



GARDA
INSPECTORATE

PROMOTING EXCELLENCE & ACCOUNTABILITY

Report of the Garda
Síochána Inspectorate

RESPONDING TO
CHILD SEXUAL ABUSE

NOVEMBER

10

THE OBJECTIVE OF THE GARDA SÍOCHÁNA INSPECTORATE IS:

“to ensure that the resources available to the Garda Síochána are used so as to achieve and maintain the highest levels of efficiency and effectiveness in its operation and administration, as measured by reference to the best standards of comparable police services.”

(s. 117 of the Garda Síochána Act 2005)



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FOREWORD

Nothing is more important than protecting our children, yet nations throughout the world continue to struggle to do so effectively. Ireland is no different.

Inquiries in Ireland have resulted in shocking reports of child abuse – in particular, heinous crimes of child sexual abuse. These reports have primarily focused on the response to incidents of abuse by State agencies and the Catholic Church in Ireland during the past several decades.

One such report, the *Commission of Investigation – Report into the Catholic Archdiocese of Dublin July 2009*, issued on 26 November, 2009, clearly indicates failings on the part of the Garda Síochána in certain historical child sexual abuse cases, including undue deference to the Catholic Church and its hierarchy. As the result, the Minister for Justice and Law Reform, Mr Dermot Ahern, directed the Garda Síochána Inspectorate to conduct a comprehensive review of police practices for handling these very sensitive and important cases to ensure that such impropriety on the part of the police could not occur today or in the future.

It is widely recognised that clerical abuse, while particularly troubling, represents only a small fraction of the overall problem. Minister Ahern acknowledged this by developing comprehensive terms of reference for this inspection that include, but are not limited to, the handling of cases related to the clergy. During the course of its work, the Inspectorate conducted a thorough review of published reports relating to clerical sexual abuse, but also considered the full spectrum of child sexual abuses perpetrated by a wide variety of offenders.

The Inspectorate appreciates that Commissioner Fachtna Murphy and members of the Garda Síochána have readily acknowledged mistakes of the past and are thoroughly committed to developing police policies and practices in the area of child protection that are second to none. The Inspectorate hopes that the 29 recommendations in this report will assist the Garda Síochána in doing so.

The findings and recommendations of this report focus on Garda interventions in the interest of the safety and well-being of children. It must be noted, however, that implementation of these recommendations by the Garda Síochána alone will not be enough. Only a holistic, collaborative approach by all statutory and voluntary organisations to this very important issue will make the difference that is required.

Without a doubt, the Inspectorate's appeal to safeguard children by breaking down barriers and harnessing resources across sectors, throughout all communities in Ireland is the most important message in this report.

Kathleen O'Toole
Chief Inspector

INTRODUCTION

This report is the product of a Garda Inspectorate review of policies and practices of the Garda Síochána relating to the investigation of child sexual abuse. The review was requested by the Mr Dermot Ahern, T.D., Minister of Justice and Law Reform following the publication of the report of the Dublin Archdiocese Commission of Investigation (the Murphy Report) released on 26 November, 2009.¹

While the subject of the Murphy Report was limited to the sexual abuse of children by members of the clergy in the Archdiocese of Dublin, the terms of reference outlined by the Minister for this inspection are much broader and required the Inspectorate to review Garda policies and procedures for handling all allegations of child sexual abuse. The terms of reference are in the Appendix to this report.

KEY ISSUES IN THIS REPORT

The Inspectorate divided its work for this review into four main categories, as reflected in the findings and recommendations written in Chapter 2 (Clerical Child Sexual Abuse), Chapter 3 (Inter-Agency Working in Child Protection), Chapter 4 (Issues Impacting Garda Response) and Chapter 5 (Specific Challenges).

Chapter 2 addresses Clerical Child Sexual Abuse in Ireland with primary focus on the Inspectorate's review of three published reports: the Murphy Report (November, 2009), The Ferns Report,² (October, 2005), and the Ryan Report³ (May, 2009).

During the course of this work, the Inspectorate did not conduct retrospective investigations of individual cases of clerical child sexual abuse. An extensive review of historical cases had already been conducted by teams who contributed to the

very comprehensive reports listed above. The Inspectorate did review in detail segments of each report relating specifically to Garda practices in the historical cases. The Inspectorate's goal was to identify gaps that led to concerns raised about police practices in certain cases, to determine if those gaps exist today and, if so, to develop recommendations to address them.

The findings in Chapter 3 represent a recurring problem that the Inspectorate has identified previously in its work – the lack of effective inter-agency collaboration. While most jurisdictions acknowledge on-going challenges in breaking down barriers and attempting to harness resources to address child sexual abuse, Irish organisations seem to be particularly embedded in stovepipes. The Inspectorate acknowledges some initiatives, but effective collaboration still appears to be the exception and not the rule. Prevention and handling of child sexual abuse cases cannot be left to the police alone. Ireland needs a focused, joined-up approach to this very serious and complicated problem. In this chapter, the Inspectorate highlights the inter-agency challenges that still exist in Ireland, compares the Irish model to other jurisdictions and urges action on several practical recommendations for improvement.

In Chapter 4, the Inspectorate assesses Garda processes relating to child sexual abuse, including: the handling of allegations and concerns; the management of information; the investigation of cases; the prosecution of cases; and the monitoring of cases and evaluation of results across the Garda organisation. Again, the Inspectorate benchmarks Garda practices against other international police organisations and makes specific recommendations for improvement.

¹ *Commission of Investigation – Report into the Catholic Archdiocese of Dublin, July 2009.*

² *Ferns Inquiry (2005) The Ferns Report.* Dublin: The Stationery Office.

³ *Commission to Inquire into Child Abuse (2009) Commission to Inquire into Child Abuse Report* Dublin: The Stationery Office.

Chapter 5 covers four specific challenges relating to child sexual abuse: Child trafficking; internet threats to child safety; vetting of persons working with children; and, management of sex offenders. The Inspectorate did not conduct exhaustive research in these areas, but felt that these issues must be acknowledged in any serious discussion of child sexual abuse. This chapter provides useful updates and notes some encouraging developments in Garda practices in these categories.

OVERVIEW OF RECOMMENDATIONS

The Inspectorate emphasises that there is no place for deferential treatment in modern policing and recommends that the Garda Síochána take every opportunity to reinforce this point.

Nothing is more important than protecting our children and, as such, the Garda Síochána should assign a member of assistant commissioner rank to oversee this responsibility. The promotion of inter-agency working and the development of child protection policies and practices should be stated and tracked as Garda priorities.

The Inspectorate makes multiple recommendations to enhance inter-agency collaboration, including:

- Working in partnership with the assistant national director of the HSE with responsibility for child protection to improve inter-agency working between Gardaí, social workers and staff in child assessment units.
- Working in collaboration with the HSE to address barriers to joint working identified in reviews of the Children First guidelines.
- Establishment, on a pilot basis, of two child advocacy centres in Dublin involving the participation by the Garda Síochána, the HSE, and St Louise's and St Clare's assessment units.
- Assignment on a full-time basis of properly trained detectives to work child protection cases at multi-agency child advocacy centres.
- The development of closer working relationships with non-statutory agencies that provide support and services for victims.
- Amendment of the Children First guidelines to state explicitly that prosecution of child sexual abuse will be considered within the wider objective of child protection/welfare.

In terms of Garda internal practices relating to child sexual abuse, the Inspectorate recommends:

- The development of a more effective, efficient, and compassionate system for the reporting of child sexual abuse cases. This would include specialised training for a cadre of front-line Gardaí to take reports and statements alleging child sexual abuse from adults and children over age fourteen.
- 24/7 staffing of help lines for reporting of allegations of child sexual abuse.
- Further specialisation in the area of child sexual abuse, moving away from the current practice whereby the garda who takes the initial report is the investigating garda.
- A formal risk assessment for every reported case of child sexual abuse.
- A strategic approach to Garda investigations that takes account of the likelihood that victims may refuse to make a formal statement or may withdraw one at a later date.
- Timely recording of complaints on PULSE.
- Timely investigation of complaints.
- Recourse to search warrants, as appropriate, in cases where difficulties are encountered in gathering evidence.
- The development of better systems for data entry, data management and quality assurance of data.

In the area of specific challenges, the Inspectorate notes significant progress in Garda practices relating to human trafficking, child sexual abuse involving the internet, and vetting procedures. Efforts to trace unaccompanied minors missing from HSE accommodation should be, at least, sustained and information collated on those who are located. The Inspectorate recommends that investment of additional staff and resources to address internet crimes be kept under review and notes that demands for resources may grow in the vetting unit as numbers of records are increasing.

The Inspectorate recommends that two categories of positive outcomes be developed for measuring the effectiveness of child sexual abuse investigations:

- The number and proportion of prosecutions directed by the Director of Public Prosecutions.
- The number and proportion of cases not prosecuted in the interest of the welfare of the child victim and where concerns for the welfare of other children were met.

Finally, although substantial research in Ireland and elsewhere indicates that only a small percentage of allegations of child sexual abuse are false, the Inspectorate is mindful of the devastating consequences in those cases as well. The Inspectorate recommends the Garda Síochána continue to gather evidence in such cases to support successful prosecution of those making false accusations. This should deter the small number of people inclined to make false complaints. The Garda Síochána should notify the accused immediately when it has been established that a complaint is false. Similarly, the accused should be informed immediately when a decision is made by the Director of Public Prosecutions not to prosecute.

The following chapters provide in-depth commentary on these topics and an overview of the research supporting the Inspectorate's findings and recommendations. Subject to the approval of the Minister for Justice and Law Reform, the Inspectorate proposes to conduct a follow-up review of Garda arrangements for handling allegations of child sexual abuse. This will focus on current initiatives being taken in the Garda Síochána and progress in implementing the recommendations of this report.

CHAPTER

01

RESEARCH
METHODS

The research conducted by the Garda Inspectorate in the course of this inspection comprised three sequential steps:

- Desktop research
- Fieldwork
- Data review

DESKTOP RESEARCH

Prior to conducting field work, the Garda Inspectorate reviewed a substantial amount of literature relating to child sexual abuse. The key documents considered in this early research phase were the current Children First guidelines dating from 1999⁴ and the updated version dated December, 2009⁵. The two versions of the guidelines provided immediate insight into existing and future policy and procedures for child protection as operated by the Garda Síochána and other statutory and non-statutory agencies, including the HSE. Other legal, policy and strategy documents that helped establish the broad framework within which the Garda Síochána protects children were:

- The Children Act 2001
- The Garda Síochána Act 2005
- The Garda Síochána Strategy Statement 2010-2012⁶
- The Agenda for Children's Services: A Policy Handbook⁷
- The Report of the Commission to Inquire into Child Abuse, 2009 Implementation Plan⁸

The Inspectorate also closely studied the findings of the *National Review of Compliance with Children First: National Guidelines for the Protection and Welfare of Children*⁹ published in 2008 by the Office of the Minister for Children and Youth Affairs. The review was notable in largely endorsing the guidelines while identifying factors that militated against their practical implementation by social workers and Gardaí.

While maintaining a focus on all forms of child sexual abuse, the Inspectorate reviewed the Murphy Report on allegations of child sexual abuse by clerics in the Archdiocese of Dublin and analysed its specific references to how the Garda Síochána dealt with those allegations. For completeness, the Inspectorate also reviewed the Ferns Report and the Ryan Report. Issues raised in the three reports in regard to how the Garda Síochána handled child sexual abuse were subsequently explored in the course of the Inspectorate's fieldwork. Other church documents reviewed were *Child Sexual Abuse: Framework for a Church Response*¹⁰ and *Safeguarding Children, Standards and Guidance Document for the Catholic Church in Ireland*¹¹.

To obtain an international perspective on child protection and the prevalence of child sexual abuse, the Inspectorate reviewed reports of the United Nations Children's Fund (UNICEF) and the World Health Organisation (WHO). The most relevant of

⁴ Department of Health and Children (1999) *Children First: National Guidelines for the Protection and Welfare of Children*. Dublin: The Stationery Office.

⁵ Office of the Minister for Children and Youth Affairs (2009) *Children First: National Guidelines for the Protection and Welfare of Children*.

⁶ http://www.garda.ie/Documents/User/GardaStrategy2010_ENG.pdf.

⁷ [http://www.omc.gov.ie/documents/publications/CS_handbook\[ENGLISH\]lowres.pdf](http://www.omc.gov.ie/documents/publications/CS_handbook[ENGLISH]lowres.pdf) (Accessed on 15 June, 2010).

⁸ Office of the Minister for Children and Youth Affairs (2009) *Report of the Commission to Inquire into Child Abuse, 2009 Implementation Plan* <http://www.omc.gov.ie/documents/publications/ImplementationPlanfromRyanCommissionReport.pdf> (Accessed on 20 June, 2010).

⁹ http://www.omc.gov.ie/documents/publications/CF_Compliance.pdf (Accessed on 15 June, 2010).

¹⁰ Irish Catholic Bishops Advisory Committee on Child Sexual Abuse by Priests and Religious (1996) *Child Sexual Abuse: Framework for a Church Response* Dublin: VERITAS.

¹¹ National Board for Safeguarding Children in the Catholic Church (2008) *Safeguarding Children, Standards and Guidance Document for the Catholic Church in Ireland* <http://docs.google.com/viewer?a=v&pid=sites&srcid=ZGVmYXVsdGRvbWFPbnxzYWZlZ3VhcmRpbmdpcmVsYW5kfGd4OjYwYzJlZDE5YjcyMGY1Yzg> (Accessed on 15 June, 2010).

these reports was the WHO report entitled, *Preventing Child Maltreatment: A Guide to Taking Action and Generating Evidence*.¹² This report sets out international benchmarks against which a national child protection system can be measured. It also provides global data on maltreatment of children, including child sexual abuse. The WHO data is especially significant given the absence of complete and reliable Irish statistics on child sexual abuse.

Further relevant international documents reviewed during the initial desktop research phase were:

- UK Child protection guidelines – *Working Together to Safeguard Children, A guide to inter-agency working to safeguard and promote the welfare of children*.¹³
- Specific reviews of the police and social services handling of allegations of child sexual offences against children – *The Bichard Inquiry Report*¹⁴, *The Victoria Climbié Inquiry Report*¹⁵ and the *Review of the Involvement and Action Taken by Health Bodies in Relation to the Case of Baby P*.¹⁶
- The HMIC report *Keeping Safe, Staying Safe – Thematic Inspection of the Investigation and Prevention of Child Abuse*.¹⁷
- The HMIC Scotland report, *It's everyone's job to make sure I'm alright – Report of the Child Protection Audit and Review*.¹⁸
- Report of the New York State Commission of Investigation, *Secrets That Can Kill: Child Abuse Investigations in New York State December 1995/ January 1996*.¹⁹

¹² http://whqlibdoc.who.int/publications/2006/9241594365_eng.pdf (Accessed on 17 June, 2010).

