right. Okay. Now, insofar as you compiled your  
5 broadcasts, which were broadcast on 9th May 2016, where 10:40  
6 did all the information compiled in those -- which  
7 appeared in those broadcasts, come from?  
8 A. All the information came from the O'Higgins Commission  
9 report.

10 15 Q. Okay. And did you have any other information, other 10:40  
11 than the -- and I know I'm asking the question in a  
12 number of ways -- other than the information which  
13 appeared in the O'Higgins Report, when you were  
14 compiling the reports?  
15 A. I did. I spoke to a number of people as well and I got 10:41  
16 various information, but the only information that I  
17 put in the public domain and the only information I  
18 published was based specifically and directly on the  
19 contents of the O'Higgins Commission report.

20 16 Q. All right. So in relation to the other information 10:41  
21 which you got from speaking to other people, did that  
22 in any way influence what you put into the final  
23 broadcasts which appeared on the 9th May 2016?  
24 A. No.

25 17 Q. Okay. You are absolutely -- 10:41  
26 A. I am 100 percent certain because you can compare -- I  
27 mean, I think I submitted a note to the Tribunal  
28 whereby you can look at my scripts and I think in  
29 brackets beside them there is actually the references

1 to the chapters and the paragraphs in the O'Higgins  
2 Commission report.

3 18 Q. Okay. So as I understand your answer, you are saying  
4 everything which appeared in the broadcasts on the 9th  
5 May, you can pinpoint the source of that information by 10:42  
6 reference to a specific line in the O'Higgins Report?

7 A. Yes. Now, I'd have to qualify that in relation to the  
8 live questions and answers on television, where I was  
9 asked for an assessment, and I was asked to make a  
10 judgement, on the basis of the information, and for 10:42  
11 example, where I used the words that Sergeant McCabe  
12 had been vindicated, I don't think it specifically says  
13 that he had been vindicated, but I thought it was a  
14 fair assessment to make on the basis of the  
15 information. So, in the live question and answer 10:42  
16 sessions which you have seen on television, I am asked  
17 for my opinion, I am asked, for example, is this the  
18 end of it, by Sharon Ní Bheoláin --

19 19 Q. Yes.

20 A. -- I obviously couldn't answer that and if it was we 10:43  
21 wouldn't be here today.

22 20 Q. Yes, I understand. I think really what I'm asking you  
23 is a slightly different question in relation to what  
24 influenced you in coming to the final script of the  
25 broadcasts on the 9th May. I understand your answer 10:43  
26 insofar as you say everything that appeared bar the  
27 matters you have just referred to there in the live  
28 television broadcasts, you can reference it directly to  
29 something that appears in the final report of

1 Mr. Justice O'Higgins, okay? You follow me so far?

2 A. Yes, yeah, yeah.

3 21 Q. But what I'm essentially asking you, and I think in the  
4 very last broadcast, which was the Nine O'clock News on  
5 the 9th May 2016, you have come to the view at that 10:43  
6 stage that there is something in the report for  
7 everyone, if I can put it that way?

8 A. Yeah.

9 22 Q. So what I'm asking you is, did you take anything from  
10 the other information that you had, from speaking to 10:44  
11 various people prior to -- in your  
12 information-gathering phase, if I can put it that way,  
13 did you allow any of that to influence what you picked  
14 out from the report -- and I don't mean that in any  
15 accusatorial way. 10:44

16 A. No.

17 23 Q. -- but, what you picked out from your report, to  
18 include in the broadcasts on the 9th May?

19 A. No, I mean, I did make the decision -- the reports were  
20 put through the full rigours of the RTÉ editorial 10:44  
21 process, and they went right up to the top, to the  
22 acting Director General at the time, Kevin Bakhurst, so  
23 they went right up to the top and went back down and as  
24 you can see there was a developmental process where  
25 they started at one stage and then other information 10:45  
26 was put in and they were -- whatever was published was  
27 published on the basis of it being newsworthy. And I  
28 took an approach to it when I got the report that  
29 specifically, for example, what are we looking at here?

1 So for example, in relation to the eight criminal  
2 investigations which were identified to have serious  
3 flaws and serious failings, I said well what actually  
4 happened here? That was the first -- and look at those  
5 and say well, what happened? And then we had the 10:45  
6 second -- my second point on that was, well okay, we'll  
7 tell people what circumstances were of each of those  
8 investigations. Then we'll have to tell people what  
9 the Commission found. And then Sergeant Maurice McCabe  
10 was identified in the report as the central figure, so 10:45  
11 his role or any comment or criticism or compliment that  
12 the Commission had paid to him in relation to each of  
13 those investigations also had to be examined. They  
14 were the factors that I felt were very important. And  
15 nobody before had looked at the failings and the flaws 10:46  
16 in the criminal investigations. I also thought the  
17 issue of Garda corruption was a huge issue, there was  
18 an allegation made against the highest ranking officer  
19 in the State, that the Garda Commissioner was corrupt,  
20 not only was the Garda Commissioner corrupt but there 10:46  
21 was four other senior officers who were also corrupt.  
22 And we had to look at this and see what this true; did  
23 we have a corrupt police force? And that is what the  
24 Commission was set up to investigate. I identified  
25 those factors and I felt they were also newsworthy as 10:46  
26 well. A number of people had lost their jobs, the  
27 former Garda Commissioner, the Minister for Justice,  
28 the confidential recipient, there was dossiers that had  
29 been supplied to the Fianna Fáil leader Micheál Martin

1 which included claims that murders hadn't been properly  
2 investigated and there was a dossier supplied to the  
3 Taoiseach, and these were very, very serious matters  
4 and we had to look and see what Mr. Justice Kevin  
5 O'Higgins had found in relation to these. So all these 10:46  
6 factors, I thought that these were all hugely important  
7 issues in the public interest, that we had to explain  
8 to people, and publish.

9 24 Q. All right. And I just want to put this to you in a  
10 very general way: Insofar as it could be suggested, if 10:47  
11 it is being suggested, that a view was taken by you,  
12 influenced by Garda Headquarters, that you were in some  
13 way minimising what went wrong in Cavan-Monaghan and  
14 also drawing attention to the exaggeration line in the  
15 report and totally dismissing the corruption issue, do 10:47  
16 you have anything to say in relation to that?

17 A. Well, first of all, I don't think Garda Headquarters  
18 knew what I was doing. I think the first they heard of  
19 it was when they heard it on the news that morning.  
20 And I have heard evidence given to this Tribunal that 10:48  
21 Garda Headquarters, and particularly Commissioner  
22 O'Sullivan, was very unhappy with the report, that she  
23 didn't like the reports. So the fact is that Garda  
24 Headquarters had absolutely no influence over me. And  
25 I wasn't -- I wasn't working alone; whatever I was 10:48  
26 preparing was being seen by my news editor, by the  
27 programme editors who were responsible for the  
28 broadcasts for each individual programme. So, there  
29 was a different editor for Morning Ireland who looked

1 at the material there, there was a different editor for  
2 the radio News at One who looked at that material,  
3 there was a different editor online who looked at the  
4 material before it was put online, there is a different  
5 programme editor for the one o'clock television news, 10:48  
6 the six o'clock television news and the nine o'clock  
7 television news. There is a chief news editor who I  
8 was corresponding with all week and all weekend in  
9 relation to this, and as I said, there was the managing  
10 editor of news above him and then there was the acting 10:49  
11 director general. So all of the material that I was  
12 putting in was being scrutinised and was coming back to  
13 me, so it wasn't my viewpoint; it was the O'Higgins  
14 Commission report's findings.

15 25 Q. All right. And I wonder if you wouldn't mind 10:49  
16 identifying the individual editors that I suppose  
17 vetted your work in order to make sure that it was  
18 accurate and reported fairly on procedures.

19 A. Sure.

20 26 Q. If you could go through them one by one, please. 10:49

21 A. Sure. The main chief news editor was Ray Burke, he has  
22 overall responsibility for news, he was the chief just  
23 editor. Above him is the managing editor of news,  
24 Hilary McGouran, and above him is the director of news  
25 Kevin Bakhurst but at that time he was the acting 10:49  
26 director general, so he was the most senior person in  
27 the organisation and the editor-in-chief of RTÉ. So he  
28 was also seeing the reports and reading them before  
29 they were broadcast. In relation to the individual



1 programmes, there are two programme editors in Morning  
2 Ireland, one the night before and one in the morning,  
3 both of them would have been across it. And the issue  
4 would have been discussed in a conference call which  
5 Morning Ireland hold I think it's at eight o'clock at 10:50  
6 night to decide what they were going to do the next  
7 day. Brendan Fitzpatrick I think was on that night and  
8 Vincent Murphy was on the following morning. The News  
9 at One editor for the radio programme was Michael  
10 O'Kane. For the television one news, I think it was 10:50  
11 Lindsay Keeley, but I am not 100 percent sure, I stand  
12 to be corrected. The Six One is edited by Anthony  
13 Murnane and Dympna Moroney. I think Dympna Moroney was  
14 in charge that day. I think the Nine O'Clock News that  
15 day was Bethan Kilfoil. 10:50

16 27 Q. Right.

17 A. There was a producer who worked with me throughout the  
18 day, that was Tanya Sillem, and she was privy to the  
19 reports over the weekend when we were finalising them  
20 as well, so she saw them prior to broadcast. 10:51

21 28 Q. All right. So you got the draft reports, a number of  
22 them, and you worked on the reports --

23 A. No, I got the O'Higgins Commission final report. A  
24 number of copies of them, yeah.

25 29 Q. So you got a number of copies of the final reports and 10:51  
26 you worked on them and produced a script which turned  
27 into your broadcasts on the 9th May 2016 --

28 A. That's correct.

29 30 Q. -- is that correct? When did you first submit those

1 scripts to your various editors and producers, do you  
2 think?

3 A. I think the first one went in on Friday, as far as I  
4 know.

5 31 Q. And that would have been the 7th May, is that right? 10:51

6 A. The 6th.

7 32 Q. 6th May, all right.

8 A. Yeah.

9 33 Q. And in relation to feedback from people, when did you  
10 start getting that? 10:51

11 A. Oh, almost instantly. It first went to Ray Burke and  
12 he came back straight away but he suggested changes,  
13 and quite rightly so.

14 34 Q. All right.

15 A. I was conscious, for example, that there had been 10:52  
16 previous reports and no journalist wants to feel that  
17 they are recycling news or giving secondhand  
18 information. So I was looking at the aspects that I  
19 thought were new in relation to this report, that  
20 hadn't been reported before, but he, quite rightly, 10:52  
21 pointed out that we really had to put in more of the --  
22 more of the information that had already been published  
23 because it was still relevant.

24 35 Q. All right. So when you are referring to previous  
25 reports, what exactly are you referring to there? 10:52

26 A. Well, it had been published first of all by John Mooney  
27 in the Times Ireland.

28 36 Q. When you say "it"?

29 A. Sorry, he had a report which he said was based on the

1 O'Higgins Commission report.

2 37 Q. All right. So the first --

3 A. That was the first report of it.

4 38 Q. John Mooney?

5 A. John Mooney. And then Micheál Lehane of RTÉ followed 10:52  
6 up on that and he broadcast a report on that evening,  
7 on the Tuesday, on the six and nine o'clock news.

8 39 Q. When you say "that evening", the evening of what?

9 A. Was it -- whatever -- I don't have the date of  
10 Mr. Mooney's report, but it was in April I think, 10:53  
11 wasn't it?

12 40 Q. Yes.

13 A. The first report, I think, as I said. But it was in  
14 April, and the same day then Micheál Lehane, of our  
15 political staff, followed up on that and he published 10:53  
16 some more details in relation to it.

17 41 Q. If I could stop you there. In some of your earlier  
18 notes there is a reference to RTÉ having a positive  
19 report in April, is that what that references?

20 A. I presume that is what it refers to, yes, yes. 10:53

21 42 Q. All right. Okay.

22 A. And in fact, I think I would have looked back on that  
23 report as well, and in my thinking I would have said,  
24 okay, well, we've done that stuff, so there's 360 pages  
25 here, we have a lot to get through. 10:53

26 43 Q. All right. Okay. And was there any other report that  
27 you can think of at this stage? We have referred to  
28 the times and we have referred to Mr. Lehane's report?

29 A. I'm not sure was there any other reports? There may

1           have been. I don't know did --

2    44 Q.    They were the ones in your mind?

3           A.    They were the ones in my mind, anyway.

4    45 Q.    Okay. You compiled a draft and you think you sent it  
5           in on the 6th May, and if I could just bring you to an 10:54  
6           email which Mr. Burke sent to you on the 7th May, which  
7           appears at 5975 of the materials in volume 23. So we  
8           could just first of all -- I know you have mentioned  
9           Mr. Burke already but if you can identify his position  
10          in RTÉ? 10:54

11          A.    He is the chief news editor.

12    46 Q.    Okay. And is he the person who has overall editorial  
13          responsibility?

14          A.    No. Kevin Bakhurst would have had that. But Ray has  
15          chief editorial responsibility for the newsroom. 10:54

16    47 Q.    For the newsroom. Okay. And you were reporting  
17          directly to him?

18          A.    Yes.

19    48 Q.    And he is the person who could have said no or yes  
20          directly to you? 10:55

21          A.    Yes, yes.

22    49 Q.    All right. Do you think this is the first feedback you  
23          got from Mr. Burke in relation to it?

24          A.    Yes, I think so, yes.

25    50 Q.    So he sent you an email just after half past nine on 10:55  
26          the 7th May 2016, and what he says to you, and you have  
27          already sent him a draft at that stage:  
28  
29          "Paul, this is excellent, well done."

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And then he refers to some personal matters. And then he says:

"You have done the work, but you cannot let this take over your day. I don't see anything wrong with going with it first on This Week and RTÉ and online and TV from lunchtime tomorrow." 10:55

That would have been a Sunday broadcast, is that right? But ultimately it was Monday you went ahead with it. 10:55

A. Sorry, can I just interrupt?

51 Q. Yes.

A. Chairman, could I ask that the reference to the ... not be included publicly? 10:55

CHAIRMAN: well, that is why we haven't done it. I am sure the media will --

A. That nobody sees, because I don't like people -- you can understand the position.

CHAIRMAN: No, I do. And that is the reason Ms. Leader didn't read it out and I am sure the media will be responsible. It's entirely personal to you and no interest to me. 10:56

A. No, and I accept that, but it's that I don't want it published in relation to the matter. Thank you. 10:56

CHAIRMAN: well, it's not the worst thing in the world, Mr. Reynolds.

A. No, no, but there are a people who have an interest in knowing my business and they mightn't always have a

1 positive interest.

2 52 Q. MS. LEADER:

3

4 "From lunchtime tomorrow but because you would need  
5 plenty of graphics it might be a tall order to do a 10:56  
6 good lunchtime TV package tomorrow. Lets park that."

7

8 So I think from that it would appear that the intention  
9 was to publish it on Sunday at some stage.

10 A. Yeah, we had talked about it and we had talked about it 10:56  
11 with the editor of This Week as well, we had mentioned  
12 to the editor of This Week, because This Week is the  
13 Sunday radio programme it goes on for an hour and it  
14 does have the space to deal with large, meaty,  
15 comprehensive reports. You know, anybody who listens 10:57  
16 to it knows some of the interviews goes on 20 or 30  
17 minutes, so they can give time to issues. And we felt  
18 that because this was such a big report it did need  
19 time and we originally thought about putting it out on  
20 This Week, but it would have been -- we came to the 10:57  
21 conclusion it was too rushed, really.

22 53 Q. All right.

23

24 "I think your draft is excellent but because it is  
25 certain that you and RTÉ news will be subject to 10:57  
26 suspicion, that we are favouring the Gardaí and  
27 therefore biased against McCabe, I think you should  
28 rewrite some of the top paragraphs so that they  
29 contained the main conclusions. I know these were

1 reported the week before last but people forget before  
2 returning to Sergeant McCabe. "

3  
4 So I think we can take it from that that from the very  
5 beginning there was a huge amount of care given by RTÉ 10:57  
6 and consideration in relation to what way it would look  
7 at the end of the day.

8 A. Oh, very much so.

9 54 Q. Whether a side had been taken.

10 A. Yeah. In fairness to Ray his antenna were up. We 10:58  
11 could see -- I mean, I was anxious to get the new stuff  
12 out, I didn't want to recycle old stuff but he said no,  
13 hold on a second, this has to be fair, this has to be  
14 balanced to everybody, and he was right.

15 55 Q. Yes. And I think, just I may have skipped over it but, 10:58  
16 you had sent your draft to him the night before, just  
17 before half past ten, on the 6th May. I think the  
18 email went on 6th May at 22:27.

19 A. That's correct.

20 56 Q. Yes. So had you discussed the element of favouring the 10:58  
21 Gardaí and bias against Sergeant McCabe other than in  
22 this email with Mr. Burke, do you think?

23 A. No, I don't think so. I was working away on the  
24 reports, you know, trying to get some stuff together,  
25 trying to, you know, pull out all the news lines out of 10:59  
26 it, trying to see what was in it and trying to put it  
27 together and this was the first draft by that Friday --  
28 finished that on Friday night, sent it off to Ray, he  
29 read it and he came back and saying, look, we really

1 have to get the other stuff in as well to make it --  
2 you know, this is great but we need to start looking --  
3 so we started then working on that.

4 57 Q. Okay. And just for completeness, he made a number of  
5 suggestions, but none of them on the scale of things 10:59  
6 were that huge, isn't that correct? Or do you agree  
7 with that?

8 A. Oh, well, I mean, I think he was correct.

9 58 Q. Yes. Yes. So what he says is:  
10  
11 "Your first par is fine."  
12  
13 Is that paragraph, do you think?  
14  
15 "Your first par is fine." 10:59

16 A. Yes, that is paragraph, yeah.

17 59 Q. "I suggest the second paragraph is something like this:  
18 The Commission was established by the Government after  
19 serious complaints by Garda whistleblower, Maurice  
20 McCabe, were raised in the Dáil by Fianna Fáil leader, 11:00  
21 Micheál Martin, and others. It's a 360-page report  
22 that was delivered to the then Minister for Justice  
23 Frances Fitzgerald nearly three years ago."

24 A. Three weeks ago.

25 60 Q. Three weeks ago, I beg your pardon. 11:00  
26  
27 "She said it would be published after she and the  
28 Attorney General had studied it, but the delay in  
29 publishing it has been strongly criticised by the



1 previous Justice Minister, Alan Shatter. The report, a  
2 copy of which has been seen by RTÉ News, found no  
3 evidence of corruption but poor management, etcetera.  
4 It also found that former Garda Commissioner Martin  
5 Callinan, who resigned controversially after a late 11:00  
6 night visit to his home by the Secretary General of the  
7 Department of Justice, was fully entitled to have his  
8 reputation vindicated and that there was not a  
9 scintilla of evidence to Sergeant McCabe's --"

10 A. Claim. 11:00

11 61 Q. Claim, sorry. Thank you.

12  
13 "-- of corruption. It also found that Minister Shatter  
14 did the right thing and that the dealings between the  
15 Department of Justice and the Garda Commissioner were 11:01  
16 right and proper at all times, etcetera, etcetera. Now  
17 after presenting the main conclusions --"

18  
19 of the report that is, isn't that right?

20 11:01

21 "-- you can go back to Sergeant McCabe."

22

23 And he also points out on line 3:

24

25 "You should say "are unfounded" and not "and 11:01  
26 unfounded". Your line 4 should say --"

27

28 And it's fairly minor matters. And it was left at  
29 that, at that stage. And those changes were made to

1 your first draft, is that correct?

2 A. Yes.

3 62 Q. Now, I think you replied to Mr. Burke later on that day  
4 at half past ten, later on that night, and you just  
5 said in relation to the issue of putting it out on 11:01  
6 Sunday that that didn't really seem to be something  
7 that would happen.

8 A. It wasn't an option.

9 63 Q. Yes. It wasn't an option. Now, if we can then go to  
10 the 7th May again, at page 5982 of the materials, you 11:02  
11 reply to Mr. Burke's email with the suggested  
12 amendments, and what you say is:  
13  
14 "Thanks, Ray.  
15 I suggest we leave this week and do it all Monday, 11:02  
16 break it into two parts for radio. First Morning  
17 Ireland report on the cases, the probs with  
18 probationers, could have been resolved with one  
19 inspector, praise for McCabe but also the lie, the rape  
20 and the poisoning. 11:02  
21 Second, News at One, Callinan accused of corruption but  
22 vindicated, Shatter, AC Derek Byrne, Chief  
23 Superintendent McGinn, Superintendent Michael Clancy  
24 and Inspector Cunningham.  
25 And do the lot for TV starting at one with graphics, 11:03  
26 Tanya, etcetera.  
27 Talk tomorrow."  
28  
29 So is that the genesis of the idea for the Morning

1 Ireland, first of all dealing with the individual  
2 chapters and then the News at One dealing with the  
3 allegations of corruption against senior guards?

4 A. Yes.

5 64 Q. And that comes from you? 11:03

6 A. Yes.

7 65 Q. Okay. Did anybody in Garda Headquarters have any input  
8 into that idea?

9 A. No.

10 66 Q. All right. Okay. Now, just in relation to that 11:03  
11 particular decision, I suppose it could be said at  
12 one o'clock, broadcasting that, that there was nothing  
13 to the claims made in relation to corruption against a  
14 number of senior guards, that that presented a very  
15 negative view of Sergeant McCabe's claims and a very -- 11:03  
16 maybe not, I wouldn't go so far as to say positive view  
17 but it certainly took a lot of negative publicity from  
18 the senior guards which one might see that it was a  
19 garda-inspired line. Do you have anything to say in  
20 relation to that? 11:04

21 A. I can only report what was in the report. I mean, if  
22 the report had found Martin Callinan guilty of  
23 corruption or that he was corrupt or Alan Shatter or  
24 any of them, we would have reported that. But we could  
25 only report what the report said. 11:04

26 67 Q. And in relation to the timing of it and taking it  
27 together -- say, for instance, if somebody hadn't heard  
28 Morning Ireland and switched on the News at  
29 One o'clock, maybe the impression might be given to

1           them that there was nothing in this at all - and I  
2           don't say that that is necessarily what conclusion they  
3           would have come to - and that may have been very much  
4           in ease of Garda Headquarters, do you have anything to  
5           say in relation to that? 11:04

6           A.    No, that is not true, because we repeated the positive  
7           remarks or findings that had been made about Sergeant  
8           Maurice McCabe for a third time there in the News at  
9           One as well, and we consistently, we kept repeating  
10          that so that there would be no perception that we were 11:05  
11          being unfair to Sergeant McCabe or that we were being  
12          unbalanced in any way.

13         68    Q.    Now, if I could just go to the 8th May and you get an  
14           email from Ms. McGouran, and that is at page 6088 of  
15           the materials. Now, if you could just refresh me again 11:05  
16           in relation to --

17          A.    She is the managing editor of television news.

18         69    Q.    All right. And so, was she the person who said yes or  
19           no in relation to your broadcasts on RTÉ news on the  
20           9th May? 11:06

21          A.    No, Kevin Bakhurst was the man.

22         70    Q.    All right. Did she have any input?

23          A.    I presume, I presume they were all, the editors were  
24           consulting amongst themselves --

25         71    Q.    All right. 11:06

26          A.    -- and if there was any feedback it either would come  
27           from them directly, like, as this email did, or it  
28           would come back via Ray through the chain, if you know  
29           what I mean.

1 72 Q. If we go to what this email says. She says, it's sent  
2 on 8th May, so late enough on the 8th May, just after  
3 quarter past eight, and it says:  
4  
5 "Re O'Higgins, strict embargo, 6:00am Monday morning." 11:06  
6  
7 And that refers to releasing it, is that right?  
8 A. That's correct, yeah.  
9 73 Q. "Hey Paul  
10 Well done on getting the report. You have clearly put 11:06  
11 a lot of work into this.  
12 As you know, it's a tricky one so be conscious of your  
13 tone and delivery so it doesn't sound like you agree or  
14 otherwise with the various findings.  
15 You don't want to sound pro or anti anyone!!" 11:07  
16  
17 So just there, what did you take from that?  
18 A. I thought it was good advice. I thought it was vitally  
19 important that I not be seen to be on anybody's side  
20 and that I just report factually and fairly and 11:07  
21 accurately the findings of Mr. Justice Kevin O'Higgins.  
22 74 Q. All right. And then what she says is:  
23  
24 "The cases will take time to go through on air and are  
25 worth going through as they give the public a real 11:07  
26 insight into what this thing was all about. Tell  
27 Morning Ireland tonight they need to give it time to  
28 breathe on their run down."  
29

1           She finally says:  
2  
3           "Also it's going to be a tricky one to tell for TV so  
4           maybe Tanya could help with it."  
5  
6           And she signs off at that stage in relation to the  
7           matter. So I just need to ask you this: Did you at  
8           any stage, in relation -- did you discuss it with  
9           Ms. McGouran other than this email do you think?  
10          A.    No. I might have had a conversation with her that  
11                night but it would have been along the same lines. I  
12                don't think I did. I don't think I did.  
13          75 Q.   All right. In relation to anything that you might have  
14                heard from your various other sources on checking it  
15                out did you at any time speak to her about that?  
16                A.    No.  
17          76 Q.   Okay. Now, I think later on, on the 8th May, there was  
18                a further exchange between yourself and Mr. Burke, so I  
19                think you had sent him back a revised draft, is that  
20                correct, arising out of his earlier email on the 7th?  
21                A.    Yes.  
22          77 Q.   Am I right about that?  
23                A.    Yes, yes.  
24          78 Q.   Yes. And Mr. Burke then sends you an email at --  
25                sorry, if I could get the page 6158 of the materials,  
26                sends you an email at just before half past nine on  
27                Sunday, and he ccs it to Mr. Bakhurst and Ms. McGouran,  
28                who we have been talking about in the previous email,  
29                and the subject is:

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"Re: O' Higgins 2, News at One embargo 1:00pm Monday."

Do you see that?

A. That's correct. 11:09

79 Q. And then, what he says is:

"Paul, very well done and sorry for my delay."

Now, I just want to be clear in my own head. You have 11:09  
at that stage, as I understand it, made the changes as  
suggested by him in his first email, is that right?

A. Yes.

80 Q. You have sent them on to him and he has gone through  
them, is that where this email is coming from? 11:09

A. At this point we are working on the second broadcast.

81 Q. The second. Which is the?

A. News at One.

82 Q. The detailed one in relation to the various chapters --  
in relation to corruption? 11:10

A. The allegations of corruption and the resignation of  
various senior figures.

83 Q. Okay. So this is specifically in reference to the News  
at One broadcast --

A. Yes. 11:10

84 Q. -- is that right? What he says is:

"Re Kevin's point and the error in paragraph 4, I think  
it's just that the word "and" should not be there

1 between the words McCabe and exaggerated.

2

3 A couple of smallish things:

4 1. I think that the morning audio should starts with  
5 the words 'a commission established by the Government' 11:10  
6 rather than 'the O'Higgins Commission'. You can start  
7 the second paragraph with 'the High Court Judge  
8 O'Higgins'.

9

10 2. On the News at One piece I think we can avoid any 11:10  
11 accusation of bias."

12

13 And again I just want to stop there. Is that something  
14 you had discussed in the intervening period with  
15 Mr. Burke? 11:10

16 A. Yeah. well, we would always be conscious that we have  
17 to be fair to all parties, in any report.

18 85 Q. All right. So, what he is dealing with there:

19

20 "We can avoid any accusation of bias if you started by 11:11  
21 saying the O'Higgins Commission has said that the  
22 former Garda Commissioner Martin Callinan "is entitled  
23 to have his reputation vindicated" and that allegations  
24 made against him by Garda whistleblower Sergeant --"

25

26 I think it should be Maurice 11:11

27 A. That is a typo.

28 86 Q. "-- Maurice McCabe were "unfounded and deeply  
29 hurtful". "



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Then what he says is:

"I think a lead-in like that above does not put the boot into McCabe straight away."

11:11

And I just want to ask you about that line and your reaction to it and what you understood from it.

- A. And you see, when you are dealing with a situation, Chairman, where you are trying to revise scripts, you know, the language can be unparliamentary, it can be robust, it's certainly not language that is prepared to be poured over by teams of lawyers at a tribunal of inquiry. And I knew exactly what Ray Burke meant there. What he was saying was that we have to be conscious to be fair to all parties, we can't be seen to be biased or to be seen to be putting the boot into any party or into Sergeant McCabe. He had already referred in previous emails to the fact that we could be accused of being seen to be biased towards Sergeant McCabe and we have to be conscious of that. He wasn't referring to RTÉ as such putting the boot into Sergeant McCabe, he was referring to the fact that there were very strong criticisms here, inherent criticisms in the fact that the most serious findings hadn't been -- hadn't been stood up in the Commission, by Mr. Justice Kevin O'Higgins, so that we -- that would be an implicit criticism of the allegations that Sergeant McCabe was made, and we had to be clear that we weren't

11:11

11:11

11:12

11:12

1 seen to be the ones that were making those criticisms,  
2 that this was in the report.

3 87 Q. All right. And insofar as we are dealing with the term  
4 of reference here in relation to influence or an  
5 attempt to influence the broadcasts, is there any way 11:12  
6 that the reference to putting the boot into Sergeant  
7 McCabe here came from Garda Headquarters, that you had  
8 been asked to deal with this report in a particular  
9 type of way?

10 A. No. 11:13

11 88 Q. All right. And did that enter your head when you saw  
12 that email?

13 A. No. I mean, I knew exactly what Ray meant.

14 89 Q. All right.

15 A. I mean, it was in the context of all the other previous 11:13  
16 emails where we were conscious of being seen to be  
17 biased, where we had to be balanced, we had to be fair,  
18 we had to get the tone right, we had to make sure that  
19 everything we put on air had to be straight from the  
20 Commission's report. 11:13

21 90 Q. Okay. And then he just refers to relatively minor  
22 matters:

23

24 "I would just change the top paragraph to my wording.  
25 After that, carry on with your own wording. By the 11:13  
26 way, for online, I'll get it up online as soon as it  
27 goes out on Morning Ireland, and I might do a push  
28 notification to say it's coming up on Morning Ireland.  
29 Speak of online, is it Maurice McCabe --"

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And that refers to a spelling issue.

"You have done great work on this and I am sorry to be a little late with these suggestions."

