

1



CONFIDENTIAL: Commission of Investigation
Michael P. Flahive to: Christopher X. Quattrociochi
Cc: SecGenOffice, Ken F. O'Leary, Martin M. Power

15/05/2015 16:57

History: This message has been replied to and forwarded.

Chris
Could you pass this on to the Minister for information please.

I took a call this afternoon from Richard Barrett in relation to the O'Higgins Commission of Investigation (which is investigating the matters identified by the Guerin report).

The O'Higgins Commission has started hearings, and the Garda Síochána are represented by counsel, as is Sergeant McCabe (in his case, Michael McDowell SC).

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Regards
Michael



Re: CONFIDENTIAL: Commission of Investigation
Ken F. O'Leary to Michael P. Flahive

15/05/2015 17:00

That's grand, Michael, thanks.

Ken O'Leary

Deputy Secretary

353 1 602 8314

Michael P. Flahive

Chris Could you pass this on to the Minister for i...

15/05/2015 16:57:24

From: Michael P. Flahive/JUSTICE
To: Christopher X. Quattrociochi/JELR/JSECTOR@JUSTICE,
Cc: SecGenOffice, Ken F. O'Leary/JUSTICE@JUSTICE, Martin M. Power/JUSTICE@JUSTICE
Date: 15/05/2015 16:57
Subject: CONFIDENTIAL: Commission of Investigation

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Regards

Michael

Christopher X. Quattrociochi

From: Christopher X. Quattrociochi
Sent: 15 May 2015 17:04
To: CN=William X. Lavelle/OU=JELR/O=JSECTOR@justice; CN=Marlon X. Mannion/OU=JELR/O=JSECTOR@justice; CN=Frances X. Fitzgerald/OU=JELR/O=JSECTOR@justice
Subject: Fwd: CONFIDENTIAL: Commission of Investigation

Sent from my iPhone

Begin forwarded message:

From: "Michael P. Flahive" <mflahive@justice.ie>
Date: 15 May 2015 16:57:24 IST
To: "Christopher X. Quattrociochi" <CXQuattrociochi@justice.ie>
Cc: "SecGenOffice" <U2VjR2VuT2ZmaWNl@lnt.noninternet.sub>, "Ken F. O'Leary" <KFO'Leary@justice.ie>, "Martin M. Power" <MMPower@justice.ie>
Subject: CONFIDENTIAL: Commission of Investigation

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Re: **CONFIDENTIAL: Commission of Investigation**
Christopher X. Quattrociochi to: Michael P. Flahive
Cc: SecGenOffice, Ken F. O'Leary, Martin M. Power

15/05/2015 17:05

Michael

I'll flag this to the minister.

Chris

Sent from my iPhone

> On 15 May 2015, at 16:57, Michael P. Flahive <mflahive@justice.ie> wrote:

>

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> Regards

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> Michael



Fw: CONFIDENTIAL: Commission of Investigation
Denis X. Griffin to: Noel A. Waters

15/05/2015 17:16

----- Forwarded by Denis X. Griffin/JUSTICE on 15/05/2015 17:16 -----

From: Michael P. Flahive/JUSTICE
To: Christopher X. Quattrociochi/JELR/JSECTOR@JUSTICE,
Cc: SecGenOffice, Ken F. O'Leary/JUSTICE@JUSTICE, Martin M. Power/JUSTICE@JUSTICE
Date: 15/05/2015 16:57
Subject: CONFIDENTIAL: Commission of Investigation

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Michael



Re: CONFIDENTIAL: Commission of Investigation
Denis X. Griffin to: Michael P. Flahive

18/05/2015 17:38

Michael

Noted by Acting SG

Denis

Michael P. Flahive Chris Could you pass this on to the Minister for i... 15/05/2015 16:57:24

From: Michael P. Flahive/JUSTICE
To: Christopher X. Quattrociochi/JELR/JSECTOR@JUSTICE,
Cc: SecGenOffice, Ken F. O'Leary/JUSTICE@JUSTICE, Martin M. Power/JUSTICE@JUSTICE
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Michael

Christopher X. Quattrociochi

From: Christopher X. Quattrociochi
Sent: 25 May 2015 12:21
To: Michael P. Flahive
Cc: CN=Ken F. O'Leary/O=JUSTICE@JUSTICE; Martin M. Power; SecGenOffice
Subject: Re: CONFIDENTIAL: Commission of Investigation

Michael

The Minister has noted the below

Regards

Chris Quattrociochi
Private Secretary to the Minister for Justice & Equality
Dept. of Justice and Equality
94 St. Stephens Green
Dublin 2

