

Garda:Statement from Garda Commissioner Nóirín O Sullivan 25th May 2016
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The O'Higgins Commission Report presents inescapable lessons for An Garda Síochána, based on our shortcomings in a number of critical areas including our dealings with whistleblowers. We must radically and permanently change that pattern and we will apply the insights and learnings from our recent experiences in developing a Garda Whistleblower's Charter. As will be detailed below, actions to address this have already been undertaken and others are in progress.

There are clear constraints around the question of making public comment about this matter. I cannot offend against the basic principles of the rule of law; and that regard must be had to the statutory confidentiality of Commission proceedings, the relationship between lawyers and their clients and questions of basic fairness.

With reference to my previous statement of the 16th May 2016 there have been calls for further clarification regarding the instructions given to the legal team representing An Garda Síochána and the approach adopted by it, in relation to the proceedings of the Commission.

What is at the heart of the present controversy is that, despite legal prohibitions and the clear view expressed by Mr Justice O'Higgins about the confidentiality of the Commission's proceedings, certain selective information purporting to relate to those proceedings has been put into the public domain. By "selective" I mean transcripts of no more than three minutes of what happened at a Commission which ran for 34 ten hour days, generating thousands of pages of transcripts. This has been accompanied by an unsourced and unverified account of an alleged part of the proceedings.

Whatever the sources of information or misinformation that has been put into the public domain the inevitable effect is the risk to public confidence in An Garda Síochána being damaged in a very unfair way.

Mr Justice O'Higgins, as the Sole Member, having had the opportunity to hear and examine 97 witnesses and weigh the submissions made by the legal representatives of all parties subject of the proceedings, decided what should and should not be included in his Report. In this context, it is worth noting that the Commission points out that it conducted its proceedings with particular regard to its duty of compliance with the requirements of constitutional and natural justice.

As Garda Commissioner having fully accepted the findings of the Report, it falls to me to move swiftly to implement its recommendations.

This I have done.

While it is important to dispel any public concern in relation to this issue, I have to be mindful of section 11 of the Commissions of Investigation Act 2004 which provides that a commission shall conduct its investigation in private. I am advised that everyone involved in the proceedings of the O'Higgins Commission is bound to respect the privacy of those proceedings. Furthermore, in relation to communications with the legal team representing An Garda Síochána, it is important in terms of receiving advice and giving instructions that privilege in such communications is protected so as not to adversely impact on the workings of An Garda Síochána and its entitlement to seek and obtain legal advice on a confidential basis in this instance and in the future.

These constraints, which reflect important principles of law, restrict my capacity to address the issues which have been raised in relation to the approach taken by An Garda Síochána before the O' Higgins Commission. However, I can confirm that An Garda Síochána's legal team was not at any stage instructed to impugn the integrity of Sergeant Maurice McCabe or to make a case that he was acting maliciously. I would emphasise that the overriding objective of An Garda Síochána, and its legal team, was at all times to assist the Commission in carrying out its statutory functions and to establish all relevant facts in relation to the matters referred to it for investigation as set out in its terms of reference.

This brings me to the charge which is in the public domain that is the most difficult to deal with sensitively and which is one of the reasons I have been reluctant to enter into public comment about this matter. Whatever its source, the net charge that is now being made is that the credibility and motivation of Sergeant McCabe was challenged. I can only deal with this on the basis of what is set out in the Commission Report and I am conscious that this involves dealing with certain findings in relation to allegations of corruption and malpractice. I have no wish to rehearse this matter again but it is simply impossible not to do so in addressing it.

As Commissioner of An Garda Síochána I have a duty to all its members and former members. Having regard to the nature and seriousness of the allegations, and the duty to assist the Commission in its task of establishing the facts and truth, I cannot see how it would be in any way unreasonable, improper or avoidable to appropriately test and cross examine the evidence of all persons giving evidence to the Commission including Sergeant McCabe.

The Commission found, in relation to certain allegations; these hurtful allegations to be unfounded and in at least one case based on a belief, but unsupported by evidence, and that those against whom such complaints were made lived for many years under the strain of those allegations.

An Garda Síochána is fully accountable for its actions or indeed inaction. We operate fully within the framework of accountability and oversight which the Oireachtas sets. I will be appearing before the Policing Authority tomorrow where I will deal with these matters to the fullest extent possible.

In addition to the above, I have taken the following steps to address other matters arising:

· There has been a suggestion in recent reportage that two senior officers had sought to misrepresent before the Commission the contents of a meeting they held with a Sergeant in Mullingar in 2008. In those circumstances, and in order to resolve any public disquiet, misplaced or otherwise which may arise, and in the interest of fairness to all involved, I have requested the Minister for Justice, pursuant to her powers within the Garda Síochána Act, to refer that aspect to the Garda Síochána Ombudsman Commission for the purpose of investigating it in the public interest.

· On receipt of the Report, I directed Deputy Commissioner John Twomey to fully examine the content, findings and recommendations of the Report and to address any issues arising from that examination, including lessons learned that may further inform An Garda Síochána's Modernisation and Renewal Programme. The programme which addresses, among other things, the fundamental issues arising in the O'Higgins report in relation to renewal of our culture, training, supervision, victims support and investigative practices, will be formally published in early course.

· In relation to whistleblowers, I have been consistent at all times: dissent is not disloyalty and as a service we are determined to learn from our experiences. An Garda Síochána agrees that whistleblowers are part of the solution to the problems facing the service. In this regard, yesterday we met with representatives from Transparency Ireland who have agreed to work with us to create an environment to ensure protected disclosures and people making them are welcomed and protected in An Garda Síochána.

· A Protected Disclosures Manager has now been appointed and we have begun establishing a dedicated team who will be appropriately trained to oversee all matters related to whistleblowers.

In conclusion and as stated at the outset, An Garda Síochána fully accept the findings of the O'Higgins Commission and we are committed to learning all lessons and fully implementing the recommendations.