11:14

And I think those matters were attended to, is that correct --

A. They were.

91 Q. -- in your script as it appears? Now, if I could just turn to, I think you sent some emails to yourself on the 8th May, working on the draft that you had started working on, is that right?

11:14

A. Yes.

92 Q. It would appear. Well, maybe we will look at the first one, it's at 6183 of the materials. It will come up in front of you now. And you see there, it's an email to yourself, and I think that was working on the drafts?

11:14

A. Yes. These were all works in progress. These are initial things.

11:15

93 Q. All right. I just want to ask you about one or two things in that, and if we could turn to page 6188 of the materials, halfway down the page, you've gone through your working on your script, and then if we could scroll down, please, Mr. Kavanagh, you see there:

11:15

"Wrap analysis, PTC."

what does that stand for?

1 A. Piece to camera.

2 94 Q. "Allegations relate to incidents that occurred in 2007  
3 and 2008. The findings in today's report of failures  
4 in Garda investigations had already been identified in  
5 previous reports. Files had been sent to the DPP, GSOC 11:15  
6 had been informed and the Gardaí had been disciplined."  
7  
8 And you see in brackets there it says:  
9  
10 "(Check is this in report.)" 11:16  
11  
12 And I wonder could you explain to me please.  
13 A. It's a note I wrote to myself.

14 95 Q. Yes.

15 A. And you can see the question-marks "Wrap analysis, 11:16  
16 PTC." what are we going to do? what are we going to  
17 say? Can we make this point? Is it in the report?  
18 Can we safely say that?

19 96 Q. All right. where I want to clarify, Mr. Reynolds, if I  
20 could is, is this an example of you being careful that 11:16  
21 everything you say has come from the report itself?  
22 A. Yes.

23 97 Q. All right. Okay. If we could then turn to page 277 of  
24 the materials, as I understand this, it's another email  
25 to yourself or perhaps notes that you made to yourself 11:16  
26 which have been included in the materials.  
27 A. Okay.

28 98 Q. And if I could -- it's 6200, I think. Yes, 6200. If  
29 we could scroll down to the -- yes. You see there --

1 A. Yes.

2 99 Q. -- you say: "My view careful????"

3 A. Yeah.

4 100 Q. I wonder if you could explain that please?

5 A. I have got to be careful that I don't take a personal 11:17  
6 view on this that is not reflected in the report. I  
7 have to be a 100 percent sure that I'm working on the  
8 report, that I don't end up sticking any views that I  
9 may or may not have. Just warning to self, you know,  
10 be aware. 11:17

11 101 Q. All right. And insofar as you have a view, okay, which  
12 you are entitled to have, everybody accepts that, what  
13 I'm asking you is, was that view ever informed by  
14 anything that you heard from Garda Headquarters and, in  
15 particular, Commissioner O'Sullivan? 11:18

16 A. No, I mean, it was -- I was reading the report, I  
17 was -- you know, you would draw conclusions, you'd see  
18 things and you'd say how did this -- you are thinking  
19 why did this happen or how did this happen, and you'd  
20 write something down and then you'd come back to it a 11:18  
21 couple of hours later and say where did I get that, is  
22 this my view or where is this in the report? So you  
23 are checking and cross-checking and just making sure  
24 that you have got it right.

25 102 Q. All right. If I could go down to the next paragraph, 11:18  
26 you see here:  
27  
28 "Question of why he made those complaints."  
29 A. Yes.

1 103 Q. All right. So, we know Mr. Justice O'Higgins at the  
2 beginning of the report, and I think it was chapter 3,  
3 said Sergeant McCabe's motivation had been wrongly  
4 questioned?

5 A. Mmm. 11:18

6 104 Q. Okay. So that was --

7 A. Did you say wrongly? Did he say that? I thought he  
8 said he had genuine and legitimate concerns.

9 105 Q. Yes, yes, the motivation --

10 A. Yeah, he had genuine and legitimate concerns and 11:18  
11 courage, yeah.

12 106 Q. So where was that coming from, that line, Mr. Reynolds,  
13 the question of why he made those complaints?

14 A. This is me jotting down why did he make those  
15 complaints. It's clear he believed there was 11:19  
16 widespread -- it's almost me talking to myself.

17 107 Q. All right. We will continue on so with your notes.

18 A. These are just ideas in my head, you know.

19 108 Q. Yes. "Clear he believed there was widespread 11:19  
20 corruption. Commission's report dismisses that. Finds  
21 he exaggerated some and got stuff wrong, etcetera.  
22 Even though his heart was in the right place, facts did  
23 not support his beliefs. However consequence of that  
24 belief, the actions he took, the exaggerations and  
25 errors he made, the fact that he convinced so many 11:19  
26 people, Claire Daly, Mick Wallace, Micheál Martin, Enda  
27 Kenny and lots of reporters, that there had to be  
28 something wrong in the Gardaí, reality was that he  
29 hadn't convinced Dermot Ahern, Fachtina Murphy, the

1 former Garda Commissioner, Alan Shatter, Martin  
2 Callinan, Derek Byrne and Terry McGinn. "

3  
4 where do you think all of that came from?

5 A. These are -- these are all the things that are -- I'm 11:20  
6 reading this, I'm jotting stuff down, things are coming  
7 into my head, I am thinking, you know, there's clearly  
8 various viewpoints on this; Claire Daly, Mick Wallace,  
9 Micheál Martin, Enda Kenny had one view, Fachtna  
10 Murphy, Dermot Ahern, Alan Shatter, they had another 11:19  
11 view. What's going on? Why is he doing this?  
12 People -- you know, the questions -- they speak for  
13 themselves, I am trying to get a handle on it really,  
14 you know.

15 109 Q. All right. Just in relation to the question of why he 11:20  
16 made those complaints, did you know or did you think  
17 you know why he made those complaints?

18 A. No. I was reading through the report. These are  
19 things I was looking out for.

20 110 Q. Okay. So I wonder could you expand on that, please. 11:20  
21 So you got the final report in a number -- from a  
22 number of different people, and you were reading it and  
23 one of the things you were looking out for was why he  
24 made the complaints.

25 A. Yeah. 11:21

26 111 Q. Am I correct in saying that?

27 A. Yeah. Well, I was thinking, I'm reading the report and  
28 thinking do we have to look at why he made those  
29 complaints? Do you know what I mean, is this an issue

1 here? I am not saying we have to, but things are  
2 popping into my mind. Do we have to look at why he  
3 made these complaints? Do we have to see who agreed  
4 with him? Do we have to see who disagreed with him?  
5 Do we have to see what the report says about that? 11:21

6 112 Q. And did you think you knew the answer to that?  
7 A. No, there's question-marks all over the place.

8 113 Q. All right. Okay. We will leave it there for a minute.  
9 Now, just if we could just continue on in your notes,  
10 you referred earlier on to the earlier reports and you 11:21  
11 knowing about those, that was the Mr. Mooney one and  
12 the RTÉ one, and I think if we could turn to page 6235  
13 of the materials, these, again, as I understand it, are  
14 your notes and you see at the bottom of the page, 6225,  
15 I think. I think that -- the bottom. Right. You 11:22  
16 refer there to the Times story?  
17 A. Yes.

18 114 Q. So you obviously had that when you were working?  
19 A. Yeah. Well, I had looked it up online or something I  
20 presume. 11:22

21 115 Q. Yes. And it appears there, continues on. And if we  
22 can keep going down to 6237 -- 27, sorry, there are two  
23 numbers on my -- you see there:  
24  
25 "McCabe positive from RTÉ report in April." 11:23  
26 A. Yeah.

27 116 Q. Is that what you were referring to there?  
28 A. Yeah, yeah.

29 117 Q. All right.



1 A. And I imagine all those -- I mightn't be the neatest  
2 worker, I tend to be a little bit chaotic, Chairman, I  
3 can jot bits here and bits there, some of the notes  
4 were written on the back of envelopes and things like  
5 that, you know. Something comes into my mind I will 11:23  
6 jot it down.

7 118 Q. All right. Okay. So that was the work you did leading  
8 up to the reports on the 9th May, and I think it's your  
9 position, you have made it fairly clear, that you  
10 worked from the reports, there was no outside 11:23  
11 influence, you were as careful as you could be to work  
12 from the reports, which were all the same in actual  
13 fact, and everything in them you can stand over it by  
14 reference to a particular quote in the report?

15 A. Yes. 11:24

16 119 Q. All right. And in relation to any allegations that  
17 they may have been influenced by anybody else, you  
18 reject those, is that correct?

19 A. Yes, totally.

20 120 Q. All right. Now, we know that morning when the Morning 11:24  
21 Ireland -- I should have asked you as well: I think  
22 the night before you may have been in contact or tried  
23 to contact Sergeant McCabe in relation to the  
24 forthcoming broadcasts?

25 A. Yes, that's correct. 11:24

26 121 Q. I wonder could you tell us about that, please.

27 A. Well, I rang him the night before. When we had a  
28 handle on what we were finally going to do, and as you  
29 can see we were going right up to the wire, once I had

1 a fair idea of what we were going to publish I rang him  
2 and I left a message to say that we were going to do  
3 something on the O'Higgins Commission report and if he  
4 wanted to call me back and make a comment I would tell  
5 him. I was going to tell him what we were doing and if 11:24  
6 he wanted to say anything he could.

7 122 Q. All right. And I don't think -- was there a reaction  
8 to that?

9 A. No. There was a reaction the next morning.

10 123 Q. All right. If we just turn to that. So, we have gone 11:25  
11 through the actual broadcasts themselves. So I think  
12 the next morning, at this stage there had been a 7:00am  
13 broadcast, an 8:00am broadcast and a reference to the  
14 various chapters in the O'Higgins Report, in or around  
15 the half eight mark, is that correct? 11:25

16 A. I think it started about twenty past eight and it went  
17 through the news bulletin and it finished at about  
18 twenty five to nine or nearly twenty to nine.

19 124 Q. Just maybe I should, before I just come to this, I  
20 think you referred in particular to the following 11:25  
21 chapters in the reports, I think it was to chapter 4,  
22 5, 6, 7, 8, 9, 10, 11, 12 and 13, is that correct?

23 A. Eleven of the 15 chapters we incorporated into the  
24 reports.

25 125 Q. Yes. 11:26

26 A. We left out the introduction, the methodology, the  
27 recommendations and the chapter on Pulse.

28 126 Q. Was left out as well?

29 A. Yeah.

1 127 Q. Yes. All right. So most -- the chapters from 4 to 11  
2 were specific Garda investigations, isn't that correct?  
3 A. Yes.

4 128 Q. And they were the ones that were particularly spoken  
5 about on the broadcast on Morning Ireland? 11:26  
6 A. Yes. I tried to condense them down and make them as  
7 straightforward as possible.

8 129 Q. All right. And you left out the Pulse one?  
9 A. Yeah.

10 130 Q. And you dealt with the investigations and policing in 11:26  
11 Bailieboro, is that correct?  
12 A. That's correct.

13 131 Q. All right. So that's what you dealt with in around the  
14 half eight mark?  
15 A. On the Morning Ireland programme, yes. 11:26

16 132 Q. On the Morning Ireland programme. And then there's an  
17 email, which we see at 6240 of the materials, if it  
18 could be got up, 6240. So you receive an email from  
19 Mr. Burke, who you'd been working with over the weekend  
20 on compiling the reports, and he sends it to a number 11:27  
21 of people, and the text of it is:  
22  
23 "I picked up a news desk phone shortly after 8:00am.  
24 The caller said he was Garda Sergeant Maurice McCabe.  
25 He said he had been contacted by people saying that an 11:27  
26 RTÉ online report was saying that the O'Higgins Report  
27 had said he had lied. He said this was "shocking  
28 stuff" --"  
29

1           And the "shocking stuff" is in quotes  
2  
3           "-- and he was giving us an opportunity to take it  
4           down. I told him that my understanding was that the  
5           report says that he uttered an untruth and that he had 11:27  
6           made a false statement and this was unacceptable,  
7           although his motivation was genuine. He asked me where  
8           in the report it said that. I said I would try and  
9           find out and would ring him back as soon as possible.  
10          I rang Paul --" 11:28  
11  
12          That is you, is that correct?  
13          A. Yes.  
14 133 Q.   "-- and got him to mail me the relevant paragraph. I  
15           then rang Sergeant McCabe and told him this. He said 11:28  
16           it was amazing that Paul had not quoted the full  
17           context. He said he had not lied, that a deliberate  
18           false report is a lie."  
19  
20          And then there is a reference to the dictionary meaning 11:28  
21          of "lie".  
22          A. That's correct.  
23 134 Q.   Now, I wonder could you deal with, first of all, the  
24           reference to lie in your broadcast.  
25          A. Well, I mean, we noticed that, we -- I saw that in the 11:28  
26           report. Chapter 10.86, I knew it would be  
27           controversial because it's a big step to accuse  
28           somebody of telling a lie. I hadn't accused Sergeant  
29           McCabe of telling a lie; Mr. Justice Kevin O'Higgins

1 said that he'd told a lie. I read that a number of  
2 times. I read it that Sergeant McCabe had told an  
3 untruth -- the report said that Sergeant McCabe had  
4 told an untruth, that he was aware it was an untruth,  
5 that he had told it for a specific reason and that the 11:29  
6 report found -- Mr. Justice Kevin O'Higgins found that  
7 this was unacceptable. And the word used in the report  
8 was "untruth". But because of those four factors I  
9 said that is a lie, and I said it to Ray Burke and he  
10 agreed it was a lie and it went up the RTÉ editorial 11:29  
11 chain. I have an old Collins dictionary on my desk at  
12 home, I took it out and looked up the word "untruth"  
13 and the first word that came up was "lie". I thought  
14 back to my catechism when I was in first class when it  
15 said no lie is either lawful or innocent and I thought, 11:29  
16 if we have any responsibility, we have to tell people  
17 what is in the report. And I know this is unpalatable,  
18 but, as I said, I talked to Ray Burke about it and it  
19 went right up to Kevin Bakhurst and right through the  
20 editorial chain and it was decided that yes, we had to 11:30  
21 say that this was -- this was a lie and that a lie was  
22 told. I made very sure that we put it in the context  
23 that we also reported the finding that Mr. Justice  
24 Kevin O'Higgins said that Sergeant McCabe was nothing  
25 less than truthful in his evidence to the Commission, 11:30  
26 and I stressed that as well, but in this particular  
27 case he had told an untruth for a specific reason, it  
28 was found to be unacceptable and that was a lie. And I  
29 felt we had a responsibility to say that and we said

1 it.

2 135 Q. All right. So can I take it from that that this was a  
3 considered matter before it went into the broadcasts?  
4 A. Yeah, we wrestled with it.

5 136 Q. Yes. All right. Now, if I can just maybe read out to 11:30  
6 you what paragraph 10.86 of the report actually says.  
7 It says -- I think chapter 10 of the report was dealing  
8 with an incident which happened in a public house, is  
9 that correct, Crossan's public house?  
10 A. Yes, that is my understanding, yes. 11:31

11 137 Q. And that is the particular chapter of the report that  
12 this appears in?  
13 A. Yes.

14 138 Q. And paragraph 10.86 it says:  
15  
16 "In a report of the 3rd March 2008 Sergeant McCabe  
17 informed Superintendent Clancy of the complaints which  
18 had been made to him by --"  
19 A. I don't have it in front of me. That is okay. That's  
20 fine. 11:31

21 139 Q. If you are okay with that.  
22  
23 "-- which had been made to him by Mr. and Mrs. R. He  
24 reported that a complaint had been made to GSOC  
25 although he was aware that this was not the case. He 11:31  
26 told the Commission that the reason for this untruth  
27 was that he felt Mr. and Mrs. R had been badly treated  
28 and that he knew that the reference to GSOC would  
29 ensure that the matter would receive attention."

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You see -- well, you don't see it, but you are very familiar with that paragraph I presume?

A. Yes.

140 Q. "While his concern was genuine and commendable it is unacceptable to furnish false information in a report."

11:32

All right?

A. That is Mr. Justice Kevin O'Higgins's finding.

141 Q. Yes.

11:32

A. That is not mine.

142 Q. Yes. And you reported that as a lie, having thought about it, having looked it up in the dictionary?

A. Two dictionaries.

143 Q. Two dictionaries. Now, if I can just -- this may or may not in your notes be a reference to this. If we could get page 5905 of the -- 5905. If we go to the bottom of the page, it says, you see there at 9, and then, I:

11:32

"Truthful to the Commission in his evidence he lied to a senior officer (lied)."

A. Yes.

144 Q. Does that note refer to the eventual appearance of "lie" in your broadcast?

11:33

A. Yes.

145 Q. All right. And if I could just then turn to page --

A. This is a typed copy of my handwritten notes.

146 Q. Yes, yes. Sorry, I should have identified that. And

1 if we can turn to page 5950 of the materials, which is  
2 included with your handwritten notes at the very back  
3 of it, is this the dictionary that you referred to?  
4 A. Is that -- that might be -- there's two dictionaries;  
5 one was Ray Burke's dictionary and the other was mine. 11:33  
6 So that could be Ray Burke's dictionary.  
7 147 Q. Okay. So it does appear to be that Ray Burke's  
8 dictionary consulted?  
9 A. Yes, yes.  
10 148 Q. All right. And was that after the telephone call from 11:33  
11 Sergeant McCabe?  
12 A. Yeah.  
13 149 Q. That was done in RTÉ?  
14 A. Yeah.  
15 150 Q. All right. 11:34  
16 A. And I think that's my -- oh, no, that is Ray Burke's.  
17 151 Q. Yes. All right. So that appears appended to your  
18 report.  
19 A. I think my dictionary is report -- is appended as well.  
20 152 Q. I'm sorry. Yes, it's the next page, thanks. 11:34  
21  
22 "My home Collins English dictionary."  
23 A. That is my late father's dictionary, yeah.  
24 153 Q. And I think the reference to untrue is highlighted in  
25 that, just at the bottom of the page. So I suppose 11:34  
26 what I'm really asking you is why did you just not say  
27 "untrue"? Why did you change the word "untrue" to  
28 "lie"?  
29 A. Because I think the responsibility of journalists is



1 not to use diplomatic or parliamentary or polite  
2 language that they are given. I mean, I read press  
3 releases every day and in many way they are written in  
4 a particular language which many people don't  
5 understand and I think the duty of a reporter is to 11:35  
6 tell it like it is and to very often get behind the  
7 words and explain it for what it is and that is why I  
8 felt we should use the word.

9 154 Q. All right. well --

10 MR. GILLANE: Chairman, I am loath to interrupt 11:35  
11 Ms. Leader because I know we heard this yesterday, but  
12 could I just point out on this broadcast that when  
13 Mr. Reynolds uses the word "lie" it's immediately  
14 followed by a clear description of what Mr. Justice  
15 O'Higgins called it, which was an "untruth". So, he 11:35  
16 does put the two together in the same sentence.

17 CHAIRMAN: No, I do get that.

18 155 Q. MS. LEADER: And just finally in relation to that,  
19 there may be a view taken that the word "lie" is a  
20 stronger word than "untruth" or a more direct way of 11:35  
21 saying things. Was the choice of the word "lie"  
22 inspired any way by matters which came from Garda  
23 Headquarters or Commissioner O'Sullivan?

24 A. No, it was my decision and it was -- I was supported by  
25 that at the highest levels in RTÉ because they felt, 11:36  
26 yes, we had a duty and a responsibility to tell the  
27 truth.

28 156 Q. Okay. Now, I think shortly afterwards, after that  
29 email was sent to you, which was at half eleven, you'd

1 spoken to Mr. Burke beforehand?

2 A. Well, when the call came in Ray Burke rang me and said  
3 Sergeant McCabe has been on the phone, he said that we  
4 are after saying this about him and I said, tell him  
5 it's in the report. And I gave him the reference 11:36  
6 number, 10.86. And then I understand that Ray called  
7 him back and said it's in the report, it's 10.86.

8 157 Q. Okay. I think RTÉ received a letter from Seán Costello  
9 & Company, and that's at page 6245 of the  
10 documentation. 11:37

11 A. Yeah, that came in at one minute to broadcast time.

12 158 Q. At one o'clock?

13 A. One minute to one. 12:59.

14 159 Q. All right. And the one o'clock broadcast was in  
15 relation to the senior officers and the -- 11:37

16 A. The corruption allegations.

17 160 Q. The corruption allegations. Okay. And what it says  
18 is:  
19

20 "Dear Sir/Madam 11:37  
21 We have been consulted by Sergeant McCabe in relation  
22 to your Morning Ireland programme this morning.  
23

24 We are instructed that Paul Reynolds was interviewed  
25 and spoke on the programme concerning the report of the 11:37  
26 O'Higgins Commission and spoke of and concerning our  
27 client and in so doing grossly defamed our client.  
28

29 Firstly, we must point out that this report has not

1           been published and is still with the Minister for  
2           Justice, yet this is in the possession of RTÉ. The  
3           report having not been published is subject to the  
4           restrictions in respect thereof pursuant to Part V of  
5           the Commission of Investigations Act 2004.

11:38

6  
7           Mr. Reynolds contacted Sergeant McCabe late last night  
8           asking for his comments in the full knowledge that our  
9           client is a serving member of An Garda Síochána and  
10          asking for his comments in relation to this as yet  
11          unpublished report.

11:38

12  
13          We do not have a transcript or recording of this  
14          morning's programme but it is clear to us that the  
15          coverage of what is a report which runs to over 350  
16          pages is utterly unbalanced, incorrect and grossly  
17          defamatory of our client. In fact, Mr. Reynolds said  
18          this morning that our client "lied during this case"  
19          and this is simply not correct.

11:38

20  
21          It appears that Mr. Reynolds has the report and has  
22          taken a briefing from interested parties which  
23          culminates in your broadcast this morning. It is clear  
24          that the briefing by any such parties is done with a  
25          view to destroying the reputation of Sergeant McCabe  
26          and fundamentally represents the findings of the  
27          O'Higgins Commission of Investigation.

11:39

28  
29          The purpose of this letter is to request your

1 confirmation by return that this broadcast will be  
2 immediately removed from your website and RTÉ Player  
3 and is not repeated again.

4  
5 We understand that Mr. Reynolds proposes to broadcast 11:39  
6 further excerpts from the report in a programme at  
7 1:00pm today and it is clear that the repetition of any  
8 of the defamatory --"

9  
10 I am sorry, I am missing the next page, but the -- 11:39  
11 thank you.

12  
13 "-- and any comments of this morning's broadcast will  
14 aggravate further the damage already suffered by our  
15 client. 11:39

16  
17 We await hearing from you as a matter of urgency.  
18 Yours faithfully."

19  
20 So you see there is the reference to briefing from 11:40  
21 interested parties there.

22 A. Yes.

23 161 Q. That's where it comes from. Now, first of all, I don't  
24 think the reference to lie was taken down, is that  
25 correct? 11:40

26 A. No.

27 162 Q. Okay. And it was left there having -- could you  
28 explain how that came about, please?

29 A. Well, I was about to go on air when that letter came

1 in. It was taken over by Ray Burke, the chief news  
2 editor, and Kevin Bakhurst, so it was -- the senior  
3 editors looked at that, they immediately made a  
4 decision we were going to proceed as was and then the  
5 lawyers were brought in and we left it between them. 11:40

6 163 Q. Okay. And I just want you to deal with the fact that,  
7 on behalf of Sergeant McCabe it is being suggested that  
8 you had taken a briefing from interested parties; what  
9 do you say to that, Mr. Reynolds?

10 A. No. The contents of our broadcasts are based on the 11:41  
11 contents of the report. I spoke to people beforehand  
12 but my broadcasts were based on the O'Higgins  
13 Commission report and the findings of Mr. Justice Kevin  
14 O'Higgins.

15 164 Q. All right. And just, maybe I have asked you this 11:41  
16 question already: Insofar as it could be suggested  
17 that an impression could be taken from your reports on  
18 particularly maybe the one o'clock broadcast and the  
19 Morning Ireland broadcast, that Sergeant McCabe was  
20 somewhat of a crank and making complaints without 11:41  
21 checking them out, exaggerating them and they came to  
22 nothing in the end or what problems they were could be  
23 fixed very quickly and were more on the minor end of  
24 the scale, do you have anything to say in relation to  
25 that? 11:42

26 A. No --

27 165 Q. That that may be something that would favour Garda  
28 Headquarters?

29 A. No, because we said -- we said he acted out of genuine

1 and legitimate concerns, we said he performed a public  
2 service, at considerable personal cost, we said he was  
3 a dedicated and committed member of the Gardaí and we  
4 said that the Commission believed that he was due the  
5 gratitude of the public and the Garda Síochána, and in 11:42  
6 my live television reports I went further and said that  
7 he had -- if it wasn't for him none of this would have  
8 come out, we'd have learned nothing about all the  
9 failures and the flaws in the criminal investigations  
10 in the Bailieboro division. 11:42

11 166 Q. All right. And insofar as it could be said that an  
12 impression could be taken from your broadcasts that  
13 look, the appointment of an inspector in Bailieboro  
14 Garda Station, if that had happened when the guards  
15 wanted an inspector and had made a business case for an 11:43  
16 inspector, none of this would have happened in the  
17 first place?

18 A. But that's what Mr. Justice Kevin O'Higgins said in his  
19 report.

20 167 Q. Well, I wonder did he exactly say that, Mr. Reynolds? 11:43  
21 And I know you don't have the report in front of you  
22 now, but it would appear in paragraphs 14.59 and 14.60  
23 that when Mr. Justice O'Higgins is concluding his  
24 report and dealing with policing in Bailieboro, what he  
25 says is: 11:43

26  
27 "The conditions in Bailieboro Garda Station were  
28 deplorable and were not conducive to either good  
29 policing or good morale. However, those conditions

1 were not the cause of the deficiencies and failures in  
2 the investigations found by this Commission. They were  
3 due to failures of individuals to carry out their duty  
4 properly. "

11:44

5  
6 You see what I'm saying to you?

7 A. Oh, we did, we also did refer to the failures of the  
8 individual probationer gardaí, we did refer to that.  
9 But he did make -- he did make that point, that if an  
10 inspector had been appointed perhaps this all could  
11 have been avoided.

11:44

12 168 Q. Well, I suppose he did make that point but he also made  
13 the point that if people had done their job in the  
14 first place, which Sergeant McCabe was complaining  
15 about, that maybe none of this --

11:44

16 A. Yeah. I accept --

17 169 Q. And that maybe isn't -- and I'm putting this to you as  
18 a suggestion, Mr. Reynolds, that maybe isn't the  
19 impression that could be taken from your broadcasts?

20 A. I mean, people will take -- as I said in the  
21 Nine O'Clock News, people will take what they will from  
22 it. If I can put it to you this way: Marty Morrissey  
23 commentates on a hurling or football match which lasts  
24 70 minutes and when he does a report afterwards it will  
25 only last a minute. There is 360 pages in this report,  
26 we devoted 25 minutes on radio and another 15, 20  
27 minutes on television, to what was effectively a  
28 reading, a public reading of the report. If we were to  
29 start at page 1 and go to page 360, it just wouldn't be

11:45

1 possible to incorporate everything. We had to give  
2 people a flavour of it. And I tried to be as accurate,  
3 as honest, as fair and as impartial as I could be with  
4 the material I had and with the time that was available  
5 to me. And I tried to give people, the public, I tried 11:45  
6 to give them an accurate reflection of what was in the  
7 report. And I know that nobody seems to have been  
8 happy with it and so be it. I know Sergeant McCabe was  
9 deeply unhappy about it, I know Nóirín O'Sullivan said  
10 she was very unhappy about it. So be it. 11:45

11 170 Q. Okay. And if I could just turn again to the term of  
12 reference and perhaps Mr. Kavanagh will get it up for  
13 us. It's [k], and you will see here:

14  
15 "To investigate whether Commissioner O'Sullivan, using 11:46  
16 briefing material, etcetera, influenced or attempted to  
17 influence broadcasts on RTÉ purporting to be a leaked  
18 account of the unpublished O'Higgins Commission report  
19 in which Sergeant McCabe was branded a liar --"

20 11:46  
21 which we have dealt with, I hope

22  
23 "-- and irresponsible."

24  
25 Do you see the reference to "irresponsible" there? 11:46

26 A. I never said that Sergeant McCabe was irresponsible, I  
27 never said that anywhere. And Mr. Justice Kevin  
28 O'Higgins never said that Sergeant McCabe was  
29 irresponsible. And I never reported that he was



1           irresponsible. And I never branded him a liar.

2 171 Q. All right. But maybe we'll deal with -- I think you  
3           have said what you have to say in relation to the liar  
4           part of it. But insofar as branded irresponsible, it  
5           could be said, Mr. Reynolds, that in conveying to the 11:46  
6           public on the national broadcasting authority that a  
7           lot of complaints were made that nothing came of, and  
8           in particular in relation to very senior officers in An  
9           Garda Síochána, that Sergeant McCabe, in complaining as  
10          he did, was irresponsible in so doing; do you see what 11:47  
11          I mean?

12          A. There was no implication from our broadcasts that he  
13          was irresponsible. Quite the contrary. We said, and I  
14          know I'm repeating myself but we did say, we repeated  
15          ad nauseam that his concerns were genuine and 11:47  
16          legitimate and that he was courageous and that he had  
17          carried out a public service and we did say, in my  
18          analysis, that if he hadn't done what he had done we  
19          would never have found out about all of this.

20 172 Q. Okay. But there may also be a flavour from them that 11:47  
21          he shouldn't have been complaining about things that he  
22          wasn't able to follow through?

23          A. But we said because he complained this is why all of  
24          this came about.

25 173 Q. All right. And insofar as an echo of anything, if it 11:48  
26          could be put that way, and they are my words, when you  
27          put the press release in relation to the O'Mahony  
28          inquiry in relation to the cooperation issue, it was  
29          the following through of complaints again that was

1 highlighted and the not following through of  
2 complaints. I don't know if you wish to say anything  
3 in relation to that?

4 A. I'm sorry, I don't -- the O'Mahony inquiry? This is --  
5 174 Q. The 24th May issue -- 24th February, I beg your 11:48  
6 pardon --

7 A. Okay.

8 175 Q. -- 2014. Insofar as it was suggested there that  
9 Sergeant McCabe didn't cooperate with the O'Mahony  
10 inquiry, do you see what I mean? 11:48

11 A. Yeah.

12 176 Q. Yes.

