

# Swimming away from accountability

*Those who're letting mass-abuser George Gibney off the hook need accountability – not excitable podcasts, and not even justice*

**By Irvin Muchnick**

**I**N THE familiar pattern of mainstream media treatments of sexual abuse legacies (an Irish speciality), the popular and award-winning 2020 podcast series *Where Is George Gibney?*, a co-production of Second Captains and the BBC, served up powerful oral history from the victims, while leaving all the structural stuff on the cutting-room floor. There were no challenges to public officials and the various government and Olympics-affiliated entities to get it right, even on the principle of better late than never.

The long arc of justice is a more ambitious aspiration than podcast catharsis. For those with the stamina for it, a development earlier this year does keep the Gibney investigative embers flickering. If not for justice for the most notorious at-large sex criminal in the history of

global sport, then at least for a decent dose of justice for the powers-that-be, in a way that might, in the long term, make the next generation of youth athletes safer from being abused by authority figures. If indeed protecting kids from predators is the point of the exercise.

Some of us, in any event, hold that 'accountability' is more important than 'justice'. Today, Gibney is a pathetic old man playing out the string in a Florida suburb, like some retired Nazi concentration camp guard, seemingly abetted in his dotage by local branches of the Knights of Columbanus and Opus Dei.

There is a reason why the criminal dockets call it "The State versus Joe Bloggs" not "The Victim versus Joe Bloggs". Survivors of this monster molester have grievances; they are real and they warrant deep empathy and outrage. It's the public, however, which has the ultimate interest in making repetition of these worst abominations

less probable.

This case has offered up a litany of delinquency. As long ago as 1994, Justice Susan Denham pointedly failed, as she was entitled to do, to recuse herself from the Supreme Court panel that ruled the passage of time had fatally prejudiced Gibney's ability to defend himself against dozens of counts of indecent carnal knowledge of minors. Gibney, already mysteriously armed with a diversity lottery visa, would proceed to hopscotch to the United States by way of Scotland.

Apparently the (admittedly small) State has lacked ethical standards barring a justice (in this case Denham) from hearing a matter argued by her own sibling (in this case Gibney's barrister Patrick Gageby). That lapse is now putatively to be corrected, thanks to the Judicial Council Act 2019 applying a code modelled after the Bangalore Principles, promulgated by the United Nations in 2003. There you have it in Section 4.4 A: "A judge shall not participate in the determination of a case in which any member of the judge's family represents a litigant or is associated in any manner with the case".

The Denham-Gageby connection launched Broadsheet.ie's minority-of-one Irish media stance in what we can call Gibney coverage 2.0. This upgraded muckraking comprised exploring what more there was to say about the quasi-fugitive two-time Olympic head coach, beyond that he was this unprecedentedly heinous guy – one whose life, after getting away with it, devolved into an anonymous odyssey across



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**1988 Seoul Olympics – left to right: Stephen Cullen, Michelle Smith, Gary O'Toole, Richard Gheel and Aileen Convery**



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three separate regions of the vast US. Nodding to this parapetism, in his purest helping of infotainment baloney, podcast producer-narrator, Mark Horgan churned out hours of redundant hushed audio supporting the manipulative notion that he had exclusively tracked down Gibney with ace detection methods.

Gibney coverage 1.0, of course, had been the crucial initial unmasking of Gibney in the nineties. He was a genuinely omnipotent kingmaker of the Irish Olympic movement brand, so we shouldn't make light of the achievement of bringing him down.

After first learning horrific details from root victim Chalkie White, Gary O'Toole, the country's greatest swimmer of that period (now a prominent orthopaedic surgeon), at considerable risk to his own career and convenience, organised victims and pressured gardai and the then Irish Amateur Swimming Association (IASA).

Journalist Johnny Watterson, an alumnus of Gibney's Newpark Comprehensive School in Blackrock, persuaded his bosses at the now-defunct *Sunday Tribune* to green-light a series of shocking articles that broke the hush-hush template of Irish newspapers and led to the coach's indictment.

Justine McCarthy would add penetrating analysis of the failed Murphy Commission investigation that set in motion IASA's re-launch as Swim Ireland, and in 2010 she wrote the definitive book, 'Deep Deception: Ireland's Swimming Scandals'.

Though the diverting podcast didn't make it to Gibney coverage 2.0, let's give it a 1.5.