¹³ <http://publications.dcsf.gov.uk/eOrderingDownload/00305-2010DOM-EN.PDF> (Accessed on 17 June, 2010).

¹⁴ <http://www.bichardinquiry.org.uk/10663/report.pdf> (Accessed on 17 June, 2010).

¹⁵ http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_110711.pdf (Accessed on 17 June, 2010).

¹⁶ [http://www.cqc.org.uk/db/documents/Baby_Peter_report_FINAL_12_May_09_\(2\).pdf](http://www.cqc.org.uk/db/documents/Baby_Peter_report_FINAL_12_May_09_(2).pdf) (Accessed on 17 June, 2010).

¹⁷ <http://inspectrates.homeoffice.gov.uk/hmic/inspections/thematic/ks-ss1/them05-keeping.pdf?view=Binary> (Accessed on 17 June, 2010).

¹⁸ <http://www.scotland.gov.uk/Publications/2002/11/15820/14022> (Accessed on 17 June, 2010).

¹⁹ <http://www.nysl.nysed.gov/edocs/investigation/secrets.htm> (Accessed on 17 June, 2010).

- The Australian Government publication, *Protecting Children is Everyone's Business, National Framework for Protecting Australia's Children 2009-2012*.²⁰

FIELDWORK

The fieldwork phase of the inspection comprised three parallel strands.

First Strand – Meetings

The first strand was a programme of meetings put in place following initial discussions with Detective Superintendent John McCann of the Garda Domestic Violence and Sexual Assault Investigation Unit, which is part of the Garda National Bureau of Criminal Investigation (NBCI). Detective Superintendent McCann provided the Inspectorate with an excellent overview of the Garda organisational structures to address child sexual abuse and arranged early meetings with Detective Chief Superintendent Padraic Kennedy, NBCI and a focus group of Garda inspectors, sergeants and gardaí to provide the Inspectorate with more detailed insight into relevant Garda policies, practices and procedures. Later in the Inspection, Detective Superintendent McCann and Detective Sergeant Michael Lynch briefed the Inspectorate on the management of sex offenders and investigation of internet-related sexual offences.

At regional level, the Inspectorate met with Assistant Commissioner John O'Mahoney, Chief Superintendent Donal Ó Cualáin, Superintendent Enda Walsh and Gardaí from the Garda Western Region, who made an excellent presentation on Garda responses to child sexual abuse in that region. Their presentation, and the discussion that followed it, significantly influenced the Inspectorate's views on the objectives and role of the Garda Síochána in the protection of children who are the subject of reports of child sexual abuse. There were further valuable meetings with front-line Garda personnel in Cork, Dublin, Gorey, Limerick and Sligo. The Director of the Garda College, Chief Superintendent Jack Nolan and his team provided insight into relevant training in the area of child

²⁰ http://www.coag.gov.au/coag_meeting_outcomes/2009-04-30/docs/child_protection_framework.pdf (Accessed on 15 June, 2010).

sexual abuse. Detective Chief Superintendent John O'Driscoll briefed the Inspectorate on the work of the Garda Síochána to counter child trafficking for the purpose of sexual exploitation. Superintendent Pat Burke, head of the Garda Central Vetting Unit, provided extensive background on the work of that office.

During the fieldwork phase in April, 2010, the Garda Commissioner published the new Garda *Policy on the Investigation of Sexual Crime, Crimes Against Children and Child Welfare*.²¹ The policy is designed to provide practical guidance to members of the Garda Síochána by detailing what is required of them in the conduct of investigation. It provides guidance and direction on:

- The taking of complaints.
- The investigation process, including the interviewing of victims and steps to be taken to secure corroborating evidence.
- The recording of crime.
- The supervision of investigations.

The publication represented a significant advancement in consolidating and clarifying Garda policy on the investigation of offences including child sexual abuse. The policy served as an important reference document for the Inspectorate during the course of the inspection.

In addition to meetings with Garda personnel, the Inspectorate also met with statutory and non-statutory bodies that interact with the Garda Síochána in relation to child sexual abuse. Mr Philip Garland, Assistant National Director of the Health Service Executive (HSE) provided very helpful perspectives on how the Garda Síochána and the HSE might be enabled to work more closely together in protecting all children at risk of being abused. The Director of Public Prosecutions, Mr James Hamilton, together with Mr Barry Donoghue, Assistant Director and Ms Claire Loftus, Head of Directing Division provided insights to prosecution of child abuse offences. Dr Dermot Martin,

Archbishop of Dublin and Mr Ian Elliott, Chief Executive of the National Board for Safeguarding Children in the Catholic Church addressed issues related to clerical child sexual abuse. Dr Niall Muldoon and Ms Majella Ryan of Children at Risk in Ireland (CARI) spoke from the perspective of a non-statutory body working with the Garda Síochána and other state agencies involved in child protection. They also provided copies of CARI's annual report for 2008/2009 and helped deepen the Inspectorate's understanding of matters raised in it. The Office of the Minister for Children and Youth Affairs advised on changes to the Children First guidelines and legal provisions under consideration.

When the inspection was well advanced, the Chief Inspector and representatives of the Inspectorate met on two occasions with Deputy Commissioner Martin Callinan to explore aspects of Garda policies on child sexual abuse and seek feedback from him on the more significant of the Inspectorate's findings. The meetings were very constructive. As indicated in Chapter 4, the Inspectorate was especially impressed by the swift actions taken by the Deputy Commissioner to improve Garda computer records of child sexual abuse notifications and offences, and introduce new facilities to capture more extensive data.

Second Strand – International Benchmarking

The Garda Síochána Act 2005 requires the Inspectorate to undertake international benchmarking in the course of its work. In the US, the Inspectorate visited the headquarters of the Chicago Police Department and the Chicago Child Advocacy Center. Also the Inspectorate met with Mr Bob Snow, Director, Law Enforcement Liaison, National Center for Missing and Exploited Children, Washington D.C. In the UK, the Inspectorate visited Cambridgeshire Police, London Metropolitan Police, Hampshire Police and the Child Exploitation and Online Protection Centre in London. The Inspectorate is grateful to the personnel from all of these services who were gracious with both their time and expertise to help protect children from abuse.

In London, the Inspectorate also met Christiane Sanderson who is a lecturer in Psychology at

²¹ Garda Síochána (2010) *Policy on the Investigation of Sexual Crime, Crimes Against Children and Child Welfare*, <http://www.garda.ie/Documents/User/WEB%20Investigation%20of%20Sexual%20Crime%20Crimes%20Against%20Children%20Children%20Welfare.pdf> (Accessed on 12 August, 2010).

London University, Birkbeck College, and visiting lecturer in the School of Human and Life Sciences, Roehampton University. She has twenty-one years of experience working in child sexual abuse and has provided consultancy and training to parents, teachers, social workers, nurses, therapists, counsellors, the National Society for the Prevention of Cruelty to Children and the Metropolitan Police Service in this area. The Inspectorate also met with Mr Trefor Bevan. Mr Bevan was a London Metropolitan Police Detective for thirty years, specialising in child sexual abuse investigations. He is now a professional, trained counsellor assisting survivors of child sex abuse.

The Inspectorate is grateful to Fr John Connolly and Fr Sean Connor, both of whom represent the Archdiocese of Boston and are chaplains to the Boston Police Department. They volunteered substantial time to assist the Inspectorate and provided helpful written material, including a copy of the formal protocol between the Catholic Archdiocese of Boston and law enforcement officers in the State of Massachusetts on the reporting of allegations of child sexual abuse. The Inspectorate has forwarded copies of the documentation to the Archdiocese of Dublin and the Garda Síochána.

In the interest of speed and cost efficiency, the Inspectorate supplemented its own international research by engaging advisors in the US and UK, who were well placed to provide expert knowledge and assistance based on their police and other experience. Mr Bill Gavin and Ms Kathleen McChesney, both former senior FBI personnel, who have played leading roles in developing and undertaking audits of clerical child sexual abuse in Catholic dioceses, provided a very helpful detailed report on current legal provisions, policies and practices for dealing with child sexual abuse across the US.

In the UK, the Inspectorate engaged Mr Russell Wate, former Head of CID for Cambridgeshire Police who was a leading member of the Child Protection Working Group of the Association of Chief Police Officers (ACPO) and a member of the editorial team that compiled the latest ACPO guidance on Investigating Child Abuse. Mr Wate provided expert advice on current best practice in safeguarding children from sexual abuse and the likely future direction of child protection structures and policies.

Third Strand – Data Capture

The Inspectorate's desktop research highlighted the lack of data available on both the operation of the Children First guidelines and the number of reported and detected child sexual abuse offences in any given year. To address this gap the Inspectorate asked Garda Headquarters to provide statistics from each Garda district on child abuse notifications sent to and received from the HSE in the three year period, 2007 to 2009. Based on the figures received, the Inspectorate visited four sample Garda districts – Ballymun, Gorey, Sligo and Tallaght – to undertake a closer quantitative study of the notifications. The resultant data analysis is set out at Chapter 4.

DATA REVIEW

The Inspectorate completed its research with a review of all documentation and reports it had gathered. The purpose was to identify research gaps and areas which required further exploration and analysis. This prompted additional information requests to the Garda Síochána in relation to such matters as serious case reviews provided for in the Children First guidelines.

At the same time, Ms Emily Logan, Ombudsman for Children published the report of her investigation into the implementation of the Children First guidelines, and the HSE report, *Strategic Review of the Delivery and Management of Children and Family Services* became available. The Inspectorate reviewed both reports and met with the Ombudsman and her colleague, Deirdre O'Shea, to discuss, in particular, structures and child protection arrangements involving the Garda Síochána.

The Inspectorate was pleased to accept a request for a meeting from Dr Niamh Ross, Principal Clinical Psychologist, Pamela McEvoy, Principal Psychotherapist, St Clare's Unit at Temple Street Hospital and Dr Imelda Ryan, Director of St Louise's Unit at Crumlin Hospital. St Clare's and St Louise's offer independent specialist assessment and therapy services taking referrals from social workers investigating allegations of child sexual abuse. They also conduct assessments of credibility of child sexual abuse allegations and determine the therapeutic needs of the children and families. The Unit provides follow on therapy in cases where credibility has been established. Dr Ross and Dr

Ryan, together with other colleagues attached to the units, have contributed to the training of Gardaí as specialist victim interviewers.

The Inspectorate also met with Mr Fiachra Ó Súilleabháin, Acting Manager and Ms Mary Sim, Senior Clinical Psychologist at the Family Centre at St Finbarr's Hospital, Cork and Dr Elizabeth Walsh, Medical Director of the Community Child Centre at Waterford Regional Hospital. Similar to St Clare's and St Louise's, the two centres provide specialist assessment and therapy services on referral from social workers investigating child sexual abuse. The meetings with all four specialist teams were very constructive and the Inspectorate was impressed by their commitment to develop better and more cohesive approaches to child protection.

Finally, the Inspectorate revisited Ballymun, Gorey, Sligo and Tallaght stations to validate and add to data on child sexual abuse notifications and offences already collected during the fieldwork stage. The revisits also provided the opportunity to gauge first-hand the significant improvements in Garda recording introduced at the initiative of Deputy Commissioner Callinan.

THANK YOU

The Inspectorate wishes to record its thanks to everybody who assisted with and contributed to this inspection. It was clear that all concerned did so in the hope and expectation that this report will help to ensure stronger and better protections for children who are at risk and more effective services for the unfortunate victims of child sexual abuse.

CHAPTER

02

CLERICAL CHILD
SEXUAL ABUSE

The terms of reference for this inspection encompass Garda Síochána handling of all allegations of child sexual abuse. The Inspectorate went about its work on this basis.

At the same time, the Inspectorate recognised that Garda Síochána handling of clerical child sexual abuse allegations merited special attention for two reasons. First, the Minister for Justice and Law Reform announced this inspection as a follow-up to publication of the Murphy Report and included a specific term of reference requiring the Inspectorate to take account of relevant parts of it. Second, the inspection took place amid continuing public concerns about allegations of child sexual abuse against ordained members of the Catholic Church in Ireland.

In line with the terms of reference, the Garda Inspectorate undertook a detailed analysis of the findings of the Murphy Report relative to the response of the Garda Síochána to reports of clerical child sexual abuse. For completeness, the Inspectorate similarly reviewed the Ferns Report and the Ryan Report. This and subsequent chapters show that issues raised in the three reports in regard to Garda handling of allegations of clerical child sexual abuse are equally relevant to non-clerical cases.

The Inspectorate's analysis did not involve a detailed review of the Garda investigations undertaken in the individual cases covered by the Murphy and Ferns Reports. That is a matter which is the subject of a separate Garda Síochána review being undertaken by Assistant Commissioners Derek Byrne and John O'Mahoney at the request of the Garda Commissioner.

MURPHY, FERNS AND RYAN REPORTS

The Murphy and Ferns reports deal with the handling of allegations of child sexual abuse against priests in the Archdiocese of Dublin and the Diocese of Ferns respectively. The Ryan Report relates mainly to physical abuses in institutional settings but includes a small number of allegations of child sexual abuses by religious and secular staff in facilities managed by a cleric or religious order.

Many of the cases in all three reports date from the 1990s and earlier. Accordingly, they pre-date current Garda policies, practices and procedures. However, it is clear that issues identified in these reports, such as shortcomings in the recording of complaints and victims' reluctance to make formal statements, still resonate in present-day child sexual abuse investigations.

THE MURPHY REPORT

The Dublin Catholic Archdiocese Commission of Investigation, chaired by Judge Yvonne Murphy, was established to report on the handling by Church and State authorities of a representative sample of allegations and suspicions of child sexual abuse against clerics operating under the aegis of the Catholic Archdiocese of Dublin over the period 1975 to 2004. The Commission received information about complaints, suspicions or knowledge of child sexual abuse in respect of 172 named priests and eleven unnamed priests. (Some of the latter may be included in the 172 named priests.) The Commission deemed that 102 priests were within its remit and examined the handling of complaints against a representative sample of forty-six of them.

It appears that the Garda Síochána was not made aware of allegations related to four of these priests (Fr Hugo, Fr Magnus, Fr Quinton and Fr Vidal). All references to the Commission's examination of allegations against a fifth priest were redacted in the published report. This leaves a sample of forty-one priests who were the subject of child sexual abuse allegations that were brought to the attention of the Garda Síochána. It is these cases that are relevant to this inspection.