13 A. That was the direction?

14 177 Q. Yes.

15 A. That is what the Garda Commissioner said. 11:48

16 178 Q. And maybe an inference could be taken --

17 A. That is what the Garda Commissioner said.

18 179 Q. Exactly.

19 A. Okay?

20 180 Q. That is the point. 11:48

21 A. So?

22 181 Q. So maybe here there is an echo of that coming through?

23 A. So are you telling me that people are going to listen  
24 to my report on 9th May 2016 and then they are going to  
25 think back two years and say, ah? 11:49

26 182 Q. I am just asking you that. I am asking.

27 A. I don't see it.

28 183 Q. And maybe --

29 CHAIRMAN: No, I think the question put by Ms. Leader

1 is more like this: It's not that the intelligent  
2 reader with a phonographic memory will actually  
3 immediately go back two years, it's that what's on the  
4 website in relation to the cooperation with O'Mahony is  
5 very pro-Garda and this is very pro-Garda, and that is 11:49  
6 a question being put, I am not saying that, and that  
7 therefore, if you put the two of them together it seems  
8 that the general trend is pro-Garda and then the  
9 inference to be taken from that is perhaps you are  
10 being influenced by the Garda. Now, again I am not 11:49  
11 saying that, I am just saying that is the question put.  
12 MS. LEADER: Yes, thank you, Chairman.

13 A. Well, first of all, I don't accept that it's pro-Garda.  
14 I think all the contents of the broadcasts are based on  
15 the findings of Mr. Justice Kevin O'Higgins. He is the 11:50  
16 person who made these findings, who compiled the  
17 report, and we just reported that.

18 184 Q. All right. Now, if I could just go back to yesterday,  
19 to your answers to me in relation to the D allegation.  
20 All right. As I understand it, you said you first 11:50  
21 heard of it in 2013, is that correct?

22 A. That's correct, yeah.

23 185 Q. And it was an association with the penalty points  
24 issue?

25 A. I believe it was in the context of the penalty points. 11:50

26 186 Q. The penalty points issue. And at that time -- I don't  
27 know if it was made clear yesterday, but did you know  
28 the complainant was related to a guard?

29 A. No.

1 187 Q. Okay. When do you think you heard about that?  
2 A. To be honest with you, I think I heard most of the  
3 facts, if not all of the facts, in relation to Ms. D  
4 from what I have heard at this Tribunal. And, as I  
5 said yesterday, I still don't know her name. 11:51

6 188 Q. Okay. And I think you excluded the possibility, and  
7 again correct me if I am wrong, that this was conveyed  
8 to you by Martin Callinan, former Commissioner  
9 O'Sullivan or Superintendent Taylor?

10 A. Yeah. 11:51

11 189 Q. Yes.

12 A. I did -- I never discussed Ms. D or that allegation  
13 with them.

14 190 Q. All right. And you also -- am I right about this: Did  
15 you cover the appearance of the Commissioner before the 11:51  
16 Public Accounts Committee on the 23rd January?

17 A. I did.

18 191 Q. Okay. Now, were you speaking to the Commissioner  
19 Callinan on that day?

20 A. I had a word with him afterwards, yeah, just -- 11:51

21 192 Q. All right. Were you in the company of anybody else or  
22 can you remember?

23 A. I was in the company of other journalists at various  
24 times but I think I did have a word with him at one  
25 stage, yeah. 11:52

26 193 Q. Yes. And insofar as the Tribunal has heard evidence  
27 from Mr. McCarthy and Deputy McGuinness of  
28 conversations they say they had with the Commissioner  
29 that day, referring to Sergeant McCabe and an

1 allegation of sexual misconduct, I wonder did you have  
2 any such conversation with the Commissioner that day?

3 A. No, no.

4 194 Q. Okay. Well, just what were you talking -- were you  
5 talking to him about Sergeant McCabe? It would be a 11:52  
6 natural thing to do --

7 A. I think I already said this on the day Commissioner  
8 Callinan retired, that he had -- I met -- I met him in  
9 the bathroom outside, I was washing my hands and he  
10 said to me -- 11:53

11 195 Q. This is where? In the Public Accounts Committee?

12 A. This is in the Public Accounts Committee. And he said,  
13 he shook his head and knew he shouldn't have said the  
14 word disgusting.

15 196 Q. So that was after he came out? 11:53

16 A. Yeah.

17 197 Q. All right.

18 A. And that was it. I was, if you like, going in and he  
19 was coming out and I caught his eyes and he just  
20 said -- that was it. 11:53

21 198 Q. Did you speak to him any more?

22 A. No.

23 199 Q. So that's when -- when you are referring to talking to  
24 the former Commissioner?

25 A. Yeah, it was just sort of a -- you know, he just 11:53  
26 knew -- he knew he shouldn't have done it.

27 200 Q. All right. Okay. And you'd no further conversation  
28 with him that day?

29 A. No, no.

1 201 Q. So you were following the story at that time, you were  
2 covering it on some level anyway, insofar as you were  
3 at the Public Accounts Committee that day?  
4 A. The whistleblower story?  
5 202 Q. And the penalty points story. 11:53  
6 A. Oh, yeah, yeah. I covered the release of the O'Mahony  
7 report as well.  
8 203 Q. All right. And what I want to ask you: In view of the  
9 fact that you actually knew Commissioner Callinan, did  
10 you ever discuss Sergeant McCabe with him? 11:54  
11 A. I never discussed him in a negative way with him, no.  
12 204 Q. Okay.  
13 A. In relation to terms of reference, no, I never did. I  
14 mean, I covered him -- I covered these issues while  
15 they were in the public domain, while they were on the 11:54  
16 record. For example, I covered the penalty points when  
17 the O'Mahony report was out, I covered the  
18 whistleblower allegation when the Public Accounts  
19 Committee hearings were underway. And in fact, I was  
20 really conscious as well, as was RTÉ, that we had to 11:54  
21 get the balance on this one, that we also had to hear  
22 from the whistleblowers as well as hearing from the  
23 Garda's point of view. And after the PAC meeting, we  
24 had heard Commissioner Callinan's view on the actions  
25 of the whistleblowers, and I wanted to get a reaction 11:54  
26 from the whistleblowers and John Wilson would -- he  
27 talked to me, Sergeant McCabe wouldn't talk to me and  
28 that was fine, it was his right, but John Wilson talked  
29 to me and he took phone calls from me and I interviewed

1 him and I put him on television a number of times. And  
2 on that occasion I asked John Wilson to give us a  
3 reaction and from my television packages I put John  
4 Wilson's reaction as a whistleblower to Commissioner  
5 Callinan's claims at the Public Accounts Committee, I 11:55  
6 put them all into the one television package. So I  
7 was -- when I covered these events I cover them on the  
8 public record. When I covered of the inspectorate's  
9 report into the penalty points that was a report that  
10 was being covered. I also covered the Guerin Report, 11:55  
11 but again that is a report that was published. So if  
12 you understand what I mean? My reports on these issues  
13 were in relation to either documents, published  
14 reports, Oireachtas hearings or in the case of the  
15 former Minister for Justice, Alan Shatter, he made a 11:56  
16 detailed statement to the Dáil in February of 2014 in  
17 relation to Sergeant McCabe's allegations and I covered  
18 that as well.

19 205 Q. Okay. Well, I suppose if we were to look at, say, for  
20 instance, the evidence Mr. Boucher-Hayes has given to 11:56  
21 the Tribunal when he was bringing up the matter of  
22 penalty points, and this is his evidence, not  
23 Commissioner Callinan's evidence, when he was trying to  
24 bring up the issue of penalty points, his evidence to  
25 this Tribunal is that the former Garda Commissioner 11:56  
26 spoke about Sergeant McCabe in very derogatory terms,  
27 all right? So what I'm asking you is, in view of all  
28 of that, that these conversations with the former  
29 Commissioner seem to be linked in with a mention of

1 penalty points, and I hope I'm being fair to everybody  
2 in that regard.

3 A. To be simple, he never, Commissioner Callinan never  
4 spoke to me in any way derogatory about Sergeant  
5 Maurice McCabe. Never. 11:56

6 206 Q. All right. Okay. And just to deal with his retirement  
7 from the guards, we have heard evidence from  
8 Superintendent Taylor that he made available to you a  
9 letter which the former Commissioner had sent to the  
10 Department of Justice in relation to the bugging of 11:57  
11 Garda stations, you are familiar with that evidence,  
12 are you? I think Mr. McGuinness asked --

13 A. The bugging of Garda stations?

14 207 Q. Well, taping.

15 A. This is the phone recordings issue? 11:57

16 208 Q. Yes. Yes. I should have said it that way, yes. You  
17 are aware of that evidence. And in Superintendent  
18 Taylor's protected disclosure, this is the way he  
19 explains it, at page 7, and it will come up on the  
20 materials in front of you. So we have: 11:58  
21

22 "On Tuesday morning, 25th March --"

23

24 Do you see it?

25 A. Yes. 11:58

26 209 Q. "-- I was sitting in the kitchen of the Press Office  
27 reading the morning newspapers when the Commissioner  
28 rang me and said I'm gone. I inquired as to what he  
29 meant and he replied that I have resigned, get it out



1 quickly to the media, tell Paul. This meant Paul  
2 Reynolds. "

3  
4 All right? So that as I understand it, the -- that  
5 it's a reference to Commissioner Callinan conveying, 11:58  
6 through his Press Officer, that something dramatic had  
7 happened and he was getting it out to the media before  
8 other people who he refers to in less than friendly  
9 terms, do you see the reference there on the screen in  
10 front of you? 11:58

11 A. Yes.

12 210 Q. So the suggestion is being made there, and it is only a  
13 suggestion, that you were happy or you would  
14 facilitate, you would facilitate the conveying of a  
15 message on Commissioner Callinan's behalf to the media 11:59  
16 generally? I don't know if you want to answer that?

17 A. Well, I know nothing about conversations between  
18 Superintendent David Taylor and Commissioner Callinan.

19 211 Q. All right. Did Superintendent Taylor actually convey  
20 to you what had happened that morning? 11:59

21 A. I'm not prepared to comment on that, but I can -- I can  
22 confirm that I reported the retirement of Commissioner  
23 Martin Callinan because it was a major issue of public  
24 interest.

25 212 Q. What time did you report on it? 11:59

26 A. I think we reported at ten o'clock that morning.

27 213 Q. Okay. All right. And --

28 CHAIRMAN: Mr. Reynolds, I really don't see how  
29 journalistic privilege can possibly arise if someone

1 makes a phone call to you from the Garda Press Office,  
2 the actual Press Officer, and says something that is a  
3 fact; namely, that Commissioner Callinan is resigning  
4 or has resigned or he's gone or whatever. I just don't  
5 see how it can possibly arise. Now, if something that 12:00  
6 is added to that off the record, well there may be a  
7 different situation involved. But you will appreciate  
8 in relation to everything that I am looking into which  
9 includes this --

10 A. Sure. 12:00

11 CHAIRMAN: -- any question of privilege has been  
12 waived. But I would assume, I would always assume that  
13 when the Garda Press Office is ringing you to tell you  
14 a fact that they are actually telling you a fact, they  
15 are not telling you a secret or they are not trying to 12:00  
16 put a spin on things. I don't see why you suddenly  
17 jump and say, press privilege, press privilege.

18 A. It's a fair point, but why -- what is the necessity to  
19 know the source of information? I mean, the fact is  
20 that the Garda Commissioner retired and we reported it. 12:00

21 CHAIRMAN: well, I tell you why: Because you know, an  
22 awful lot of people are saying that David Taylor is  
23 lying. And at the end of the day, it's doesn't require  
24 the brain of Einstein but I need to sit down with that  
25 thing and say what has been proved, what has not been 12:01  
26 proved, what has been contradicted by other people,  
27 what has been supported by other people. It's a basic  
28 job that every single judge does. And you are frankly  
29 standing in the way and I don't see any good reason for

1           you doing it.

2           A.    Okay, well look, I will grant you that and because he  
3           was the press officer and if he says that he called me,  
4           I'll accept it.

5   214   Q.    MS. LEADER:  And it was reported later, in or around           12:01  
6           the 10:00am mark that morning, is that correct, by RTÉ?

7           A.    RTÉ reported it, yeah.

8   215   Q.    All right.  Now, if I can just turn to page 7608 of the  
9           materials, and this is a report from the FSNI in  
10          relation to the mobile phone of former Commissioner           12:01  
11          Callinan, all right?  It will come up in front of you,  
12          where certain texts are recorded on it.  I just want to  
13          explain to you that these texts are recovered texts,  
14          Mr. Reynolds, so we don't know the direction they are  
15          travelling in but you can make certain inferences from           12:02  
16          them.  So it records a text but we don't know whether  
17          in fact it was sent by the former Commissioner or  
18          received.  Now, if we first of all turn to text number  
19          18, and this is something that former Assistant  
20          Commissioner O'Mahony commented on in his evidence and           12:02  
21          he said that wasn't him.  All right?  So it's on the  
22          22nd March 2014 at just before half eight in the  
23          evening.

24

25          "Yes, just thinking so much pressure being exerted from           12:02  
26          Labour riding on Varadkar's opener.  Hope Kenny can  
27          control the PAC on Tuesday and you would need a plan B  
28          if needed in a hurry.  I mean what you were putting  
29          together -- I mean what you putting together yesterday.

1 Similarly, if you were door-stepped or at an official  
2 function. Reynolds would be able -- would help out if  
3 an interview arose somewhere. Just thoughts and not  
4 recommendations. "

12:03

5  
6 So what I want to ask you in relation to that is, would  
7 you help out if an interview arose somewhere? would  
8 you help the Commissioner, former Commissioner?  
9 Somebody seems to think that you would.

10 A. No, I wouldn't -- I wouldn't -- I mean, I wouldn't help  
11 him but I would interview the Commissioner and I would  
12 ask whatever relevant questions we needed to ask.

12:03

13 216 Q. All right. Now, if we could go down to text 30 --

14 A. Can I just add a rider to that?

15 217 Q. Certainly.

12:03

16 A. Like, I mean, I think if anybody looks at my work in  
17 relation to my interviews with commissioners,  
18 particularly the former commissioners Callinan and  
19 O'Sullivan, I mean Commissioner O'Sullivan walked off  
20 on two interviews that I conducted with her on a live  
21 camera while we were asking her difficult questions,  
22 and RTÉ broadcast the footage of her walking away. I  
23 think it's a lazy assumption, I think it's a very  
24 unfair assumption to say or to think that you can say  
25 that I would be soft on people. I think there are a  
26 number of interviews that have gone viral online where  
27 I have asked people difficult questions and I think my  
28 record speaks for itself that I will ask the hard  
29 questions when they need to be asked.

12:03

12:04

1 218 Q. All right. And if we could go down to text 30. Now,  
2 this is sent on -- well, we don't know if it was sent  
3 or not, but we are making the presumption, text 30, on  
4 the 26/3, so just after the former Commissioner's  
5 retirement: 12:04  
6  
7 "It seems pretty clear to me and it's not right. If  
8 you want to set the record straight let me know.  
9 Meantime, take it easy."  
10 12:04  
11 And the next text that is recovered from the phone is  
12 at 22:34:50 on the same day:  
13  
14 "Thank you, Paul ."  
15 12:05  
16 Do you see that?  
17 A. Mm-hmm.  
18 219 Q. Now, I just want to ask you: Did you send the text on  
19 23rd March 2014 at 22:34?  
20 A. To be honest with you, I don't know. It could have 12:05  
21 been me but I don't know.  
22 220 Q. Okay.  
23 A. I mean --  
24 221 Q. There is a reference to "thank you, Paul" after that?  
25 A. Yeah. 12:05  
26 222 Q. Okay. So it would appear from the billing records of  
27 the former Commissioner that it probably was -- it  
28 doesn't exactly tally with the time, but it does seem  
29 that a text was sent from the former Commissioner to

1           you very close to 22:50?

2           A.    Look, it could be me and if it is, I think it's pretty  
3           clear, it's two days after the Garda Commissioner has  
4           retired, there is major political controversy, there is  
5           controversy in the guards, and this is the man who's           12:05  
6           gone, who knows what's happened and obviously as a  
7           journalist you want to seek an interview with him.

8   223   Q.    All right.  So just to clear it up, Mr. Reynolds,  
9           insofar as a suggestion can be taken or an inference  
10          can be taken from those few texts and in relation to           12:06  
11          what David Taylor said in his evidence in relation to  
12          giving you a document in relation to the former  
13          Commissioner's retirement, are you rejecting any  
14          suggestion that you were in any way acting as a media  
15          link for the guards at that particular time?           12:06

16          A.    Totally.

17   224   Q.    All right.  Okay.  Now, if I could just then go back to  
18          the 9th May, the D matter.  You heard it in 2013, you  
19          don't think you knew that the complainant was the  
20          daughter of a colleague and you don't think you knew           12:07  
21          about that until maybe matters closer to this time,  
22          closer to this Tribunal being set up, is that right?

23          A.    Yes.

24   225   Q.    All right.  And you say you heard it and I think it was  
25          kind of not an issue for you because you knew there           12:07  
26          would be a procedure thereafter if there had been  
27          anything to the complaint, isn't that right, there  
28          would have been a court case?

29          A.    Yeah, I mean, I have covered cases where guards have



1 saying, is he is saying he was asked by the former  
2 Commissioner, Commissioner Callinan that is, to brief  
3 the media in relation to Sergeant McCabe that he was  
4 driven by agendas and he was asked to draw the media's  
5 attention to the allegation of sexual assault made 12:09  
6 against Sergeant McCabe and that was the root cause of  
7 his agenda in making these complaints?

8 A. And that didn't happen.

9 232 Q. All right. So insofar as there was any linking, and  
10 this is my question to you, of the D allegation and 12:09  
11 Sergeant McCabe's agenda in making complaints --

12 A. I never saw that link.

13 233 Q. You never saw that link?

14 A. And I never -- you know, as I said yesterday, I heard  
15 it and then it was dismissed and I forgot about it. 12:09

16 234 Q. Yes.

17 A. You know.

18 235 Q. You heard of the D matter, is that correct?

19 A. Yeah, I mean, I heard an allegation, it was  
20 investigated, file to DPP, no prosecution, move on. 12:10  
21 And when Sergeant McCabe was bringing his concerns to  
22 the public, my belief was that his motivation was  
23 genuine and legitimate and he was pursuing these cases.

24 236 Q. All right. And I think yesterday you said to me you  
25 didn't hear anything in relation to the questioning of 12:10  
26 Sergeant McCabe's motivation in 2015 when the O'Higgins  
27 Commission would have been an ongoing matter. Do you  
28 remember I drew your attention to an email from  
29 Mr. Burke of July 2015, Mr. John Burke?



1 A. Oh, sorry, yes, yes.

2 237 Q. You didn't know anything of that?

3 A. No.

4 238 Q. All right. So as I understand your position to be, is  
5 the first you heard of the questioning in the O'Higgins 12:10  
6 Commission was when there was a Prime Time programme,  
7 is that correct, in relation to the matter, the leaks?  
8 A. Oh, yeah, the transcripts -- the initial transcripts,  
9 yeah.

10 239 Q. All right. Now, I have checked that out, and it would 12:11  
11 seem that on the 9th May 2016 RTÉ ran several TV and  
12 radio broadcasts, including discussions of what was  
13 purported to be a leaked account of the unpublished  
14 O'Higgins Report. That is your broadcast?  
15 A. Yeah. 12:11

16 240 Q. Then on 11th May the report is made public. And then  
17 on the 17th May 2016, a Prime Time special aired on RTÉ  
18 discussing -- containing discussions of leaked snippets  
19 of the transcripts of the O'Higgins Commission?  
20 A. Yes. 12:11

21 241 Q. All right. So that was a week after the publication of  
22 the report and over a week after your broadcasts on the  
23 9th May, obviously?  
24 A. Okay.

25 242 Q. All right. And I think the day after there were 12:12  
26 reports in the Examiner in relation to the leaked  
27 transcripts?  
28 A. Okay.

29 243 Q. All right. So am I correct in saying that your first

1 knowledge of Sergeant McCabe's motivation being  
2 questioned, all right, by the guards, must have been  
3 the 17th May 2016?

4 A. I need to check did I do the same reports, did I do  
5 similar reports on the same day of the 17th May. 12:12

6 244 Q. All right.

7 A. Because I also saw transcripts from the O'Higgins  
8 Commission which showed that the judge had clarified --  
9 the matter had been clarified to Mr. Justice Kevin  
10 O'Higgins' satisfaction and that might be the same day. 12:12

11 245 Q. All right. So in the run-up to the 17th May, you had  
12 done your own research in relation to the motivation  
13 issue in the O'Higgins Commission?

14 A. Yeah, I mean, there was a question -- yeah, I mean,  
15 this issue came up and I just said, well, what's it 12:13  
16 about? And I started making inquiries and I found that  
17 it had been dealt with at the O'Higgins Commission by  
18 Mr. Justice Kevin O'Higgins.

19 246 Q. So is it correct to say then, the Tribunal can discount  
20 any possibility that any guard told you that Sergeant 12:13  
21 McCabe was ill-motivated and the reason for all of this  
22 was -- or the start of all of this was that he had been  
23 investigated back in -- a complaint had been made in  
24 2006, investigations started which concluded in early  
25 2007? 12:13

26 A. Yeah, as I said, that didn't make sense to me because  
27 he had been exonerated.

28 247 Q. All right. Okay. Now, if we could just turn to your  
29 notes, so, that you -- your own notes that you made

1 when you were preparing the 9th May broadcasts. I  
2 think you made those available to the Tribunal at a  
3 very early stage, and they were, thereafter, typed up  
4 for the Tribunal. And the first page of them in  
5 typewritten form is at page 5898 of the materials, and 12:14  
6 I think that's in Volume 20. So if you could just --  
7 "Start of Relevant Notes", and you see there April 2016  
8 notebook?

9 A. Yes.

10 248 Q. So can we take it that it must have been in April? Do 12:14  
11 you use --

12 A. Yeah, yeah, yeah.

13 249 Q. All right. And we see here you had the report at this  
14 stage?

15 A. No, I don't think -- I'm not sure if I did. 12:14

16 250 Q. All right. You must have known it was imminent, so,  
17 or --

18 A. Well, I knew -- I knew it had been received by the  
19 Minister.

20 251 Q. All right. So you see: 12:14  
21  
22 "Accelerated recruitment  
23 Probationers  
24 Lots of sergeants coming and going  
25 Wanted out of a kip 12:15  
26 McCabe doing his job - doing great."

27 A. Yes.

28 252 Q. So I wonder could you explain --

29 A. I was speaking to people about the O'Higgins Commission

1 report and about the issues in Bailieboro, and this is  
2 the sort of feedback I was getting. This was, if you  
3 like, positive briefing, Chairman, in relation to  
4 Sergeant McCabe.

5 253 Q. All right. So I wonder could you explain the positive 12:15  
6 briefing?

7 A. Well, the person I was speaking to said Sergeant McCabe  
8 was doing his job, he was doing a great job. And as I  
9 said in my evidence, I heard positive and I heard -- I  
10 heard complimentary and I heard criticisms of Sergeant 12:15  
11 McCabe, and that is an example of where I actually  
12 heard praise for him, that he was -- I had heard that  
13 he was a committed and diligent station sergeant.

14 254 Q. All right. And you see there the reference "wanted out  
15 of a kip", did that have anything to do with 12:15  
16 Mr. Justice O'Higgins' report and the state of  
17 Bailieboro Garda Station?

18 A. It could have, it could have, yeah.

19 255 Q. All right. So -- and is that a reference to Sergeant  
20 McCabe wanting out of Bailieboro -- 12:16

21 A. Yeah, I didn't --

22 256 Q. -- do you think?

23 A. As far as I know, the sergeant asked to be transferred  
24 from Bailieboro, and he was, to Mullingar, so that may  
25 be a reference to that. 12:16

26 257 Q. Okay. Do you think it was a reference --

27 A. I mean, it possibly is. I won't, you know, come down  
28 heavy on either side. But as I said, these are  
29 conversations I heard with people. I was jotting down

1 bits and bobs, trying to get a perspective on what was  
2 happening. This is -- I believe this is -- this would  
3 have been before I had the report. These are my first  
4 notes in April in relation to this issue.

5 258 Q. All right. And you see here there is a reference then 12:16  
6 to:  
7  
8 "Sergeant in charge  
9 - Complaint case against him  
10 - Investigated locally (Mistake) 12:16  
11 (Wrong) - Superintendent Clancy."  
12 A. Yeah.

13 259 Q. I wonder could you explain that, please?  
14 A. The person I was talking to told me that the -- in  
15 the -- the allegation in 2006 was investigated locally 12:17  
16 and that was a mistake, it shouldn't have been  
17 investigated by the local inspector. It was kept in  
18 that division, it should have been -- an officer from  
19 outside the district or the division should have been  
20 appointed to look after that. That was what the person 12:17  
21 told me.

22 260 Q. All right. So, now, as I understand your evidence - I  
23 just want to give you every opportunity to explain  
24 this - you didn't know that it was the daughter of a  
25 colleague who had made the complaint -- or a guard, 12:17  
26 sorry, I should have said, who had made the complaint?  
27 A. No, I don't -- this is 2016 now?

28 261 Q. Yes.  
29 A. This is not 2014?

1 262 Q. Yes.

2 A. Yes. I know now after all I've heard. I can't -- I  
3 don't think I did know, I don't think I did know, but  
4 with all I have heard I may have known, but again, it  
5 wasn't really a factor. I wasn't -- we weren't talking 12:18  
6 about the victim, her family, or anything else like  
7 that. We were talking about the fact that a decision  
8 had been made to do this investigation locally and it  
9 shouldn't have been done, it should have been done from  
10 outside. 12:18

11 263 Q. All right. And then we see in brackets:  
12 "(Wrong) - Superintendent Clancy."  
13 What is that about?

14 A. My understanding is that Superintendent Clancy was the  
15 person who made the decision, that it should be -- that 12:18  
16 it was to be investigated, and he appointed Inspector  
17 Cunningham, and that may be incorrect but that is my  
18 understanding.

19 264 Q. That was your understanding?

20 A. Yeah. 12:18

21 265 Q. Yes. All right. So what I'm asking you really about  
22 there is, what had all that got to do with the  
23 O'Higgins Report?

24 A. Well, nothing really, yeah. This is the sort of thing  
25 that comes up in conversation, when you are talking 12:18  
26 about policing in Bailieboro, the problems of the  
27 division, you know, and it would have been a  
28 conversation like that, you know, that would have been  
29 wide-ranging, where I would have heard, first of all,

1 about -- the allegation would have come up and somebody  
2 would have said, oh, there was a complaint made in 2006  
3 but sure there was nothing in it. And I'd say, oh,  
4 what do you mean a complaint? well, there was a  
5 complaint made, it was abuse of a minor, it was 12:19  
6 investigated, there was a file sent to the DPP and  
7 there was no prosecution. Oh, right, okay.

8 266 Q. well, I suppose what I'm really asking you is, you knew  
9 it referred to Sergeant McCabe there, am I right in  
10 that? 12:19

11 A. Yeah, the sergeant in charge, yeah.

12 267 Q. Sergeant in charge. And that was Sergeant McCabe?

13 A. Yeah.

14 268 Q. And was this being put -- information being given to  
15 you to explain in any way what had happened thereafter? 12:19

16 A. No, I don't believe so.

17 269 Q. Okay. So why were you being told about it? why did  
18 you think you were being told about it?

19 A. I don't know. I didn't ask. Just, if I can use the  
20 colloquialism, we were shooting the breeze. 12:20

21 270 Q. And just that particular piece of information, what I  
22 am asking you, did that particular piece of information  
23 come to you from former Commissioner O'Sullivan at that  
24 time?

25 A. No. 12:20

26 271 Q. All right. And then we continue on with your notes:  
27  
28 "Description of crimes in Micheál Martin dossier  
29 - Murder

1 - Attempted murder  
2 Kidnapping  
3 Rape  
4 Attempted rape."

12:20

6 Did that come from the report or from somewhere else?  
7 A. No, I think I would have been talking about the report  
8 and the dossier and the -- clearly, the dossier that  
9 was given to Micheál Martin which subsequently went to  
10 the Taoiseach.

12:20

11 272 Q. Okay. And we turn to the next page, 5899:

13 "- was listened to  
14 - were investigated, DPP, GSOC --"  
15 Commission, is it?  
16 "-- Comm."  
17 Or is that --

12:20

18 A. It could be Commissioner.

19 273 Q. Commissioner.

20 A. Or yeah -- could refer to him.

12:21

21 274 Q. "Internal investigation - no corruption, malpractice,  
22 exaggerated.

23 McCabe - not happy - Micheál Martin  
24 Higgins Tribunal - same conclusions as internal  
25 Junior members - lack of supervision and in bad  
26 conditions."

12:21

27 A. Yeah.

28 275 Q. So you didn't have the report at that stage, you think?

29 A. No, no.



1 276 Q. So you are being told at that stage by somebody that  
2 Sergeant McCabe wanted out of Bailieboro, okay?  
3 A. Mm-hmm.  
4 277 Q. Just go back to the first page, that he was "doing  
5 great", that for an unknown reason you are being 12:21  
6 referred to the D complaint, being -- and mistake to  
7 investigate it locally, there is a broad description of  
8 crimes set out. And then we go to the next page, that  
9 all of those have been investigated and that there  
10 hadn't been any corruption, malpractice, that 12:22  
11 everything had been exaggerated, that Sergeant McCabe  
12 wasn't happy and that the O'Higgins Tribunal came to  
13 the same conclusions and that it was all junior  
14 members, lack of supervision and bad conditions. What  
15 did you make of all of that? 12:22  
16 A. Well, I just jotted it down. I mean, I wanted to get  
17 my hands on the report to see for myself.  
18 278 Q. All right. Well, it could be said, Mr. Reynolds, that  
19 somebody was briefing you that there was nothing to  
20 Sergeant McCabe's complaints and he wanted out of 12:22  
21 Bailieboro anyway and his own investigation wasn't  
22 handled properly, and maybe, putting two and two  
23 together, this was the whole reason he was making his  
24 complaints, that could be said to you?  
25 A. Well, I didn't know all that at the time, and I was 12:22  
26 only -- the only thing I wanted was the O'Higgins  
27 Report.  
28 279 Q. All right.  
29 A. I mean, people were shooting the breeze and I was

1 jotting stuff down, whatever. These were my notes, but  
2 they never fed into the stories that we broadcast. I  
3 mean, if you take -- if you sit through a court case,  
4 you write down everything but you don't use it all.