Email: chrisq@justice.ie
Ph Dept: +353 1 602 8321
Ph Leinster House: +353 1 700 2041
Ph Mobile: +353 87 2214539
Fax: +353 1 6767797

From: Michael P. Flahive/JUSTICE
To: Christopher X. Quattrociochi/JELR/JSECTOR@JUSTICE,
Cc: SecGenOffice, Ken F. O'Leary/JUSTICE@JUSTICE, Martin M. Power/JUSTICE@JUSTICE
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This Week

Ken F. O'Leary to: Frances X. Fitzgerald
Marion X. Mannion, William X. Lavelle, Noel A. Waters, Dale W.
Cc: Sunderland, Fiona M. O'Sullivan, Michael P. Flahive,
Christopher X. Quattrociocchi

04/07/2015 20:05

Good evening, Minister.

The Garda Commissioner phoned me to let me know they had received queries from Colm O'Mongain about Sgt McCabe. They were asked was it the case that Sgt McCabe was looking to be taken out of the traffic unit in Mullingar and was it the Garda Commissioner who had instructed counsel to adopt an aggressive stance towards Sgt McCabe at the O'Higgin's Commission. The Gardai are not commenting.

I understand that some weeks ago Sgt McCabe indicated to his authorities in Mullingar that he no longer wanted to stay in his post in the Traffic Unit. Apparently he blamed the Commissioner for this though he said he could not be more specific as he was bound by confidentiality. This coincided with hearings at the O'Higgins Commission (these hearings are being held in private and there is a prohibition on disclosing evidence given at them). Sgt McCabe remains in his post at the traffic unit, though, in practice, his time recently has been taken up giving evidence to the Commission.

If these matters are raised with you, you could say

Both the Garda Commissioner and myself have made it clear that Sgt McCabe is a valued member of the Force.

I think it is a matter of public record that at various times he has raised various concerns regarding his position in the Force. I know that there has been an ongoing process in attempting to address those concerns. I, of course, have made it clear, including to Sgt McCabe himself when I met him, that it would not be acceptable if anyone in the Force were to be disadvantaged in any way by bringing wrongdoing to light. I am glad too that the legal regime in relation to whistleblowers has been changed fundamentally by the Protected Disclosures Act so there are now proper procedures in place to deal with matters brought to light by whistleblowers.

As to Sgt McCabe's present situation, I have to be conscious that he, no more and no less than any serving member of the Force, is entitled to confidentiality in his dealings with the Garda authorities, so it would not be appropriate for me to comment publicly in any way on those dealings. In particular, I think it would be very unfair to Sgt McCabe for me to do so.

I have to be conscious too that at present various matters raised by Sgt McCabe about policing in Cavan/Monaghan are being dealt with by a Commission of Investigation under Justice Kevin O'Higgins and it would be wrong of anyone to make public comment which might interfere with or attempt to influence those proceedings in any way. That Commission clearly has to be let take its course.

Regards

Ken

Ken O'Leary

Deputy Secretary

353 1 602 8314



This week

Ken F. O'Leary to: Frances X. Fitzgerald

04/07/2015 21:30

Cc: Marion X. Mannion, William X. Lavelle, Dale W. Sunderland,
Fiona M. O'Sullivan, Noel A. Waters, Michael P. Flahive

Minister

I was wrong to say that the Sgt McCabe queries came from Colm O'Mongain. You will see from the queries and response below that they came from John Burke, an investigative reporter with This Week.

The Garda response refers to reporting restrictions on the workings of the Commission. The governing legislation provides that a person shall not disclose or publish any evidence given by a witness in private. While there *may* be a technical argument to be made that Mr Burke's reference to what counsel raised, rather than what a witness said in evidence, may not be covered by that you will appreciate that it would be completely inappropriate for you to comment in any way on the working of the Commission. The conduct of the Garda case at the Commission is entirely a matter for the Garda Commissioner on the basis of the legal advice available to her.

Regards

Ken

Ken O'Leary

Deputy Secretary

353 1 602 8314

----- Forwarded by Ken F. O'Leary/JUSTICE on 04/07/2015 21:14 -----

From: "OSullivan, Noirin P" <npos@garda.ie>
To: "Ken F. O'Leary" <KFO'Leary@justice.ie>,
Date: 04/07/2015 20:56
Subject: Fwd: Garda Sgt Maurice McCabe

Ken, exact text of what was received by pro and our response. N

Connected by Motorola

----- Original message -----

Subject: FW: Garda Sgt Maurice McCabe
From: Press_Office <PressOffice@garda.ie>
To: "OSullivan, Noirin P" <npos@garda.ie>
CC:

Good evening Commissioner,

The following reply has been sent to Mr. John Burke, RTE from the Garda Press Office in response to his queries, below;

An Garda Síochána do not comment on named individuals or on the deployment of Garda resources internally/externally for operational reasons. As this Inquiry is ongoing it would be inappropriate for An Garda Síochána to comment.