Inspectorate's Analysis

The Inspectorate has reviewed the findings of the Commission in regard to Garda handling of the forty-one cases as follows.

Garda investigation of allegations made against nine of the forty-one priests was necessarily limited. This was because:

- Six of the priests were either deceased prior to, or soon after, a complaint was made to the Gardaí (Fr Blaise, Fr Cassius, Fr Cicero, Fr Cornelius, Fr Ezio and Fr Rufus).
- The Commission's report states that no evidence of criminal activity was disclosed in the case of three priests (Fr Guido, Fr Tyrus and Fr Sergius).

The Inspectorate focussed its analysis on the remaining thirty-two cases. Overall, the Inspectorate noted that the Commission expressly stated that the Gardaí dealt appropriately with the complaints made against sixteen of the thirty-one priests and was critical of at least some aspects of the Garda handling of complaints against six priests. This reflects the Commission's assessment that the "Garda investigation into the various complaints was sometimes comprehensive, and, in other cases, was cursory."²²

In praising Garda investigations, the Commission noted that investigations carried out by the "specialist child sex abuse unit at Harcourt Square, Dublin" were "generally well conducted."²³ The Commission opined that the "investigation undertaken into clerical sexual abuse in the Archdiocese of Dublin which commenced in October 2002 was...an effective, co-ordinated and comprehensive inquiry."²⁴ This is in contrast to local Garda investigations conducted prior to 2002 in respect of which the Commission found "considerable variation in the manner in which [they] were undertaken and in the results achieved."²⁵ An exception in the latter regard, which was the subject of very favourable comment by the Commission, was the investigative work of Garda Finbar Garland, supported by Sergeant Kiernan and Inspector Murphy, which resulted in charges being brought against Fr Bill Carney in 1983.

²² Dublin Archdiocese Commission of Investigation (2009) *Report into the Catholic Archdiocese of Dublin*, p.24, <http://www.justice.ie/en/JELR/Pages/PB09000504>. (Accessed on 20 August, 2010).

²³ *Ibidem*.

²⁴ *Ibid.*, p.92.

²⁵ *Ibid.*

The conclusions reached by the Commission in regard to Garda handling of allegations of child sexual abuse appear fair and reasonable based on the findings in the Commission's report. The Inspectorate saw little to be gained from undertaking its own review of those Garda investigations for the purpose of this inspection. Instead, the Inspectorate applied itself to an analysis of the issues disclosed by the Commission that could have implications for current and future Garda handling of child sexual abuse allegations.

Investigative and Other Issues

Based on its assessment of the Commission's findings, the Inspectorate identified five areas for potential learning from Garda shortcomings and inappropriate actions disclosed in the Commission's report. These are as follows:

Making a Formal Complaint

The Commission's report refers to thirteen persons whose allegations of child sexual abuse were communicated to the Gardaí by the complainant or the Archdiocese but who did not proceed to make a formal complaint to the Gardaí.²⁶

The reasons why complainants chose not to make a formal complaint are not apparent in all thirteen cases. In three cases the fact that the alleged abuser was deceased may have been a factor. There are indications that two complainants were discouraged by the significant emotional demands associated with making a formal statement and later giving evidence in court. In one case it is clear that the motivation in making initial contact with the Gardaí was to protect other children from abuse rather than to seek to have the alleged offender prosecuted. In another case, the complainant was a prisoner in the UK and unable to travel to Ireland.

While not essential, the making of a formal complaint is an important step in the successful prosecution of child sexual offences. The decision to make such a complaint and subsequently give evidence in court is one solely

²⁶ The allegations made by the thirteen persons related to thirteen priests.

for the complainant. However, there is an onus on the Garda Síochána to encourage and assist complainants in taking this course and to actively support them during the investigation and prosecution processes. This is addressed further in Chapter 4 of this report.

Conduct of Investigations

The Inspectorate noted two areas of concern to the Commission in regard to how Garda investigations were conducted. The first of these related to Garda access to Church files on priests against whom allegations of child sexual abuse had been made. In two cases (Fr Ioannes and Fr Edmondus), Garda requests for access to Archdiocese files were refused in 1994 and 1996 respectively. Future Garda access to Church files that are believed to contain information relevant to an investigation of child sexual abuse allegations is addressed further in Chapter 4.

Second, the Commission's report raises concerns about Garda failures to interview Fr Ioannes and Fr [name redacted]²⁷ about allegations of abuse made against them, failure to take notes during an interview with Fr [name redacted] and failure to seek corroborating evidence against Fr Donal Gallagher.

A lack of real Garda purpose is particularly evident in a reference attributed to a Garda inspector in a contemporaneous note by Monsignor Stenson in 1988 that "the Guards were aware that should the matter [i.e. the allegations against Fr [name redacted]] surface in the Sunday World in two or three years time it is important for them to have covered their tracks. Hence the present enquiry."²⁸ The Commission records that "Between 1988 and 2003 not a single inquiry had been made by the Gardaí in relation to this matter."²⁹

The Commission assessed the Garda investigation/prosecution of the "1995 complaint" against Fr Ioannes as "...most unsatisfactory... haphazard and desultory and found that: "No steps were taken on either of the two occasions when Fr Ioannes returned to the country, even though the Gardaí were notified of his presence by the Archbishop. Despite the re-activation of the complaint in 2002/2003, Fr Ioannes lived in Ireland untroubled by the law for a considerable period before he left the jurisdiction."³⁰

The Inspectorate shares the concerns of the Commission in relation to poor Garda conduct of these investigations. These concerns informed the Inspectorate's approach to its examination of current Garda investigation files, Garda systems for case tracking and supervision of investigations. These matters are covered later in Chapter 4.

Investigation Processes

The Commission identifies three issues that are suggestive of a lack of rigour in Garda investigative processes. These are:

- Filing: The Garda investigation files relating to allegations against Fr Ioannes and Fr [name redacted] are missing.
- Evidence Storage: Key evidence from 1986 relating to an allegation against Fr [name redacted] was retained by a Garda, who was subsequently not involved in the investigation, up to the time of his retirement in 2002.
- Prosecution: Gardaí failed to send a file to the Director of Public Prosecutions in the Fr Septimus case at the conclusion of an investigation in the late-1990s.

In light of the foregoing, the Inspectorate explored the extent to which current Garda file management, case supervision and case tracking systems safeguard against a repeat of these shortcomings. This is addressed in Chapter 4. It is proposed to review Garda evidence storage arrangements as part of a planned future inspection.

²⁷ The priest's name was redacted in the published version of Chapter 20 of the Commission's report.

²⁸ Dublin Archdiocese Commission of Investigation (2009) *Report into the Catholic Archdiocese of Dublin*, p.338, <http://www.justice.ie/en/JELR/Pages/PB09000504>. (Accessed on 20 August, 2010).

²⁹ *Ibidem*, p.342.

³⁰ *Ibidem*, p.249.

Child Protection

Garda investigation of allegations of child sexual abuse has two important objectives. As well as determining whether there is evidence for the purpose of a prosecution, such investigations are also critical to safeguarding children from potential abuse by the alleged perpetrator. In reviewing child protection arrangements in Chapter 3 of this report, the Inspectorate took into account two observations in the Commission's report. These were the absence of discussions between the Gardaí and the health authorities on the danger posed to children by Fr Bill Carney, and the failure of the Gardaí to attend a case conference in relation to allegations against Fr Naughton. The Inspectorate also noted the astonishment of the Commission that Fr Gallagher was appointed as a school chaplain in 1983 given what was known about him at the time.

Inappropriate Deference to the Catholic Church

The Murphy Report cites a number of inappropriate contacts between senior members of the Garda Síochána and the Catholic clergy. These included instances in which the Commission asserts that the Gardaí reported an allegation of child sexual abuse to the Church instead of investigating it (Fr Edmondus case), provided a copy of a Garda file to the Church (Fr [name redacted] case), allowed a complainant's statement to be read by a parish priest (Fr [name redacted] case), facilitated a Garda investigation to be "marred by Church interference which was facilitated by the Gardaí" (Fr [name redacted]), and afforded a bishop "privileged access" to a senior garda officer (Fr Bill Carney case).

These instances of improper deference to the Church took place in the 1960s and early 1980s. There have been considerable changes in Ireland in the intervening decades. While the Commission rightly concluded that "very senior members of the Gardaí, including the Commissioner in 1960, clearly regarded priests as being outside their remit,"³¹ the Inspectorate

has no evidence of similar Garda deference to the Catholic Church at the present time but acknowledges that proper structures, policies and procedures must be in place to prevent any possibility of deference now or in the future.

The Inspectorate acknowledges the determination of the Garda Commissioner that "misguided or undue... deference can have no place in a criminal investigation."³² The Inspectorate commends the following new arrangements introduced by the Garda Síochána that, in addition to enhancing overall Garda efforts in the area of child sexual abuse, will ensure more transparency, accountability and the creation of clear audit trails as a defence against future deference:

- Agreement between the Garda Síochána and Catholic Church diocese and religious orders that all reports of clerical child sexual abuse allegations will be made to the new Sexual Crime Management Unit rather than at local Garda level.
- Continual monitoring by the new Garda Sexual Crime Management Unit of the progress of sexual crime investigations to ensure that such investigations are receiving appropriate attention.
- New Garda provisions for case recording, case tracking and periodic case reviews at central and local Garda levels.
- Improved PULSE recording and tracking facilities.

It cannot be said, however, that the Commission's concerns about deference are not relevant to future Irish policing. There should be a reference point during training and on other occasions as a reminder of the significance of the solemn declaration taken by all members of the Garda Síochána to discharge their duties "with fairness, integrity, regard for human rights, diligence and impartiality, upholding the Constitution and the laws and according equal respect to all

³¹ Ibid., p.24.

³² Press Statement issued by the Garda Commissioner on 26 November, 2009 following publication of the Murphy Report. <http://www.garda.ie/Controller.aspx?Page=4691&Lang=1>.

people.”³³ Every opportunity should also be taken to stress that there is no place for deferential treatment in modern Irish policing which puts an emphasis on the values of Honesty, Accountability, Respect and Professionalism.

The establishment and powers of investigation of the Garda Síochána Ombudsman Commission afford an avenue of redress, independent of the Garda Síochána, in any case where a victim considers that their case has not been properly processed.

False Complaint

The Inspectorate acknowledges the Commission’s praise for the “professional, timely and efficient manner” in which the Gardaí investigated a false complaint against Fr Ricardus. This case is an important reminder that a minority of complaints made to the Garda Síochána are not genuine and that police officers have to deal effectively with complaints that have no basis. This is considered further in Chapter 4 in the context of Garda recording and investigation of complaints.

FERNS INQUIRY

On 28 March, 2003, the Minister for Health and Children formally established the Ferns Inquiry team under the chairmanship of Mr Justice Francis D. Murphy, to investigate allegations or complaints of child sexual abuse that were made against clergy operating under the aegis of the Diocese of Ferns. The Ferns Inquiry was specifically requested to report on the nature of the response to identified allegations or complaints on the part of public authorities to which complaints or allegations were reported.

The Ferns Inquiry reported in October, 2005. It identified approximately 100 allegations or complaints of child sexual abuse that were made between 1966 and 2005 against twenty-one priests. Over forty complaints related to two priests.

The Inquiry “identified ten priests operating under the aegis of the Diocese of Ferns about whom members of An Garda Síochána received complaints

or allegations or had knowledge or clear suspicion of child sexual abuse whilst those priests were alive. Investigations were carried out by Gardaí in respect of seven priests living at the dates when the complaints were made. In one case, the Gardaí recommended no prosecution should be instituted. In the remaining six cases, prosecutions were recommended. The DPP instituted criminal proceedings in only three cases. In two cases, convictions were secured and in the third case, proceedings were discontinued after the accused committed suicide.”³⁴

The Ferns Inquiry records that formal complaints of child sexual abuse were made to the Garda Síochána against eight priests. In the opinion of the Inquiry, the Gardaí investigated all but one of the formal complaints in an “effective, professional and sensitive manner.”³⁵ In some cases the work of the Gardaí was expressly commended to the Inquiry by the victims. The Inquiry regarded the Garda handling of one complaint (Fr Grennan, 1988) as “wholly inadequate.”³⁶ This view endorses the findings of an earlier internal Garda review conducted in 1996 that the case in question “was poorly directed and displayed a marked reluctance to intervene with the Clergy.”³⁷

Specific Issues

The Ferns Inquiry raised specific issues in relation to Garda processes and procedures for handling child sexual abuse allegations. There is significant overlap with the Murphy Report in this respect. The issues raised by the Ferns Inquiry are as follows:

Making a Formal Complaint

The Inquiry noted that in three cases (Fr Delta, Fr Upsilon and Canon Martin Clancy) a prosecution did not proceed because the complainant did not make a formal complaint to the Gardaí. The absence of a formal complaint is a recurring feature of child sexual abuse cases that must be addressed. This is discussed further in Chapter 4.

³³ Section 16 of the Garda Síochána Act 2005.

³⁴ Ferns Inquiry (2005) *The Ferns Report*, p.221. Dublin: The Stationery Office.

³⁵ *Ibidem* (Executive Summary).

³⁶ *Ibid.*

³⁷ *Ibid.*, p.233.

Access to Church Files

As in cases in the Archdiocese of Dublin, there was delay in accessing Church files on Fr Fortune. “Almost a year into the Garda investigation Bishop Comiskey offered the Gardaí full access to all diocesan files on this priest although this had not been requested by the Gardaí.”³⁸ The Inspectorate has not pursued this matter further but it would appear that the Garda investigators were more intent on obtaining a statement from Bishop Comiskey rather than getting access to the files. This appears to contrast with the investigative process in Dublin. Future Garda access to church files is addressed further in Chapter 4.

Investigation Processes

The Ferns Inquiry was critical of record keeping in cases related to two members of the clergy, Fr Doyle and Canon Clancy. In the case of Fr Doyle, the Inquiry found no Garda record of any allegation prior to 1990 although at least three Gardaí “were aware of complaints of child abuse made against him”.³⁹ The Inquiry was concerned that unrecorded complaints were not pursued or investigated in an appropriate manner and that this “may have been due to the unwillingness of the complainant to pursue his or her complaint or reluctance on the part of members of An Garda Síochána to investigate allegations of wrongdoing by members of the Catholic clergy.”⁴⁰ The Inquiry was informed that a superintendent and a detective garda had kept proper notes in their official journals but that these notes do not appear to have been maintained or readily accessible to Gardaí in Wexford. The Inquiry was also informed that “a record of such information was not kept at the Garda station in order to safeguard the constitutional rights of the suspected person.”⁴¹ The Inquiry took a contrary view, believing that such a record should be maintained by the Garda Síochána in the “overriding interest of child protection,”⁴² and that the records should

be “available under proper conditions to members of the Gardaí who are conducting investigations.”