5 280 Q. But surely that is the point, Mr. Reynolds, that 12:23  
6 somebody was giving you this line?  
7 A. Which line?

8 281 Q. That Sergeant McCabe wanted out of Bailieboro?  
9 A. Well, I don't know if they were giving me the line he  
10 wanted out of Bailieboro. They might have been telling 12:23  
11 me that he was -- he wanted out of a kip, yeah, he  
12 wanted out of Bailieboro, yeah, okay.

13 282 Q. Yes. And that his own investigation hadn't been -- had  
14 been mistakenly investigated locally?  
15 A. Well, I don't know if they were saying that. I thought 12:23  
16 that was their opinion, I took that as the person I was  
17 talking to, it was their opinion, it was a mistake,  
18 yeah.

19 283 Q. Yes, exactly. So maybe that would suggest that  
20 Sergeant McCabe wasn't happy about that, that he was 12:23  
21 making these complaints in relation to murder,  
22 attempted murder, kidnapping, rape, attempted rape,  
23 that they had all been listened to, investigated, that  
24 nothing had come of it, that Sergeant McCabe wasn't  
25 happy, that the O'Higgins Commission had come to the 12:24  
26 same conclusions. So therefore, what I'm suggesting to  
27 you is, we could take from this that somebody was  
28 briefing you negatively about Sergeant McCabe in the  
29 run-up to you doing a report --

1 A. I don't see that as negative briefing, I don't see it  
2 that way.

3 284 Q. All right. Okay. So you must have been thinking of  
4 doing a story on the O'Higgins Commission report?

5 A. Yeah, I was actively seeking to -- 12:24

6 285 Q. You were seeking --

7 A. Oh, yeah.

8 286 Q. You were seeking information out?

9 A. I was seeking the report, I was looking for the report,  
10 and I was talking to people and I was talking to them 12:24  
11 about the report and perhaps what was in it and what  
12 was the situation in Bailieboro, but really, I mean,  
13 you couldn't do anything with this. You know, you can  
14 see it's disjointed, it's half-baked, it's all over the  
15 place, there is a bit here and a bit there. I mean, 12:24  
16 you know, you can pull the words together and make --  
17 anybody can pull those words together and make whatever  
18 they want out of them, you can jumble them around.  
19 They are just jot, jot, jot, you know, but what I  
20 wanted was the report. 12:25

21 287 Q. Okay. And if we could just turn to the next page, it's  
22 your May 2016 notebook, and I won't go through it in  
23 detail, but I think it may be - you are free to  
24 disagree with me - that you had the report at this  
25 stage? 12:25

26 A. No, I don't think so.

27 288 Q. You don't think so?

28 A. No.

29 289 Q. All right. So May -- "25th/2nd - Allegation Garda

1 corrupt? 1st public order incident - tried to take a  
2 shortcut - she didn't want to go to court."  
3 That is in relation to the bus incident, is that  
4 correct?

5 A. Mm-hmm. I think so, yeah. 12:25

6 290 Q. "Took money - approached by McCabe. He should never  
7 have been involved in a civil resolution."  
8  
9 was that the guard who investigated it?

10 A. Yes. 12:26

11 291 Q. Yes.  
12 "His description and characterisation."  
13 "His description" I think refers to Sergeant McCabe's  
14 description, is that right?  
15 "Gross exaggeration" is underneath that. 12:26  
16 "2 drunk on a bus - rowdy  
17 Investigated very poorly  
18 - No corruption - He was disciplined  
19 - Junior Garda - given a chance.  
20 Not a scintilla of evidence of corruption." 12:26

21 A. Yeah.

22 292 Q. So you see there that there is 4.75.76, is that a  
23 paragraph reference in the report?

24 A. Yes, yes.

25 293 Q. So at this stage you must have had the -- 12:26  
26 A. Yeah.

27 294 Q. Well, or somebody was reading it out to you? You had  
28 the report?

29 A. I could have had the report. I mean, again, I'm -- the

1 reference is there, if it matches the report, you know.

2 295 Q. All right.

3 A. But again, as I said to you, I am jotting stuff down,  
4 I'm talking to people, I am listening to what they are  
5 saying, I'm jotting it down. I will make a judgement 12:26  
6 on it afterwards, but I will get the information into  
7 the notebook and see what they say and take everybody's  
8 opinion on board, but really it's the hard copy I want.

9 296 Q. All right. And then I think we won't go through your  
10 notes line by line, but they continue on page 4 and 12:27  
11 there is reference to paragraph numbers there. Are you  
12 going through the report there?

13 A. Yeah, I know I was going through the report on bits of  
14 paper and, you know, as I said, on the back of an  
15 envelope, and stuff like that, but really, the concrete 12:27  
16 stuff was the stuff that we'd put on -- that I put on  
17 the computer. That's -- you know, the other stuff was  
18 prelim, very disjointed, bits and bobs, you know,  
19 mishmash, but the real stuff was the stuff on the  
20 computer where it started to come together and then we 12:27  
21 started to work on it.

22 297 Q. So if we turn, and we will just go quickly through  
23 it --

24 A. You can see there is no real order to it and there is  
25 no sense to it in many ways, you know. 12:27

26 298 Q. There is a reference on 5902 to paragraphs again.

27 A. Yes.

28 299 Q. 5903, "junior Gardaí", reference to -- a page number  
29 reference there, on 5903. And if we could just turn to

1 page 5904 of the materials, it's page 7 of your notes:  
2  
3 "Mi cheál Martin - allegations - not a scintilla of  
4 evidence. Description and characterisation of  
5 offences. Mi cheál Martin - (brought into it). 12:28  
6 Allegations previously brought to Dermot Ahern - gave  
7 evidence. Taping confidential recipient. Alan  
8 screwed, lost his job. Look at all people lost their  
9 jobs. Ball of smoke?"  
10 12:28  
11 And that appears again. So is that you being cynical  
12 about what is --  
13 A. Well, again, it could be me trying to think my way  
14 through it, jot down stuff, you know, all that sort of  
15 thing. It's not to be taken as anything. I mean, it's 12:28  
16 all over the place.  
17 300 Q. All right. Was that coming from anybody else,  
18 Mr. Reynolds, is what I am asking you?  
19 A. No, I think that is me talking to myself, you know.  
20 301 Q. Okay. Do you think -- 12:29  
21 A. But I can't be 100 percent sure now, you know, and this  
22 is all disjointed.  
23 302 Q. All right. So is there a possibility that that was  
24 coming from somebody else, that there was nothing to  
25 all of this? 12:29  
26 A. Ah, look, I knew there was something to it. Like, I  
27 mean, it was clear there was something to it.  
28 303 Q. All right. If we just turn to the next page quickly.  
29 At 5905 the line "not exaggerated" appears.

1 A. Yes.

2 304 Q. So is that a counter-balance to --

3 A. That's the -- that it wasn't exaggerated, yeah,

4 exactly. And again, you are thinking through, you know

5 what I mean? 12:29

6 305 Q. Yes, yes. You go through the various incidents. There

7 is the bus, the Lakeside assault, Jerry McGrath,

8 Cafola's, Cootehill, dangerous driving, Crossans pub,

9 computer priest and, 9, Hillgrove and Derek Byrne?

10 A. Yeah. Victims' trust -- victims' trust not justified 12:30

11 in Garda, you know, you are putting all this stuff --

12 306 Q. Yes. You can feel free to point out any --

13 A. I am just putting stuff down, you know, trying to get

14 some shape on it.

15 307 Q. All right. And then we will just break after this 12:30

16 page, but at 5906 of the materials, again there is your

17 notes, a reference to a paragraph number and

18 Superintendent Cunningham's name appears there:

19

20 "False report to Super, 'Reported to GSOC and hadn't'", 12:30

21 that refers to the "Found false report, untruth".

22 A. Yeah.

23 308 Q. That is a continuation of the reference to the untruth

24 line. And then there is a reference at 14.60: "No

25 inspector in Bailieboro - if there was - prob". 12:30

26 A. Yes.

27 309 Q. That may mean that probably --

28 A. Yeah, probably, as we've talked about earlier, yes.

29 310 Q. Yes. And 14.35: "Manifestly unfounded, inaccurate,

1 incorrect, not supported by the facts, unreasonable."

2 A. All words taken from the report, aren't they?

3 311 Q. Yes.

4 A. Yes.

5 MS. LEADER: Maybe we'd leave it there for lunch. Yes, 12:31

6 I think -- sorry, sir, Mr. McGuinness was just

7 reminding me that Stephen Rae has a particular

8 availability problem and I think the suggestion is we

9 interpose him after lunch.

10 CHAIRMAN: I am happy to do that. Will you be much 12:31

11 longer?

12 MS. LEADER: I think about 40 minutes longer, 30 or 40.

13 CHAIRMAN: All right. Well, I'd ask other people to

14 think, and maybe whether we are going to reach any

15 other witnesses today, you can tell me that at half 12:31

16 past one, where we stand, appreciating that problems

17 are caused when I sit late, in any event, so -- and I

18 can't, because of what I have said.

19

20 THE HEARING ADJOURNED FOR LUNCH 13:21

21

22

23

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1 THE HEARING RESUMED, AS FOLLOWS, AFTER LUNCH:

2  
3 MR. MARRINAN: Stephen Rae, please.

4  
5 MR. STEPHEN RAE, HAVING BEEN SWORN, WAS DIRECTLY 13:35  
6 EXAMINED BY MR. MARRINAN:

7  
8 312 Q. MR. MARRINAN: I think you're the group editor-in-chief  
9 of Independent News & Media, is that right?

10 A. Yes, I'm the outgoing group editor-in-chief at INM. 13:35

11 313 Q. Yes. And would you just give a very brief history of  
12 your career to date to the Chairman, please?

13 A. I think as I outlined in my statement, I'm a native of  
14 County Kerry. I studied journalism at Dublin Institute

15 of Technology, graduating in 1985, when I was young 13:36  
16 journalist of the year, and I subsequently got a

17 bursary to join the Irish Independent. I was at the  
18 Irish Independent from 1985 to 1987. In 1987 I was

19 appointed editor of the Garda Review. Then I joined  
20 the Herald as security correspondent in 1994, I became 13:36

21 a news editor in the Herald in 1999, associate editor  
22 subsequently, then deputy editor, in 2005 I was

23 appointed editor. In 2012 I was appointed editor of  
24 the Irish Independent, in 2013 I was appointed group

25 editor-in-chief of the group. I'm a member of the 13:36  
26 Board of the world Editors Forum. I serve on the

27 advisory panel of the world Association of Newspapers  
28 and platforms and I'm a member of the High Level Expert

29 Group on Fake News and Online Disinformation at the

1 European Commission.

2 314 Q. I think that you met with our Tribunal investigators on  
3 the 22nd November of last year, and the memo of the  
4 interview is to be found at page 3598 of the materials,  
5 which you can refer to if you wish. In the first 13:37  
6 instance, in terms of Superintendent David Taylor, do  
7 you know Superintendent Taylor?

8 A. No.

9 315 Q. Have you ever met him?

10 A. No. 13:37

11 316 Q. I think there was, he attempted to contact you in May  
12 of 2015, is that right?

13 A. Yes.

14 317 Q. And I think that related to you helping him with a  
15 thesis that he was writing, is that right? 13:37

16 A. Yes, apparently, he contacted my office, seeking my  
17 assistance, apparently, with some thesis that he was  
18 working on, but I didn't see a role in me doing that so  
19 I didn't respond.

20 318 Q. Did you think that somewhat unusual at the time, that 13:38  
21 he was contacting you in circumstances where he didn't  
22 know you?

23 A. It happens all the time. People in my position get  
24 contacted by people from all walks of life, seeking  
25 assistance with various thesis and academic work. So 13:38  
26 it happens all the time.

27 319 Q. Right. In terms of the Maurice McCabe story, if I can  
28 put it that way, I'm sure you had observed it as it  
29 evolved over the years?

1 A. Yes.

2 320 Q. And with particular focus on 2013 and the first three  
3 months of 2014, had you heard anything or any rumour  
4 concerning Maurice McCabe and his character?

5 A. No. 13:38

6 321 Q. Had any journalist in INM at any time approached you in  
7 relation to any rumour that may or may not have been  
8 circulating about Maurice McCabe?

9 A. No.

10 322 Q. Had you heard reference to investigation in relation to 13:39  
11 an alleged sexual assault in respect of Maurice McCabe  
12 going back to 2006/2007?

13 A. No.

14 323 Q. I'm sorry, I'm just being told that there may be some  
15 difficulty in hearing you. 13:39

16 A. Oh, sorry, I beg your pardon.

17 324 Q. That is better. Thank you very much. So, as a point  
18 of reference, we have Paul Williams contacting -- or  
19 you becoming aware of Paul Williams having a source who  
20 had asked him to visit with Ms. D, isn't that right? 13:39

21 A. Yes.

22 325 Q. So we know that that was at the beginning of March  
23 2014. Prior to that, had you any inkling that there  
24 was a Ms. D or someone like that in Maurice McCabe's  
25 past who might have to be interviewed in relation to a 13:40  
26 story in respect of Maurice McCabe?

27 A. Absolutely not.

28 326 Q. So can the Tribunal take it that this was totally new  
29 to you at the time?

1 A. Absolutely.

2 327 Q. And what information did you have from Paul Williams?

3 A. Well, what I recollect is that Paul had approached  
4 Kevin Doyle, who was the news editor of the Irish  
5 Independent, saying that he had been contacted by a 13:40  
6 representative of the family and that they had a story  
7 to tell and that would he visit with them and talk to  
8 them.

9 328 Q. And had you any idea of what it was that Ms. D was  
10 saying at that time? 13:40

11 A. No. Albeit they wanted to tell us a story, I didn't  
12 know the detail.

13 329 Q. Had you any inkling that it related to an allegation of  
14 sexual assault?

15 A. No. 13:41

16 330 Q. Or that there had been an investigation of an  
17 allegation of sexual assault concerning her that hadn't  
18 been properly investigated?

19 A. Not at that stage. All I knew was that they wanted to  
20 tell us their side of the story. 13:41

21 331 Q. What did you think that her side of the story referred  
22 to?

23 A. You see, I didn't know, and it would have been a few  
24 layers below me that the information would have been  
25 passing through. It would have been the news editor, 13:41  
26 the head of news, that kind of level. So I wasn't  
27 really getting involved at that stage. I would wait  
28 until -- you know, just a little bit of how the  
29 newspaper works, there are several layers below me and

1 the editors and the heads of department would report in  
2 to me, so I would very much allow them to do their job,  
3 and it was then in that kind of chain of command, I let  
4 them do their job and they would come to me with the  
5 information afterwards - after, let's say, there was a 13:42  
6 little bit of fact-checking or they've checked the  
7 robustness of the story. So there's no point in them  
8 coming to me saying, oh, we think we have this, and  
9 then it didn't happen, so on and so forth. So I would  
10 only deal with hard facts or something that was 13:42  
11 presented to me.

12 332 Q. And the information they subsequently came to you with  
13 was what?

14 A. Well, I was told that Paul had videoed -- Paul and a  
15 videographer had travelled to the location, I can't 13:42  
16 remember the precise location, and recorded an  
17 interview with the young woman, and I was asked to view  
18 the video with the senior team.

19 333 Q. Obviously, this potentially then was a big story, isn't  
20 that right? 13:42

21 A. Potentially, yes.

22 334 Q. Yes. I mean, was it being presented on the basis that  
23 she was making allegations of sexual assault going back  
24 to when she was a young child --

25 A. Plainly. 13:43

26 335 Q. -- against Sergeant McCabe, or was it purely in  
27 relation to an allegation that those allegations that  
28 she had previously made weren't properly investigated?

29 A. Plainly, it was both.

1 336 Q. It was both. And was it being pitched to you, and that  
2 may be too strong a word, but was it being pitched to  
3 you on the basis that the story could be run in respect  
4 of both; namely, the allegation of sexual assault,  
5 coupled with the fact that, in her belief, the matter 13:43  
6 hadn't been properly investigated back in 2006 and  
7 2007?

8 A. Well, I don't think anything was quite being pitched at  
9 that stage because it was very early.

10 337 Q. Yes. 13:43

11 A. And it would have had to go through a whole rinsing  
12 process, a whole fact-checking process. It would have  
13 had to have gone through several iterations before  
14 anything was being presented as the final product, if  
15 you will. 13:44

16 338 Q. Well, we know that a process was undergone in that  
17 regard, and in fact you viewed the video, isn't that  
18 right?

19 A. Yes.

20 339 Q. And we know that Mr. Mallon, who we've heard from, and 13:44  
21 Claire Grady, was also involved in that, along with  
22 Fionnuala O'Leary and Dearbhail McDonald, who we heard  
23 from yesterday, also had an input, and I think that  
24 perhaps there had been up to six meetings in relation  
25 to it, is that right? 13:44

26 A. At least six, I would say.

27 340 Q. Yes. But during the discussions in relation to the  
28 contents of the video and whatever story that was to  
29 arise out of it, which would be written by Paul

1 williams, at what stage was it decided that you could  
2 only run with the story in relation to the  
3 investigation and the adequacy of the investigation,  
4 rather than the actual complaints that had been made by  
5 Ms. D?

13:45

6 A. Well, I suppose, you know, the tenets of journalism,  
7 are the who, the what, the why, the where and the when,  
8 and then you always have to look at the motivation, why  
9 now, why us, what else is there, is this everything.

10 So I think once you go through all those and you  
11 fact-check, and I was also thinking, on a story like  
12 this, which was fraught, you would have had to, let's  
13 say, dare I say it, take the reporter who has done the  
14 story and put them aside for a little while, because  
15 you don't want that kind of subjective contamination

13:45

16 coming in, if you will, and you want to avoid  
17 group-think. So what we would have got was, let's say,  
18 Dearbhail would have pursued a certain aspect of it,  
19 the news desk would have pursued another aspect of it,  
20 the online team would have come in as a fresh pair of  
21 eyes, and all that kind of stuff. So all that was  
22 going on. And I think fact-checking is fundamental to  
23 what we do, and we are a verifiable news source, we are  
24 an authoritative news source in Ireland, so it was very  
25 important that everything was done, that, you know, we  
26 fact-checked it and that it was legally safe, where and  
27 when we did decide to carry the story, that it was  
28 legally safe. So the lawyers would have been heavily  
29 involved at all stages.

13:45

13:45

13:46

1 341 Q. I am just trying to get an understanding of -- we know  
2 the process --

3 A. Mm-hmm.

4 342 Q. -- but at what stages this story was at at various  
5 points in the process, without going into it in any 13:46  
6 very close detail. I mean, was it originally thought  
7 that the allegation that was made by Ms. D of sexual  
8 assault against Sergeant Maurice McCabe, that that  
9 could be run as a story?

10 A. I don't think that was -- I think we always thought 13:46  
11 this is too -- this is too good to be true, and that's  
12 the way I would always -- even the Anglo tapes, when we  
13 carried the Anglo tapes, I always thought, are we being  
14 set up here? This is actually too good to be true.  
15 And it's only when you go through the fact-checking 13:47  
16 process that you actually arrive with a conclusion. So  
17 I think we were very early days in, we said, okay, this  
18 is what the young woman is saying, let's check it out.  
19 And that's where we're at.

20 343 Q. When you say it was too good to be true, could you just 13:47  
21 explain what you mean by that?

22 A. Well, I'm saying, like, this story was in the headlines  
23 for a long time before this offer of an interview  
24 occurred, so we were saying, as I said, why now, why  
25 us? Let's check it out. 13:47

26 344 Q. So was there a sense that -- we know that, on the 23rd  
27 January, that the Garda Commissioner Martin Callinan  
28 had made reference to the whistleblowers and their  
29 actions as being 'disgusting', and that was very much



1 in the news at the time, isn't that right?

2 A. It would have been, yes.

3 345 Q. And the whole penalty points issue was very much being  
4 covered by the media quite extensively, isn't that  
5 right? 13:48

6 A. Yes.

7 346 Q. And I think that at that stage Leo Varadkar may well  
8 have come out with his contribution in relation to  
9 Sergeant Maurice McCabe, describing him as being  
10 'distinguished' as opposed to being 'disgusting', isn't 13:48  
11 that right?

12 A. That's right, yes.

13 347 Q. So there was a sort of a debate, or a public debate in  
14 relation to these matters.

15 A. Mm-hmm. 13:48

16 348 Q. And obviously a story that made reference to Sergeant  
17 McCabe being involved in an investigation in relation  
18 to an allegation of sexual assault was potentially very  
19 damaging to him, but also would add fuel to the debate,  
20 isn't that right? 13:48

21 A. Well, yeah. And I think we, as part of the  
22 fact-checking process, we were able to establish quite  
23 quickly that the DPP -- or the police force had  
24 investigated those allegations and had sent the file to  
25 the DPP and the DPP had found that no crime had been 13:49  
26 committed, or even if what had happened did happen,  
27 that it didn't establish a crime.

28 349 Q. So when you say that it was too good to be true, was  
29 that on the basis that you were suspicious that you

1 were being fed this by An Garda Síochána?

2 A. I think you're naturally -- as an editor, you're  
3 naturally sort of -- you want to get to the bottom of  
4 the story, and often times what is presented isn't what  
5 it appears to be. So it is important that, you know, 13:49  
6 you retain that objective outlook.

7 350 Q. That doesn't really answer the question.

8 A. Mmm.

9 351 Q. I mean, did you have suspicions at the time that this  
10 was being fed to you by An Garda Síochána or somebody 13:49  
11 in An Garda Síochána?

12 A. Not by An Garda Síochána. I have to say, I didn't  
13 think that, because Paul had been contacted by the  
14 family directly, so I have to say it never occurred to  
15 me that the police were behind it. 13:50

16 352 Q. All right. It's just that we have a statement from  
17 Claire Grady, who was there, that she was suspicious  
18 that this may have emanated from An Garda Síochána or  
19 that it may have been very convenient for them that  
20 this story was emerging at this particular time. 13:50

21 A. Mmm.

22 353 Q. I think you can see that, just looking at the timeframe  
23 of everything, isn't that right?

24 A. Well, she would have been right to be sceptical, yes.

25 354 Q. Be. But did you share that at the time or was that 13:50  
26 communicated between you?

27 A. Well, as I say, you know, you are skeptical, but -- and  
28 you'd have to say, why us, why now? And we would have  
29 said that. But I didn't think, because of the way the

1 story arose, that it originated with the police.

2 355 Q. So you looked into the circumstances in which the story  
3 came to Mr. Williams at the time?

4 A. Yes. And he told us, and he has told the news editor,  
5 that he was approached by the family directly. 13:51

6 356 Q. Yes. No, it's just that initially in your statement  
7 you refer to the fact that he had information from a  
8 source.

9 A. Yes.

10 357 Q. But you looked into that at the time and it turned out 13:51  
11 that, in fact, the request had come from the D family.  
12 Who it came through is -- would have been, I suppose,  
13 irrelevant, but it came from the D family and that they  
14 had initiated contact, is that right?

15 A. That's correct. 13:51

16 358 Q. We've also heard some evidence from another journalist  
17 at the time, Eavan Murray, that these -- the fact that  
18 INM were considering publishing a story in relation to  
19 Ms. D had filtered out of INM. Would that surprise  
20 you, that other media organisations would have picked 13:51  
21 up on the inner workings of INM in relation to such a  
22 major story?

23 A. Yes, it did surprise me.

24 359 Q. I mean, is it a possibility that you can exclude?

25 A. No, you can't exclude anything, but it did surprise me. 13:52

26 360 Q. Yes. So, in any event, you have up to -- maybe more  
27 than six meetings, but the matter is considered very  
28 closely and eventually a decision was run to run with  
29 the story as it referred to the investigation and the

1           adequacy of the investigation, is that right?

2           A.    Yes.

3  361   Q.    And there was a decision not to name Sergeant McCabe?

4           A.    Yes.

5  362   Q.    Now, just finally, there are two matters that I just           13:53  
6           want you to deal with. A suggestion has been made that  
7           the INM were really just simply anti-McCabe and were  
8           pushing the Garda line in relation to stories that they  
9           were pushing. What do you say in answer to that?

10          A.    I say it is completely untrue. I had oversight over           13:53  
11          four national newspapers and the biggest online site in  
12          Ireland and I would say 98% of the content we carried  
13          would have been, if you will, pro Sergeant McCabe. I  
14          think maybe this, if you will, was probably unusual in  
15          the sense that it was a different type of story, but I           13:53  
16          would say the Sunday Independent, Irish Independent,  
17          independent.ie. I would say the Herald and the Sunday  
18          World wouldn't have covered it, if at all, not  
19          comprehensively, but the other three titles would have  
20          covered the story comprehensively. And I would say if           13:54  
21          you were to do an analysis of it, and I think there may  
22          be some analysis done, but 98% of it would have been,  
23          if you like, positive towards the sergeant.

24  363   Q.    I think the Tribunal has newspaper articles from all  
25          the major media outlets during the relevant period of           13:54  
26          time and your organisation has provided us with  
27          articles for the relevant period of time. Just finally  
28          then in relation to Superintendent Taylor's protected  
29          disclosure that he made in October of 2016, how did you

1 receive that news? Did it come as a surprise to you  
2 that he was making the allegations that he was making?  
3 A. Gosh, I don't know. I can't recollect. I suppose,  
4 yeah, I probably was surprised, yeah.

5 364 Q. Well, I mean, had you heard anything within INM 13:55  
6 indicating that Superintendent Taylor had been pushing  
7 a particular line with journalists or with editors  
8 within INM?

9 A. No.

10 365 Q. Is that something that you think you would have heard? 13:55

11 A. I think so, yeah.

12 366 Q. It's been suggested that that might be a story in  
13 itself, that the Garda Press Officer was entering into  
14 the arena, as it were, and plugging a particular line  
15 against Sergeant McCabe? 13:55

16 A. I have to say it didn't -- if it was happening, it  
17 certainly didn't reach my level and I had not heard  
18 about it.

19 MR. MARRINAN: would you answer any questions, please.

20 A. Thank you. 13:55

21 MR. McDOWELL: No questions, Chairman.

22 MR. FERRY: No questions.

23

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

25

26 367 Q. MR. HARTY: Mr. Rae, my name is Mark Harty, and I am 13:56  
27 counsel on behalf of Gemma O'Doherty. I am instructed  
28 to ask you a few questions in relation to the evidence  
29 that she gave. And perhaps if we start just with

1 general questions about your dealings with An Garda  
2 Síochána in general. You were editor of the Garda  
3 Review from 1987 to 1994, is that correct?

4 A. Yes.

5 368 Q. And can you just tell me, where is the Garda Review 13:56  
6 based? Where does it work out of?

7 A. Certainly when I was there it was based in Phibsboro  
8 Tower.

9 369 Q. Phibsboro Tower. So it is connected. And is it paid  
10 for through -- how does it come about? Can you just 13:56  
11 explain to me what it is?

12 A. Well, when I took over in 1987 it was in poorly shape.  
13 I think the Garda membership paid 12p a week towards  
14 subscription of the magazine, so I'd set about raising  
15 the subscription levels to make it successful. So I'm 13:57  
16 proud that I raised the subscription levels. I think  
17 we almost doubled it, because the magazine would have  
18 done its time. So we made it into very much more a  
19 newsy kind of feature-driven magazine. And that's how  
20 it was paid for, through the subscriptions of the 13:57  
21 members of the police force.

22 370 Q. And is it a monthly, weekly?

23 A. It's a monthly magazine.

24 371 Q. Monthly magazine. And was it paid for -- did it  
25 receive any budget from the Garda Síochána budget? 13:57

26 A. I think originally when it was established in 1923 the  
27 Garda Commissioner was on the editorial board, and the  
28 police force at that stage did contribute towards  
29 the -- towards the publication. Thereafter, I don't

1 think the Commissioner was involved, but the police  
2 didn't contribute other than through their weekly  
3 wages, on a subscription basis.

4 372 Q. And was that a mandatory subscription per member?  
5 A. No, it was very much a voluntary subscription. As I 13:58  
6 say, it wasn't doing that well and we had to improve  
7 its circulation.

8 373 Q. I take it you say Phibsboro Tower was connected to the  
9 office of the GRA then?

10 A. It would have been on the same floor as the GRA, yes. 13:58

11 374 Q. And in terms of its content, I presume it didn't cover  
12 daily news, as such; I presume the pieces were all  
13 directly related to the workings of An Garda Síochána,  
14 or indirectly?

15 A. It was a monthly magazine so it didn't cover daily 13:58  
16 news.

17 375 Q. I presume in terms of its editorial content, the  
18 content was aimed expressly in relation to matters of  
19 direct interest to Gardaí in their employment?

20 A. Well, it was kind of a current affairs magazine, if you 13:58  
21 will, for law enforcement in Ireland.

22 376 Q. And after you left that, you then moved, am I correct  
23 in saying, it was the Evening Herald, was that --

24 A. In 1994 I was recruited to be the security  
25 correspondent with the Herald. 13:59

26 377 Q. Security correspondent. And did that include -- when  
27 you say security correspondent, I take it that is crime  
28 and security effectively?

29 A. It would have been essentially crime, defence matters,

1 I would have travelled to Lebanon, Syria, places with  
2 the defence forces. I would have covered ongoing crime  
3 issues, court reporting, ongoing murder cases, so on  
4 and so forth.

5 378 Q. And I would assume that, in that regard, having had a 13:59  
6 protracted period of contact of seven years with An  
7 Garda Síochána membership, that that was of assistance,  
8 building up relationships with those guards?

9 A. Oh, I would say it gave me an informed view of the  
10 police force, yes. 13:59

11 379 Q. But you also would have built up a relationship with  
12 members of the force?

13 A. Well, I would have had sources within the police, but I  
14 also -- you know, during the Guerin investigation I  
15 would have been the reporter who reported on the bent 13:59  
16 cops, if you will, in the police force. So there were  
17 some officers, you know, who were connected with  
18 criminal elements, and I would have been the reporter  
19 who first reported on those matters. So corruption in  
20 the police was one of those issues that I reported on, 14:00  
21 on that beat.

22 380 Q. I take it those members were less friendly towards you?

