



**COMMISSION OF INVESTIGATION**  
**(CERTAIN MATTERS RELATIVE TO THE CAVAN/MONAGHAN DIVISION OF**  
**THE GARDA SÍOCHÁNA)**

**AN COIMISIÚN IMSCRÚDÚCHÁIN**  
**(NITHE ÁIRITHE I DTAOBH RANNÁN AN CHABHÁIN / MHUINEACHCÁIN DEN**  
**GHARDA SÍOCHÁNA)**

*Mr. Justice Kevin C. O'Higgins*  
*Sole Member*

**INTERIM REPORT**  
*and*  
**REQUEST FOR EXTENSION OF**  
**TIME.**

*14<sup>th</sup> December, 2015.*

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## Introduction

This commission was established by Statutory Instrument No. 38 of 2015 ('the Order') and pursuant to the powers contained in the Commissions of Investigation Act 2004. Its purpose is to investigate and report on certain matters concerning the Cavan / Monaghan Division of An Garda Síochána. Its terms of reference are set out in the Order. The work of the commission was preceded by a report in May, 2014 from Mr. Seán Guerin SC to An Taoiseach. This report concerned allegations made by Sergeant Maurice McCabe.

The commission commenced its investigation in February, 2015 and the Government set an indicative period of one year for the commission to report.

The issues into which the commission was mandated to investigate are as follows:

*(a) The investigation by An Garda Síochána of a public order incident and possible sexual assault on a bus at Kingscourt, Co Cavan on 25 February 2007:*

*(b) The investigation by An Garda Síochána of an assault at the Lakeside Manor Hotel, Virginia, Co Cavan on 14 April 2007:*

*(c) The investigation by An Garda Síochána of two incidents in 2007 involving Jerry McGrath, i.e. the assault on Mary Lynch near Virginia, Co Cavan on 30 April 2007 and the abduction of a child during the burglary of a house in Tipperary on 9 October 2007, and the management and coordination by An Garda Síochána of those Investigations, in particular in relation to the question of bail:*

*(d) The investigation by An Garda Síochána of a public order incident in Cafolla's restaurant, Bailieboro, Co Cavan on 5 August 2007:*

*(e) The investigation by An Garda Síochána of an incident of assault and false imprisonment of a girl in Cootehill, Co Cavan on 2 September 2007:*

*(f) The investigation by An Garda Síochána of a dangerous driving incident at the Lakeside Manor Hotel, Virginia, Co Cavan on 27 December 2007:*

*(g) The investigation by An Garda Síochána of an assault in Crossan's public house in Bailieboro, Co Cavan on 23 May 2007:*

*(h) The investigation by An Garda Síochána of sexual offences and child pornography offences in respect of which Michael Molloy was convicted in 2009, having particular regard to the loss of a computer seized during the course of that investigation:*

*(i) The investigation by An Garda Síochána of the allegations made by Sergeant Maurice McCabe of malpractice and corruption in relation to PULSE records seized from him on 11 October 2010 at the Hillgrove Hotel, Monaghan:*

*(j) The investigation by An Garda Síochána and the Minister for Justice and Equality and Department of Justice and Equality of complaints made by Sergeant Maurice McCabe in relation to matter at (a) to (i);*

*(k) The investigation by An Garda Síochána and the Garda Síochána Ombudsman Commission of Garda disciplinary issues arising out of the above matters;*

*(l) The general conduct of policing at Bailieboro Garda District in 2007/2008 with reference to the management and operational structure and resource allocation for Bailieboro Garda District, at the relevant times, including:*

- *The number of probationary Gardaí assigned to Bailieboro Garda District;*
- *The number and experience of Sergeants available to supervise and monitor on a daily basis the work of those probationary Gardaí;*
- *The stability, continuity, and experience available at District Officer level in Bailieboro District;*
- *The arrangements in operation for the supervision and monitoring of probationary Gardaí in relation to their operational and, specifically, investigative duties, and*
- *The standard of accommodation at Bailieboro Garda station and its possible impact on the performance of the policing function.*

The commission is making this Interim Report to the Minister for Justice and Equality, as the Minister of the Government responsible for overseeing administrative matters relating to the establishment of the commission, for receiving its reports and for performing any other functions given to him / her under the Act. It is made pursuant to S. 33(3) of the Act and in connection with its request that the timeframe for submitting its final report be revised, as provided for in S.6(6) of the Act.

## Report on Progress to Date in Investigation

The work the commission has completed to date is substantial. It has heard oral evidence in private from ninety seven witnesses. Thirty of these witnesses have given evidence in relation to two or more modules. It has also received extensive disclosure of documents in written and in electronic formats from witnesses and has read and considered all disclosed material.

Evidence has been taken over thirty three days of hearings. This has covered all matters referred to in paragraphs 1 (a) to (l) of the terms of reference. All evidence required to be given in the investigation has been given with the exception of evidence from one witness who is being recalled to give evidence on Wednesday, 16<sup>th</sup> December, 2015. It is expected, therefore, that all evidence will have been given by close of business on 15<sup>th</sup> December, 2015.

Substantial preparatory work has been done by the commission in connection with the writing of its final report

## Application

The commission's current deadline for the submission of its final report is the 5<sup>th</sup> February 2016. It has always considered this deadline to be ambitious given the number of specific matters to be inquired into.

The principal areas of work which require to be completed by the commission comprise:

- (1) The receipt and consideration of outstanding written submissions from parties giving evidence.

- (2) The preparation of its draft final report.
- (3) Consideration of requests for directions for recovery of costs.
- (4) The circulation of the draft report or the relevant part of the draft report to any person who may be identified or may be identifiable from the draft report.<sup>1</sup>
- (5) The consideration of submissions and requests to the commission under S.35(1)(a) or S.36(1) of the Act.
- (6) Completion, engrossment and submission of final report.

## Additional Circumstances in Support of Request

### *Establishment Delays.*

The commission upon establishment was unable to work effectively due to difficulties in installing its IT and telecommunications infrastructure. This problem was not resolved for many weeks. This was due to issues outside the control of the commission. There is no doubt this had a significant impact on the speed with which the commission could commence the taking of evidence.

### *Disclosure Delays.*

The commission, in addition over the course of its work sought documents from a number of parties. While in the case of most parties requests were complied with within the time frames set out by the commission. This was not, however, the case for all parties and the commission was hampered in its progress by delays and inefficient handling of disclosure obligations. Problems with disclosure of documents contributed greatly to the commission being unable now to meet its original deadline.

Given the length of time the commission envisages it will require to complete its work it is its opinion that a short extension of the deadline for the submission of its final report is warranted. Accordingly, the commission now requests, pursuant to S.6(6) of the Act, a

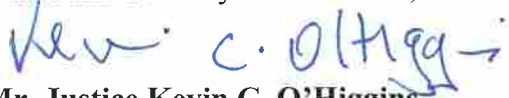
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<sup>1</sup> S.34. Commissions of Investigation Act 2004.

revision of the timeframe within which its final report must be made. Having regard to the factors set out in this interim report, the commission requests an extension of the timeframe for the delivery of its final report to Friday, 29<sup>th</sup> April 2016.

The work of the commission is substantially progressed and it is confident that it will furnish a final report by the requested revised date.

Dated this 14<sup>th</sup> Day of December, 2015.

  
**Mr. Justice Kevin C. O'Higgins**  
**COMMISSION.**