In regard to the Canon Clancy case, the Inquiry heard from a retired superintendent and sergeant of a meeting in 1991 with the father of a girl who was allegedly abused by him. However, no Garda record was made of this meeting and the Inquiry was concerned that no Garda “record was kept of the allegation of abuse.”⁴³ Also, the Inquiry states that “The Garda files do not include the letter from the diocesan solicitors in 1993 informing Gardaí of the alleged abuse.”⁴⁴

Apart from criticism of Garda record keeping, the Ferns Inquiry was also concerned about failure to notify Fr. Alpha of the decision of the Director of Public Prosecutions not to prosecute. Fr Alpha informed the Inquiry that this resulted in the appearance to him that the Garda investigation had continued uninterrupted for a period of eight years. The Inquiry was of the view that a decision of the Director of Public Prosecution should be communicated by the Garda Síochána as soon as possible.

Garda recording and record keeping is addressed in Chapter 4.

Child Protection

The Ferns Inquiry was critical of Garda failure to follow up allegations against Canon Clancy. While acknowledging that there are difficulties for the Gardaí when victims are unwilling to co-operate, the Inquiry was strongly of the view that in “this case, where, in addition to the written complaint by Clare’s father, Gardaí were aware of rumours surrounding the priest concerned, that some effort should have been made to probe the matter and create a record for further information.”⁴⁵ Creation of Garda records for intelligence purposes is addressed in Chapter 4.

³⁸ Ibid., p.227.

³⁹ Ibid., p.223.

⁴⁰ Ibid. (Executive Summary).

⁴¹ Ibid., p.223.

⁴² Ibid.

⁴³ Ibid., p.239.

⁴⁴ Ibid.

⁴⁵ Ibid.

False Complaint

The Ferns Inquiry reports one case of a false complaint (made by Shane against Monsignor Ledwith). The Inquiry notes that the “comprehensive investigation of the allegations made by Shane are noteworthy as an illustration that such investigations may provide an effective protection for those who believe themselves wrongly accused of a criminal offence.”⁴⁶ False complaints are addressed further in Chapter 4.

THE RYAN REPORT

The Commission to Inquire into Child Abuse was established on 23 May, 2000 to investigate the abuse of children in institutions. The Commission was first chaired by Ms Justice Mary Laffoy and later by Mr Sean Ryan, Senior Counsel.

The Commission heard evidence from more than 1,500 witnesses who attended or were resident as children in schools and care facilities in the State, particularly industrial and reformatory schools, in the years since 1936. Complaints related mostly to the years 1936 to 1970.

The Inspectorate’s analysis of the Ryan Report yielded only five references that were relevant to its current inspection as follows:⁴⁷

- The Commission was not provided with Garda documentation relating to investigation of allegations of child sexual abuse at Walsh Island National School, County Wexford. The Commission recorded that it had been “suggested by a number of people that a Garda file opened at the time of the investigation in the late 1960s has disappeared.”⁴⁸ A detective superintendent furnished a sworn affidavit of discovery as to the extensive efforts made to locate any documents regarding this investigation. The detective superintendent concluded that “any such documents would have been destroyed in the normal course pertaining at that time.”⁴⁹
- In relation to an allegation against a member of staff at St Joseph’s Industrial School Kilkenny in 1976, a garda told the Commission that he had interviewed the parents of a boy and, while the term “sexual abuse” was not mentioned, he was in no doubt that an indecent assault had taken place. When confronted, the member of staff in question admitted to the garda and Sr. Astrid, Resident Manager at St Joseph’s, that he had abused the boy. Notwithstanding this admission, the garda did not take a statement from Sr. Astrid on the basis that there was no formal complaint from the boy’s parents. Neither did the garda question any of the children who had been in the care of the staff member at St Joseph’s. “As far as he was concerned, it was an isolated incident that had been dealt with”⁵⁰ (by dismissal of the staff member from St Joseph’s). The garda told the Commission that it was 1995 before he realised that the incident was not an isolated one and that the staff member concerned had been abusing boys in St Joseph’s during the ten months he worked there.
- In the investigation of child sexual abuse allegations against a member of staff (Mr Moore) at St Joseph’s School for Deaf Boys in Cabra, Dublin in the early 1990s, the Commission found that there were “failings in communication and cooperation between the various State agencies”⁵¹ (Eastern Health Board, the Gardaí and St Clare’s Unit at Temple Street Hospital). The Commission states that “When all official bodies had eventually been notified, there was further confusion and delay in dealing with the complaint.”⁵² The Commission concluded that the allegations against the staff member and subsequent investigations “highlight numerous problems at the time in the area of reporting and investigating child sexual abuse allegations.”⁵³

⁴⁶ Ibid., p.241.

⁴⁷ Three of the references relate to allegations against a secular member of staff in a school/institution.

⁴⁸ Commission to Inquire into Child Abuse (2009) *Commission to Inquire into Child Abuse Report*, p.590 Dublin: The Stationery Office.

⁴⁹ Ibidem.

⁵⁰ Idem, Vol.2, p.537.

⁵¹ Idem, Vol.1, p.570.

⁵² Ibid.

⁵³ Ibid.

- Also in relation to St Joseph’s School for Deaf Boys, the Commission found it “inexplicable” that child sexual abuse allegations against a brother (Br. Boucher) were not investigated by the Gardaí and the Eastern Health Board given the amount of information that had emerged in relation to the brother in the investigations into the complaint against Mr Moore (referred to in the previous bullet point).⁵⁴
- In relation to St Joseph’s Industrial School, Greenmount, Cork, the Commission heard evidence from a complainant that he had run away from the school in the late 1940s and gone with a friend to a garda superintendent to complain about sexual abuse perpetrated against him by a brother at the school. Rather than investigate the victim’s allegation, the superintendent is stated to have said, “I can only bring you up to Bishop Cohalan.”⁵⁵ According to the complainant, after meeting with the bishop, he was returned to the school and next morning “got a flogging.”⁵⁶

The issues that arose in the first two of these cases – poor record/file management and failure to act on the basis that there was no formal complaint – are addressed further in Chapter 4.

The Commission’s finding of poor communications and cooperation between State agencies in the investigation of child sexual abuse allegations at St Joseph’s School for Deaf Boys, echoes similar findings in reviews of the Children First guidelines. The problem is again addressed in Chapter 3 of this report.

The reasons why the authorities failed to investigate allegations against a brother at St Joseph’s School for Deaf Boys (Br Boucher) are not clear to the Inspectorate. Greater Garda adherence to crime counting rules, closer case tracking and improved supervision/review of investigations as proposed in Chapter 4 will address concerns raised in these cases.

The evidence of the run-away complainant from St Joseph’s Industrial School, Greenmount appears to be a further example of Garda deference to the Catholic Church. The alleged failings in this case go back over sixty years. Ultimately, ensuring that every member of the Garda Síochána does the right thing in dealing with allegations of child sexual abuse must be assured by the existence of clear policies and their translation into good practices and procedures backed up by effective supervision and review, including external review. All of the matters addressed in Chapter 4 are relevant in this regard.

CONTEXT

There is justified public concern about clerical child sexual abuse as disclosed in the Murphy, Ferns and Ryan reports. It is important to remember, however, that such cases represent only a small proportion of the totality of cases of child sexual abuse.

Research undertaken by the Royal College of Surgeons in Ireland, which was published in *SAVI and SAVI Revisited*, found that “Clerical/religious ministers or clerical/religious teachers constituted 3.2% of [child sexual] abusers.”⁵⁷ The report noted that “a relatively small percentage of perpetrators fitted the current stereotype of abusers of children.”⁵⁸ Data presented in the report showed a higher likelihood of abuse from “uncles (6.2%), cousins (4.4%), babysitters (4.4%) and brothers (3.7%)” than ministers or religious teachers.⁵⁹ A similar study undertaken by scholars at the John Jay College of Criminal Justice in New York found that approximately 4% of US priests in active ministry between 1950 and 2002 have been accused of child sexual abuse.⁶⁰

⁵⁷ The Dublin Rape Crisis Centre (2005) *SAVI and SAVI Revisited*, p.5 http://d427537.u41.hosting.digiweb.ie/wp-content/uploads/2008/09/savi_report.pdf (Accessed on 23 August, 2010).

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ John Jay College of Criminal Justice (2004) *The Nature and Scope of the Problem of Sexual Abuse of Minors by Catholic Priests and Deacons in the United States*, p.17 <http://www.jjay.cuny.edu/churchstudy/main.asp> (Accessed on 23 August, 2010).

⁵⁴ Ibid., p.572.

⁵⁵ Idem, Vol. 2, p.175.

⁵⁶ Ibid.

The intention here is not to downplay the significance of clerical child sexual abuse. Rather it is to emphasise that, while clerical child sexual abuse is a significant public concern, the vast majority of child sexual abuse cases are perpetrated by non-clerics such as a family member, a neighbour or a family friend. Garda Síochána policies, practices and procedures need to address all forms of child sexual abuse and the Gardaí must be enabled to respond effectively to it in all its guises. The following chapters of this report, and the recommendations contained in them, address Garda handling of all child sexual abuse allegations.

CHAPTER

03

INTER-AGENCY
WORKING
IN CHILD
PROTECTION

The publication of the Children First guidelines in 1999 was a significant development in child protection arrangements in Ireland. The guidelines were the first comprehensive public document to address the identification, reporting and investigation of child abuse, including child sexual abuse. Part Three of the guidelines was aimed specifically at the Garda Síochána and the health boards that existed at the time, “the two agencies with statutory responsibility for child protection.”

The Children First guidelines noted three advantages to inter-agency co-operation between the Garda Síochána and the health boards:

1. A comprehensive response to all concerns about children.
2. Avoidance of gaps in service response.
3. Mutual support in complex cases.

Since 1999, there have been several reviews of the Children First guidelines. These reviews have consistently raised serious inter-agency failings. The Inspectorate has endeavoured to identify and recommend more robust and effective inter-agency child protection arrangements in which the public can have greater confidence.

Previous Review Findings

The reviews of the Children First guidelines to date have largely endorsed the provisions of the guidelines but cited difficulties and obstacles to their practical implementation. The two most recent reviews were done by the Office of the Minister for Children and Youth Affairs (OMCYA) and the Ombudsman for Children. The findings of these reviews that are relevant to this inspection can be broadly summarised as follows:

OMCYA Review 2008

- “In summary, there appeared to be some agreement that the Children First guidelines in themselves are, with a small number of exceptions, generally adequate.”⁶¹
- “...difficulties and variations in relation to implementation of the guidelines arise as a result of local variation and infrastructural issues, rather than from fundamental difficulties with the guidelines themselves...Over time, the guidelines may require to be replaced or updated, and the OMCYA will have responsibility for keeping their effectiveness

under review.”⁶²

- Specific difficulties identified by stakeholders were:
 - “The initial impetus for implementing Children First has lost momentum...”⁶³
 - “Much positive feedback was received in relation to initial inter-agency training, in particular between health boards and An Garda Síochána. But again, this impetus has dissipated over time and needs to be renewed.”⁶⁴
 - “There is no national forum at present where senior figures in child protection across sectors can meet to discuss this topic and to facilitate interagency and cross-sectoral cooperation at a high level.”⁶⁵
 - “There is no formal structure where emerging issues on child protection can be raised and the necessary corrective action agreed upon.”⁶⁶
 - “Governance of the current child protection system needs improvement in terms of setting objectives and defining responsibilities.”⁶⁷

In a complementary document⁶⁸ analysing submissions made to the OMCYA review, the following front-line difficulties affecting “joint working and cooperation between the Gardaí and the HSE” in implementing Children First were identified:

⁶² *Idem, National review of compliance with Children First: National Guidelines for the protection and Welfare of Children.* Dublin: The Stationery Office, p.3.

⁶³ *Ibidem*, p.18.

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

⁶⁸ *Idem, Analysis of submissions made on national review of compliance with Children First: National Guidelines for the protection and Welfare of Children.* Dublin: The Stationery Office.

⁶¹ Office of the Minister for Children and Youth Affairs (2008) *Analysis of submissions made on national review of compliance with Children First: National Guidelines for the protection and Welfare of Children.* Dublin: The Stationery Office, p.36.

- “Garda/Health Board liaison teams do not exist in most areas as envisaged in Children First...”⁶⁹
- “...constant turnover of staff from both services, a lack of co-terminus services and differences in working patterns...”⁷⁰
- “lack of a 24-hour service by the HSE...”⁷¹
- “informal nature of interagency cooperation”⁷²
- “need for a dedicated Garda liaison team”⁷³
- Difficulties relating to “roles and responsibilities”⁷⁴
- “...use of joint actions sheets would appear to have largely dissipated over time.”⁷⁵
- “...delay involved in getting Garda clearance [i.e. vetting of candidates for employment].”⁷⁶

Ombudsman for Children Report 2010

In her recent report on the implementation of the Children First guidelines, the Ombudsman for Children, Ms Emily Logan, reported that:

- “...up until the establishment of a HSE Taskforce in February, 2009 ... insufficient efforts were made to drive forward implementation of Children First...”⁷⁷
- “...there was unsound administration by the Health Boards in failing to resolve collectively problems that had arisen with Children First, including regarding its variable implementation...”⁷⁸
- “...failure...to put in place quality assurance through internal audit of case files...”⁷⁹

⁶⁹ Ibidem, p.7.

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² Ibid.

⁷³ Ibid., p.9.

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ Ombudsman for Children (2010) *A report based on an investigation into the implementation of Children First: National Guidelines for the Protection and Welfare of Children*, <http://www.oco.ie/assets/files/PressReleases/Children%20First/OCOinvestigationintoimplementatofChildrenFirst.pdf>. P.77 (Accessed on 20 June, 2010).

⁷⁸ Ibidem.

⁷⁹ Ibid.