23 A. Well, I wouldn't say friendly or not friendly, I would  
24 just see it as a professional -- as part of my  
25 professional role as to report on, you know, courts, 14:00  
26 crime, defence.

27 381 Q. Okay. Now, Ms. Molloy has -- in relation to your  
28 dealings, you came into the --

29 A. Sorry, who?



1 382 Q. Sorry, I was about to say Ms. O'Doherty. In fact, I  
2 will put the question in -- you became editor of the  
3 Irish Independent in 2012, is that correct?  
4 A. Yes.  
5 383 Q. And during that time, Ms. O'Doherty has given evidence 14:00  
6 that you had had possession or sight of the Fr. Niall  
7 Molloy file. Do you recall having sight of that file?  
8 A. I'm not going to say.  
9 384 Q. You're not going to say?  
10 A. No. 14:01  
11 385 Q. Okay. I take it you're not going to tell me how you  
12 came into possession of that file either then?  
13 CHAIRMAN: Maybe, I'm going to intervene here, and I  
14 don't want to speak personally in relation to my  
15 experience, but there was an inquest. The relevant 14:01  
16 Garda statements - you can say the file, or whatever -  
17 was produced at the inquest, it was copied multiple  
18 times. The inquest was shortly after the death. So in  
19 the event that people had it years later, it'd be no  
20 surprise, indeed you might have even found it in my 14:01  
21 study, Mr. Harty.  
22 MR. HARTY: All right.  
23 386 Q. The situation then in 2013, as editor of the Irish  
24 Independent you came into possession of the Anglo  
25 tapes, isn't that correct? 14:01  
26 A. I didn't come into possession of the Anglo tapes. One  
27 of our reporters did.  
28 387 Q. Sorry, the Irish Independent came into possession of  
29 it?

1 A. Insofar as one of our reporters did, yes.

2 388 Q. And insofar as there was the, shall we say, the major  
3 scoop for 2013 and perhaps the months of April, May and  
4 June of 2013, that scoop was the Anglo tapes, isn't  
5 that correct? There was a lot of work being put into 14:02  
6 those tapes at that stage?

7 A. Yeah, it depends on your outlook. It could have been  
8 the story of the generation from a subjective point of  
9 view. In another way, it could have been the story of  
10 the year or maybe the story of the summer. That would 14:02  
11 have been a very subjective opinion, but --

12 CHAIRMAN: We can all agree it was a big story.

13 A. It was a big story.

14 389 Q. MR. HARTY: Now, did you contact An Garda Síochána in  
15 relation to your possession of those tapes? 14:02

16 A. I wouldn't have thought -- I certainly didn't, and I  
17 wouldn't have thought anybody else on the team did  
18 either.

19 390 Q. Irish News & Media were, in fact, found in contempt for  
20 publishing those tapes, isn't that correct? 14:03

21 A. After -- not first time round. I think second time  
22 round, yes.

23 391 Q. Do you recall the incident which involved Ms. O'Doherty  
24 on the 11th April 2013, where she called to the Garda  
25 Commissioner's house to confirm that that was his 14:03  
26 address?

27 A. I recall the incident.

28 392 Q. How did you first become aware of that incident?

29 A. I was told the following morning that she had gone to

1 the house of the Garda Commissioner at 10pm the  
2 previous night.

3 393 Q. who told you that?  
4 A. It would have been, I would say, probably the managing  
5 editor. 14:03

6 394 Q. who was the managing editor of the Independent News &  
7 Media at the time?  
8 A. Michael Denieffe.

9 395 Q. Because it's just the time -- the hour keeps moving  
10 later and later. Her evidence was, and indeed the 14:03  
11 evidence of the Garda Commissioner, was that it was  
12 earlier in the evening.

13 A. No, I received a memo from Michael, from Tom Brady, who  
14 was the security editor of the Irish Independent,  
15 saying that he had taken a call from somebody in the 14:04  
16 police force. Tom said he took the call at 10:15pm and  
17 that the officer he spoke to, the senior officer in the  
18 police, said that Gemma had been at the Commissioner's  
19 house 15 minutes earlier, which would have made it  
20 10pm. 14:04

21 396 Q. I see. Now, you see, Mr. Mallon was of the view that  
22 the information from Mr. Brady was that she was still  
23 at the house when the call was received.

24 A. I don't know. I was talking to Michael. I don't know  
25 what Ian's opinion was. 14:04

26 397 Q. well, somebody -- Mr. Brady asked Mr. Mallon -- or  
27 informed Mr. Mallon, who contacted Ms. O'Doherty, in  
28 the firm view, he says, that she was still at the house  
29 at the time.

1 A. I'm not sure about the sequence. All I know is what I  
2 was told the following morning. And the memo I  
3 received from Michael, from Tom.

4 398 Q. Right. And what did you do about that?

5 A. Well, look, I formed the view that going unannounced to 14:05  
6 anybody's house at 10pm is not professional. And I  
7 thought, you know, the Irish Independent is a trusted  
8 media source, that somebody going unannounced to  
9 somebody's house at 10pm wasn't the proper way to do  
10 things and it wasn't the professional way to do things. 14:05

11 399 Q. Ms. O'Doherty's evidence is that it wasn't 10pm. She  
12 was contested on that evidence.

13 A. Well, all I'm telling you is what the memo I received,  
14 and that is what it said.

15 400 Q. Were you then, I take it, involved in the decision to 14:05  
16 send Mr. Denieffe and another member of the editorial  
17 team in INM to Garda management at Harcourt Street?

18 A. I don't think so. I think Michael took the view that,  
19 you know, look, this shouldn't have happened, Gemma  
20 should have gone through the news management process, 14:05  
21 should have told somebody in the building what she was  
22 doing, and that, you know, the Garda Commissioner's  
23 wife was distressed and that we should sort of make  
24 some effort to say, look, it shouldn't have happened,  
25 there are other ways of doing this. And I suppose from 14:06  
26 a news management point of view, a news editor or  
27 somebody in the building should have known that Gemma  
28 was going to the Commissioner's house late at night and  
29 doing this, because there are other ways of doing it,

1 first of all. You know, you go through -- there is a  
2 process for doing this, everybody knows it. And this  
3 was outside of that process.

4 401 Q. well, see, there are many different ways of doing it --  
5 A. Sure. 14:06

6 402 Q. -- isn't that correct?  
7 A. well --

8 403 Q. They were his personal penalty -- a fixed penalty  
9 notice in respect of driving of his personal car, isn't  
10 that correct? 14:06

11 A. There are many ways of doing it, there are the right  
12 ways and the wrong ways, and the right way is to do it  
13 the right way.

14 404 Q. Really? Are you saying that if somebody is -- an issue  
15 arises in relation to somebody's driving of their 14:06  
16 personal vehicle, that that should be brought to the  
17 attention of the organisation for which they work?

18 A. What I'm saying is that you don't arrive on somebody's  
19 doorstep unannounced at 10pm, whether that is the Garda  
20 Commissioner or Joe Soap or Mrs. Soap, you just don't 14:07  
21 do it that way. You do it within -- you know, it is a  
22 hierarchical structure, reporters report to news  
23 editors, news editors report to deputy editors, deputy  
24 editors report to editors, editors report to  
25 editors-in-chief, then editors-in-chief then report to 14:07  
26 group editor-in-chief. So there is a structure there  
27 and the structure is there for a reason.

28 405 Q. The situation is, though, that she was simply checking  
29 that she had the right address.

1 A. Yeah, but 10pm at night is not the time to do that, I  
2 would have thought.

3 406 Q. It wasn't 10pm at night.

4 A. Okay.

5 407 Q. And there is no evidence to say that it was 10pm at 14:07  
6 night.

7 A. No, what I'm saying is that the memo that was sent to  
8 me said it was 10pm.

9 408 Q. So I take it you then spoke to Ms. O'Doherty to confirm  
10 that it wasn't, in fact, that case? 14:08

11 A. Excuse me?

12 409 Q. I take it you spoke to Ms. O'Doherty to confirm the  
13 details?

14 A. There are memos on record and I think the Tribunal has  
15 them, so there is a chain of --

16 410 Q. I'm asking did you speak to Ms. O'Doherty to clarify?

17 A. I spoke to Ms. O'Doherty. She apologised for what she  
18 had done. She said she was chasing a hot story and  
19 that she should have thought about it, and that, now  
20 that she had thought about it, maybe she should have 14:08  
21 done it in a certain way. And what I'm saying is,  
22 nobody is saying the story was a bad story, I'm just  
23 saying the way she went about the story was wrong.  
24 And, look, it was a good story, we published it on the  
25 front page of the Irish Independent, it got good 14:08  
26 traction, we made -- the story had to be legally  
27 checked, but once it was legally checked and once we  
28 had gone through the procedure of checking with the  
29 Garda Press Office, so on and so forth, then we ran it,

1 and we thought it was a very good story and ran it on  
2 page one.

3 411 Q. And the situation is that all she had done was call to  
4 the house to get the address. Why are two senior  
5 editorial members of Independent News & Media going to 14:08  
6 meet an utterly unaffected assistant commissioner to  
7 explain their position?

8 A. Well, I think, it's not that they were -- I think it  
9 was the whole way the story was handled. They were  
10 going along, they said to the guards 'hello', shouldn't 14:09  
11 have been done this particular way, we're sticking to  
12 our guns, though, we're still going to carry the story  
13 and we did publish it. But they went along as a  
14 courtesy, I would say, because the guards were viewing  
15 it as a big security breach. 14:09

16 412 Q. But, you see, the difficulty is that I don't see it as  
17 a discourtesy to An Garda Síochána -- there may have  
18 been a discourtesy to Martin Callinan or to his wife,  
19 but there was no discourtesy to An Garda Síochána in  
20 trying to work out whether or not this was Martin 14:09  
21 Callinan's house, so why was the apology and why were  
22 you going cap in hand to an assistant commissioner in  
23 Harcourt Street?

24 A. Well, there was no apology, and we went along as a  
25 courtesy because they asked us, they asked Michael to 14:09  
26 meet with them, so there was no apology. It was a  
27 courtesy call because they were saying it was a huge  
28 security breach.

29 413 Q. So they were summonsed to an assistant commissioner?

1 A. I wouldn't have thought so. Michael Denieffe is a  
2 strong guy, he has been through the ropes, he's a  
3 strong advocate for an independent, free, objective,  
4 disinterested press, so he wouldn't have been going cap  
5 in hand to anybody. 14:10

6 414 Q. I mean, it was an important story, that the man who was  
7 apparently overseeing the penalty points issue from the  
8 point of view of An Garda Síochána, had himself had a  
9 fixed penalty notice quashed, isn't that correct?

10 A. That's right. 14:10

11 415 Q. And anybody dealing with that story, the fact that they  
12 have had fixed penalty notices quashed, it's relevant,  
13 isn't it?

14 A. Start again.

15 416 Q. Anybody who -- in dealing with that story and the 14:10  
16 breaking news in relation to it, anybody who had  
17 penalty notices quashed who were involved in that  
18 story and how it was dealt with, that was relevant,  
19 wasn't it?

20 MR. FANNING: I'm just wondering, Chairman, what the 14:10  
21 relevance of that question is to anything this Tribunal  
22 is investigating.

23 CHAIRMAN: I presume it is to try and draw a link  
24 between Irish News & Media and the Garda, so we will  
25 see where it goes, Mr. Fanning. 14:11

26 417 Q. MR. HARTY: It is relevant, isn't it?

27 A. I've lost your track.

28 418 Q. Sorry. Okay. It was utterly relevant and, in fact, on  
29 one viewpoint, very important to know that the man who



1 was overseeing the quashing of fixed penalty notices  
2 from the point of view of An Garda Síochána, had  
3 himself had fixed penalty notices quashed?

4 A. And that is why we put it on page one.

5 419 Q. Yeah. And can you explain to me then, in view of 14:11  
6 having come to you with a page-one scoop, that, within  
7 two weeks, Gemma O'Doherty is given her marching  
8 papers?

9 A. Well, I think that was outlined by Mr. Fanning earlier  
10 in the week. 14:11

11 420 Q. No, I would like you to tell me why Gemma O'Doherty --  
12 because many of us are lawyers in the room, we know the  
13 basic rules of redundancy, it's usually last in, first  
14 out. Gemma O'Doherty had been in Independent News &  
15 Media for 17 years, so can you explain to me how it is 14:12  
16 that Gemma O'Doherty was selected, having been the  
17 person who had presented you with that front-page scoop  
18 two weeks earlier, was selected as the person for  
19 redundancy, compulsory redundancy?

20 A. I think what happened was, Independent News & Media was 14:12  
21 going through a pretty tricky time. We were having to  
22 sell off our assets in South Africa. The chief  
23 executive of the company, Mr. Vincent Crowley, wrote to  
24 all staff members saying that there would be a round of  
25 redundancies, we had to tackle the cost base and that 14:12  
26 there would be redundancies.

27 421 Q. Yes.

28 A. In effect then what happened was, there were 43  
29 redundancies, 29 of them in my own editorial

1 department. Hard decisions had to be made. The Human  
2 Resources department were involved. Human Resources  
3 would have come to me with, having done analysis of the  
4 various departments, who they thought, you know, should  
5 probably be voluntarily made redundant -- or be made 14:13  
6 redundant.

7 422 Q. And a number of people took voluntary redundant [sic],  
8 but only one journalist was made compulsory redundant?

9 A. Yes.

10 423 Q. And that was a journalist who had been in Independent 14:13  
11 News & Media for 17 years, full-time employment?

12 A. Well, I suppose what happened was, Gemma was working in  
13 the features department, she was the travel editor of  
14 the Irish Independent. We had to prioritise, you know,  
15 how the company should evolve. What was clearly 14:13

16 necessary was, the company would have to pivot towards  
17 being a digital entity. We had very much been left  
18 behind by our competitors, and it was important that  
19 we, sort of, pivot all our resources into a central  
20 content hub that was digitally -- where digital was at 14:13

21 its very heart. So that meant hard decisions had to be  
22 made involving all the titles, that was the Irish  
23 Independent, Herald and Sunday Independent at the time,  
24 and we had to put all resources behind independent.ie.  
25 So I think the hard decision was, did we have -- could 14:14  
26 we keep on a full-time slow journalism features writer  
27 and travel editor, and I think the decision was made we  
28 couldn't, and that's why we said that's a role that  
29 should probably be outsourced.

1 424 Q. I see. And that in circumstances whereby Ms. O'Doherty  
2 had a break on the 11th April, which was published a  
3 week later, and that's slow journalism, is it?  
4 A. Well, 'slow' is, you know, feature writing, slow  
5 feature writing. 14:14  
6 425 Q. This wasn't feature; this was investigative journalism  
7 that she also --  
8 A. Yes.  
9 426 Q. Isn't that correct?  
10 A. In this case. 14:14  
11 427 Q. She was doing two sides. And, in fact, having made her  
12 compulsory redundant, she was, in fact, offered the  
13 role of travel writer on a freelance basis, isn't that  
14 correct?  
15 A. That's what I said, yes. 14:15  
16 428 Q. But not news?  
17 A. Well, she could have contributed in news if she wanted  
18 to. That would have been on top of what she would have  
19 earned as freelance travel editor.  
20 429 Q. She was told she would have to go through Dave Taylor 14:15  
21 in relation to this story, isn't that correct?  
22 A. She was told -- well, I think as regards door-stepping  
23 the Commissioner, she was told to go through the  
24 phases, so that, you know, before you actually go to  
25 the Commissioner's house and at 10pm, you actually ring 14:15  
26 the Press Office first, or, dare I say, go to Tom  
27 Brady, security editor, and confirm that was the  
28 Commissioner's address.  
29 430 Q. And this is the same Tom Brady who apparently was aware

1 in 2012 and 2013 of the allegations against Sergeant  
2 McCabe, isn't that correct?

3 A. I've no idea.

4 431 Q. In his own statement?

5 A. I have no idea. 14:15

6 432 Q. The situation is that the compulsory redundancy of  
7 Ms. O'Doherty was the subject of an unfair dismissals  
8 action, isn't that correct?

9 A. Yes.

10 433 Q. Also what was said about her actions on the night were 14:16  
11 the subject of a defamation action, isn't that correct?

12 A. Yes.

13 434 Q. And Independent News & Media settled both of those  
14 actions, isn't that correct?

15 A. Yes. 14:16

16 435 Q. And published an apology?

17 A. It published an apology. Independent News & Media --

18 436 Q. Well, sorry, an apology in court -- had an apology read  
19 out in court?

20 A. That's right. 14:16

21 437 Q. Accepting that she had done nothing wrong?

22 A. Em, I'm not clear on what -- but it was something like  
23 that.

24 438 Q. There is just one other question, which is that the  
25 meeting in Harcourt Terrace, Michael Denieffe was one 14:16  
26 of the people there. Who was the other editorial  
27 member?

28 A. I can't recall.

29 MR. HARTY: Thank you very much.

1 A. Thank you.

2 MR. LEHANE: Mr. Chairman, I appear on behalf of Anne  
3 Harris. I have just one question for this witness, if  
4 that's okay.

5 CHAIRMAN: Yes, please, Mr. Lehane. 14:17

6

7 THE WITNESS WAS CROSS-EXAMINED BY MR. LEHANE:

8

9 439 Q. MR. LEHANE: Mr. Rae, I am down here at the back. My  
10 name is Darren Lehane, and I appear on behalf of Anne 14:17  
11 Harris. When Ms. Harris was here, she was asked a  
12 number of questions about her relationship with  
13 Independent News & Media, particularly after she left,  
14 and I just want to clarify one thing with you.

15 Ms. Harris instructs me that after she left INM, she 14:17  
16 had attended a lunch with you and that following that  
17 lunch you suggested that she might like to work in a  
18 variety of consultancy jobs with INM advising as an  
19 editorial consultant on certain issues, is that  
20 correct? 14:17

21 A. Yes, that's correct.

22 MR. LEHANE: Thank you very much.

23 CHAIRMAN: Mr. Lehane, just help me on this. Where  
24 does it fit into the jigsaw? If I am to take something  
25 out of it, what is it? 14:17

26 MR. LEHANE: Sorry, Mr. Chairman, I probably should  
27 have prefaced my remarks.

28 CHAIRMAN: No, it helps, but I'm just a wee bit lost.

29 MR. LEHANE: Yes. Ms. Harris was cross-examined on the

1 basis that she was motivated by a grudge in the  
2 evidence that she gave here as a result of her  
3 relations with her former employer, and I just wanted  
4 to clarify with this witness what she had instructed  
5 me; namely, that when she left, that she left -- that 14:18  
6 she was offered a series of jobs that she basically  
7 didn't leave on bad terms.

8 CHAIRMAN: She left in good standing --

9 MR. LEHANE: Yes.

10 CHAIRMAN: -- and remained as a valuable contributor,  
11 would that be fair to say? 14:18

12 A. Well, I certainly offered her a contract as a mentor  
13 for young journalists and for some of our young  
14 managers.

15 CHAIRMAN: Yes. So you had good time for her? 14:18

16 A. Yes.

17 CHAIRMAN: I understand. Mr. Ó Muircheartaigh?

18 MR. Ó MUI RCHEARTAIGH: No questions, Chairman.

19 MR. MÍCHEÁL O' HIGGINS: No questions.

20 MR. FANNING: Just a few short matters, Chairman, that  
21 I might put to Mr. Rae in light of questions put by  
22 Mr. Harty. 14:19

23  
24 THE WITNESS WAS EXAMINED BY MR. FANNING:

25 14:19  
26 440 Q. MR. FANNING: The record of your engagement with Gemma  
27 O'Doherty in the week after the incident that occurred  
28 at former Commissioner Callinan's house is recorded in  
29 three emails that I just want to put to you very

1 briefly because I think they were put to Ms. O'Doherty  
2 and I just want to give you an opportunity to comment  
3 upon them, Mr. Rae. The first is, I believe, at page  
4 7450, and it's an email from you to Ms. O'Doherty at  
5 six minutes past one on the 12th April. It begins:

14:19

6  
7 "Thanks for your note below."

8  
9 And her note, just to put this in context, her note  
10 came to you at five minutes past noon, saying:

14:19

11  
12 "Stephen, just so as you are correctly informed about  
13 the events of yesterday."

14  
15 And she set out in her note her description of what  
16 occurred at the doorstep with Commissioner Callinan's  
17 wife. But it's your response I want to focus on, which  
18 is lunchtime the day after the incident. She emails  
19 you at five past twelve. You reply to her almost  
20 exactly an hour later:

14:20

14:20

21  
22 "Gemma, thanks for your note below. I do, however,  
23 need to set out a number of clear guidelines. All news  
24 stories that any journalist is working on require to be  
25 coordinated with the news executive or senior manager.  
26 Where approaches are made to individuals, particularly  
27 door-steps, these also must be cleared and  
28 coordinated with the news desk. Moreover, where a  
29 reporter is approaching a prominent official, it is

14:20

1 even more of a priority to coordinate and clear it with  
2 the news desk. Irrespective of the merits of a story,  
3 I cannot have journalists operating outside the  
4 accepted news management chain. As you know, we are  
5 all motivated journalists who delight in generating 14:20  
6 exclusive stories. Nonetheless, we all have to operate  
7 within the news structure that is in place and that  
8 means operating to the news desk or the editor. I have  
9 no problem with holding prominent people to account,  
10 but that clearly has to be done within the guidelines 14:21  
11 outlined above.

12  
13 I hope this clarifies the matter. I also believe that  
14 a debrief with the operations editor and managing  
15 editor is in order in this case. 14:21

16  
17 Sincerely,  
18 Stephen Rae."

19  
20 Now, Mr. Rae, that is obviously your email, it speaks 14:21  
21 for itself. When Ms. O'Doherty was in the witness-box,  
22 I put it to her that that was indicative of a measured  
23 and temperate response to her calling unannounced at  
24 the Commissioner's house and that it was to be  
25 contrasted with a picture that she was seeking to 14:21  
26 portray of the newspaper coming down upon her like a  
27 ton of bricks. Do you want to make a comment in light  
28 of the content of your own email?

29 A. I think so. I just thought, you know, it's important



1 to reiterate there is a news management structure and  
2 people need to operate within that structure. I think  
3 it is important to say that, you know, we, for the most  
4 part, had an adversarial relationship with An Garda  
5 Síochána. There wasn't a moment when -- or a week that 14:22  
6 would pass by that they weren't on complaining about  
7 this, that or the other. And I have to say, it wasn't  
8 just the police that were complaining; you'd have  
9 political parties, government officials, State bodies,  
10 companies. So, you know, our job was to report 14:22  
11 objectively, dispassionately and disinterestedly on  
12 current affairs and news. I think I myself was  
13 black-listed on one or two occasions by the Garda Press  
14 Office, some of our crime reporters would have been,  
15 you know, so our relationship was an adversarial 14:22  
16 relationship for the most part with the police. So  
17 what I would say is, you know, where we were doing a  
18 big story like this, and it was a big story, and it was  
19 big enough to put on page 1, it was important that we  
20 did it in the right way and that all our reporters were 14:22  
21 clear in how to conduct themselves, and that was the  
22 reason for the memo. And, yeah, I think it was written  
23 in a courteous manner and it was received in a  
24 courteous manner.

25 441 Q. All right. And just an email four days later, just to 14:22  
26 look at it, just to give the Tribunal a sense of your  
27 personal relationship with Ms. O'Doherty around this  
28 time. At 7454 she sends you an email four days later,  
29 on the 16th April, and at one level it's apropos

1 nothing, but just the first two lines of her email:

2

3 "Stephen, I have been approached by the country's  
4 leading cancer specialist, Professor John Reynolds, to  
5 join a dissemination for the Irish Cancer Society."

14:23

6

7 And she sets out a little bit about the role, the time  
8 commitment, and then she asks:

9

10 "Would you mind letting me know if I have your  
11 permission to join the board."

14:23

12

13 She sends you that email at 12:50 on the 16th April.  
14 And just scrolling up to your response, at the top of  
15 the page. I think twelve minutes later you respond by  
16 saying:

14:23

17

18 "Gemma, I have no problem with you joining such a  
19 laudable board."

20

14:24

21 So four days later you are having, as can be seen  
22 there, a courteous email exchange, and she has no  
23 difficulty in coming to you, is that so?

24 A. That's correct.

25 442 Q. And just finally then, one further email I'd like you  
26 to look at, just to give the Tribunal a picture of your  
27 relationship with Ms. O'Doherty at the time, is the  
28 email at 7457, and this is an email from you confirming  
29 the intended publication of the story on the 18th April

14:24

1 at nine minutes to six:

2  
3 "Gemma, just to reiterate it's a cracking yarn, no  
4 doubt. I just want to give it the best show on our  
5 biggest circulation day. I hope you understand this, 14:24  
6 and please convey this to your source. Very best, SR."  
7

8 Any comment you want to make in relation to the tone of  
9 that email, Mr. Rae, in terms of how you were dealing  
10 with Ms. O'Doherty in the week after she had attended 14:24  
11 at Commissioner Callinan's door?

12 A. No, it's just the importance of having, you know, a  
13 professional news management system in place, albeit,  
14 in this case, this was a very good story, I remained  
15 courteous and I received courteous emails from Gemma 14:25  
16 and we did realise the import of the story and that is  
17 why we put it on page 1. I wanted to put it on page 1  
18 of the Saturday edition, which was our greatest  
19 circulation day, but Gemma said she was coming under  
20 pressure from her source to do it earlier, so that is 14:25  
21 why we published on Friday, which, albeit is a big  
22 circulation day, it's not as big as Saturday, which is  
23 our biggest, by far, circulation day in the Irish  
24 Independent.

25 MR. FANNING: Thank you, Chairman. 14:25

26 CHAIRMAN: Yes, I'm just a wee bit confused now as to  
27 what I am to make of all of this. On the one hand I'm  
28 being told that there was a bad relationship, on the  
29 other hand I'm being told it is more or less

1 love-bombing. Even if it something in between or one  
2 extreme or the other, how does any of this assist me in  
3 determining whether the Garda Commissioner engaged in a  
4 campaign to destroy one of his sergeant's characters?  
5 MR. FANNING: well, I am very glad you've asked me that 14:26  
6 question, Chairman, because it gives me an opportunity  
7 to explain where I think this fits in, and the answer  
8 is, not at all. Ms. O'Doherty, unfortunately, in her  
9 evidence and through her counsel, is seeking to make a  
10 case in this Tribunal that her termination of her 14:26  
11 employment within Independent News & Media is in some  
12 way related to the fact that she called at Commissioner  
13 Callinan's house and that the reaction in the newspaper  
14 to that was such that it influenced the decision to  
15 dismiss her. In response, we say a couple of things. 14:26  
16 Firstly, she entered into a settlement which is  
17 confidential in its terms in respect of her claim that  
18 she was unfairly dismissed. But insofar as the  
19 Tribunal can look at objective evidence of what the  
20 response was internally in the newspaper to the 14:26  
21 incident, the emails that are contemporaneous, and  
22 we've just looked at three of them, in the week after  
23 the incident, don't point the newspaper coming down on  
24 Ms. O'Doherty like a ton of bricks. They are very mild  
25 and restrained insofar as she is chastised for 14:27  
26 breaching protocol. And ultimately, as Mr. Rae says,  
27 and the Tribunal has seen the article, the article was  
28 published on the front page approximately a week later.  
29 CHAIRMAN: Yes. I take it, Mr. Harty, your case is

1 that this is some kind of an exercise of Garda power,  
2 is that fair enough?

3 MR. HARTY: That is precisely the case and that was  
4 precisely the basis of the action, they were brought in  
5 relation to unfair dismissal and defamation, which were 14:27  
6 settled.

7 MR. FANNING: The difficulty with that, Chairman, just  
8 to respond to Mr. Harty, is that there is not a whit of  
9 evidence been given by any witness that Ms. O'Doherty's  
10 dismissal had anything to do with any members of An 14:27  
11 Garda Síochána.

12 CHAIRMAN: well, I am asked to put things together.  
13 But, I mean, the plain reality is, Ms. O'Doherty was  
14 called, and, at the end of the day, I make a decision  
15 as to who is called or not, so if it doesn't turn out 14:28  
16 to be germane, well there's a lot of things in court  
17 cases that don't turn out to be germane, but I am  
18 making no decision for the moment. Thank you for your  
19 submissions.

20 MR. HARTY: May it please you, Chairman. 14:28

21 MR. FANNING: Thank you, Chairman.

22 MR. MARRINAN: Thank you very much.

23 A. Thank you.

24  
25 THE WITNESS THEN WITHDREW 14:28

26  
27 MR. McGUINESS: If Mr. Reynolds could come back to the  
28 witness-box, please.

1 MR. PAUL REYNOLDS CONTINUED TO BE DIRECTLY EXAMINED BY

2 MS. LEADER:

3  
4 443 Q. MS. LEADER: Now, just before lunch we were going  
5 through the notes you made in relation to the O'Higgins 14:29  
6 report and we were at page -- if we just start again at  
7 page 5905, at the bottom of the page, please. And you  
8 will see there, I highlighted it earlier on when we  
9 were dealing with the reference to the lie, but just  
10 you see it there in context. 14:29

11  
12 "Truthful to the Commission in his evidence - He lied  
13 to a senior officer (lied)."

14  
15 And you have already set out your position on that. 14:29  
16 And if we just generally go through these notes. 5906,  
17 again this was:

18  
19 "No evidence supervision Noel Cunningham. False report  
20 to Super. Reported to GSOC and hadn't found false 14:30  
21 report, untruth."

22  
23 That's that there. And then the reference to there  
24 being "No inspector in Bailieboro - if there was -  
25 problem." 14:30

26  
27 And you've a paragraph number 14.35.

28 A. "If there was - probably."

29 444 Q. Sorry?

1 A. "If there was - probably".

2 445 Q. "If there was - probably"?

3 A. I think "probably" is the word from the O'Higgins  
4 Commission report.

5 446 Q. Yes. O'Higgins, yes. And then there is reference to 14:30  
6 paragraph 14.35 in the O'Higgins report. If we just go  
7 to 5907.  
8  
9 "07/08 Investigated."

10 14:30  
11 what do you think that is a reference to?

12 A. I think it is possibly a reference to Byrne/McGinn, is  
13 it? I'm not 100 percent sure, but that the  
14 allegations -- again, you know, jotting things down.