The series provided, in addition to a global platform on which a number of survivors chose to express themselves fully for the first time, a kind of victory lap for O'Toole and Watterson. But with nothing close to administrative and

legal closure, it wasn't much of a circuit. Bluntly, one of the very reasons for this is that *Where Is George Gibney?* itself made a calculated decision to ignore many of the story's most important and freshest angles.

Gibney coverage 2.0 — with its accountability imperative — requires full-throated, in-your-face confrontation of the players who could make a difference. In no particular order, these include Ireland's Director of Public Prosecutions and the US Department of Justice. Also the state attorney of Hillsborough County, Florida, jurisdiction of Gibney's rape and impregnation of a teen swimmer during a 1991 training trip. Also Swim Ireland, USA Swimming — and above all, the coaches' trade group, the American Swimming Coaches Association.

Outlining the still largely unreported American side of the Gibney saga starts with walking back some of the harshest criticisms of the Irish media's collectively wimpy performance. For all our First Amendment swagger, US news media haven't exactly done such a bang-up job, either, when it comes to illuminating widespread sexual abuse in swimming and other youth sports programmes.

In 2018, after years of cover-ups and bungling (resulting in a new billion-dollar lawsuit against the FBI by Simone Biles and other A-list Olympians), a pervert USA Gymnastics doctor named Larry Nassar was finally busted for his hundreds of instances of molestation of girl athletes he was "treating". An American lawyer who represents abuse victims, Jonathan Little, calls George Gibney the worst bad actor of them all — that is, if it's possible to reduce such things to rankings. But without a doubt, Nassar gives the Irishman a run for his money.

Juxtaposed against a narrative populated by an articulate and determined cohort of high-profile survivors, American swimming so far lacks a signature villain like Nassar. But

swimming's abuse toll is as bad or worse than that of gymnastics, and with a far larger footprint of participation by kids in after-school training and weekend meets. In 2020, a grand jury under the direction of the US attorney for the Southern District of New York began investigating USA Swimming for insurance fraud, hiding of assets and abuse cover-ups. A handful of major American newspapers dutifully reported a leak of this secret investigation — then just let it sit there. This is not how change gets effected, with respect to Watergate, haywire wars or anything else.

More generally this is a moment to reflect transatlantically, as it were, on what exactly IS the formula for breaking through on important stories that cut against the grain? With a mix of metrics and optics, one can point, though not in a very satisfying or coherent way, to particular flashpoints of drama, sensationalism, and name and brand recognition.

From my modest blog, I've been knocking at the door of swimming's wall-to-wall crimes for more than 10 years, and of Gibney's parochial ones for eight. The only conclusion is that there's some sort of elusive "it" factor certifying news that's suddenly fit to print. Outlets higher up in the information food chain operate with priestly haughtiness and Sphinx-like inscrutability. And the attitude applies in the States just as it does in Ireland.

Hollywood, of course, is the institution with the most sentimental capacity for telling it like it is, requiring only that it be long after it was. Screens are perennially sated with sad tales of the betrayal of Native Americans, always served with a soupçon of remorse. In 1968, at the

height of the anti-Vietnam War movement, John Wayne waved the flag in *The Green Berets*. Later, right-thinking filmmakers churned out *Coming Home* (1978) and *Born on the Fourth of July* (1989) – helpfully, a respective three and 14 years after the light at the end of the tunnel had shone on employees of the American embassy in flight from the capital now known as Ho Chi Minh City.

2015 was Oscar time for Tom McCarthy's *Spotlight*, which decided that the hero of the uncovering of the Catholic Church's priest abuse scandals was Marty Baron, the executive editor of the *Boston Globe* and later the *Washington Post*. Never mind that tips had only been in the water supply for a generation or more.

A few years later, with #MeToo wind at their backs, the *New York Times* and *The New Yorker* bagged movie mogul casting couch auteur Harvey Weinstein, and shared a Pulitzer Prize for their work. This year, along came New Yorker writer Ken Auletta with a new book on Weinstein and "the culture of silence". Auletta wasn't the writer of the takedown of Weinstein for years of heavily whispered but unabated sexual assaults – that had been Ronan Farrow. But years earlier Auletta had profiled Weinstein, yet somehow missed the pachyderm in the luxury suite. You'd think that now Auletta would at least have the modesty to abstain from further reflections on the meaning of the rapist of Miramax. Wrong! It's a teachable moment, you see; and, fortuitously for Auletta, a profitable one.