- “...proper mention should have been made [in the OMCYA analysis of submissions and in the OMCYA review document itself] of the real industrial relations issues that had arisen in the former Eastern Regional Health Authority region, given their effects on the ground...”⁸⁰
- “...failure to ensure consistent definitions of abuse in local procedures...”⁸¹
- “...failure to ensure clarity and consistency regarding the basis for reporting child abuse concerns...”⁸²
- “...failure...to ensure 24 hour external access to the Child Protection Notification System in most of the State...”⁸³
- “...in a number of instances – notably concerning joint action sheets and notifications – ...failure to implement the requirements of Children First on Garda/HSE cooperation...”⁸⁴

Garda Data

The Inspectorate noted that previous reviews of the operation of Children First involved mainly qualitative research. While this provided evidence of inconsistencies and failings in the implementation of the guidelines, there was no quantitative measurement of the extent to which they were not being applied. The Inspectorate addressed this gap by seeking and obtaining relevant data from the Garda Síochána.

Table 1 shows that in the years 2007 to 2009 inclusive, there were 16,073 child protection notifications issued between the Garda Síochána and the HSE, with the majority of them 11,472 (71%) being issued from the Garda Síochána to the HSE.⁸⁵ The average numbers of notifications per 10,000-population varied significantly between Garda divisions (fifty-eight in Dublin North Central Division to eighteen in the Sligo/Leitrim Division).

⁸⁰ Ibid., p.78.

⁸¹ Ibid.

⁸² Ibid.

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ One would expect more HSE notifications to the Garda Síochána than vice versa. This is because the Children First guidelines call for reports of child abuse to be made to the health boards (now HSE) in the normal course and to the Garda Síochána in urgent cases when contact cannot be made with the health board.

Table 1: Child Protection Notifications Issued/Received by the Garda Síochána in the Years 2007 to 2009 Inclusive

Column 1	Column 2	Column 3	Column 4
Garda Region/ Division	Total Numbers of Child Protection Notifications (CPNs) Issued/Received by the Garda Síochána	Numbers and Proportions of CPNs from Column 2 Issued by the Garda Síochána to the HSE	Numbers and Proportions of CPNs from Column 2 Received by the Garda Síochána from the HSE
Dublin Metropolitan Region			
DMR Eastern	487	353 (72.5%)	134 (27.5%)
DMR Northern	1242	678 (54.6%)	564 (45.4%)
DMR North Central	460	236 (51.3%)	224 (48.7%)
DMR Southern	862	463 (53.7%)	399 (46.3%)
DMR South Central	476	211 (44.3%)	265 (55.7%)
DMR Western	1534	660 (43.0%)	874 (57.0%)
Sub Totals	5,061	2601 (51.39%)	2460 (48.61%)
Eastern Region			
Kildare	338	276 (81.7%)	62 (18.3%)
Laois/Offaly	475	457 (96.2%)	18 (3.8%)
Meath	460	262 (57.0%)	198 (43.0%)
Westmeath	409	318 (77.8%)	91 (22.2%)
Wicklow	538	498 (92.6%)	40 (7.4%)
Sub Totals	2220	1811 (81.58%)	409 (18.42%)
Northern Region			
Cavan/Monaghan	629	535 (85.1%)	94 (14.9%)
Donegal	567	486 (85.7%)	81 (14.3%)
Louth	490	398 (81.2%)	92 (18.8%)
Sligo/Leitrim	145	108 (74.5%)	37 (25.5%)
Sub Totals	1831	1527 (83.40%)	304 (16.60%)
South Eastern Region			
Kilkenny/Carlow	424	341 (80.4%)	83 (19.6%)
Tipperary	698	559 (80.1%)	139 (19.9%)
Waterford	445	382 (85.8%)	63 (14.2%)
Wexford	556	447 (80.4%)	109 (19.6%)
Sub Totals	2123	1729 (81.44%)	394 (18.56%)
Southern Region			
Cork City	1166	850 (72.9%)	316 (27.1%)
Cork North	488	377 (77.3%)	111 (22.7%)
Cork West	415	304 (73.3%)	111 (26.7%)
Kerry	427	311 (72.8%)	116 (27.2%)
Limerick	736	631 (85.7%)	105 (14.3%)
Sub Totals	3232	2473 (76.52%)	759 (23.48%)
Western Region			
Clare	304	263 (86.5%)	41 (13.5%)
Galway	559	493 (88.2%)	66 (11.8%)
Mayo	269	221 (82.2%)	48 (17.8%)
Roscommon/Longford	474	354 (74.7%)	120 (25.3%)
Sub Totals	1606	1331 (82.88%)	275 (17.12%)
GRAND TOTALS	16073	11472 (71.37%)	4601 (28.63%)

* Notifications may be in respect of physical abuse, sexual abuse, emotional abuse and neglect.

Table 2 focuses on child protection notifications related to child sexual abuse. It shows that Garda/HSE joint action sheets were completed in respect of only 23% of such notifications in the three years 2007 to 2009. Eight Garda divisions have no record

of completion of a joint action sheet and case plans were prepared in respect of only 19%⁸⁶ of notifications in the years 2007 to 2009. Six Garda divisions provided a “Nil” return for preparation of case plans.

⁸⁶ Based on fieldwork, the Inspectorate concluded that the true “case plans” percentage is lower. This follows indications at Garda district level that, in some instances, investigative strategies may have been counted as case plans.

Table 2: Completion of Joint Action Sheets and Preparation of Case Plans in Respect of Child Sexual Abuse Notifications Issued/Received by each Garda Division in the Years 2007 to 2009 Inclusive

Column 1	Column 2	Column 3	Column 4
Garda Region/ Division	Numbers of Child Protection Notifications (CPNs) Issued/ Received by the Garda Síochána related to Child Sexual Abuse	Numbers and Proportions of CPNs from Column 2 Resulting in Completion of a Joint Action Sheet	Numbers and Proportions of CPNs from Column 2 Resulting in Preparation of a Case Plan
Dublin Metropolitan Region			
DMR Eastern	155	4 (3%)	60 (39%)
DMR Northern	387	0	0
DMR North Central	111	0	0
DMR Southern	223	0	3 (1%)
DMR South Central	114	10 (9%)	10 (9%)
DMR Western	368	0	0
Sub Totals	1358	14 (1%)	73 (5%)
Eastern Region			
Kildare	87	2 (2%)	39 (45%)
Laois/Offaly	49	0	0
Meath	53	11 (21%)	12 (23%)
Westmeath	99	0	42 (42%)
Wicklow	94	26 (28%)	13 (14%)
Sub Totals	382	39 (10%)	106 (28%)
Northern Region			
Cavan/Monaghan	97	0	16 (16%)
Donegal	99	73 (74%)	74 (75%)
Louth	113	0	0
Sligo/Leitrim	33	28 (85%)	13 (39%)
Sub Totals	342	101 (30%)	103 (30%)
South Eastern Region			
Kilkenny/Carlow	52	1 (2%)	0
Tipperary	73	37 (51%)	20 (27%)
Waterford	62	21 (34%)	21 (34%)
Wexford	101	6 (6%)	7 (7%)
Sub Totals	288	65 (23%)	48 (17%)
Southern Region			
Cork City	213	176 (83%)	74 (35%)
Cork North	72	57 (79%)	21 (29%)
Cork West	89	68 (76%)	51 (57%)
Kerry	95	78 (82%)	47 (49%)
Limerick	125	27 (22%)	26 (21%)
Sub Totals	594	406 (68%)	219 (37%)
Western Region			
Clare	50	25 (50%)	9 (18%)
Galway	105	78 (74%)	53 (50%)
Mayo	96	20 (21%)	18 (19%)
Roscommon/Longford	88	8 (9%)	12 (14%)
Sub Totals	339	131 (39%)	92 (27%)
GRAND TOTALS	3303	756 (23%)	641 (19%)

Tables 1 and 2 indicate that the problems in implementing the Children First protocol between the Garda Síochána and the HSE go well beyond a lack of consistent application. In some areas, notably in Dublin, the operation of the protocol is limited to the issue of child protection notifications. While many front-line staff and managers in both organisations continue to liaise and cooperate on individual cases, this is more the result of personal relationships than meaningful and supportive policies and procedures. Even in the places where working relationships between the Garda Síochána and the HSE appear to be at their best, the formal processes, such as joint action sheets that are part of the Children First notification system, are not being completed. (The completion rate for joint action sheets in the Dublin Metropolitan Region is just 1%.) Where joint investigations take place, there are delays of weeks in commencing them unless there is a perceived serious and immediate threat to the well being of a child.

Any reasonable analysis of the qualitative and quantitative evidence of the failures to implement the Children First protocol between the Garda Síochána and the HSE would have to conclude that there is a serious problem requiring urgent action to resolve it. Urgent action, however, does not mean that there is a quick-fix solution. The Inspectorate does not believe that plans to re-issue the Children First guidelines incorporating relatively minor changes, and costly provision of a fresh round of Children First training, are sufficient to bring about effective joint working of Gardaí and social workers as envisaged in the Garda Síochána/HSE protocol. Real progress requires that the difficulties and obstacles identified in previous reviews of the Children First guidelines be tackled effectively without further delay.

Many of the difficulties identified in previous reviews of the Children First guidelines have their roots in the failure to recognise from the outset that the operation of the guidelines would require the development of close working relationships between organisations with very different remits and priorities. A high level national policy document and initial training were never going to be sufficient to enable the two organisations to work closely together to the level required to deliver a joined-up, effective service. Much more is needed to be done to promote, develop and support inter-agency working between Gardaí and social workers.

Inter-Agency Working

Difficulties in achieving effective inter-agency co-operation are not peculiar to child protection. In the decade since 1999, difficulties in achieving full inter-agency co-operation have been identified across different sectors. The Children Acts Advisory Board has identified a number of these as follows:

- “...lack of authority underpinning the co-ordination function [to] oblige any of the key stakeholders to participate meaningfully...”⁸⁷
- “...absence of incentives within the system to encourage and reward organisations which pursue issues around coordination and eliminate duplication.”⁸⁸
- “...different ideologies, principles, structures, budgetary time frames, and territorial remits can delimit the capacity for more integration.”⁸⁹
- “Lack of linkage between the local level and the policy making framework.”⁹⁰
- “...inter-agency co-operation is not prioritised within many statutory agencies and voluntary organisations and is not factored into the strategic plans of these organisations. Since it is not prioritised, it is often not resourced or supported and it is granted far less importance than the direct services being provided by the agencies.”⁹¹
- “...frequently co-operation is dependent on the goodwill and personalities of individual workers, with co-operative arrangements not strong or robust enough to withstand changes of personnel.”⁹²
- “...issue-based structures at local level are a necessary but insufficient factor in promoting integrated service delivery.”⁹³

⁸⁷ CAAB Research (2009) *A Literature Review of Inter-Agency Work with a Particular Focus on Children's Services*, Report No. 4 <http://www.caab.ie/getdoc/54fd5e73-bf38-4a39-a9f3-68be05f0e00a/IAC-Literature-Review.aspx> (Accessed on 15 June, 2010).

⁸⁸ Ibidem.

⁸⁹ Ibid.

⁹⁰ Ibid., p.50.

⁹¹ Ibid.

⁹² Ibid.

⁹³ Ibid., p.51.

The Inspectorate is convinced that front-line workers in child protection will recognise and have experienced many, if not all, of these factors in their work. The Inspectorate believes that each of these factors has either already surfaced in relation to inter-agency child protection arrangements and/or represents a significant continuing threat. These issues must be addressed in order for Gardaí and social workers to operate effectively together.

Law Reform Commission

There is one other perspective on inter-agency working involving Gardaí and social workers that needs to be taken into account. As early as 1990, the Law Reform Commission identified the need for closer cooperation between Gardaí and social workers and obstacles that had to be overcome to achieve it. The following extract from the Commission's Report on Child Sexual Abuse (1990) is relevant:

"We believe that the development of a better mechanism for co-operation between the Gardaí on the one hand and health boards and hospital/clinic personnel on the other is a key requirement of the system. The failure to develop a more structured basis for co-operation is, it seems to us, one factor contributing to the low prosecution rate in child sexual abuse cases. Part of the explanation was given in the Consultation Paper:

'From our discussion with health care professionals it has become apparent to us that there is often a reluctance to involve the Gardaí in the early stages of investigation of alleged child sexual abuse. The motives are understandable. In many cases, the evidence is simply insufficient to warrant Garda involvement. In other cases, there may be a fear that parental consent to further examination of, or interview with, a child will not be forthcoming, or will be withdrawn if the parents know that the Gardaí are likely to be involved. There is also the prevailing ethos within the health care profession that the welfare of the patient/child should be the primary concern.

One of the consequences of excluding Gardaí from the early stages of investigation is that it may ultimately make it more difficult to mount a successful prosecution against the

alleged offender. If disclosure by the child is first made in the context of a purely therapeutic interview without Garda involvement, there is a danger that any subsequent formal statement made by the child to a Garda may be attacked in court as tainted by the earlier interview. Another disadvantage of not involving the Gardaí at an early stage is that the number of interviews which the child may have to undergo is increased.

2.04 In addition, in the introduction to our Consultation Paper we stated that "those charged with the responsibility of caring for children fear the loss of control which comes with the institution of criminal proceedings which appear to take on a life of their own." There is an unfortunate yet widespread perception that the criminal justice process, once triggered, engages in relentless pursuit of the perpetrator and is thereby incapable of responding sensitively to the needs of the victim.

2.05 The perceived conflict between the demands of the criminal justice process and the needs of the victim must be addressed if procedures for the protection of children are to work successfully. What must be avoided are extreme positions. If law enforcers take the view that the successful prosecution of offenders is the one overriding objective, and health professionals regard the welfare of the individual victim as superseding all other considerations, tension will remain and prosecution rates will continue to be low."⁹⁴

It is a tribute to the perception of the Law Reform Commission, and a matter for regret in terms of failure to develop Irish child protection mechanisms, that the Commission's words remain as relevant today as when they were written twenty years ago. Notwithstanding the Children First guidelines and efforts to implement them, the Inspectorate sees no

⁹⁴ Law Reform Commission (1990) *Report on Child Sexual Abuse*, p.13, <http://www.lawreform.ie/fileupload/Reports/rChildSexAbuse.pdf> (Accessed on 20 June, 2010).

evidence of significant development in inter-agency working between the Garda Síochána and the HSE in the area of child protection since the 1990s. The Inspectorate heard first-hand from many Gardaí about continuing challenges in inter-agency working, including the difficulty of getting involved early in child sexual abuse investigations.

The fundamental need identified by the Commission, “a better mechanism for co-operation,” is the solution to these difficulties. This will require change at strategic levels and at the front line. An important first step would be an amendment to the Children First guidelines to make it clear that prosecution of offences against children will be considered within the wider objective of child welfare/protection. This is discussed further in Chapter 4.

INTERNATIONAL BENCHMARKS

Achieving close working relationships between law enforcement and health care agencies in the interest of effective child protection is a challenge not just in Ireland but in all jurisdictions. In seeking out best international practice, the Inspectorate has been continually directed to developments in the US, and England and Wales.