15 447 Q. All right. So it refers to Sergeant McCabe's 14:30  
16 complaints being investigated, you think, is that  
17 right?

18 A. I think it does, yeah.

19 448 Q. All right. And then we have:  
20 14:31  
21 "2012 exaggerated" -- crossed out "beefed" -- "up the  
22 allegations. If there was anything in this - would he  
23 be supporting Micheál Martin for Taoiseach?"  
24  
25 I wonder if you could help me there, the reference to 14:31  
26 that.

27 A. You might have me there now, into politics. I'm trying  
28 to think who was -- yeah, who was supporting Micheál  
29 Martin for Taoiseach at the time.

1 449 Q. All right.

2 A. It's probably something, again, that I jotted down, you  
3 know -- it's probably a reference to some politician,  
4 but I'm trying to think.

5 450 Q. Yes. It isn't from the report, in any event? 14:31

6 A. No, no, no, no, I don't think it is. No, it isn't.  
7 And "waving at the Taoiseach" isn't. I think that is a  
8 reference to a Dáil hearing, where the papers were  
9 waved at the Taoiseach or perhaps Micheál Martin had  
10 the dossier and he waived it at the Taoiseach in the 14:32  
11 Dáil.

12 451 Q. You think?

13 A. That is what it seems to be to me.

14 452 Q. You see there "end - justification", does that make any  
15 sense to you? 14:32

16 A. It may mean that it was justified in the end, his  
17 complaints were justified at the end.

18 453 Q. All right.

19 A. You know, at the end, justification for what -- the  
20 complaints, etcetera. 14:32

21 454 Q. All right. And there seems to be a line drawn under  
22 that. Do we go to a new section then?

23 A. Yeah, yeah, it's just -- it's all a stream of  
24 consciousness.

25 455 Q. Then we go to the word "unacceptable". I don't know if 14:32  
26 you can think now --

27 A. It could, again, relate to the word from the O'Higgins  
28 Commission report in relation to the lie or the  
29 untruth.



1 456 Q. And we go to page 5908, here we have:  
2  
3 "Pattern - badly investig (investigated).  
4 Inexperienced Gardaí. Poor supervision. Falsely  
5 claimed they had." 14:33  
6 A. Mm-hmm.  
7 457 Q. I wonder could you help us with regard to --  
8 A. Yeah, well, I would believe it would relate to the fact  
9 that these investigations were all badly investigated,  
10 that there was inexperienced Gardaí and that management 14:33  
11 was very poor because the inexperienced Gardaí weren't  
12 being supervised.  
13 458 Q. All right. And then if we could turn to 5909, it's  
14 page 12 of your notes.  
15 A. Yeah. 14:33  
16 459 Q. It refers to -- now, I just want to ask you about the  
17 way these notes are laid out. Are they a rolling  
18 record of what -- your work at the time? Do they  
19 follow each other chronologically?  
20 A. No, that is what I am saying to you. I had -- I 14:33  
21 submitted various copies of notes to the Tribunal.  
22 460 Q. Yes.  
23 A. And they are written -- I mean, as I said, the real  
24 notes are the ones that were done on the computer.  
25 Obviously the -- 14:34  
26 461 Q. The emails to yourself?  
27 A. Well, the emails to myself and the drafts and the  
28 writing up and all that sort of stuff, yeah. These are  
29 jotting down, you know, things coming in, things coming

1 out. I think it is very clear what that is.

2 462 Q. Yes.

3 A. That is the call to Maurice McCabe.

4 463 Q. All right.

5 A. And that is the time of the call, that is the date of 14:34  
6 the call, that is no reply, left a message, told him  
7 I'm doing a report, it's going out tomorrow. If he'd  
8 like to call me back, good.

9 464 Q. All right. And these notes are in no particular order  
10 at all, am I correct? 14:34

11 A. No. But that is clearly --

12 465 Q. It refers to that?

13 A. That is very clear.

14 466 Q. Yes. All right.

15 A. I mean, the other stuff wasn't as important, but this 14:34  
16 was.

17 467 Q. All right. Okay. Then you see underneath that there  
18 is a list:

19

20 "No evidence of corruption or criminality, MC." 14:34  
21

22 That is Martin Callinan?

23 A. Yeah. Derek Byrne.

24 468 Q. "DB, Chief Superintendent Rooney, Chief Superintendent  
25 Clancy, Noel Cunningham." 14:34  
26

27 And then you refer to the "Statement in chapter 3, no  
28 evidence. 3.3 exaggeration. GC - Justice (not sure of  
29 2 other words)."

1           That is I think -- couldn't be -- your handwriting --  
2           A.    I couldn't even read my own handwriting.  
3 469 Q.    All right.  If we go to the next page, 5910, there's a  
4           reference to the meeting in Hillgrove.  
5           A.    Mm-hmm. 14:35  
6 470 Q.    And that's in relation to the boxes of Pulse records?  
7           A.    Yes.  You can see they're not in any particular order  
8           because the Maurice McCabe phone call, which is the  
9           culmination of the work --  
10 471 Q.    Yes. 14:35  
11          A.    -- in relation to this, so this is obviously other  
12          stuff.  
13 472 Q.    Yes.  Then we see here:  
14  
15          "You're partly responsible - sergeant in charge.  He 14:35  
16          got the extra boxes.  Derek wouldn't let him take the  
17          boxes, concealed evidence, 'gross dereliction of duty'  
18          against Mick Clancy."  
19  
20          Is the source of that the report itself? 14:35  
21          A.    I don't think so, no.  That is a conversation.  Again,  
22          it's just --  
23 473 Q.    Okay.  And then we go down and there's a reference here  
24          to:  
25 14:36  
26          "Initial complaint, 2 [guards] working --"  
27  
28          we won't report the rank.  Just two people of equal  
29          rank "working in the same station.  Boss down the

1 corridor asked to investigate it."  
2 I wonder could you tell me --  
3 A. That obviously relates to where I talked about the  
4 investigation earlier.  
5 474 Q. Okay. 14:36  
6 A. So it appears there that I would have -- I must have  
7 known that there was conflict over that. There was two  
8 guards, not one, involved.  
9 475 Q. And presumably -- you say it's "initial complaint"  
10 there. Did you think that was Sergeant McCabe's 14:36  
11 initial complaint?  
12 A. Sorry, can you go back to it?  
13 476 Q. Yes. If you scroll up, please, Mr. Kavanagh. "Initial  
14 complaint".  
15 A. Possibly, yeah, possibly, could be. 14:36  
16 477 Q. Could it be anything else?  
17 A. Well, I don't -- no, I don't think so.  
18 478 Q. Yes.  
19 A. I mean --  
20 479 Q. All right. 14:36  
21 A. Yeah.  
22 480 Q. What I want to ask you about there is, what had that  
23 got to do with anything and where did it come from?  
24 A. Yeah, I don't know where it came from. It could have  
25 come from a conversation. But I couldn't put a time on 14:37  
26 it.  
27 481 Q. All right. And --  
28 A. It goes back to --  
29 482 Q. -- what relevance did it have to the O'Higgins

1 Commission report? It's nowhere referred to in it?

2 A. No, no, it's not.

3 483 Q. And at that stage --

4 A. And it wasn't used in the reports, either.

5 484 Q. Yes. So what relevance does it have to your work in 14:37  
6 relation to the O'Higgins Commission report?

7 A. It has no relevance.

8 485 Q. Yes. So I suppose what I am saying to you,  
9 Mr. Reynolds, is, did somebody else think it was  
10 relevant and was somebody else pointing you in that 14:37  
11 direction for it to appear in your notes which you were  
12 putting together in advance of preparing a broadcast on  
13 the 9th May?

14 A. No, I don't think so. I think it goes back to the  
15 point I was making in relation to general conversations 14:38  
16 about the situation, the wider situation in Bailieboro  
17 and policing. You know, if I had been talking to  
18 people, you would talk about a wide range of subjects.  
19 You don't ring up and I specifically want you to tell  
20 me about this or that or the other. You have a 14:38  
21 conversation with people, other issues come in and out,  
22 you jot down as you're listening.

23 486 Q. I suppose that's the point really, that somebody else  
24 is pointing you in that direction?

25 A. No, I mean, I could be asking. 14:38

26 487 Q. Well, were you asking them?

27 A. In relation to?

28 488 Q. The D investigation.

29 A. No. This is more -- not the D investigation. This is

1 the fact that the investigation -- the investigation  
2 was carried out locally.

3 489 Q. Yes.

4 A. And it seems to me to relate back to the fact that  
5 whoever I was talking to didn't seem to think that it 14:38  
6 should have been carried out locally because there were  
7 two [garda colleagues] working in the same station.

8 490 Q. Mm-hmm.

9 A. The boss was down the corridor, he asked who  
10 investigated it. 14:39

11 491 Q. Well, just, I'm not sure if I picked you up correctly,  
12 but you said it wasn't the D investigation, but I think  
13 that does refer to the D investigation, the  
14 investigation?

15 A. Yeah, okay, yeah. 14:39

16 492 Q. Yes, it does. We're agreed on that?

17 A. Yes, okay.

18 493 Q. Yes. So what I am suggesting to you is, somebody is  
19 pointing you in that direction there as --

20 A. Somebody is talking about the D investigation. 14:39

21 494 Q. Yes.

22 A. That it shouldn't have been conducted locally, it  
23 should have been conducted nationally.

24 495 Q. Yes.

25 A. Because of this. 14:39

26 496 Q. And they are doing it in the context of saying that it  
27 was the initial complaint. So words must have meaning.  
28 So what I am asking you is, what does that mean  
29 "initial complaint"?

1 A. I presume it is chronological.

2 497 Q. Yes.

3 A. That there was an initial complaint.

4 498 Q. All right.

5 A. There were two [garda colleagues] working in the same 14:40  
6 station.

7 499 Q. Yes.

8 A. The boss was down the corridor.

9 500 Q. And this is what started the whole thing off in  
10 relation to Sergeant McCabe's complaints? Because 14:40  
11 we're looking at it --

12 A. No, I don't think I would go that far.

13 501 Q. Well, how far? What are you saying?

14 A. What I say is that this was part of the whole  
15 Bailieboro policing thing. 14:40

16 502 Q. All right. Well, maybe if we go to term of reference  
17 (b), I will try and make it clear to you. What we are  
18 looking at is, we are investigating the allegation of  
19 Superintendent David Taylor in his protected disclosure  
20 that he was directed to draw journalists' attention to 14:40  
21 an allegation of criminal misconduct made against  
22 Sergeant McCabe, which would seem to be what we are  
23 talking about here in that page of your notes, and that  
24 that was this -- and that this was the root cause of  
25 his agenda, namely revenge against the Gardaí. So it's 14:41  
26 in front of you, if it helps you.

27 A. No, no, I see it.

28 503 Q. Yes. So what I am saying there is, that's essentially,  
29 and I'm asking you to comment on it, on that note there

1            what it says is, "initial complaint", okay, so that's  
2            how the whole thing started off, am I correct in saying  
3            that?

4            A.    But I don't think that illustrates any revenge.

5    504    Q.    All right. 14:41

6            A.    Or I don't think it illustrates the terms of reference.

7    505    Q.    All right. That's your answer to that question?

8            A.    Yeah.

9    506    Q.    And it in no way relates to why Sergeant McCabe is  
10           making all of these other complaints, some of them 14:41  
11           which, in the O'Higgins report, have been described as  
12           exaggerated or not stood up?

13           A.    No. I mean, I never felt that was the reason why he  
14           was making the complaint.

15    507    Q.    All right. 14:41

16           A.    You're getting information about it, people are telling  
17           you about it. But I never felt that I was being told  
18           that for this particular reason, that this was  
19           connected.

20    508    Q.    Okay. why did you think you were being told about it? 14:42

21           A.    I didn't think about that.

22    509    Q.    You're a journalist; surely, Mr. Reynolds, you would  
23           put -- ask a question, why am I being told about this?

24           A.    No, well, you see, I already knew at that stage that  
25           there was no prosecution. 14:42

26    510    Q.    well, that is exactly the point.

27           A.    Yeah.

28    511    Q.    So why are you being told about it? Did you ever ask  
29           yourself that?



1 A. No.

2 512 Q. Okay. And especially in the context --

3 A. I never was suspicious of the fact that --

4 513 Q. All right. If we go to the next page, at 5911 we see:

5 14:42

6 "He was sergeant in charge at Bailieboro - reporting to

7 the superintendent."

8 A. Mm-hmm.

9 514 Q. Now, is that a reference to Sergeant McCabe again

10 there? 14:43

11 A. Yeah, I think it is, actually, and I think he was

12 reporting to the superintendent, and again we're back

13 to this issue of the complaint being investigated

14 locally.

15 515 Q. Yes. So it again refers to the D -- 14:43

16 A. I think it does, yeah.

17 516 Q. So what had that got to do with anything you were

18 preparing a broadcast on, on the 9th May?

19 A. Nothing.

20 517 Q. Okay. 14:43

21 A. I didn't use it.

22 518 Q. Yes. We know you didn't use it.

23 A. Okay.

24 519 Q. But what I'm asking you is, did you at that stage

25 wonder why you were being told this? 14:43

26 A. No.

27 520 Q. In the context of the O'Higgins Commission reports?

28 A. No. As I said, there were conversations that went all

29 round policing in Bailieboro.

1 521 Q. All right. Well, you said the first time you heard  
2 that was in 2013, it was sometime around the penalty  
3 points?  
4 A. Yeah.

5 522 Q. And you paid no heed to it, so why if, in 2013 you 14:44  
6 heard the reference to the investigation, that nothing  
7 had come of it, and you dismissed it totally, and then  
8 we see a second reference to it, something you have  
9 dismissed totally in your evidence three years earlier,  
10 in your notes which you have given to us, the notes 14:44  
11 that you have put together in putting together the  
12 broadcast of the 9th May 2016, do you see what I mean?  
13 A. I do. But you have to understand, journalists --  
14 journalists gather information. I'm speaking to  
15 somebody, most likely on the phone, I have the phone in 14:44  
16 one hand and I have a pen in the other, and I'm  
17 chatting away and jotting this down and that down and  
18 whatever. You gather all the stuff in, and then at a  
19 later date you go back and look at it and you say, oh,  
20 this is relevant, this is not relevant, and you use or 14:45  
21 not use. I used the analogy this morning of a court  
22 case; you sit and listen to all the information that is  
23 given in court, and then you go outside and you'll  
24 assess it, take it away. But when you're being told  
25 things, you just scribble it all down and then you 14:45  
26 assess its relevance.

27 523 Q. All right. If we just go to 5911, there is a reference  
28 to, just underneath that, "no corruption", and then  
29 "conclusions: role of sergeant in charge, access to

1 psychiatric report". I think that could have referred  
2 to the taxi driver -- the proceedings in court and what  
3 was and wasn't given in relation to the Jerry McGrath  
4 case --

5 A. Yes.

14:45

6 524 Q. -- is that correct? Yes. And then there's a list  
7 there:

8  
9 "Confidential reporter, Chief Superintendent Rooney,  
10 sergeant in charge - role."

14:46

11  
12 And then we go to the next page. You've highlighted  
13 paragraph 3.19:

14  
15 "It would be quite wrong and unfair to suggest that  
16 Sergeant McCabe's complaints were not taken seriously  
17 or were brushed aside."

14:46

18  
19 And then there's a reference to the interviews in  
20 Byrne/McGinn. If we go to the next page, 5913, there's  
21 a reference to Chief Superintendent McGinn's dealings  
22 with Sergeant McCabe, and then you've picked out a  
23 paragraph, 3.16 at chapter 3 in the report:

14:46

24  
25 "'Sergeant McCabe has made many complaints against  
26 Superintendent Clancy which have been rejected by this  
27 Commission'."

14:46

28  
29 Then we go to page 5914, we go to the Martin Callinan

1 matters, and the complaint of corruption, and you've  
2 highlighted paragraph 3.6 in relation to the people  
3 living under the stress of the allegations. Then at  
4 5915 there's reference to particular pages in the  
5 report and quotes pulled out from it, isn't that right? 14:47

6 A. Mm-hmm.

7 525 Q. 5916, again references to particular paragraphs in the  
8 report. If we go to 5917, you have particular  
9 paragraphs noted. And we just see there paragraph  
10 10.86, the reference to the lie there, which it's the 14:47  
11 untruth, where it appears in Mr. Justice O'Higgins'  
12 report. Just at 5918, a reference to --

13 A. You went by the one that said "dedicated".

14 526 Q. I'm sorry, highlight --

15 A. I know, but, I mean, to be fair -- 14:48

16 527 Q. Yes. No, that's fine.

17 A. You know what I mean? I did note that as well, so --

18 528 Q. Yes. Sp that's at paragraph 3.1 --

19 A. Yeah.

20 529 Q. -- "dedicated". I don't know if there is anything else 14:48  
21 you want to --

22 A. All I'm saying is that these are a selection of  
23 handwritten notes. There are also email notes. You  
24 have to look at the whole notes together and you also  
25 have to look at the final broadcasts. I mean, I don't 14:48  
26 think it is necessarily fair or representative to  
27 select particular words or two jot-down words and say,  
28 oh, this must illustrate something.

29 530 Q. Yes.

1 A. I don't think that is a fair reflection of my work.  
2 CHAIRMAN: No, but, Mr. Reynolds, I mean, the point is,  
3 I'm not coming in here with a wax tablet that is  
4 unwritten on. I actually know all of this stuff.  
5 A. Yes. 14:48  
6 CHAIRMAN: Looked at all of this stuff, you're being  
7 asked publicly and particular things are being  
8 highlighted.  
9 A. Yeah.  
10 CHAIRMAN: I may take a different view. For instance, 14:48  
11 that I always thought if you put urine in a bottle  
12 that's intended to be used as vinegar, that is a  
13 noxious substance, that is poison.  
14 A. Yeah.  
15 CHAIRMAN: But, I mean, you may take a different view, 14:49  
16 that is fine.  
17 A. No, I didn't take -- I just took Justice O'Higgins'  
18 view, you know.  
19 CHAIRMAN: well...  
20 A. I can't have an opinion on this in public, I can't give 14:49  
21 a view.  
22 CHAIRMAN: No, no. No, I think we're going off the  
23 point.  
24 A. Okay.  
25 CHAIRMAN: But what I am saying is, Ms. Leader is not 14:49  
26 being unfair. I know about all of this stuff.  
27 A. Okay.  
28 CHAIRMAN: There's this and that and the other. You're  
29 simply being -- if a thorough job isn't done, if you're

1 not asked the questions, well, then, if I reach a  
2 conclusion, whether it is positive or negative, it's  
3 all too easy for some commentator to write a big  
4 pompous column saying you got the following wrong. So  
5 that is why this is being done. 14:49

6 A. They will probably write them anyway.

7 CHAIRMAN: well, I don't mind. That's fine.

8 531 Q. MS. LEADER: Right. If we go to page 5918, there's  
9 reference to particular paragraphs there. And if we  
10 just go to 5919, I think there's notes relating to 14:49  
11 Mr. Clifford's interview on the radio.

12 A. Mm-hmm.

13 532 Q. I think that is what that refers to, which we saw  
14 yesterday.

15 A. Mm-hmm. 14:50

16 533 Q. That is in the Séan O'Rourke show, which was in the  
17 middle of the day. why do you think you made notes in  
18 relation to that?

19 A. Just because there was another -- I beg your pardon --  
20 another perspective. 14:50

21 534 Q. All right.

22 A. So, I mean, we had done our Morning Ireland broadcast,  
23 this was then broadcast. Somebody else had a  
24 completely different perspective on it. I felt I  
25 should be aware of it. 14:50

26 535 Q. All right.

27 CHAIRMAN: And there's another reference to "chips", I  
28 see, and what one might have with them.

29 MS. LEADER: I think we heard what Mr. Clifford was

1 saying at the time on the 9th May in relation to that.  
2 And we just go 5920, there's -- do you know what these  
3 notes refer to?

4  
5 "Chairman rejected garda gave - evidence - computer 14:51  
6 accepts his bona fides."

7  
8 There's a line under that:

9  
10 "Criticism - didn't heed voice of McCabe. Commission. 14:51  
11 1st responded promptly, reasonably and appropriate.  
12 O'Higgins adding? Confidential recipient transcript  
13 and recording - paragraph - accepted - never made any  
14 such threat and comments."

15 A. Does it not relate to the O'Higgins Commission report? 14:51

16 536 Q. In relation to --

17 A. Let me have a look at it again. I'm not sure who  
18 didn't heed the voice of McCabe. I'm trying to think  
19 that one through. I think it's --

20 537 Q. It relates to the report? 14:51

21 A. I think it relates to the report, doesn't it?

22 538 Q. Yes. And then --

23 A. I think it's criticism of the Garda as well.

24 539 Q. Yeah, it could possibly also --

25 A. Yes. I think that is a reference to -- 14:51

26 540 Q. Mr. Lorcan Roche Kelly's interview on RTÉ, it could  
27 possibly refer to that as well?

28 A. "1st responded promptly, reasonably and appropriate."  
29 I think that might refer to Sergeant McCabe.

1 541 Q. Yes.

2 A. Now --

3 542 Q. You're not clear yourself?

4 A. I'm not clear myself, no.

5 543 Q. All right. Page 5921: 14:52

6

7 "My evidence voiceover in 6."

8

9 Is that right?

10 A. Yeah. 14:52

11 544 Q. And then there's a reference to "Cases Crimes - 8

12 failings, McGrath murder and investigation, McCabe's

13 allegation, nos(?) up(?) 5 people."

14 A. Mm-hmm. I think that's just a baseline structure of

15 how we were going to put the television stuff together, 14:52

16 I think. V/O is voiceover, "in 6", for the six

17 o'clock. That we would look at the eight cases,

18 looking at -- the McGrath one we particularly

19 highlight. I think that is reflected in the television

20 bulletins, yeah. 14:52

21 545 Q. Right. Then we have page 5922, some notes you had

22 scribbled together referring to --

23 A. Yeah.

24 546 Q. -- certain paragraph numbers, and again it continues in

25 that. Is there anything you want to bring to my 14:53

26 particular attention?

27 A. I mean, all I'm saying to you is that it again reflects

28 the chaotic nature of my note-taking in the initial

29 stages, that I grab any bit of paper and just scribble



1           it down quick, and just pointers.

2 547 Q.    Yes. Then at the last page of your notes, it's page  
3           5923 of the materials, it refers to the conclusions  
4           chapter.

5           A.    Yes. 14:53

6 548 Q.    "Conditions at Bailieboro deplorable. Not the cause of  
7           deficiencies of personnel."

8

9           Then particular paragraph 13.176 in relation the desire  
10          to have the complaints examined by the Minister. 14:53

11

12          "There was an allegation of corruption.

13

14          No evidence to support this hurtful allegation.

15 14:54

16          13.178 'The Ministers request for a Report from the  
17          Commissioner arising out of the complaint in January  
18          '12 - was entirely reasonable and appropriate. In  
19          seeking that report the Minister was not asking the  
20          Commissioner to investigate himself'." 14:54

21

22          And that refers to the previous Minister, Minister  
23          Shatter.

24          A.    Yeah. I think you can see again, not everything in all  
25          of those notes appeared in the final broadcast. But I 14:54  
26          think it illustrates that I did go, I read 11 of the  
27          chapters, I jotted down bits where I could.

28 549 Q.    Yes. Now, in relation to the chapters, you didn't --  
29          if you could just assist me in why you picked out

1 certain chapters and your thinking along those lines?

2 A. Well, I think the only one that I left out was the  
3 Pulse chapter.

4 550 Q. Yes.

5 A. And I thought -- it just seemed to me that it would be 14:54  
6 very complicated. I'm sure there were a lot of  
7 findings in it, but within the timescale, within what I  
8 had to report, it looked to me like it could be a  
9 standalone chapter in relation to the Pulse and the  
10 technology. And I suppose looking at it afterwards, I 14:55  
11 was sorry I didn't do it on the Tuesday because I think  
12 on the Wednesday morning The Irish Times spotted it and  
13 The Irish Times did a story and got good headlines out  
14 of it for their edition on the Wednesday. And then the  
15 report was published on that day. So it wasn't for any 14:55  
16 particular reason. I felt the eight criminal  
17 investigations and the failings of the Gardaí had to be  
18 done. I felt that the corruption allegations were  
19 crucial, they had to be covered, and I tried to put in  
20 as much as I could. So if I was to leave anything out, 14:55  
21 I think, for neatness' sake, I just said the Pulse  
22 chapter.

23 551 Q. All right. Now, if I could go back to the term of  
24 reference again and we will just put it up again:

25 14:55  
26 "To investigate whether Commissioner O'Sullivan, using  
27 briefing material prepared in Garda Headquarters,  
28 influenced, or attempted to influence, broadcasts  
29 purporting to be a leaked account of the unpublished

1 O' Higgins Commission report in which Sergeant McCabe  
2 was branded a liar and irresponsible."

3  
4 Now, we have seen in your notes that material did creep  
5 into them about the D investigation and it being the 14:56  
6 matter which started all of this, which seems to be  
7 what the negative briefing Superintendent Taylor was  
8 trying to convey to -- what he says he was trying to  
9 convey to journalists was all about. Okay. And if we  
10 look at Sergeant McCabe's protected disclosure, it's at 14:56  
11 page 244 of the materials. 244, yes. This is back in  
12 September 2016. Sergeant McCabe explains that he is  
13 out on work-related stress leave, and:

14  
15 "One of the reasons for this is to a disgraceful series 14:57  
16 of broadcasts on RTÉ on 9th May 2016 purporting to leak  
17 an account of the unpublished O' Higgins Commission  
18 report in which I was branded a liar and irresponsible.  
19 I am now satisfied on impeccable authority that those  
20 RTÉ broadcasts were planned and orchestrated by the 14:57  
21 Commissioner Nóirín O'Sullivan personally using  
22 briefing material prepared at Garda Headquarters."

23  
24 Now, if I can just go through that. It would appear  
25 from evidence given that Sergeant McCabe thinks his 14:57  
26 authority is Mr. Barrett of the Garda Human Resource  
27 Section, where he is said to have made a comment to  
28 Sergeant McCabe that that would have been Block 1, the  
29 broadcasts on the 9th May, which we understand to be a

1 reference to the Commissioner's block in Garda  
2 Headquarters, something which is disputed by  
3 Mr. Barrett, that he never said. But what I am asking  
4 you now, Mr. Reynolds, is: First of all, we all agree  
5 that there is no reference to the D allegations in the 14:58  
6 O'Higgins report, isn't that right?

7 A. That's correct.

8 552 Q. They, for some reason, come into your notes where you  
9 are preparing your broadcasts on the 9th May, for the  
10 9th May 2016, that's right? 14:58

11 A. But there's no reference to them in the broadcasts.

12 553 Q. Not in your broadcasts. They come into your notes.

13 A. So they're not in the report and they're not in the  
14 broadcasts.

15 554 Q. Yes. They're in your notes. 14:58

16 A. There's a reference to the facts.

17 555 Q. Yes.

18 A. To some of the facts surrounding that allegation, yes.  
19 They are facts.

20 556 Q. Yes. 14:59

21 A. So I don't necessarily see facts as negative briefing -  
22 in fact, I don't. I don't see how the facts can be  
23 construed as negative briefing. People are telling me  
24 what the facts were surrounding the issue at the time.

25 557 Q. So they are there. Somebody has brought them to your 14:59  
26 attention?

27 A. Sure. Somebody had brought facts to my attention.

28 558 Q. Yes. In the context of, and correct if I am wrong, you  
29 preparing to do a report or a story, if I can -- a

1 report/story on the O'Higgins Commission report?

2 A. I don't think anybody deliberately brought -- nobody,  
3 in fact -- I'm sure nobody deliberately brought them to  
4 my attention. They came to me in the course of a  
5 conversation in relation to the issues and the problems 14:59  
6 surrounding policing in Bailieboro.

7 559 Q. Okay. And you, for whatever reason, didn't ask the  
8 person who brought them to your attention why they were  
9 doing that, is that my understanding of your evidence?

10 A. Yeah. This was a conversation, I listened to what I 15:00  
11 was being told, I took a note of it and excluded it,  
12 but these were facts in relation -- surrounding the  
13 allegation.

14 560 Q. All right.

15 A. But they had no bearing on the broadcasts. And the 15:00  
16 only thing I was interested in in relation to the  
17 broadcasts was the report and, as you can see, I have  
18 comprehensive notes in relation to the broadcasts, and  
19 many things that I wrote in those notes did not appear  
20 in the final broadcasts and did not influence me in any 15:00  
21 way in the final broadcasts.

22 561 Q. Okay. And just for completeness' sake, was  
23 Commissioner O'Sullivan the source of that information?

24 A. No.

25 562 Q. Okay. Now, you know Commissioner O'Sullivan, and have 15:00  
26 known her for a period of time, you came up through the  
27 ranks together; I think that is the phrase that is  
28 being used at the moment?

29 A. Yeah.

1 563 Q. Yes. And her phone shows that she was in text contact  
2 with you and phoning you at least in September 2016,  
3 October 2016 and February 2017, they are redacted --  
4 A. This is all after the publication of these reports?  
5 564 Q. Yes. Well, you appreciate we only have certain phones 15:01  
6 from the former Commissioner, and one of them covers a  
7 time period starting, I think, in April, later on in  
8 April 2016, yes. And those texts have been redacted  
9 from the material that is distributed by the Tribunal.  
10 But those texts show that you were on friendly, 15:01  
11 personable terms, and I don't think you -- yourself or  
12 Commissioner O'Sullivan have never said anything but  
13 that, isn't that right?  
14 A. We had, as I said, with all people, I tend to have a  
15 professional but personable relationship. 15:02  
16 565 Q. Okay. But you knew Commissioner O'Sullivan?  
17 A. Well, of course I knew her. I interviewed her plenty  
18 of times.  
19 566 Q. Yes. So I am asking you, in view of all of that, did  
20 that relationship in any way, did she use that 15:02  
21 relationship in any way to --  
22 A. No.  
23 567 Q. -- influence you in your broadcast --  
24 A. No.  
25 568 Q. -- of the 9th May? 15:02  
26 A. No.  
27 569 Q. All right.  
28 A. I think that is clear from, you know, the material.  
29 570 Q. And just in relation to the reports themselves, insofar

1 as they show that, they highlight, and I hope I am not  
2 being unfair to you there, but highlight that Sergeant  
3 McCabe's complaints in relation to corruption, if we  
4 take the one on the -- the second one on the radio in  
5 relation to the senior officers, highlight that nothing 15:03  
6 came of those complaints, and you point out in the  
7 morning broadcast, that on many occasions he was not  
8 correct in what he said?