Please note An Garda Síochána's understanding is that the O'Higgins Inquiry may have imposed reporting restrictions on its workings.

A copy of this email has been forwarded to Chief Superintendent Ward, Professional Standards, Mr. John Barrett, Executive Director Human Resource Management and Mr. Kenneth Ruane, Legal Affairs for their information.

Forwarded for your information, please.

Kind regards,

Alan Frawley, Sergeant

Garda Press Office

From: Burke, John [mailto:John.Burke@rte.ie]
Sent: 04 July 2015 14:19
To: McLindon, Andrew
Cc: Press_Office
Subject: Garda Sgt Maurice McCabe

CC: Garda press
Andrew,

Can you please respond to the following query? It is two-parted and relates to separate matters involving the garda sergeant Maurice McCabe.

1. RTE understands that Sgt McCabe has contacted Garda headquarters to request that he be released from the new role heading up the traffic unit at Mullingar. What is your response to this and your understanding of the circumstances behind Sgt McCabe's decision?

2. Secondly, and separate to the above, RTE's This Week understands that at a recent session of the Justice Kevin O'Higgins Inquiry, counsel for the Garda Commissioner raised questions over the motivation of Sgt McCabe for bringing certain matters regarding alleged garda misconduct to attention.

Does this amount to the view of the Garda Commissioner in terms of her view as to why Sgt McCabe raised these issues in the first instance?

I would appreciate your response at the earliest opportunity.

It is our intention to report on these matters on the 'This Week' radio programme tomorrow, Sunday 5/7/2015.

Regards,

John Burke

John Burke

Journalist
RTE News
RTE
Donnybrook
Dublin 4
Ireland
Phone: 087 637 1468
Email: john.burke@rte.ie

Disclaimer: The information in this e-mail is confidential and may be legally privileged. It is intended solely for the addressee. Access to this e-mail by anyone else is unauthorised. If you are not the intended recipient, any disclosure, copying, distribution, or any action taken or omitted to be taken in reliance on it, is prohibited and may be unlawful. Please note that emails to, from and within RTÉ may be subject to the Freedom of Information Act 1997 and may be liable to disclosure.

Tá an t-eolas sa ríomhphost seo faoi rún agus d'fhéadfadh sé a bheith faoi phribhléid dhlíthiúil. Is ar an seolaí amháin atá sé dírithe. Níl cead ag aon duine eile rochtain a fháil ar an ríomhphost seo. Mura tú an faighteoir beartaithe, tá cosc ar aon nochtadh, cóipéail, dáileadh, nó aon ghníomh a dhéanamh nó a fhágáil ar lár i dtaca leis an ríomhphost agus d'fhéadfadh sin a bheith mídhleathach. Tabhair ar aird le do thoil, d'fhéadfadh ríomhphost chuig, ó agus laistigh de RTÉ a bheith faoi réir an Achta um Shaoráil Faisnéise 1997, agus d'fhéadfadh go ndéanfaí é a nochtadh.

Faisnéis í seo don té sin nó don eintiteas sin a bhfuil a sheoladh uirthi, agus dó siúd amháin, agus d'fhéadfadh ábhar rúnda agus/ nó ábhar faoi phribhléid a bheith iniata. Toirmisctear aon athbhreithniú, atarchur nó leathadh a dhéanamh ar an bhfaisnéis seo, aon úsáid eile a bhaint aisti nó aon ghníomh a dhéanamh ar a hiontaoibh, ag daoine nó ag eintitis seachas an faighteoir beartaithe.

Más trí bhotún a fuair tú é seo, cuir scéala chuig an seoltóir le do thoil agus scríos an t-ábhar d'aon ríomhaire. Is é polasaí An Garda Síochána seoladh ábhair cholúil a dhícheadú, agus más dóigh leat gur ábhar colúil atá sa teachtaireacht seo ba cheart duit dul i dteagmháil leis an seoltóir agus le postmaster@garda.ie láithreach.

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited.

If you received this in error, please contact the sender and delete the material from any computer. It is the policy of An Garda Síochána to disallow the sending of offensive material and should you consider that the material contained in this message is offensive you should contact both the sender and postmaster@garda.ie immediately.