USA

A multi-disciplinary team approach to child sexual abuse is considered by experienced US professionals to be the most effective method of ensuring that victims are treated with care and understanding and that their cases are handled as efficiently as possible causing them the minimum additional psychological and emotional trauma. The team approach is best exemplified by the 700+ child advocacy centres (CACs) established throughout the US.

In a CAC, child protection professionals, law enforcement officers, therapists, victim advocates and prosecutors combine to provide a child-centred service. Child victims are interviewed in a single, child-friendly location and some centres have facilities for medical examinations. The centres promote and facilitate communication among responsible officials ensuring that they dovetail in meeting both the therapeutic needs of the child and, where appropriate, the needs of the criminal

justice system, as investigations proceed. Typically, in the CAC model, each service retains responsibility for its own specialist interventions but makes decisions about cases in consultation with the other services. This ensures that the different services operate in harmony with one another, and work collectively in the best interests of the child. Over time, the services develop a better understanding and appreciation of the role of other services.

From a family’s perspective, CACs make sense. CACs offer a child-friendly environment where all the relevant professionals are present. They avoid repetitive interviews with the child⁹⁵ and difficulties for families that arise through lack of communication between agencies. Research has shown a greater level of satisfaction among caregivers (parents, guardians, etc.) in cases investigated by CACs even after controlling for relevant variables.⁹⁶

It is important to be aware that there is no single CAC model. CACs vary in structure and in the extent of services they provided. In some CACs, the professionals from the different services are co-located in the CAC building. Elsewhere, the CAC building is a place where professionals meet with one another and with victims and their families.

CAC models are still evolving. They are not seen as a panacea for handling child sexual abuse cases, but they offer significant advantages in terms of teamwork on the part of law enforcement, child protection and therapeutic services, as well as a better experience for the families of child victims of abuse. CAC models are beginning to appear outside the US, notably in Canada and Australia.

⁹⁵ Research undertaken by the Crimes Against Children Research Centre at New Hampshire University (<http://www.ncjrs.gov/pdffiles1/ojdp/218530.pdf>) found that many child victims had no more than one interview at CAC and comparator sites, and that 95% of children were interviewed no more than twice. The authors acknowledge that this may be the result of a general reduction in the number of interviews with children in the US following on the publication of best practice guides. The Inspectorate is aware of recent cases in which child victims have been interviewed separately on DVD by both the Garda Síochána and St Clare’s Unit at Temple Street Hospital.

⁹⁶ Jones, L. M., Cross, T.P., Walsh, W. A., and Simone, M., (2007) Do Children’s Advocacy Centres improve families’ experiences of child sexual abuse investigations? *Child Abuse and Neglect*, <http://www.unh.edu/ccrc/pdf/cv124.pdf>. p.1076 (Accessed on 20 June, 2010).

England and Wales

Child protection arrangements in the UK are set out in Government guidelines, “Working Together to Safeguard Children.” These guidelines recognise that safeguarding of children relies on “effective joint working between agencies and professionals that have different roles and expertise.”⁹⁷ Constructive working relationships between individuals are promoted and supported by:

- A strong lead from elected or appointed local authority members, and the commitment of chief officers in all agencies.⁹⁸
- Coordination by the Local Safeguarding Children Board (LSCB) in each local authority area.⁹⁹ (Membership of the LSCBs includes representatives of the local authority, together with representatives of social services, police and other statutory bodies that are required by law to co-operate with the local authority in the effective discharge of its functions in safeguarding children.)

Other important coordinating mechanisms operating at local authority level include the joint working of police and social services in MARACs (Multi Agency Risk Assessment Committees) and MAPPAs (Multi Agency Public Protection Arrangements) in which child protection concerns can be raised. In addition, the rigours imposed in “Working Together to Safeguard Children” are powerful co-ordinating mechanisms in their own right. For instance:

- Specific actions have to be completed within set time deadlines e.g., an initial child protection conference has to be held within fifteen working days of the strategy discussion.¹⁰⁰ This requires all agencies to adhere to a common deadline.
- Information/decisions have to be properly recorded e.g., “all information shared, all decisions reached, and the basis for those decisions should be clearly recorded by the

chair of the strategy discussion and circulated within one working day to all parties to the discussion.”¹⁰¹ This ensures that all agencies have a single, agreed minimum set of records in relation to each case.

There are also indications in the UK of moves towards even closer joint working. For instance, in Hull there is a whole system approach to early intervention and, in Blackpool, an integrated team called “Catalyst,” comprising police, social workers and health officials addresses the needs of children, young people and families experiencing domestic abuse. There is also a sense that future developments in England and Wales will lead to even closer integration and co-location arrangements (especially for risk assessment and strategy meetings).

NEW APPROACH

The Inspectorate is convinced that Ireland needs a fresh approach if effective multi-disciplinary child protection arrangements are to be realised. Front-line Gardaí and social workers do difficult jobs on behalf of the community. They must be enabled and supported to work together in the best interest of the State’s children.

There is no doubting the declared commitments of the OMCYA, the Garda Síochána and the HSE to the protection of children from abuse. Ultimately, however, the demonstration of their respective commitments will be the actions taken by each of them, individually and collectively, to build a better child protection service in the State. Insofar as the Garda Síochána is concerned, the Inspectorate believes that the organisation needs to take the following actions immediately:

- Assign responsibility and accountability for all aspects of development of child protection arrangements to a member of assistant commissioner rank. The assistant commissioner should provide visible leadership and direction in the development of new organisational policies and structures, and in monitoring and evaluating the operation of national child protection guidelines.

⁹⁷ HM Government (2010) Working Together to Safeguard Children, A guide to inter-agency working to safeguard and promote the welfare of children, p.31. <http://publications.dcsf.gov.uk/eOrderingDownload/00305-2010DOM-EN.PDF> (Accessed on 17 June, 2010).

⁹⁸ Ibidem, p.32.

⁹⁹ Ibid.

¹⁰⁰ Ibid., p.162.

¹⁰¹ Ibid., p.154.

- Include the promotion of inter-agency working with the HSE and the development of Garda Síochána child protection policies, practices and procedures as a priority in the organisation's strategy statements and business plans. Progress made in implementing changes should be tracked and published.
- In co-operation with the assistant national director with responsibility for child protection in the HSE, prioritise and provide supports for inter-agency working between Gardaí, social workers and staff in child assessment units. The Garda Síochána and the HSE should address the barriers to joint working identified in reviews of the Children First guidelines and ensure, as far as possible, the use of shared systems and agreed records.

The jurisdictions indicated to the Inspectorate as operating international best practice in child protection are already well advanced in joint working between child protection workers and police. The trend is very definitely towards closer joint working where possible. CAC-type models, while not statistically proven to be significantly better in all respects, show important advantages.¹⁰² The Garda Síochána is already well aware of the advantages of close inter-agency working in light of the well documented success of the multi-agency Criminal Assets Bureau at Garda Headquarters, Harcourt Square.

The Inspectorate is aware that the report of the HSE Task Force recommends the establishment of a CAC on a pilot basis in this jurisdiction. The Inspectorate strongly endorses this recommendation. The pilot should involve the establishment of at least two centres in Dublin and should include participation by bodies that have a front-line role under Children First in responding to allegations of child sexual abuse, i.e. the Garda Síochána, the HSE, and St Louise's and St Clare's assessment units. The centres should work closely with the Director of Public Prosecutions. The pilots should be monitored on an ongoing basis and evaluated within a defined time period. If successful, a network of CACs could form the backbone of child protection arrangements across the State.

It is important to understand that the establishment of a CAC pilot affords no more than the opportunity for professionals from the various agencies to come together to develop a child-centred approach to child protection. This is not an easy process. The International Society for the Prevention of Child Abuse and Neglect (ISPCAN) recognises that "Turf issues will inevitably arise when work begins on a multi-disciplinary response to child abuse. Turf issues are the result of each agency or professional group's identification of its own mandate, and the concerns that somehow the cooperation that is being sought will negatively affect this mandate... The important dynamic with turf issues is to recognise and confront them as they occur. Understanding why these issues have come to the forefront is key."¹⁰³

Supports

Close team-working arrangements in addressing child sexual abuse have the added benefit of enabling mutual support for assessors, investigators and those involved in follow up therapy in complex and difficult cases. At the same time, however, there is a need for formal structured supports for personnel who work full-time on sexual offence cases. The Inspectorate was pleased that the Garda Síochána has already recognised this need in relation to Gardaí at the Domestic Violence and Sexual Assault Investigation Unit at NBCI. The supports to be provided to each of these Gardaí include:

- A mandatory minimum annual one-to-one session with a counsellor.
- Five optional one-to-one counselling sessions annually.
- Exit counselling, i.e. counselling prior to transfer to reassignment/retirement.

The Inspectorate believes that supports of this kind should be provided for all Gardaí working full-time in the area of sexual offences. Appropriate supports should also be provided for Gardaí who investigate particularly difficult cases involving grievous sexual offences.

¹⁰² US Department of Justice, (2008). *Evaluating Children's Advocacy Centers' Response to Child Sexual Abuse*. <http://www.ncjrs.gov/pdffiles1/ojdp/218530.pdf> (Accessed on 17 June, 2010).

¹⁰³ Chandler, N. (2004) *Multidisciplinary Team Models: Special Focus on Children's Advocacy Centres*. Carol Stream, IL: ISPCAN.

CHAPTER

04

ISSUES
IMPACTING
THE GARDA
RESPONSE

The Inspectorate has identified specific issues impacting Garda arrangements for dealing with allegations of child sexual abuse. These issues are addressed in this chapter against the backdrop of relevant Garda policies, practices and procedures, and best international practice in five key areas:

- Reporting Allegations and Concerns
- Information Management
- Investigation
- Prosecution
- Monitoring and Evaluation

REPORTING ALLEGATIONS AND CONCERNS

Studies show that 20% of women and 5 to 10% of men report having been sexually abused as children.¹⁰⁴ Yet only a minority of child sexual abuse cases – possibly only 10%¹⁰⁵ – get reported to the police and social services.

Child sexual abuse is, accordingly, a high volume crime with low reporting rates. This should not come as a surprise. Perpetrators of child sexual abuse often spend considerable time grooming their victims and coercing them into silence. “Small children may not know that they are exposed to an illegal act, they may not have developed a language, understanding or the words to name the abuse, and disabled children will also have problems in getting the attention to expose the abuse. Traumatized children will have difficulties talking about the abuse, and feelings of guilt and shame may further cause them to displace the pain and the memories of the abuse.”¹⁰⁶ Also, adults, who were victims of sexual abuse in childhood, frequently have

difficulty in reporting the abuse. This has implications for the State’s response to child sexual abuse.

Reporting to the Garda Síochána

Other than notifications from the HSE (see Information Management later in this chapter), child sexual abuse allegations and concerns mainly come to the attention of the Garda Síochána in three ways:

- Reports from a victim or a relative/friend of a victim.
- Reports from victims’ organisations.
- Reports from church delegates.

Reports from a Victim, Relative or Friend

The serious nature of child sexual abuse and low reporting rates make it essential that the Garda Síochána properly facilitate victims making complaints and take positive steps to encourage people to make them. The greater the awareness among complainants of the help and supports available from the Garda Síochána, the greater the prospect that more of them will overcome their anxieties and report incidents of abuse.

The Inspectorate recommends the following measures to help increase the proportion of child sexual abuse cases that are reported to the Garda Síochána:

- The Garda Síochána should publish information for complainants on how, where and when they can make a complaint about child sexual abuse. This should reassure victims that it is right to report child sexual abuse, confirm that child protection is a top priority for the Garda

¹⁰⁴ World Health Organisation, (2006) *Preventing Child Maltreatment: a guide to taking action and generating evidence*, p.11, http://whqlibdoc.who.int/publications/2006/9241594365_eng.pdf (Accessed on 17 June, 2010).

¹⁰⁵ Sanderson, C. (2004) *The Seduction of Children*, p.307. London: Jessica Kingsley Publishers.

¹⁰⁶ Svedin, C.G., and Back, C., (2003) Varför berättar de inte? (Why don’t they talk?) in *Global Submission by the International Save the Children Alliance to the UN Study on Violence Against Children* p.49 http://www.google.ie/search?hl=en&source=hp&q=save+the+children+submission+to+UN+studt+on+violence&aq=f&aqi=&aqj=&oq=&gs_rfai= (Accessed on 21 June, 2010).

Síochána, and outline how complainants will be treated in their dealings with the Garda Síochána. It is a daunting prospect for a victim of child sexual abuse to approach the counter in a public office at a Garda station to report an offence of this kind. The Garda Síochána should devise victim-friendly options to encourage reporting of child sexual abuse. Most importantly, the information should emphasise that complainants will be believed and that their complaints will be acted upon.

- The Garda Síochána should specially train a cadre of front-line Gardaí in each Garda district to take reports alleging child sexual abuse. In England and Wales, only police officers who are specially trained take reports of child sexual abuse.
- The Inspectorate believes that only specially trained Gardaí should take statements from child and adult victims of child sexual abuse.
- The Garda Síochána has implemented good practice by putting in place telephone help lines for reporting of child sexual abuse. The Inspectorate believes that these lines should be staffed on a 24/7 basis and that use of automated answer lines should be discontinued.

Reports from Victims' Organisations

The Garda Síochána must continue to develop and maintain close working relationships with non-statutory organisations that provide support and services for victims of child sexual abuse. This would accord with Government policy advocating for "greater partnership between State services and the voluntary and community child care sectors."¹⁰⁷ The Inspectorate was made aware on several occasions of informal cooperation between non-statutory organisations and the Garda Síochána. These informal relationships should be underpinned by formal protocols on matters such as referral processes and, subject to law, sharing of information.

¹⁰⁷ Office of the Minister for Children (2007) *The Agenda for Children's Services: A Policy Handbook* http://www.omc.gov.ie/documents/publications/CS_handbook%5BENGLISH%5Dlowres.pdf. P35. (Accessed on 15 June, 2010).

Reports from Church Delegates

Each Catholic diocese and each of the 140 religious communities in the State has appointed a delegate to receive and record complaints of child sexual abuse and bring them to the attention of the HSE and the Garda Síochána. Until recently, a Church delegate could report allegations to a local, or any, member of the Garda Síochána. This has now changed. The Garda Síochána has advised that, in future, all child sexual abuse reports from Church delegates must be sent to the Sexual Crime Management Unit at Garda Headquarters, Harcourt Square. As well as receiving reports, the Unit will act as a single point of contact for advice and assistance to delegates on matters related to child sexual abuse.