As to the George Gibney story, it is part and parcel of the American and global swimming abuse story. There has even been, alongside the grand jury investigation of USA Swimming, a federal probe of Gibney. A Justice Department official was assigned to the latter task; her name is Jane Khodarkovsky, Human Trafficking Finance Specialist at the department's Money Laundering and Asset Recovery Section (MLARS). The only thing lacking for bringing this home for readers, with results, is the will to write and broadcast it, more persistently and purposefully. At this point, the only outlets known to have so much as queried MLARS and the US attorney (yielding those ritualised and non-dispositive no comments) have been Broadsheet, that *other* Irish sports podcast, Off the Ball, and my own Concussion Inc.

In 2015 I sued the Department of Homeland Security, under the Freedom of Information Act (FOIA), to uncover documents from Gibney's immigration file. The lawsuit bore considerable fruit. But to borrow the formulation of Bishop George Berkeley (namesake of my home city in California), it has been a tree falling in a forest with no one to hear it. In that laborious, defeatist way, sadly familiar to one aspect of the national style, an *Irish Times* article on the ongoing agony of Gibney victims, by Johnny Watterson, dismissed the FOIA as a failed attempt to get Gibney extradited for trial. Britain's *Guardian*



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echoed this canard in a piece hyping the BBC podcast.

The FOIA had no such agenda; it was a FOIA. For starters, it established for the first time how Gibney had filed his visa paperwork while on the cusp of indictment. Attached to his application was a 1992 "certificate of character" from Garda Headquarters, Phoenix Park, attesting – with momentary accuracy – that he was nowhere to be found on any arrest blotter. Moreover a decade later, when it came time for Gibney to apply for a renewal of his green card, there would be no need to disclose his 1993 arrest: the US renewal application asked only if there had been a change of address or marital status.

The alien file also contained, in tantalisingly redacted form, a letter recommending Gibney for a US swim coaching job. Presiding over the FOIA case was no-nonsense federal judge Charles Breyer (brother of recently retired Supreme Court justice Stephen Breyer). Breyer didn't order removal of the redactions. But in his ruling ("mostly") in my favour against the government, he did note that the American Swimming Coaches Association (ASCA) was suspected of "greasing the wheels for Gibney's relocation".

Several years later, in one of the podcast's best turns, Mark Horgan cornered former Gibney assistant coach Peter Banks, now in Florida, into not denying that he had authored or engineered the job offer letter. Inexplicably, though, Horgan withheld the information that Banks was, at the time, a top ASCA official. And *Where Is George Gibney?* didn't report anything about ASCA or follow up with the organisation at all.

The linchpin of the documents released by the FOIA litigation was the revelation that the same ruse of pretending never to have been *either convicted of or charged with a crime* didn't work in 2010 when Gibney – probably in a panic to shut down off-and-on Irish investigations once and for all – applied for US citizenship. His application got bounced back by US Citizenship and Immigration Services (USCIS), who told him to try again. Since the citizenship application was denied, it can be inferred that Gibney declined USCIS's cue to cure the lie in his original submission.

This seemed a classic predicate for booting out a green card holder – materially lying in a representation to the government. That's when another agency, Immigration and Customs Enforcement (ICE), stepped in to say not so fast. Because Gibney had never been convicted of a crime, an ICE letter in Gibney's file rationalised,


he was not "removable".

At a hearing, Judge Breyer was unimpressed. "How is a person permitted to remain in the United States when, in fact, the circumstances of the Ireland experience or what occurred in Ireland are publicly known? That's number one", he queried from the bench. And number two, if Gibney "gave false answers in connection with an application, how is it that that somehow doesn't bring into question the term of his initial visa permit?"

The judge continued: "I have to assume that if somebody has been charged with the types of offences that Mr. Gibney has been charged with, the United States, absent other circumstances, would not grant a visa. We're not a refuge for paedophiles".

Breyer wondered, "Did somebody in the Department of Homeland Security say: 'well, you know this person lied to us [and] I think we have to go back and question the legitimacy of allowing that person to remain in the United States'?" Whatever the reasoning was, Breyer said, the functional bottom line was a choice not to deport Gibney "even though this person gave an untruthful answer".

The question 'Where is George Gibney?' is a pat one with a ready answer: He lives on a quiet residential street in Altamonte Springs, Florida. That's not investigating, that's doxxing.

The existential question is, where are the government prosecutors and bureaucrats here? Where are the activists and journalists poised to push them with a message more compelling than, "woe is us," into an answer more principled than, "better luck next time"? 

*Irvin Muchnick investigates sport scandals at his site Concussion Inc. His new book, 'Without Helmets or Shoulder Pads: The American Way of Death in Youth Football Conditioning', will be published next year.*