Fwd: This Week

Ken F. O'Leary to: Noirin O'Sullivan
Bcc: Ken F. O'Leary

04/07/2015 20:20

From: Ken F. O'Leary/JUSTICE
To: "Noirin O'Sullivan" <npos@garda.ie>,
Bcc: Ken F. O'Leary/JUSTICE@justice

Fyi

Begin forwarded message:

From: "Ken F. O'Leary" <KFO'Leary@justice.ie>
Date: 4 July 2015 20:05:06 IST
To: "Frances X. Fitzgerald" <FXFitzgerald@justice.ie>
Cc: "Marion X. Mannion" <MXMannion@justice.ie>,"William X. Lavelle" <WXLavelle@justice.ie>,"Noel A. Waters" <nwaters@justice.ie>,"Dale W. Sunderland" <DWSunderland@justice.ie>,"Fiona M. O'Sullivan" <FMOSullivan@justice.ie>,"Michael P. Flahive" <mflahive@justice.ie>,"Christopher X. Quattrociocchi" <CXQuattrociocchi@justice.ie>
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Deputy Secretary

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Fw: This week
Ken F. O'Leary to: npos

04/07/2015 21:31

fyi

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Cc: Marion X. Mannion/JELR/JSECTOR@JUSTICE, William X. Lavelle/JELR/JSECTOR@JUSTICE, Dale W. Sunderland/JUSTICE@JUSTICE, Fiona M. O'Sullivan/JELR/JSECTOR@JUSTICE, Noel A. Waters/JUSTICE@JUSTICE, Michael P. Flahive/JUSTICE@JUSTICE
Date: 04/07/2015 21:30
Subject: This week

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CC:

Good evening Commissioner,

The following reply has been sent to Mr. John Burke, RTE from the Garda Press Office in response to his queries, below;

An Garda Síochána do not comment on named individuals or on the deployment of Garda resources internally/externally for operational reasons. As this inquiry is ongoing it would be inappropriate for An Garda Síochána to comment.

Please note An Garda Síochána's understanding is that the O'Higgins Inquiry may have imposed reporting restrictions on its workings.

A copy of this email has been forwarded to Chief Superintendent Ward, Professional Standards, Mr. John Barrett, Executive Director Human Resource Management and Mr. Kenneth Ruane, Legal Affairs for their information.

Forwarded for your information, please.

Kind regards,

Alan Frawley, Sergeant

Garda Press Office

From: Burke, John [mailto:John.Burke@rte.ie]
Sent: 04 July 2015 14:19
To: McLindon, Andrew
Cc: Press_Office
Subject: Garda Sgt Maurice McCabe

CC: Garda press
Andrew,

Can you please respond to the following query? It is two-parted and relates to separate matters involving the garda sergeant Maurice McCabe.

1. RTE understands that Sgt McCabe has contacted Garda headquarters to request that he be released from the new role heading up the traffic unit at Mullingar. What is your response to this and your understanding of the circumstances behind Sgt McCabe's decision?
2. Secondly, and separate to the above, RTE's This Week understands that at a recent session of the



Fw: This week

Ken F. O'Leary to: Andrew B. Kelly

05/07/2015 09:37

From: Ken F. O'Leary/JUSTICE
To: Andrew B. Kelly/JELR/JSECTOR,

Andrew

I didn't send you this last night as I didn't realise you were on this weekend. I'll send you the earlier email it refers too as well. I sent them to the Minister. I'll also work on something on the SBP story.

Regards

Ken

Ken O'Leary

Deputy Secretary

353 1 602 8314

----- Forwarded by Ken F. O'Leary/JUSTICE on 05/07/2015 09:35 -----

From: Ken F. O'Leary/JUSTICE
To: Frances X. Fitzgerald/JELR/JSECTOR@JUSTICE,
Cc: Marion X. Mannion/JELR/JSECTOR@JUSTICE, William X. Lavelle/JELR/JSECTOR@JUSTICE, Dale W. Sunderland/JUSTICE@JUSTICE, Fiona M. O'Sullivan/JELR/JSECTOR@JUSTICE, Noel A. Waters/JUSTICE@JUSTICE, Michael P. Flahive/JUSTICE@JUSTICE
Date: 04/07/2015 21:30
Subject: This week

Minister

I was wrong to say that the Sgt McCabe queries came from Colm O'Mongain. You will see from the queries and response below that they came from John Burke, an investigative reporter with This Week.

The Garda response refers to reporting restrictions on the workings of the Commission. The governing legislation provides that a person shall not disclose or publish any evidence given by a witness in private. While there *may* be a technical argument to be made that Mr Burke's reference to what counsel raised, rather than what a witness said in evidence, may not be covered by that you will appreciate that it would be completely inappropriate for you to comment in any way on the working of the Commission. The conduct of the Garda case at the Commission is entirely a matter for the Garda Commissioner on the basis of the legal advice available to her.