The Inspectorate welcomes this new arrangement. It should facilitate better liaison between the Garda Síochána and Catholic Church authorities, support closer tracking of clerical child sexual abuse cases, and ensure a new systemic procedure with a clear audit trail as a bulwark against any local Garda deference to the Catholic Church.¹⁰⁸

There is one aspect of reporting of child sexual abuse allegations by church delegates that remains of concern to the Inspectorate. This is the Garda Síochána policy not to make direct contact with a person who complains to a church delegate about child sexual abuse. The Garda rationale for this policy is the recognition that

"...victims do not necessarily intend that the matter be referred to An Garda Síochána for investigation and may also never intend that the matter is made public. It is also the case that such victims may not have disclosed the abuse to close family members or friends...For this reason, and reasons of sensitivity and confidentiality, members will not make a direct approach to the victim. The person making the report to the Gardaí will be requested in writing to contact the victim and inform them that if they so wish a Garda investigation will be

¹⁰⁸ The "Murphy" report found instances in which the Garda Síochána did not have any records of cases of clerical child sexual abuse which, according to contemporaneous church records, had been reported to Gardaí. There were also concerns in relation to child sexual abuse cases because of Garda deference to the Catholic Church.

conducted regarding their disclosure, except in cases where there is an immediate and serious risk to the safety and welfare of the victim or others.”¹⁰⁹

The Inspectorate understands that the Garda policy has regard to the dismissal of a prosecution on the ground that, in approaching the alleged victim, the Gardaí had engaged in a fishing expedition. The Inspectorate understands that the Garda Síochána has sought legal advice from the Attorney General in light of this outcome.

The Inspectorate believes that the Garda Síochána should review this policy taking into account the anticipated legal advice. As matters stand, the policy runs counter to police practice in other jurisdictions. Given the recognised low rate of reporting of child sexual abuse, there is a significant public interest in the Garda Síochána making a sensitive, caring and discreet approach to a victim who has complained to a third party, who, in turn, has reported the complaint to the HSE/Garda Síochána in accordance with an established process or public policy. Even where a victim subsequently chooses not to complain formally to the Gardaí, dialogue with a Garda investigator could, at a minimum, provide important first-hand information to help prevent other children from becoming victims of an alleged abuser.

Requirement to Report

The Children First guidelines emphasise that all members of the community should report child sexual abuse to the Health Service Executive and the Garda Síochána. At the time of writing this report, the Minister for Children and Youth Affairs was considering the introduction of formal requirements on professionals and other certain individuals to report child sexual abuse. There appeared to be a preference for inclusion of appropriate provisions in both employee contracts of service, and in contracts for service, rather than enactment of statutory provisions for mandatory

reporting. The Third Report of the Special Rapporteur on Child Protection assesses the available options.¹¹⁰

Whatever option is taken, the Inspectorate welcomes the introduction of formal requirements to report child sexual abuse. This should further clarify what is expected of people such as teachers and healthcare workers who encounter evidence or allegations of child sexual abuse, and lessen the possibility of child sexual abuse cases going unreported.

Proxy Measures

Low reporting rates of child sexual abuse underline the importance of the HSE and the Garda Síochána having access to proxy measurements of the incidence of sexual offences against children.

Two possible such measurements came to notice during this inspection. These were statistics of the numbers of births to girls under 17 years of age and, in the case of other jurisdictions, the numbers of children, including very young children, diagnosed with sexually transmitted diseases. References to statistics of these kinds provide a check on the extent to which sexual offences against children are being reported to social workers and the Gardaí.

The appropriate follow-up in most of the cases included in these statistics will be a caring child welfare response. There are indications, however, that structured risk assessment will surface child protection concerns in some cases. In the course of this inspection, the Inspectorate encountered cases in which teenage pregnancy was an indicator of serious intra-familial sexual abuses that had required criminal investigation.

False Complaints

False complaint of child sexual abuse is a most serious matter. It can have very damaging consequences for the character, well being, livelihood and relationships of the person against whom the complaint is made. The Garda Síochána must continue to deter people from making false

¹⁰⁹ Garda Síochána (2010) *Policy on the Investigation of Sexual Crime, Crimes Against Children and Child Welfare*, p.24 <http://www.garda.ie/Documents/User/WEB%20Investigation%20of%20Sexual%20Crime%20Crimes%20Against%20Children%20Children%20Welfare.pdf> (Accessed on 12 August, 2010).

¹¹⁰ Shannon, G. (2009) *Third Report of the Special Rapporteur on Child Protection, A Report Submitted to the Oireachtas*, http://www.omc.gov.ie/documents/publications/Child_Protection_Rapporteur_Report.pdf (Accessed on 23 June, 2010).

complaints by gathering sufficient evidence in such cases to prosecute them.

The Garda Síochána must also have regard to the subject of a false complaint. When it is established that a complaint of child sexual abuse is false, the Garda Síochána should immediately inform the person against whom the complaint was made.

Thankfully, false complaints of child sexual abuse represent only a small proportion of all such complaints. A US study of 576 child sexual abuse investigations found that 6% of allegations made by parents and 2% of the allegations made by children could be classified as having been intentionally false.¹¹¹ In Australia, a study of 551 reports of child sexual abuse documented a 2.5% rate of false allegations.¹¹² A Canadian study, which reviewed 798 child sexual abuse investigations, found that 6% of them were intentionally false.¹¹³ The highest rate of malicious and false reports – 8.5% – was reported in a study of 350 child sexual abuse investigations in the UK.¹¹⁴ In light of these findings it is clear that the Garda Síochána should believe a complainant and act on that belief until such time as evidence becomes available that a complaint is false.

INFORMATION MANAGEMENT

There is global recognition that good information systems are essential to preventing and responding to child maltreatment, including child sexual abuse. According to the World Health Organisation, “the need is for high quality, reliable information. Research, routine data collection and monitoring and evaluation of programmes are essential to the success of a systematic approach to child maltreatment.”¹¹⁵ UNICEF advocates for countries to “improve data collection and information systems

in order to identify vulnerable groups, inform policy and track progress.”¹¹⁶

Robust and reliable information systems are central to effective police actions against child sexual abuse. Good information systems help:

- Establish the prevalence and nature of sexual offences against children.
- Record, manage and disseminate intelligence to front-line police officers.
- Track the progress of investigations and outcomes for children.
- Support an effective vetting system for persons working and applying to work with children.
- Monitor and review police interventions to ensure continuing effectiveness and areas for enhancement.

Having reviewed issues related to police information systems elsewhere, the Inspectorate believes that there are significant strengths in managing child sexual abuse information in Irish policing. First, PULSE, the Garda records management system, is a single national database for recording particulars of all reported incidents, offences, prosecutions, convictions, suspects and victims. (This is in contrast to, say, the UK where the development of a single police national intelligence IT system was a central issue in the Bichard Report.)¹¹⁷

Second, Garda Síochána records are not subject to expungement laws, i.e., laws that require the destruction of State records where allegations are “unsupported” following investigation. (The Commission of Investigation of the State of New York recorded that “virtually every CPS [Child Protection Service] official, CPS caseworker, police officer and prosecutor contacted by the Commission attested to the detrimental impact of expungement laws on efforts to protect children.”)¹¹⁸

¹¹¹ Trocme, N. and Bala, N., (2004) *False Allegations of Abuse and Neglect when Parents Separate* p.1336, <http://leadershipcouncil.org/docs/Trocme.pdf> (Accessed on 15 June, 2010).

¹¹² Ibidem.

¹¹³ Ibid., p.1340.

¹¹⁴ Ibid., p.1336.

¹¹⁵ World Health Organisation (2006) *Preventing Child Maltreatment: a guide to taking action and generating evidence* p.4, <http://whqlibdoc.who.int/publications/2006/9241594365eng.pdf>, (Accessed on 17 June, 2010).

¹¹⁶ UNICEF (2009) *Progress for Children, A Report Card on Child protection*, p.38, http://www.unicef.org/media/files/Progress_for_Children-No.8_HiRes_EN_USLetter_08132009.pdf (Accessed on 25 June, 2010).

¹¹⁷ Bichard, M. (2004) *The Bichard Inquiry Report*, p.118, <http://www.bichardinquiry.org.uk/10663/report.pdf> (Accessed on 17 June, 2010).

¹¹⁸ Temporary Commission of Investigation of the State of New York (1996) *Secrets That Can Kill: Child Abuse Investigations in New York State*, p.8, <http://www.nysl.nysed.gov/edocs/investigation/secrets.htm> (Accessed on 17 June, 2010).

Third, data protection legislation does not require the destruction of Garda Síochána records of prosecutions of child sexual offences, successful or unsuccessful. (The Bichard Report outlined the provisions for reviewing, retaining and deleting records in England and Wales.)

Against this background, the critical factors in information management for the Garda Síochána are determining policy on what to record and applying that policy in a consistent manner across the organisation.

Garda Records

At the outset of this inspection, the Inspectorate sought to establish the numbers of reported sexual offences against children in each of the years 2007 to 2009. It was expected that this information could be provided by the Garda Síochána from PULSE. In reality, however, these statistics could not be provided because it was not possible to distinguish sexual offences against children from those perpetrated against adults.¹¹⁹

In the absence of offence data the Inspectorate sought a return of the number of child protection notifications issued/received by the Garda Síochána since 2007. Contrary to a Garda Headquarters directive, this information was not fully recorded on PULSE and had to be retrieved from manual index books maintained by the 112 Garda districts in the State. While the manual indexes work reasonably well for local Garda purposes, they are not conducive to either timely compilation of data or analysis at divisional, regional and national levels.

Tables 1 and 2 in Chapter 3 of this report set out the data obtained on child protection notifications from Garda districts, categorised by Garda division. In all, the Garda Síochána issued and received some 16,073 notifications, of which 3,303 (20.5%) related to child sexual abuse. The Inspectorate decided to undertake a closer review of the recording and processing of approximately 10% of the latter notifications. This involved reviewing a total of 310

sample records of child sexual abuse notifications in four selected Garda districts – Ballymun, Gorey, Sligo and Tallaght. These districts afforded a variety of policing environments, i.e. urban/rural, dedicated child protection units in Ballymun and Tallaght and varying extents of cooperation between Gardaí and social workers as evidenced by the numbers of joint action sheets completed. The review involved a first-hand audit of the relevant child protection notifications, associated PULSE records and the Garda investigation files.

The findings of the review disclosed disturbing evidence of poor record keeping.

- 106 (42%) of the net sample of 254¹²⁰ notifications had not been recorded on PULSE.¹²¹
- Seventy-nine notifications (31% of the net sample) had been entered on PULSE under “Attention and Complaints” only and not recorded as a sexual offence. The Inspectorate is satisfied that a high proportion of those cases should have been recorded as offences immediately.¹²² Altogether, the Inspectorate estimates that there was a failure to record up to 65% of the net sample as child sexual offences.
- Three cases (1%) in the net sample of 254 notifications, which involved a total of nine injured parties, were recorded as a single offence contrary to Garda crime counting rules.

¹²⁰ The net sample was derived by excluding fifty-six cases from the total sample 310 notifications. The reasons for the exclusion of the fifty-six cases were as follows:

- Case transferred to another Garda district for investigation (19)
- Alleged victim was aged over eighteen years (16)
- Alleged incident took place outside the State (11)
- No specific incident involving a child was disclosed (4)
- Duplicate notifications (3)
- Child sexual abuse was not indicated (1)
- Outside the selected timeframe, i.e. 2007-2009 (1)
- The “notification” was an internal Garda notice (1).

¹²¹ The Inspectorate examined thirty-five of the 106 investigation files related to these notifications. Only two of those files contained a decision not to record the case on PULSE as an offence.

¹²² The Inspectorate examined twenty-six of the seventy-nine investigation files related to these notifications. Only four of those files contained a decision not to record the case on PULSE as an offence.

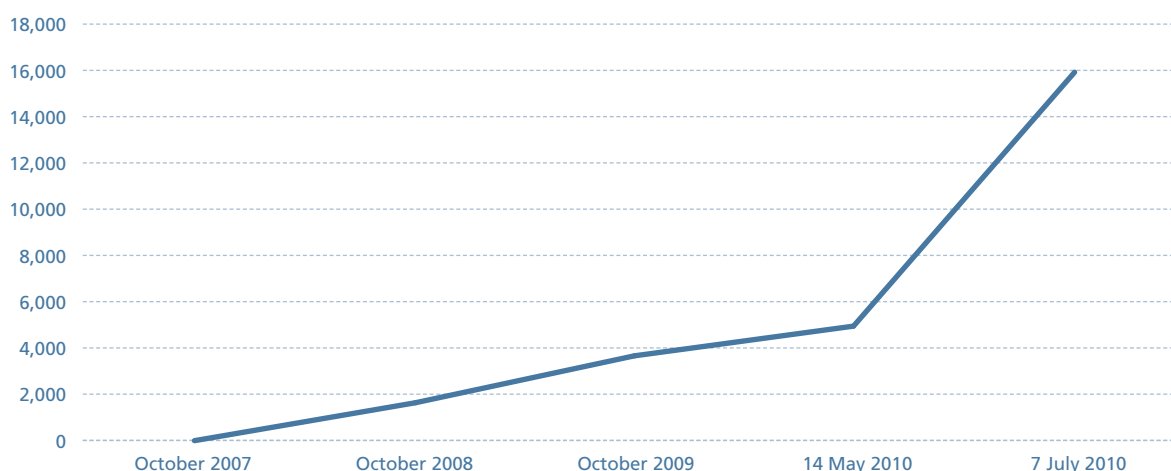
¹¹⁹ The total numbers of reported sexual offences against adults and children in each of the years in question were 1,366 (2007), 1,407 (2008) and 1,486 (2009). (Source: Garda Síochána).

The Inspectorate was most concerned about these findings for a number of reasons:

- Failure to record notifications on PULSE creates an intelligence gap in child protection. It also seriously devalues any data analysis.
- Failure to record child sexual offences on PULSE and to create a separate offence record for each victim is contrary to the Garda Síochána crime counting rules. Strict adherence to these rules is essential to the integrity of crime recording.
- Failure to provide a full count of child sexual offences in each year can result in a significant understatement of the level of reported child sexual offences. This has implications for prioritisation of child protection and the allocation of Garda resources.