9 A. And I also point out where he was correct.

10 571 Q. Yes. And you stand by that. But I am saying in so 15:03  
11 doing, it might, in some people's eyes, support the  
12 proposition that you were being sympathetic to a Garda  
13 point of view that, as Superintendent Taylor has put it  
14 forward, that Sergeant McCabe was somehow embittered  
15 because of the D investigation back in 2007 and that he 15:03  
16 had an agenda with the guards and this is why he was  
17 complaining?

18 A. Well, all sorts of people have all sorts of opinions  
19 about my work and they have all sorts of opinions about  
20 me. I can only present the facts, I can only stand 15:04  
21 over the facts and I only report the facts.

22 MS. LEADER: If you would answer any questions anybody  
23 else might have for you.

24  
25 THE WITNESS WAS CROSS-EXAMINED BY MR. McDOWELL: 15:04  
26

27 572 Q. MR. McDOWELL: Michael McDowell, and I'm appearing, as  
28 you know, for Sergeant McCabe. Could I ask you at the  
29 outset to clarify some of the evidence you've given to

1 the Tribunal here today. At what point did you first  
2 become aware that Sergeant McCabe was the subject of an  
3 allegation, an historical allegation, of sexual abuse  
4 against a minor?

5 A. I believe it was 2013, as I gave in my evidence. I 15:04  
6 believe it was 2013. I believe I heard it, that there  
7 was an allegation made, that it was investigated, file  
8 was sent to the DPP and there was no prosecution.

9 573 Q. I see. And at what point did you become aware that it  
10 was alleged that the minor in question was the child of 15:05  
11 a colleague in An Garda Síochána?

12 A. I'm not sure of that, to be honest with you. But it  
13 seems that I must have been aware when it shows up in  
14 my notes in 2016, and it could have been even at that  
15 point when I learnt it. 15:05

16 574 Q. So do you think in 2013 you were acquainted with the  
17 fact or -- that the allegation suggested that Sergeant  
18 McCabe had sexually assaulted the child of a colleague?

19 A. Honestly, I don't know. I don't think so. But I  
20 didn't really -- I didn't focus on this allegation at 15:05  
21 all.

22 575 Q. I see.

23 A. Once I heard the DPP, that was it.

24 576 Q. I see. And I take it then from that, that you had put  
25 the matter largely out of your mind once you heard that 15:06  
26 the Director of Public Prosecutions had directed no  
27 prosecution, is that right?

28 A. Yeah.

29 577 Q. So in all of your dealings with members of An Garda



1 Síochána in relation to Sergeant McCabe and the penalty  
2 points story which you were covering, are you saying  
3 that nobody ever mentioned to you the earlier  
4 allegations of sexual misconduct against Sergeant  
5 McCabe? 15:07

6 A. I don't think so. I only covered, as I've said, the  
7 penalty points story in relation to official reports or  
8 publications.

9 578 Q. Yes. But, I mean, I presume that at the time of the  
10 penalty points issue you would have had dealings with 15:07  
11 Superintendent Taylor, for instance, as the official  
12 spokesman for An Garda Síochána?

13 A. Sure, yeah.

14 579 Q. And I'm just wondering, are you saying that at no point  
15 in any of your dealings with people, including 15:07  
16 Superintendent Taylor, did the subject of the sexual  
17 allegation ever arise or re-emerge?

18 A. I have no recollection of it re-emerging at any time.  
19 I mean, it may -- I was aware that it was known, I was  
20 aware that journalists, that gardaí, that politicians 15:07  
21 knew it, but --

22 580 Q. Well, can we stop there. You were aware that  
23 journalists, gardaí and politicians knew about this  
24 allegation. When did you become aware of that?

25 A. I couldn't put a timescale on it, but I knew, I knew it 15:08  
26 was known. And you see --

27 581 Q. Well, I will help you, if I can.

28 A. Okay.

29 582 Q. You become aware of the allegation itself in 2013?

1 A. Mm-hmm.

2 583 Q. You're covering the penalty points issue in 2014?

3 A. Mm-hmm.

4 584 Q. You're covering the controversy about Sergeant McCabe  
5 appearing before the Public Accounts Committee? 15:08

6 A. No, I'm not. Well, I'm covering the Public Accounts  
7 Committee, but I didn't --

8 585 Q. Yes.

9 A. -- cover the controversy when he appeared.

10 586 Q. Well, you were covering the Committee hearings, is that 15:08  
11 right?

12 A. No.

13 587 Q. What were you covering?

14 A. I only covered the appearance of Commissioner Callinan.

15 588 Q. Yes. Well, then you were covering the occasion when he 15:08  
16 used the term 'disgusting'?

17 A. I was there, yeah.

18 589 Q. Yes. And I'm just asking you, at that stage were you  
19 aware that journalists, gardaí -- senior gardaí and  
20 politicians were aware of the allegation of a sexual 15:09  
21 assault on the part of Sergeant McCabe?

22 A. Yeah, I think I was, yeah.

23 590 Q. And are you saying that you -- if you were so aware,  
24 you must have been discussing it with quite a number of  
25 people? 15:09

26 A. No, because anybody that I knew that was aware of it  
27 also knew that the DPP had said there was no  
28 prosecution.

29 591 Q. Yes. But the point is that if you knew that gardaí,

1           journalists and politicians were aware of this matter,  
2           you must have -- that knowledge can only have arisen  
3           from discussions with people?

4           A.    No, I mean, it didn't -- well, it wasn't even a  
5           discussion. I mean, I knew my colleagues, for example   15:09  
6           my political -- my colleagues in the political unit in  
7           Leinster House were hearing this, I knew other  
8           journalists were aware of it because there were -- some  
9           of them were my colleagues, but it wasn't being  
10          discussed. Like, I mean, they knew as well.           15:10

11   592   Q.    Well, what about the third category, gardaí, that you  
12          mentioned earlier?

13          A.    Sure gardaí knew about it.

14   593   Q.    I see. And how did you know that gardaí knew about it?

15          A.    Because it was investigated by the gardaí.           15:10

16   594   Q.    How did you know that gardaí you were dealing with were  
17          aware of this allegation?

18          A.    The gardaí what?

19   595   Q.    That gardaí that you were dealing with were aware of  
20          this allegation?           15:10

21          A.    It's a bit like, if I can put it this way, Chairman,  
22          it's a bit like, there's a phrase in education called  
23          the hidden curriculum, where children are in a school  
24          and they might not necessarily be told where the  
25          principal's office is but they know, that they know       15:10  
26          things from being in a particular environment. Lawyers  
27          will know things, they will hear things, just by virtue  
28          of being there. Journalists, the same. I knew this  
29          was around in the ether. I couldn't tell you how I

1 knew, where I knew, but it wasn't being openly  
2 discussed, it wasn't being spoken about negatively, but  
3 people knew about it.

4 596 Q. I see. But, you see, spoken about negatively; to  
5 discuss it at all was negative from Sergeant McCabe's 15:11  
6 point of view, was it not?

7 A. I don't see anything negative in the fact that the man  
8 was exonerated.

9 597 Q. Well, I'm not going to waste my time on this, but I am  
10 suggesting that the fact that you have been exonerated 15:11  
11 of a very serious accusation, if made public or  
12 semi-public, is negative, and most people would not  
13 like it to happen to them?

14 A. I don't know what to say to that.

15 598 Q. Well, put it this way: Supposing, just imagine 15:11  
16 yourself in a similar situation?

17 A. But I am in a similar situation.

18 599 Q. If an untrue allegation had been made against you ten  
19 years ago, and people, ten years later, are discussing  
20 it at the level of senior gardaí, politicians and 15:12  
21 journalists, would you be happy about that?

22 A. I'm before this Tribunal today because three people  
23 have made false allegations against me. They will  
24 probably be discussing them for the next ten years. No  
25 matter what the Chairman says, these allegations are 15:12  
26 out in social media and people will see them and  
27 believe them. I can't be responsible for that. That  
28 is the way it is. I have the greatest sympathy for  
29 Sergeant McCabe. That if people only choose to

1 identify one aspect of this whole process and focus in  
2 on that, I can't be responsible for that. But I  
3 certainly wasn't a party to any negative briefing. I  
4 didn't receive any negative briefing, and I wouldn't  
5 believe any of that stuff. 15:13

6 600 Q. Well, we will come back to that in a while. Can I ask  
7 you to deal with the circumstances in which you came to  
8 make a broadcast on the 24th February 2014. First of  
9 all, did I understand from your evidence that, prior to  
10 your making that broadcast, a source gave you a copy of 15:13  
11 the Commissioner's direction which had been read out to  
12 Sergeant McCabe?

13 A. No, I said I had sight of the Commissioner's direction.

14 601 Q. You'd had sight of it?

15 A. Yes. 15:13

16 602 Q. I see. That is what I was going to ask. So somebody  
17 showed you --

18 A. I think it's illegal, isn't it, under section 62 of the  
19 Garda Síochána Act, to have --

20 603 Q. I don't know. 15:13

21 A. I don't know.

22 604 Q. I'm not venturing any view on that. I'm just asking  
23 you -- I'm just asking you, very simply, somebody  
24 showed you this direction either on the 24th February  
25 or on the previous day, is that a reasonable inference? 15:14

26 A. I saw it.

27 605 Q. Yeah. Either on the previous day or that day?

28 A. I saw it.

29 606 Q. Yes. Can you confirm the date?

1 A. No.

2 607 Q. Well, was there any reason why you would hold back on  
3 this material until the 24th for any extend period of  
4 time?

5 A. I don't -- I can't think of any reason at the moment. 15:14

6 608 Q. And may I ask you as well, given that we have seen the  
7 very elaborate steps that were taken to deal with your  
8 broadcasts in May of 2016, did you seek editorial  
9 guidance as to whether you would go ahead with your  
10 story on the 24th February 2014? 15:15

11 A. I didn't see it as a big a story. I mean, when we  
12 published the first one at twenty past two, it went up  
13 online for about an hour, an hour-and-a-half, before it  
14 was updated. Indeed the whole story never went on  
15 television. I never saw this as a big deal. 15:15

16 609 Q. I don't want to sound in any way short with you, but I  
17 asked you did you seek any editorial guidance as to  
18 whether you should publish this on that day?

19 A. No, I'm not sure if I sought any editorial guidance,  
20 but whoever the news editor was on the day, probably 15:15  
21 would have known it was coming in, wasn't that  
22 interested. I would have spoken to a programme editor.

23 CHAIRMAN: well, I think, you would hardly have access  
24 to the actual website itself and put up anything --

25 A. No, no. 15:15

26 CHAIRMAN: -- you wanted at all. You wouldn't have the  
27 relevant logs to key in. So you clearly had to give it  
28 to someone? I think that is all Mr. McDowell is asking  
29 you.

1 A. Yes, the way it works in RTÉ is that there is a news  
2 desk, and, if reporters want to file stories, they file  
3 it into the copy system and other editors read it and  
4 certain programme editors are interested in it and  
5 certain programme editors are not interested in it, and 15:16  
6 this story didn't cause -- nobody was particularly  
7 interested in this, and they stuck it up online and it  
8 stayed there and then I updated it, but it wasn't a  
9 particularly big deal.

10 610 Q. MR. McDOWELL: You have just told the Chairman that you 15:16  
11 didn't think it was a story, is that right?

12 A. No, no, I didn't say that. I didn't think it was a big  
13 story.

14 611 Q. A big story?

15 A. Yeah. 15:16

16 612 Q. Can we look at page 7256, please. Sorry, I have the  
17 wrong page then. That is Sergeant McCabe's statement.  
18 Your statement is what I am concerned with. Sorry,  
19 it's page 7255 -- no, it's not, that is not it. Maybe  
20 My Friends can help me. Where is the -- 15:17

21 CHAIRMAN: What are you looking for, Mr. McDowell?

22 MR. McDOWELL: The text that you put up on --

23 A. Yeah, that wasn't a statement.

24 MS. LEADER: 7381.

25 MR. McDOWELL: 7381. 15:17

26 613 Q. Yes. This is your text?

27 A. That's my report.

28 614 Q. Yeah. And you wrote that out on the 24th February  
29 2014?

1 A. That's correct.

2 615 Q. And just to clarify what the Chairman has just asked  
3 you, do you have direct access to the website or do  
4 you have to --

5 A. No, I don't. 15:17

6 616 Q. So you had to submit it to somebody who does have  
7 control of the website?

8 A. I submit it into the RTÉ internal system, an editor  
9 will look at it and then it is decided -- if other  
10 editors want to take it, they will -- for example, if a 15:18  
11 story goes in about Beyoncé, 2FM will be interested in  
12 that, it won't appear on Radio 1, etcetera, etcetera.  
13 So the copy system is whereby all the information goes  
14 into the copy system, all the stories go in and people  
15 select at will. But there is an editor on the news 15:18  
16 desk who reads through the copy system to make sure  
17 that nothing goes in there and nothing goes out or is  
18 broadcast that shouldn't.

19 617 Q. I see. So can we take it that you wrote that story on  
20 or about that day? 15:18

21 A. Oh, yeah.

22 618 Q. And that was shortly afterwards, after your being shown  
23 a copy of the direction that had been given to Sergeant  
24 McCabe, is that right?

25 A. Well, I will grant you that, yeah, it's fine. 15:18

26 619 Q. And I know you're not going to cavil with this: Can we  
27 take it, bearing in mind what you said about Section 62  
28 of the Garda Síochána Act, that it was somebody with  
29 access to Garda records who showed it to you?



1 A. I'm not -- I'm not going to discuss the provenance of  
2 it at all.

3 CHAIRMAN: well, it had to be somebody who had access  
4 to somebody who had access to somebody who had access  
5 to Garda records at the least, I would suppose, 15:19  
6 Mr. McDowell.

7 620 Q. MR. McDOWELL: Yes. well, the text itself recites  
8 that -- and this is at a time when Sergeant McCabe had  
9 given evidence to the PAC and this is a time later than  
10 the Commissioner's controversial remarks at the PAC, 15:19  
11 and it was to do with penalty points, isn't that right,  
12 the O'Mahony investigation?

13 A. It was, that's correct, yeah. Ticket-fixing, I think  
14 he said it was, was it?

15 621 Q. Can we save ourselves a little bit of time by saying 15:20  
16 that this cast Sergeant McCabe in an unfavourable  
17 light --

18 A. No.

19 622 Q. -- in that it suggested to a reader that he had been 15:20  
20 directed to cooperate with the O'Mahony inquiry and had  
21 not done so?

22 A. No, that story is based on a direction, it reported the  
23 fact that it had happened.

24 623 Q. Yes. And it also points out that gardaí are obliged to 15:20  
25 comply with directions?

26 A. That's correct.

27 624 Q. How would that be relevant if he had complied with the  
28 direction?

29 A. The Garda Commissioner was saying he hadn't complied

1 with it.

2 625 Q. Yes. You see, that is the point I am coming to. So  
3 the Garda Commissioner was, one way or another, putting  
4 out the story that Sergeant McCabe had not complied  
5 with the direction? 15:21

6 A. No, I saw the direction.

7 626 Q. Yes.

8 A. The direction was very clear, as far as I was  
9 concerned.

10 627 Q. Yes. 15:21

11 A. I reported on the direction. That story is a report on  
12 the direction.

13 628 Q. And what did the Garda Commissioner -- you've just said  
14 the Garda Commissioner said something?

15 A. Yeah, an hour-and-a-half later the Garda Commissioner 15:21  
16 said: Yeah, that's my position on it.

17 CHAIRMAN: There just seems to be a wee bit of  
18 subtlety, Mr. Reynolds, attaching to this. On the one  
19 hand, there was a very definite direction, you're not  
20 to access Pulse any more. There was also an 15:21  
21 indication, look, if you have anything else to say in  
22 relation to Pulse or fixed charge penalty notices, then  
23 you should bring that to the attention of Assistant  
24 Commissioner O'Mahony, and that's 14th December 2012.

25 A. Yes. 15:21

26 CHAIRMAN: You seem to be reporting on it a good while  
27 later, about 18 months later.

28 A. Yeah.

29 CHAIRMAN: So that is it. It may help other people.

1 I'm not reading it as a direction to Sergeant McCabe --

2 A. Okay.

3 CHAIRMAN: -- you have to go to O'Mahony. It's a  
4 direction, don't access Pulse and go giving a whole  
5 load of Pulse stuff to people, but if you have got 15:22  
6 something further that you need to bring to anybody's  
7 attention, there's an investigation, there's assistant  
8 commissioner. That is my reading of it.

9 A. My reading of it was in the context of dealing with  
10 Garda and security issues. I deal with disciplined 15:22  
11 organisations - An Garda Síochána, the defence forces,  
12 and, to a certain extent, there is a rank structure in  
13 the prison service as well. So I'm aware that when the  
14 Commissioner tells a sergeant something, he doesn't  
15 give invites. The Garda Commissioner doesn't invite a 15:22  
16 sergeant to do something, just as much as the  
17 director-general of RTÉ, even though I am not in a  
18 rank -- I don't work in a ranked organisation.

19 CHAIRMAN: No, I understand that. No, I get all that.  
20 And that is certainly the ideal. But what I have 15:22  
21 understood so far is that you read it, you understood  
22 it perhaps the same way as I did, but that you checked  
23 it at some stage with David Taylor, and the official  
24 line was, that's not just an invitation, like if you  
25 would like to turn up for work in the morning we'd be 15:22  
26 delighted to see you; it is, in fact, a direction, turn  
27 up for work in the morning or we will be very  
28 undelighted not to see you.

29

1 A. But I read it that way the first time.

2 CHAIRMAN: Okay. All right. Then that is fine.

3 A. I read it as a direction the first time and I reported  
4 it as a direction the first time. And I looked for  
5 comments from both Sergeant McCabe and from Garda 15:23  
6 Headquarters and Superintendent Taylor came back to me  
7 and he said, yes, the Garda Commissioner says he told  
8 him to cooperate.

9 629 Q. MR. McDOWELL: well, we will deal with your contact  
10 with Sergeant McCabe in a moment, but what your report 15:23  
11 doesn't say is that he was -- is that the people to  
12 whom this direction was given were told to desist from  
13 accessing Pulse, it doesn't say that?

14 A. Yeah.

15 630 Q. why not? That was the gravamen of the direction. 15:23

16 A. That issue, as far as I was concerned that issue had  
17 already been well ventilated.

18 631 Q. I see.

19 A. But the controversy was over -- there was a  
20 question-mark, the Minister for Justice told the Dáil 15:24  
21 that Sergeant McCabe had refused to cooperate, I  
22 thought, I wonder what this is -- what is the real  
23 situation here?

24 632 Q. I see.

25 A. what exactly was he told? I saw the direction and then 15:24  
26 I went to Garda Headquarters to say well, is this your  
27 view on it? Yes. I went to Sergeant McCabe and he  
28 declined to talk to me.

29 633 Q. well, let's remember what in fact it stated. It

1 stated, the direction stated that he was not to access  
2 Pulse records and that he was not to communicate with  
3 other people and that if he had any further concerns he  
4 could contact Assistant Commissioner O'Mahony, isn't  
5 that right? 15:24

6 A. Yeah. But he clearly had further concerns.

7 634 Q. In any event, you published that on the afternoon of  
8 the 24th February. And it was after that, that you  
9 contacted Superintendent Taylor, isn't that right?

10 A. I'm not sure, it could have been before that and it 15:25  
11 could have been before that when I tried to contact  
12 Sergeant McCabe. I'm not a hundred percent sure of the  
13 timeline.

14 635 Q. Well, I think the text traffic or the communications 15:25  
15 traffic logs show that you communicated afterwards, not  
16 before?

17 A. I think there was communication with myself and  
18 Superintendent Taylor before that.

19 636 Q. I see. And I have got to suggest to you that you only 15:25  
20 contacted Sergeant McCabe after you had put it up on  
21 the screen, so to speak?

22 A. I don't know, I don't think so.

23 637 Q. I suggest to you that you did, because he told you that  
24 he was already in contact with the Prime Time programme  
25 in relation to it? 15:26

26 A. No. When I finally spoke to him that evening, when he  
27 took -- he took my call at around nine o'clock I think  
28 it was, he told me he wasn't going to -- he told me  
29 there was going to be a statement, he wasn't going to

1 give it to me, he was giving it to Prime Time. I was  
2 unable to contact him throughout the day. But there  
3 are a number of -- that's the first report you're  
4 looking at there. There was an updated report at  
5 16:45, which included the Gardaí, the Garda 15:26  
6 Commissioner's statement. I was still looking for  
7 details from Sergeant McCabe. By his own evidence he  
8 said he was aware of this story by four o'clock. The  
9 story was updated again at six o'clock. And then, when  
10 I finally got to speak to him even though he wouldn't 15:26  
11 tell me anything, I garnered from that conversation  
12 that he disputed this, and that he would be issuing a  
13 statement through his legal representative later that  
14 evening and I incorporated that immediately over an  
15 hour before the Prime Time broadcast was -- before the 15:27  
16 Prime Time programme was broadcast. And then, as soon  
17 as I actually saw the contents of his statement I then  
18 at quarter to midnight incorporated that into the  
19 story. So I made best efforts to get information from  
20 him and even though he wouldn't give me the statement I 15:27  
21 had some indication that he was issuing one and I had  
22 some indication that he was in dispute and even though  
23 he didn't give me the statement I still put that in,  
24 because clearly there was a dispute with it.

25 638 Q. I see. 15:27

26 MS. LEADER: I don't want to interrupt anything, but  
27 Mr. McDowell has just been handed the chronology that  
28 the witness has just given evidence about, in relation  
29 to the updates of his report.

1 CHAIRMAN: Yes.

2 MR. McDOWELL: That's correct, Chairman. And I'm not  
3 making complaint about the lateness of it but I  
4 haven't, I can't speed read.

5 CHAIRMAN: No, I appreciate that. But you could move 15:28  
6 on to another subject if you wish, Mr. McDowell.

7 MR. McDOWELL: Yes. I will come back to it if I can.

8 CHAIRMAN: Yes.

9 639 Q. MR. McDOWELL: But before I depart from it, I am  
10 suggesting to you that you put it up on the website 15:28  
11 through the editor before you made any contact with  
12 Sergeant McCabe?

13 A. Well, I can't give you a timeline on that. I tried my  
14 best to contact Sergeant McCabe and when I did get him,  
15 he wouldn't talk to me. 15:28

16 640 Q. When you say when you did get him he wouldn't talk to  
17 you, he told you that he was dealing with Prime Time on  
18 the matter, isn't that right??

19 A. Yeah. Well, I found that strange. I was puzzled by  
20 that. I mean, the report, I mean, by his own admission 15:28  
21 it was there since four o'clock and he was clearly very  
22 upset about the report and I was trying to get his side  
23 of the story and he was prepared to wait six and a  
24 half, seven hours and allow a report to remain like  
25 that. I couldn't understand that. 15:29

26 641 Q. Well, he was angry about your report, wasn't he?

27 A. But there was -- it's very simple to sort that out.

28 642 Q. I see. Now going back to your notes, which Ms. Leader  
29 was asking you about earlier. As I understand it these

1 notes are taken from two notebooks you had, one for  
2 April 2016 and one for May 2016, is that right?

3 A. That's correct.

4 643 Q. And can I bring you to page 5898; can I ask you, do  
5 those notes predate or postdate your obtaining a copy 15:29  
6 or copies of the O'Higgins report?

7 A. Which? Just this page here or --

8 644 Q. Yes. Those notes there.

9 A. These four here, one, two, three, four, I can only  
10 see -- there's only seven. 15:30

11 645 Q. No, sorry. Page 5898 we're looking at.

12 A. Just this page?

13 646 Q. Yes.

14 A. "Accelerated recruitment" --

15 647 Q. And the next page. 15:30

16 A. I would say they do, yeah.

17 648 Q. You say they predate or postdate?

18 A. I would say they predate.

19 649 Q. I see. So can we take it from that, that these are  
20 notes of a conversation between yourself and a source 15:30  
21 at a time when you had no access to the O'Higgins  
22 report?

23 A. At the time I was seeking access to the O'Higgins  
24 report.

25 650 Q. I see. But you hadn't had any access to it at the time 15:31  
26 of this --

27 A. I don't think I had it in my hand when I was having  
28 these conversations and jotting down these notes.

29 651 Q. I see. Well, I suggest to you that it either predates



1 or postdates you being given one or more copies of the  
2 O'Higgins Commission report?

3 A. Yeah, no, I --

4 652 Q. Which is it?

5 A. I said to you I believe they predate. 15:31

6 653 Q. I see. And it would appear that this was a  
7 conversation in which you were taking notes of what you  
8 believed would be in the report, is that right?

9 A. No. This was -- it was a wide ranging conversation, I  
10 was jotting down bits and bobs. 15:31

11 654 Q. Well, bits and bobs is one way to describe it,  
12 Mr. Reynolds. But I'm suggesting to you that this can  
13 only have been a conversation about what you thought or  
14 what you were being informed would be covered in the  
15 report? 15:32

16 A. No. This was a conversation about the general policing  
17 in Bailieboro. Policing in general.

18 655 Q. I see.

19 A. And it was -- strayed into -- obviously I was seeking  
20 the report, so obviously part of the conversation would 15:32  
21 have been in relation to the report.

22 656 Q. Well, could I bring you to the second or third last  
23 line on page 5899:  
24  
25 "Higgins Tribunal same conclusions as internal." 15:32

26 A. Mm-hmm.

27 657 Q. Now this can't just have been bits and bobs of a  
28 conversation, you're being told that the O'Higgins  
29 Tribunal as it's called, has come to the same

1 conclusions as the internal Garda reports?  
2 A. I'm not being told anything definitive there.  
3 658 Q. No.  
4 A. You don't see the full sentence. We're having  
5 conversations, you know, O'Higgins Tribunal, and 15:33  
6 somebody could have been saying like you know, by and  
7 large, Paul, I mean these, the O'Higgins Tribunal, what  
8 is in the O'Higgins Tribunal by and large and, you  
9 know, give or take it's the same conclusions as  
10 internal, I have only written down a couple of words 15:33  
11 here and a couple of words there. This is not the  
12 basis for anything.  
13 659 Q. The next line is:  
14  
15 "Junior Minister's lack of supervision and in bad 15:33  
16 conditions."  
17 A. Yes.  
18 660 Q. Are you asking the Tribunal to believe that this does  
19 not refer to somebody giving you an impression of what  
20 is in the report? 15:33  
21 A. No, no. It is an impression, okay. Well, those two  
22 sentences clearly are.  
23 661 Q. Yes.  
24 A. But it's not definitive.  
25 662 Q. Yes, whoever you were talking to seemed to be in a 15:33  
26 position to be telling you what was in the O'Higgins  
27 Commission report?  
28 A. No, they were telling me some aspects of it.  
29 663 Q. Yes?

1 A. Or as I said bits and bobs.

2 664 Q. Yes?

3 A. Some of it was in it and some of it wasn't.

4 665 Q. I see.

5 A. But -- 15:33

6 666 Q. If you go back to the previous page then, whoever that  
7 person was -- do you recall who that person was? I'm  
8 not going to ask you who it was for obvious reasons,  
9 but do you recall who it was?

10 A. I'm not going to say. 15:34

11 667 Q. Well, you're not breaching privilege by saying --

12 A. It was clear I was talking to somebody but I mean that  
13 is as far as it goes.

14 668 Q. I'm not going to ask you to identify your source.

15 A. Well, fine. 15:34

16 669 Q. I am going to ask you do you remember who you were  
17 talking about at all, or to?

18 A. I'm not getting into any conversation in relation to  
19 the person I was talking to or the people I was talking  
20 to. 15:34

21 670 Q. I'm not going to push you to identify your source.

22 A. Yeah. No, no, I'm not getting into any conversation in  
23 relation to the people I was speaking to. As I have  
24 said to you, the source for the broadcasts is the  
25 O'Higgins Commission report. 15:34

26 671 Q. I see. So you're going to leave us in the dark as to  
27 whether you know to whom you were speaking when you  
28 made those notes?

29 A. I'm afraid I will have to take it to my grave,

1 Mr. McDowell.

2 672 Q. I'm not asking you to divulge anything except to  
3 inquire whether you now know who that conversation  
4 was with.

5 A. I can't help you, Mr. McDowell. 15:35

6 673 Q. Because you want to protect a source, is that right?

7 A. I can't help you.

8 674 Q. Well, I'm going to suggest to you that if you couldn't  
9 remember who the conversation was held with you would  
10 tell me that. You wouldn't be compromising yourself in 15:35  
11 any way at all if you said I can't recall who those  
12 notes relate to.

13 A. I can't help you, Mr. McDowell.

14 675 Q. I see. Well, whoever it was then and whether or not  
15 you can remember who it was, that person seems to have 15:36  
16 borne down on the subject of the 2006 complaint against  
17 Sergeant McCabe, isn't that right?

18 A. How do you mean by "borne down"?

19 676 Q. Well, you go back to page 5898 you have, halfway down  
20 the note: 15:36  
21  
22 "Sergeant in charge complaint against him investigated  
23 locally (mistake) (wrong) Superintendent Clancy."  
24  
25 So somebody, you weren't putting those propositions to 15:36  
26 somebody else, isn't that right? Or, is that right?

27 A. I'm having a conversation, I'm jotting these things  
28 down.

29 677 Q. This isn't you putting that proposition to somebody

1 else?

2 A. I don't think so, but I wouldn't rule it out.

3 678 Q. So you might have actually been putting to somebody  
4 else the fact that Sergeant McCabe had been --

5 A. I mean, as I said -- 15:37

6 679 Q. -- investigated, is that what you are saying?

7 A. -- these are bits and bobs, these are facts. Nothing  
8 hangs on them.

9 680 Q. Well, something does hang on it. And that is, and I  
10 will just make it very clear to you if you can't see, 15:37  
11 that if somebody who claimed to have knowledge of the  
12 contents of the O'Higgins Commission report was also  
13 mentioning to you the complaint of sexual abuse against  
14 Sergeant McCabe and the inadequacies of the original  
15 investigation that suggests somebody was negatively 15:37  
16 briefing?