Regards

Ken

Ken O'Leary

Deputy Secretary

353 1 602 8314

----- Forwarded by Ken F. O'Leary/JUSTICE on 04/07/2015 21:14 -----

From: "OSullivan, Noirin P" <npos@garda.ie>
To: "Ken F. O'Leary" <KFO'Leary@justice.ie>,
Date: 04/07/2015 20:56
Subject: Fwd: Garda Sgt Maurice McCabe

Ken, exact text of what was received by pro and our response. N
Connected by Motorola

----- Original message -----

Subject: FW: Garda Sgt Maurice McCabe
From: Press_Office <PressOffice@garda.ie>
To: "OSullivan, Noirin P" <npos@garda.ie>
CC:

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Kind regards,

Alan Frawley, Sergeant

Garda Press Office

From: Burke, John [mailto:John.Burke@rte.ie]
Sent: 04 July 2015 14:19
To: McLindon, Andrew
Cc: Press_Office
Subject: Garda Sgt Maurice McCabe

CC: Garda press
Andrew,



Re: This Week

Andrew B. Kelly to: Ken F. O'Leary

05/07/2015 09:40

From: Andrew B. Kelly/JELR/JSECTOR
To: Ken F. O'Leary/JUSTICE@justice,

Thanks Ken.

Sent from my iPhone

On 5 Jul 2015, at 09:38, Ken F. O'Leary <KFO'Leary@justice.ie> wrote:

This is the earlier email.

Ken O'Leary

Deputy Secretary

353 1 602 8314

----- Forwarded by Ken F. O'Leary/JUSTICE on 05/07/2015 09:37 -----

From: Ken F. O'Leary/JUSTICE
To: Frances X. Fitzgerald/JELR/JSECTOR@JUSTICE,
Cc: Marion X. Mannion/JELR/JSECTOR@JUSTICE, William X. Lavelle/JELR/JSECTOR@JUSTICE, Noel A. Waters/JUSTICE@JUSTICE, Dale W. Sunderland/JUSTICE@JUSTICE, Fiona M. O'Sullivan/JELR/JSECTOR@JUSTICE, Michael P. Flahive/JUSTICE@JUSTICE, Christopher X. Quattrociochi/JELR/JSECTOR@JUSTICE
Date: 04/07/2015 20:05
Subject: This Week

Good evening, Minister.

The Garda Commissioner phoned me to let me know they had received queries from Colm O'Mongain about Sgt McCabe. They were asked was it the case that Sgt McCabe was looking to be taken out of the traffic unit in Mullingar and was it the Garda Commissioner who had instructed counsel to adopt an aggressive stance towards Sgt McCabe at the O'Higgin's Commission. The Gardai are not commenting.

I understand that some weeks ago Sgt McCabe indicated to his authorities in Mullingar that he no longer wanted to stay in his post in the Traffic Unit. Apparently he blamed the Commissioner for this though he said he could not be more specific as he was bound by confidentiality. This coincided with hearings at the O'Higgins Commission (these hearings are being held in private and there is a prohibition on disclosing evidence given at them). Sgt McCabe remains in his post at the traffic unit, though, in practice, his time recently has been taken up giving evidence to the

Commission.

If these matters are raised with you, you could say

Both the Garda Commissioner and myself have made it clear that Sgt McCabe is a valued member of the Force.

I think it is a matter of public record that at various times he has raised various concerns regarding his position in the Force. I know that there has been an ongoing process in attempting to address those concerns. I, of course, have made it clear, including to Sgt McCabe himself when I met him, that it would not be acceptable if anyone in the Force were to be disadvantaged in any way by bringing wrongdoing to light. I am glad too that the legal regime in relation to whistleblowers has been changed fundamentally by the Protected Disclosures Act so there are now proper procedures in place to deal with matters brought to light by whistleblowers.

As to Sgt McCabe's present situation, I have to be conscious that he, no more and no less than any serving member of the Force, is entitled to confidentiality in his dealings with the Garda authorities, so it would not be appropriate for me to comment publicly in any way on those dealings. In particular, I think it would be very unfair to Sgt McCabe for me to do so.

I have to be conscious too that at present various matters raised by Sgt McCabe about policing in Cavan/Monaghan are being dealt with by a Commission of Investigation under Justice Kevin O'Higgins and it would be wrong of anyone to make public comment which might interfere with or attempt to influence those proceedings in any way. That Commission clearly has to be let take its course.

Regards

Ken

Ken O'Leary

Deputy Secretary

353 1 602 8314