17 A. No, it doesn't. These are facts. That's a list of  
18 facts there. And facts are not negative briefing.

19 681 Q. So telling you something which is factual is not  
20 negative briefing, is that right? 15:37

21 A. I don't believe so.

22 682 Q. I see. The truth is the truth. The facts are the  
23 facts. They may be unpalatable but --

24 CHAIRMAN: I mean, we have had this discussion before.

25 A. Yes. 15:38

26 CHAIRMAN: And you may have missed it. You made  
27 reference to the catechism earlier on and the  
28 difference between truth and lies. Well, the  
29 difference between calumny, which is something that is

1 wrong, and it is untrue, and detraction, something that  
2 happened a long time ago, let's say when a person lived  
3 in another country, it's nothing to do with the  
4 person's job, nothing anybody needs to know, but it is  
5 spread around again, and I don't know if I am going to 15:38  
6 have to wrestle with this whole notion of detraction,  
7 because it seems to me the terms of reference are  
8 pretty clear, but I think the point being made to you  
9 by Mr. McDowell is this: Look, if nobody needs to know  
10 about 2006 and the allegation made December by Ms. D, 15:38  
11 the investigation which reached a particular  
12 conclusion, state solicitor who reached a particular  
13 conclusion, the background which was important in terms  
14 of reaching a conclusion, the legal analysis by the DPP  
15 all were to the same effect -- 15:39

16 A. Yeah.

17 CHAIRMAN: - 'nothing to see here, guys', well then,  
18 why does anyone need to bring it up 12 years later, 14  
19 years later, whatever? What are they at if they are  
20 bringing it up, if it is not, and I'm going to use the 15:39  
21 word, detraction here in the technical sense? That is  
22 really the question Mr. McDowell is asking.

23 A. Yeah, look, I can't answer that. It looks to me that  
24 obviously this case had a traumatic impact on Sergeant  
25 McCabe and rightly so, and his family, etcetera, but it 15:39  
26 obviously had an impact on policing locally, whereby  
27 somebody was talking to me and said this should have  
28 been handled differently from a policing point of view,  
29 it shouldn't have been --

1 CHAIRMAN: I know, but I mean, this is yet another  
2 thing that is jumping around in this room, and frankly  
3 I am going to get a hammer and squash it now. Whether  
4 it was fair to Superintendent Cunningham that he got  
5 the job, the reality is that he did a very, very good 15:40  
6 job.

7 A. Mm-hmm.

8 CHAIRMAN: So, there it is.

9 A. Yeah.

10 CHAIRMAN: whether it was fair to him or not. I'm not 15:40  
11 investigating whether, you know, the Garda Síochána  
12 should be very scrupulous about this thing that so many  
13 people talk about, which is conflicts of interest. I  
14 must say it doesn't really interest me terribly much.  
15 I'm not sure it's as big a legal principle as people 15:40  
16 think it is.

17 A. When I talk to people they give me opinions and I'm  
18 having conversations.

19 CHAIRMAN: No, no, that is certainly a different  
20 matter, you see, Mr. Reynolds, because if you are 15:40  
21 talking to people, and if you are saying, as indeed you  
22 told Ms. Leader this morning, a newspaper man goes down  
23 and he talks to people and they talk to him --

24 A. Yes.

25 CHAIRMAN: -- and you basically take it in like a 15:40  
26 sponge and then you see what is important.

27 A. Yeah.

28 CHAIRMAN: But I think what Mr. McDowell is asking  
29 about you is this: If people are telling you a bit of

1 ancient history that is completely irrelevant to  
2 anything that is going on today is that not detraction?  
3 Do you not see it as detraction? So, I am not going  
4 to --

5 A. Well, I mean, I personally don't see it as that. And I 15:41  
6 never got the sense from these people that I was  
7 talking about that they were, that they were pouring  
8 poison in my ear against Sergeant McCabe. I never got  
9 that impression. I mean, yes, this obviously was  
10 something that happened in Bailieboro, they were all 15:41  
11 aware of it, it was an incident that happened, but I  
12 never got the impression that they were, as I said,  
13 pouring poison in my ear, to use the horrible phrase as  
14 the Chairman says, negatively briefing. There was no  
15 persistent, consistent, deliberate hammering away, 15:41  
16 giving you this negative stuff against Sergeant McCabe.  
17 It just wasn't there. There was a conversation in this  
18 case about policing in Bailieboro and this came up.  
19 And moved on. And I am jotting down notes, I'm taking  
20 everything that's been said so that later when I need 15:41  
21 to filter it and when I need to use it, if it is  
22 relevant I will use it, and it wasn't relevant.

23 683 Q. MR. McDOWELL: Yes.

24 A. These are the initial notes, thoughts, stream of  
25 consciousness, whatever you want to call it. Nothing 15:42  
26 hangs on it.

27 684 Q. I see. Could I ask you then to go page 5910 of the  
28 typed notes? It's clear that these notes were made at  
29 a time when you had access to the O'Higgins report,



1 because you've annotated paragraphs for various  
2 propositions?

3 A. well, not this page here. There's no --

4 685 Q. No.

5 A. There's no annotations there. 15:42

6 686 Q. No, but earlier on in your notebook you have annotated  
7 paragraphs. This is your main notebook, right?

8 A. Yeah, but that's what I'm saying. If I was talking --  
9 what I'm saying to you is, I'll grab a notebook,  
10 there's not necessarily a chronology or a logical sense 15:43  
11 to these. As I explained to Ms. Leader this morning, I  
12 wrote on the back of envelopes as well.

13 687 Q. Yes. well, I am going to suggest to you that it is  
14 more probable than not that page 13 of this notebook  
15 was written at a time when you already had access to 15:43  
16 the report because you have detailed paragraph  
17 references in earlier pages in the same notebook?

18 A. Sorry, am I looking at page 13 now or am I look the at  
19 something --

20 688 Q. Sorry? 15:43

21 A. This one here that starts "meeting in the Hillgrove",  
22 is it?

23 689 Q. No, I will show you if you like if you have any doubt  
24 about the matter. If you go to say page 5902.

25 A. This is page 5 at the top? 15:43

26 690 Q. Page 5, yes.

27 A. Okay. "He describe this as poisoning and attempted  
28 murder."

29 691 Q. Attempted murder, yes.

1 A. Yeah.

2 692 Q. Stop at that point.

3 A. Hmm.

4 693 Q. Did he ever describe the vinegar incident as attempted  
5 murder? 15:44

6 A. No, I don't think so. No.

7 694 Q. Yes. So somebody was putting that -- you didn't think  
8 that when you had access to the report, did you?

9 A. No, I don't think so.

10 695 Q. So somebody was putting, was putting that little bit of 15:44  
11 poison in your ear; that his exaggeration was such that  
12 he was attempting to ramp up the vinegar incident into  
13 an attempted murder, isn't that correct?

14 A. I think you're building your castle on sand,  
15 Mr. McDowell. 15:44

16 696 Q. No. Just answer the question now.

17 A. Well, I am answering the question. I don't think so.

18 697 Q. Somebody was putting this --

19 A. I'm scribbling stuff down, maybe somebody made a  
20 mistake, you know maybe they misinterpreted it, 15:44  
21 whatever, you know. I don't know. As I said, I was  
22 taking everything in.

23 698 Q. Yes.

24 A. I don't -- you know.

25 699 Q. You were taking it in from somebody -- 15:44

26 A. Somebody --

27 700 Q. -- and you wrote down "he described this as poisoning  
28 and attempted murder"?

29 A. Somebody obviously made a mistake.

1 CHAIRMAN: I think the point Mr. McDowell is making,  
2 and it may well be a good point --

3 A. Yeah.

4 CHAIRMAN: -- is, you know, it's very unpleasant to put  
5 urine on your chips and then eat them -- 15:44

6 A. Yes, it is.

7 CHAIRMAN: -- fine, but that is not a method of murder  
8 that you or I would have come across in the criminal  
9 courts over 20 or 30 or 40 years.

10 A. Yeah. 15:45

11 CHAIRMAN: And if somebody said to you that Sergeant  
12 McCabe thought that putting urine in a vinegar bottle  
13 was a method of murder, well, that indicates that he's  
14 off his head basically. Yes.

15 A. Mmm, it's wrong. 15:45

16 CHAIRMAN: So that is the point that is being made.

17 A. No, but the point is it's wrong.

18 CHAIRMAN: well, it's not just wrong, it's very, very,  
19 very wrong.

20 A. But I don't think somebody told me that, said right, 15:45  
21 now -- and the person I was talking to said, right, I'm  
22 going to give him this line and he will go off and he  
23 will put attempted murder on the television. I  
24 genuinely don't think the person said that.

25 701 Q. MR. McDOWELL: well, did you think it was a joke? 15:45

26 A. No, I didn't think it was a joke either. I just wrote.  
27 I mean, I have come to the Tribunal with palms up. I'm  
28 giving you all this sort of stuff.

29 702 Q. Yes. And I'm asking you what all this means.

1 A. That's what I'm telling you. It's all bits and bobs,  
2 these are initial conversations with people, strings of  
3 this, that and the other.

4 703 Q. You see, the point --

5 A. I won't stand over the accuracy of any of this sort of 15:46  
6 stuff.

7 704 Q. Yes.

8 A. I won't stand over the provenance of any of this sort  
9 of stuff. I will -- as I said to you, this was not  
10 supposed to be poured over by a team of highly 15:46  
11 intelligent and well trained lawyers. This is just the  
12 initial stuff.

13 705 Q. Yes. This is a contemporary account of what somebody  
14 was telling you about the O'Higgins report?

15 A. It's, I'm gathering information from wherever I can get 15:46  
16 it.

17 706 Q. Yes. Is it a contemporaneous --

18 A. And obviously this particular individual --

19 707 Q. Yes?

20 A. -- knows very little, if not nothing, about the report 15:46  
21 and that became clear very quickly when I got the  
22 report.

23 708 Q. Yes, but --

24 A. This thing, it records delay and error there, these  
25 notes are full of error. 15:46

26 709 Q. If you read down the page it says:  
27  
28 "He described this as poisoning and attempted murder."  
29

1           And then you quote paragraph 5.51:  
2  
3           "No evidence of crime."  
4           A.    Mmm.  
5 710 Q.    And then you have: 15:47  
6  
7           "Allegation of criminality withdrawn by Sergeant  
8           McCabe."  
9           A.    Mmm.  
10 711 Q.   Then you have: 15:47  
11  
12          "Garda Naughton investigated assault. Investigation  
13          delay and error. Garda Naughton made mistakes.  
14          Inappropriate."  
15 15:47  
16          And then there is a statement, this is a quotation from  
17          the report:  
18  
19          "Correctly identified discrepancies in the case."  
20          A.    Mmm. 15:47  
21 712 Q.   Now somebody was telling you or giving you an account  
22          of what was in the O'Higgins report?  
23          A.    Look, bits of it were right and bits of it were wrong.  
24 713 Q.   Yes, but somebody --  
25          A.    Yeah. But I don't believe the person who was giving me 15:47  
26          that information was deliberately saying I'll sneak in  
27          this attempted murder or I'll sneak in this mistake and  
28          hope he doesn't spot it.  
29 714 Q.   And can we go not next page, it's headed, page 6:

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29

"Junior gardaí, no investigation, he's the sergeant in charge, file sent for discipline, DPP and GSOC."

Then there is a reference:

15:48

"Page 167 and paragraph 8.51 McCabe complaint."

A. Mmm.

715 Q. "Look at page 152, it was not this."

15:48

Is that somebody --

A. No, that could be me to me.

716 Q. I see. So those could be your own personal notes?

A. The whole thing is a compendium.

717 Q. Yes.

15:48

A. I mean, if I brought this stuff to Ray Burke he would laugh me out of the place.

718 Q. Fair enough. I'm not suggesting you could use it as a source. But I'm suggesting to you that this was a contemporaneous set of notes made by you, both of your own deliberations and of things people were telling you?

15:48

A. It's a compendium of everything. I'm not standing over it.

719 Q. I see. Well, if I come to page 5904, which is page 7 of your notes, you have:

15:48

"Taping confidential recipient. Alan screwed. Lost his job."

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28  
29

A. Yeah.

720 Q. Then on the right-hand side:

"Look at all people lost their jobs."

A. Mmm.

721 Q. "Ball of smoke?"

A. "Ball of smoke" as well, again, yeah.

722 Q. You did say, did you not, on one of your television or radio interviews that a number of people had lost their jobs over Sergeant McCabe's allegations?

A. Well, a number of people had lost their jobs.

723 Q. Yes. And among them --

A. The confidential recipient lost his job because extracts of a recorded conversation, selected extracts were leaked and I think the Commission dealt with that.

724 Q. Yes?

A. We know that the Minister for Justice lost his job.

725 Q. Yes. What about the Commissioner? Did you not say that he had lost his job arising out of this?

A. I don't think he lost his job arising out of this now. But I think -- I mean, if you think back to the time, I mean there was the GSOC bugging that never was, there was the phone recordings which he actually was trying to do something about, there was the penalty points, there was all these Garda scandals, they all came to a head.

726 Q. You see the point is that I'm suggesting to you that by

1 no stretch of the imagination, even the most vivid  
2 imagination, could you say that the allegations being  
3 considered by the O'Higgins Commission had lost  
4 Commissioner Callinan his job?

5 A. Well, it didn't say that in the Commission report and I 15:50  
6 didn't report it in that way. But I mean, I think if  
7 you stand back, you know the allegations and how he did  
8 or didn't deal with them were certainly a contributory  
9 factor, I mean, not just to Commissioner Callinan but  
10 also Minister for Justice, Alan Shatter. 15:50

11 727 Q. But the penalty points --

12 A. I mean, you saw in the television piece today that even  
13 after the report came out and found -- you know, to a  
14 certain extent vindicated the way the Minister for  
15 Justice at the time dealt with the issues, Fianna Fáil 15:51  
16 still came out and said no, they weren't happy.

17 728 Q. I'm talking about Commissioner Callinan now.

18 A. Or are you? Okay.

19 729 Q. And I'm suggesting to you that it is simply false and  
20 completely false to suggest that the matters considered 15:51  
21 at the O'Higgins Commission contributed to his loss of  
22 his job.

23 A. I don't know about that.

24 730 Q. Well, do you want to argue that they did?

25 A. I wouldn't argue with you, Mr. McDowell. It's a matter 15:51  
26 of opinion, you know.

27 731 Q. Put it this way: The penalty points matter, you're not  
28 suggesting that Mr. Justice O'Higgins was investigating  
29 that?



1 A. No.

2 732 Q. Fair enough.

3 A. But ultimately allegations of poor policing,  
4 malpractice, victims not being served, probationer  
5 gardaí carrying out investigations, that would land at 15:52  
6 the door of the serving Commissioner.

7 733 Q. Now can I bring you back to page 5910 and if we could  
8 have the latter part of the page:  
9

10 "Initial complaint two members of An Garda Síochána in 15:52  
11 the same rank working in the same station, boss down  
12 the corridor asked to investigate."  
13

14 You wrote that down in your notebook, does that reflect  
15 your own thinking or the thinking of somebody else? 15:52

16 A. No, they were the facts as outlined to me.

17 734 Q. As outlined to you by whom? Sorry, I'm not going to  
18 ask you to identify --

19 A. Exactly.

20 735 Q. But by somebody who you were dealing with, is that 15:53  
21 right?

22 A. Yeah.

23 736 Q. So these weren't your own thoughts?

24 A. No, I don't think so. No, no, they weren't mine.

25 737 Q. And they definitely refer back again, now we're in May, 15:53  
26 they refer to the allegation of sexual assault against  
27 Sergeant McCabe and the manner in which it was  
28 investigated?

29 A. The manner in which it was handled, yeah.

1 738 Q. Pardon?  
2 A. Yeah, the manner in which it was handled.  
3 739 Q. Yes. Can I just, at this stage you are aware of the  
4 ranks of the people involved and the fact, the  
5 proximity of their workplace, is that right? 15:53  
6 A. I'm not even sure if that is correct, to be honest with  
7 you. And if it is, that is fine.  
8 740 Q. Well, the same station --  
9 A. Yeah.  
10 741 Q. -- can only mean one thing? 15:53  
11 A. But I'm not even sure if they are two [rank redacted].  
12 742 Q. I'm not using the rank.  
13 CHAIRMAN: We have been trying to not use the rank all  
14 the way through, Mr. Reynolds.  
15 A. Okay. Well, I'm sorry. 15:54  
16 743 Q. MR. McDOWELL: I'm suggesting to you that somebody is  
17 having a conversation with you, pointing out the  
18 closeness and proximity of the two people, members of  
19 An Garda Síochána, who were involved in this allegation  
20 being made? 15:54  
21 A. That is a criticism not of Sergeant McCabe, that is a  
22 criticism of the way the investigation was handled.  
23 744 Q. But I'm suggesting to you that whoever was talking to  
24 you was making that criticism at the time, isn't that  
25 right? 15:54  
26 A. They were making a criticism of the way the  
27 investigation was handled.  
28 745 Q. Yeah?  
29 A. They were not criticising Sergeant McCabe and they were

1 not referring to the allegation, they were referring to  
2 the investigation.

3 746 Q. We're coming up to four o'clock, and I am just  
4 suggesting to you that somebody had raised in  
5 conversation with you the inadequacies of that 15:54  
6 investigation?

7 A. No. The way the investigation was handled --

8 747 Q. Yes?

9 A. -- not the -- that the investigation should not have  
10 been carried out locally. 15:55

11 748 Q. I see, yes.

12 A. I don't even believe it was a criticism of the  
13 investigation itself but it would have been better if  
14 it was handled from somebody outside the division.

15 749 Q. I just want to bring you then to the next line: 15:55  
16  
17 "Boss down the corridor asked to investigate."  
18  
19 well, first of all, that's not something that you could  
20 have thought up, because the man who investigated was 15:55  
21 not down any corridor from the two [garda colleagues].

22 A. No, the boss who was down the corridor from the two  
23 individuals asked was asked to investigate it and  
24 appointed somebody else to investigate it.

25 750 Q. Well, that is not right? 15:55

26 A. Well, sorry, it's not right that the Superintendent  
27 Taylor wasn't down the corridor?

28 751 Q. Yeah.

29 A. Okay.

1 752 Q. He was stationed in Monaghan.

2 A. Yeah, but I mean, I wouldn't necessarily take it

3 literally either. You know, down the corridor is a

4 phrase, like, you know what I mean.

5 753 Q. I see. 15:56

6 A. He was the supervising officer.

7 754 Q. I see. And you're suggesting or somebody is suggesting

8 to you that that was an error or an improper aspect of

9 the investigation?

10 A. No, not the investigation. The fact that the 15:56

11 investigation was carried out locally.

12 755 Q. Yes.

13 A. There was no criticism of the investigation, there was

14 no -- nothing negative about Sergeant McCabe or nothing

15 about the incident, it was about the fact that the 15:56

16 investigation should not have been handled locally.

17 That was the opinion of the person.

18 756 Q. Well, whoever is having this conversation that you're

19 recording is a month -- in the month after the first

20 time this has been raised with you, raising again the D 15:56

21 sexual assault allegation.

22 A. No, is making the point that the investigation should

23 not have been carried out within that division. It

24 should have been handled from somewhere like Dublin.

25 757 Q. How is that in any way relevant to the O'Higgins 15:57

26 Commission?

27 A. It's relevant to policing in Bailieboro.

28 758 Q. Well, was it relevant to the O'Higgins Commission?

29 A. Well, I didn't put it into any of my reports on the

1 O'Higgins Commission.

2 CHAIRMAN: I think what Mr. McDowell may be driving at,  
3 is this: If it is someone you know and if it is  
4 someone from up the corridor who actually investigates  
5 you, that may make the whole thing, if you like, worse 15:57  
6 and make you more bitter in consequence of it. I think  
7 that is the point. And I think that he is saying well  
8 look, was that the whole idea that was being conveyed  
9 to you? Do you see the distinction I'm making?

10 A. I'm -- 15:57

11 CHAIRMAN: If someone you don't know from Adam comes in  
12 and says I'm sorry, Maurice, or whatever it may be,  
13 I've been asked to investigate this and I'm from, I  
14 don't know, Central Detective Unit, Tralee --

15 A. Yeah. 15:57

16 CHAIRMAN: -- that is one thing, if it is somebody who  
17 you know and who is metaphorically or literally up the  
18 corridor, it may make it worse. I think that is the  
19 point being put across. So, if that is the point being  
20 put across and if that is the point being put across to 15:58  
21 you, it would seem that some people may think that that  
22 is being put across in the context of well, that is why  
23 he is so bitter. That is the point I think you're  
24 making, Mr. McDowell.

25 MR. McDOWELL: That is the point. 15:58

26 A. well, okay. That is a big jump. I never got that  
27 impression.

28 759 Q. And can I ask you this, again without any sense trying  
29 to intrude on your private journalistic privilege,

1 could that note have recorded a second conversation  
2 with the same person or is it likely to have been a  
3 different person from your April note?

4 A. Oh, it could have been a variety of different people,  
5 yeah. I spoke to a number of people. 15:58

6 760 Q. I see. So it's possible --

7 A. I can't say if it was or wasn't.

8 761 Q. It's possible then that the Chairman should conclude  
9 that more than one person mentioned the D investigation  
10 to you in the context of your inquiries into the 15:58  
11 O'Higgins Commission report?

12 A. The Chairman should not conclude anything on the basis  
13 of these notes. Do you know what I mean?

14 762 Q. That is a very inviting thought, but I mean I have got  
15 to suggest to you that these notes are contemporaneous? 15:59

16 A. They are.

17 763 Q. And they record conversations you're having with  
18 people?

19 A. They do.

20 764 Q. And sometimes your own thoughts? 15:59

21 A. Yes.

22 765 Q. And these aren't your own thoughts, these are  
23 conversations with strangers?

24 A. Other people. Their opinions. Their views.

25 766 Q. Yes. And I am just putting the point to you again, 15:59  
26 that the Chairman is entitled to conclude that it  
27 wasn't just one person who raised these matters with  
28 you, this matter with you, it was more than one person?

29 CHAIRMAN: In other words, there were a number of

1 people making the same point, is that what you --  
2 MR. McDOWELL: Yes.  
3 CHAIRMAN: Okay.  
4 A. I don't think there's any evidence of that. Well no,  
5 you can speculate, Mr. McDowell, but that's pure 15:59  
6 speculation. And you have to go back to the point that  
7 I do not -- I do not know now and I did not then see  
8 any of these conversations as casting any aspersions on  
9 Sergeant McCabe.  
10 MR. McDOWELL: I understand that. Chairman, we're just 16:00  
11 coming up to four o'clock and I would like to look at  
12 the documents that I was given earlier.  
13 CHAIRMAN: All right. Can we just have a rain check  
14 for a start? I think there are some witnesses,  
15 including public representatives, who we didn't reach 16:00  
16 today, and I'm sorry about that. Secondly, I'm  
17 unfortunately back with other duties which includes  
18 Monday, Tuesday and Wednesday, so there's tomorrow,  
19 there's Thursday, there's Friday, and Mr. McGuinness,  
20 in that context, and noting the apology that I've made, 16:00  
21 these things inevitably happen from time to time, can  
22 you perhaps give me an update and those in the room an  
23 update on where we're going?  
24 MR. MCGUINNESS: Yes, Chairman. Well, we have a number  
25 of other witnesses obviously scheduled for tomorrow. 16:00  
26 We have Ms. Claire Grady, Mr. Ray Burke from RTÉ,  
27 Mr. John Barrett who is being recalled and Mr. Fíonán  
28 Sheehan and then Mr. Conor O'Callaghan to deal with  
29 three technical issues. Then it's intended to list a

1 number of witnesses next Thursday with the possibility  
2 of perhaps going into Friday. Deputy Daly and Deputy  
3 Wallace are being rescheduled for then. And there's a  
4 number of additional witnesses who will be put up on  
5 the website. I can confirm who those are now. 16:01

6 CHAIRMAN: And that's convenient to those involved?

7 MR. McGUI NNESS: It is. We're awaiting confirmation  
8 from a number of them and we're waiting for statements.

9 CHAIRMAN: In addition to that I think there may be  
10 three people who we asked for statements from and it 16:01  
11 will be well appreciated how, I suppose, I want  
12 everything done yesterday.

13 MR. McGUI NNESS: Yes.

14 CHAIRMAN: But I'm sure people are attending to that.

15 MR. McGUI NNESS: Chairman, I'm reluctant to say -- 16:01

16 CHAIRMAN: No, and I don't want you to.

17 MR. McGUI NNESS: Yes.

18 CHAIRMAN: Because the best thing to do is to do the  
19 stuff as opposed to make a fuss about it.

20 MR. McGUI NNESS: Yes. 16:01

21 CHAIRMAN: Yes.

22 MR. McGUI NNESS: In fact, I may have got that wrong. I  
23 think we're scheduling Deputy Daly and Deputy Wallace  
24 for next Friday week, rather than the Thursday week.

25 CHAIRMAN: You mean, tomorrow week? 16:02

26 MR. McGUI NNESS: Tomorrow week.

27 CHAIRMAN: Yeah.

28 MR. McGUI NNESS: We're trying to make as much progress  
29 as we can, but things are in preparation.



1 CHAIRMAN: Yes. Then there may be legal submissions in  
2 relation to a particular issue.

3 MR. McGUI NNESS: Indeed.

4 CHAIRMAN: I don't anticipate that necessarily needs to  
5 be long, but that does need to be fitted in to see 16:02  
6 where we actually are going.

7 MR. McGUI NNESS: Yes.

8 CHAIRMAN: And people would need to adopt what I would  
9 call a position so that I actually know where I stand  
10 on that. And the position is not only a position as to 16:02  
11 now but as to the future and as to any report.

12 MR. McGUI NNESS: Yes.

13 CHAIRMAN: And I have indicate what the elements of  
14 that are and I don't think I am wrong. But if there  
15 was anything to be added -- 16:02

16 MR. McGUI NNESS: That is likely to be on the  
17 following -- not the following week because we don't  
18 have the hall here for the week commencing the 25th.

19 CHAIRMAN: I wonder could we see if there's any place  
20 else we could sit, but let's perhaps explore that. And 16:02  
21 again, as you know, I have a schedule now which has now  
22 begun in relation to other duties. So we can get as  
23 far, in any event, as tomorrow, Thursday, Friday, and  
24 then we can discuss other matters.

25 MR. McGUI NNESS: Yes. we will see where we are then, 16:03  
26 Chairman.

27 CHAIRMAN: All right. And vis-à-vis -- could I just  
28 ask vis-à-vis Mr. Reynolds, I suppose it's taken a long  
29 time for the penny to drop that it's not always

1           beneficial for me to sit on, but Mr. McDowell can I  
2           just ask you and other persons who wish to ask  
3           Mr. Reynolds questions.  
4           MR. McDOWELL: I hope to be finished in another quarter  
5           of an hour, but that is subject to reading the           16:03  
6           material.  
7           CHAIRMAN: That is perfectly reasonable. I'm not  
8           trying to rush you.  
9           MR. FERRY: Probably about 20-25 minutes.  
10          CHAIRMAN: Yes. It's the same basically as the others.   16:03  
11          And then, you would have perhaps some questions.  
12          MR. GILLANE: Two minutes, tops.  
13          CHAIRMAN: Are there any from --  
14          MR. WHELAN: well, this might be an opportune moment  
15          just to clarify one aspect, Chairman, and it's this. I   16:04  
16          mean, it will have an impact on the nature and extent  
17          of any cross-examination we would have. Obviously one  
18          of the reasons this witness is in the witness box is  
19          terms of reference [k] which you opened with this  
20          morning, which is a specific personalised allegation   16:04  
21          from Sergeant McCabe against Nóirín O'Sullivan that she  
22          did influence or seek to influence, is the way it is  
23          put in the terms of reference.  
24          CHAIRMAN: well now, it certainly is from Sergeant  
25          McCabe.   16:04  
26          MR. WHELAN: Yes.  
27          CHAIRMAN: But it is on the basis of authority and we  
28          have noted what the authority is. And we're going to  
29          look into that tomorrow.

1 MR. WHELAN: No, but my question at this stage is,  
2 because this will affect the nature of the  
3 cross-examination, is whether that allegation -- I  
4 respect the Tribunal has to inquire into the terms of  
5 reference, but after five or six hours now of evidence 16:04  
6 from Mr. Reynolds, together with two and a half folders  
7 of documents, I think we're entitled to inquire whether  
8 Sergeant McCabe is maintaining that allegation at this  
9 stage. And if he is not, that may change  
10 cross-examination. And that is the personal one 16:05  
11 against Nóirín O'Sullivan that she influenced or sought  
12 to influence.

13 CHAIRMAN: Mr. Whelan in any event you have to deal  
14 with the allegation that is Mr. Reynolds is one of the  
15 people on the list of nine in the letter from the 16:05  
16 solicitor sent.

17 MR. WHELAN: Exactly.

18 CHAIRMAN: I appreciate that. And that's something you  
19 have to do. But the other thing is this: we all know  
20 the update in relation to the statements, and 16:05  
21 Mr. McDowell you know it as well, I don't know how you  
22 feel about that, but I'm certainly not saying to you  
23 withdraw or not or what do you say about it, because  
24 the duty really is on me to inquire, but is there any  
25 way you can help Mr. Whelan as to where you stand on 16:05  
26 that?

27 MR. McDOWELL: I will take instructions overnight from  
28 Sergeant McCabe on this issue. As you know, he was  
29 depending upon Mr. Barrett in this respect.

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CHAIRMAN: Yes. And you know what the up-to-date statement from Mr. Barrett says.

MR. McDOWELL: Yes. He can only go on what he is told in respect of that. It may be, just to satisfy Mr. Whelan, that I will be instructed to say that the particular charge cannot be sustained unless Mr. Barrett sustains it. 16:06

MR. WHELAN: If that terms of reference falls away that will shorten my cross-examination.

CHAIRMAN: well, it may do, but we're talking about perhaps another hour between the jigs and the reels, isn't that right? 16:06

MR. WHELAN: I would be 20-25 minutes if that terms of reference falls away.

CHAIRMAN: I know, but adding everybody else together. All right. well then, it's ten o'clock in the morning. Thank you very much. 16:06

THE HEARING THEN ADJOURNED UNTIL FRIDAY, 15TH JUNE 2018  
AT 10:00AM 16:06

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