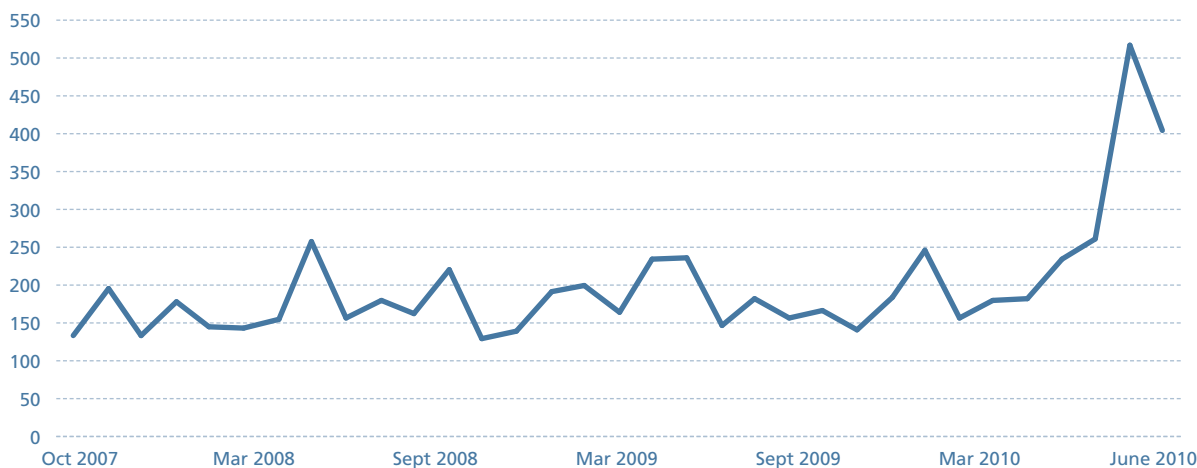
In the course of the inspection, the Inspectorate met with Deputy Commissioner Martin Callinan and provided him with preliminary data from the review. Deputy Commissioner Callinan moved swiftly and comprehensively to address the under recording issue. During May and June, 2010, all Garda districts added very significant numbers of new PULSE records in respect of child protection notifications/sexual offences reported to the Garda Síochána in the years 2007 to 2010. The exceptional scale of the Garda data-entry efforts during these two months is apparent from Charts 1 and 2. The result is that PULSE now has greater than three times the number of child protection records than it had at the beginning of May, 2010 and counts of sexual crime are more accurate.

Chart 1: Total Numbers of PULSE Records Related to Child Protection* on Selected Dates



* Child protection records refer to child sexual abuse, physical abuse, emotional abuse and neglect.

Chart 2: Numbers of New Records of Sexual Offences* Entered on PULSE in Each Month since October 2007



* These records relate to all sexual offences, i.e., against both adults and children. The spike for the months of May and June, 2010 is attributed to the addition of the backlog of sexual offences against children.

At the same time, Deputy Commissioner Callinan also initiated a review of PULSE capability to provide better support for case tracking, supervision and audits as set out in the new Garda policy on the investigation of crimes against children. This resulted in the addition of new data fields to PULSE (some of which are specific to child protection) and facilities for better case reporting. The Inspectorate was pleased to contribute to the review and welcomes the new PULSE features as an aid to better case tracking and management.

Timely Recording

While acknowledging the significant improvement in Garda records of child sexual offences since 2007, the Inspectorate continues to have a concern about Garda recording of child sexual offences. This relates to timeliness of recording.

Unlike other jurisdictions, the Garda Síochána crime counting rules do not specify a time limit within which a reported offence must be recorded.¹²³ However, the new policy on the investigation of crimes against children clearly requires that a PULSE record be created “immediately” on receipt of a complaint of a sexual offence. The policy states, “If at a later stage evidence becomes available indicating that the originally reported offence did not in fact occur, then the matter can be re-categorised or invalidated accordingly.”¹²⁴

The Inspectorate has found that current Garda recording practice does not accord with policy. The Inspectorate’s review of the sixty-seven sample cases that had been entered on PULSE as child sexual offences found that 18% of them were entered

more than one month after a complaint had been received. Some 7.5% of the cases were entered more than three months after a complaint had been received.¹²⁵ As well as being contrary to Garda policy, these time lags compare unfavourably with international best practice.

Delays in the recording of reports of child sexual offences result in intelligence gaps in child protection. Failure to make timely entries on PULSE exposes children to continuing risk. This undermines the very considerable advantages of PULSE as a single national crime database.

The time lags in the recording of sexual offences appear to be primarily the result of Garda reluctance, in practice, to record a complaint as a sexual offence until such time as they are satisfied from their investigations that there is a basis for the complaint. There is also Garda concern that recording an alleged perpetrator as a suspect without first conducting an investigation could create exposure to civil action.

The Inspectorate is satisfied that the practice of delaying the creation of an official record of a sexual offence pending investigation runs contrary to international police practice. It leaves the Garda Síochána open to allegations that it does not adequately reflect belief in complainants, notwithstanding international research that shows them to be almost invariably truthful.¹²⁶ The Inspectorate believes that the Garda Síochána should review the practice and take whatever steps are necessary to record child sexual complaints as offences “immediately” as required by the new Garda policy on the investigation of crimes against children. Ideally, the word “immediately” should be replaced by a specific time limit. That would let front-line Gardaí know exactly what is required of them and enable the Sexual Crime Management Unit to measure the timeliness of offence recording.

¹²³ In England and Wales “It is a national requirement that an incident should be recorded as a crime within a standard timescale of 3 x 24 hour periods from the time the incident is first logged. A maximum of seven days is allowed (to cater for situations outside of the control of the police such as where victims are unavailable), providing the explanation for the delay is clear on the log.” Home Office Counting Rules for Recorded Crime (2007), <http://rds.homeoffice.gov.uk/rds/pdfs07/countgeneral07.pdf> (Accessed on 20 June, 2010).

¹²⁴ Garda Síochána (2010) *Policy on the Investigation of Sexual Crime; Crimes Against Children and Child Welfare*, p.21, <http://www.garda.ie/Documents/User/WEB%20Investigation%20of%20Sexual%20Crime%20Crimes%20Against%20Children%20Children%20Welfare.pdf>. (Accessed on 12 August, 2010).

¹²⁵ The Inspectorate undertook a separate review of Garda timeliness in recording all 25,020 sexual offences on PULSE in respect of the years 2001 to 2009, inclusive. The time lag between the date the offence was reported and the date the offence was entered on PULSE exceeded 30 days in 7,265 (29%) cases, 90 days in 5,693 (23%) cases, 180 days in 2,565 (10%) cases and 365 days in 111 (0.5%) cases.

¹²⁶ See Footnotes 111, 112, 113 and 114.

Filing

Arising from this inspection, the Inspectorate is concerned about Garda filing practices. The following are the main concerns:

- There is no central repository of investigation files on sexual (or other) offences at Garda stations. Investigation files are held by the investigating garda. Gardaí transferring to another station bring investigation files with them.
- Investigation files are not accessible in the absence (e.g. on leave, sick leave, etc.) of the investigating garda. (In the course of the inspection, the Inspectorate experienced delays in accessing some investigation files in the absence of the investigating gardaí.)
- Gardaí store investigation files away from Garda premises.
- Investigation files were found not to contain all papers relevant to an investigation. e.g., in some cases the direction of the Director of Public Prosecutions was on file in the superintendent's office.
- Some case files consisted of loose papers enclosed in an official cover. The papers were not secured with a stationery tag and were not in either chronological or other order.

At the same time, the Inspectorate encountered an excellent filing initiative in Cork City that included the use of file cover sheets showing the nature of the case at a glance, and an action sheet that enabled the investigating garda to record all investigative actions taken.

The Inspectorate recommends that the Garda Síochána review its filing arrangements for criminal investigations. This matter will be considered again in the context of a more broadly based, future inspection in the area of crime investigation.

INVESTIGATION

The Inspectorate was impressed by the strong commitment to child protection shown by Garda personnel at all locations visited in the course of this inspection. In some cases it was clear that successes in Garda investigations into child sexual abuse could be attributed much to the persistence and determination of individual Gardaí and their supervisors/managers.

The Inspectorate wishes to offer observations on six aspects of Garda investigation of child sexual offences:

- Organisation
- Risk assessment of cases
- Timeliness of investigations
- Absence of a formal statement of complaint
- Historical child sexual abuse cases
- Access to Church files

Organisation

The Murphy Report found that Garda investigation into complaints of clerical child sexual abuse was “sometimes very comprehensive and, in other cases, was cursory.”¹²⁷ The Commission also noted that investigations carried out by the specialist child sexual abuse unit at Harcourt Square were “generally very well conducted.”¹²⁸ The Commission was minded to suggest that this unit should have responsibility for investigating all child abuse complaints but decided to look at the issue again when conducting its investigation into the diocese of Cloyne. This decision took account of the Garda Commissioner's pointing to new initiatives put in place in recent years to bring Garda practices into line with international best practice and in order to implement the recommendations of the Ferns Report. These initiatives are:

- More structured and focused detective training such as the introduction of a new senior investigating officer course and Advanced Interviewer Training for serious and complex cases, including child sexual abuse cases.
- Training and assignment of specialist victim interviewers (currently a total of eighty four) to take statements from children of all ages and adults who report abuse committed against them as children.
- Provision of specialist interview suites away from Garda stations. There are currently six interview suites available and work is proceeding on a further two. The suites are equipped to meet the requirement of the Criminal Evidence

¹²⁷ Dublin Archdiocese Commission of Investigation (2009) *Report into the Catholic Archdiocese of Dublin*, p.24, <http://www.justice.ie/en/JELR/Pages/PB09000504> (Accessed on 20 August, 2010).

¹²⁸ Ibid.

Act 1991 for video recording of the statements made by victims under fourteen years of age and vulnerable adults. The suites represent an important and welcome addition to Garda facilities for victims of child sexual abuse.

Each of these initiatives added a new specialist dimension to the existing Garda investigative structures and facilities.

A move to specialist investigation of child sexual abuse cases was also raised by the Joint Oireachtas Committee on Child Protection. The Committee's report recommended the "establishment of regional specialist child protection units within An Garda Síochána, which should take responsibility for the investigation of complaints of child sexual abuse from the outset of the investigation."¹²⁹

Current practice in the Garda Síochána is that, in most cases, the garda who takes the initial report of a complaint of child sexual abuse is the investigating garda. There are exceptions to this general position. In some Garda districts, gardaí are not assigned child sexual abuse cases while on probation. In others, investigation of child sexual abuse is reserved to Gardaí with relatively more investigative experience. Investigation of a more complex child sexual abuse case may involve the assignment of a detective garda to assist the investigating member. In the most complex cases an incident room is established and the investigation is managed by a senior investigating officer and the district superintendent.

Some local Garda managers have established dedicated child protection units in districts handling a high volume of child protection notifications issued under the Children First guidelines. These units comprise Gardaí from 'regular' units working in plain clothes during daytime hours only. They investigate child protection concerns that are the subject of notifications from the HSE. The units maintain an overview of all child protection notifications in the district.

International Comparators

Multidisciplinary specialist investigation is considered by US law enforcement officials to be the most effective method for ensuring that victims are treated with care and understanding, and that cases are handled as quickly as possible with minimum psychological and emotional trauma to the victims. The specialist team approach is best exemplified by the upwards of 700 children's advocacy centres throughout the US. Within the centres child protection professionals, police, prosecutors, victims' advocates and therapists share information and carry out investigations from a single child-friendly location. The centres facilitate and promote a coordinated approach among the responsible officials and are adaptable for adult victims of child sexual abuse.

The advice given to the Inspectorate by US officials on the investigation of child sexual offences was to:

- Use only law enforcement officers trained in child sexual abuse investigations to provide the best and most expeditious result.
- Develop expertise and provide continuity by allowing and encouraging child sexual abuse investigators to remain with their assignment as long as they do not experience burn out and choose to deal with these types of cases.
- Appoint investigative supervisors who have training and experience in child sexual abuse investigations.
- Provide psychological services to investigators involved in especially heinous cases.

In England and Wales, each of the forty-three mainstream police services has established a specialist child protection team or child abuse investigation unit. Each team/unit member must be a detective, have at least commenced the Professionalising Investigations Programme (PIP Level 2) and must undertake a development programme that includes specialist training for child sexual abuse investigations, including training for specialist investigative interviewing of child witnesses. The report of The Victoria Climbié Inquiry recommended that "Chief Constables must ensure that officers working on child protection teams are sufficiently well trained in criminal investigation and that there is always a substantial

¹²⁹ Joint Oireachtas Committee on Child Protection (2006) *Report on Child Protection*, p.59 http://www.oireachtas.ie/documents/committees29thdail/committeereport2006/Child_Protection_Report.pdf (Accessed on 23 August, 2010).

core of fully trained detective officers on each team to deal effectively with the most serious inquiries.”¹³⁰

Inspectorate’s View

Since its inception, the Inspectorate has been a strong advocate for a generalist model of policing, believing in the maintenance of well resourced, uniformed police units and the establishment of specialist units as an exceptional measure when it is necessary for efficient and effective police performance. The Inspectorate believes that investigation of child sexual abuse is an exceptional area of policing in which a specialist approach is essential to achieving best results. Ideally, specialist police officers should participate in close team-working with specialists from other disciplines in a child-centred approach.

The indications are that specialisation in the investigation of cases of child sexual abuse is being introduced incrementally in the Garda Síochána. The measures introduced, on a top-down basis, since the Ferns Report represent a significant increase in expertise and specialisation in investigative capability. The Commissioner’s more recent decision to establish a Sexual Crime Management Unit, and to resource it so as to provide more assistance and better tracking for child sexual abuse investigations, is a further significant step. Meanwhile, the evolution of local child protection units in Garda districts represents bottom-up recognition by district managers of the need for a more organised response to child abuse.

The Inspectorate believes that the Garda Síochána needs to develop further specialisation in the area of child sexual abuse. In particular, the organisation needs to move away from the current practice whereby the garda who takes the initial report is the investigating garda. Child sexual abuse is well recognised as an area of policing in which it is difficult to achieve results. The attrition rate from the time of reporting to submission of a file to the prosecution service is significant in all jurisdictions.

Competence in regard to child welfare and child protection issues in child sexual abuse cases requires a level of training, experience and expertise that police organisations cannot reasonably be expected to provide to all of their front-line uniformed officers and detectives.

Adoption of international best practice would, as outlined in Chapter 3 involve the Garda Síochána and the HSE establishing much closer team-working arrangements on the lines of the child advocacy centre model with the agreed primary objective of child welfare. Gardaí assigned to children advocacy centres should be detectives. They should be trained specialist victim interviewers and have specialist training for child sexual abuse investigations, including training for inter-agency working. They should be engaged full-time on child protection cases.

Depending on the nature of the risks identified (see next section) and the steps required to remove/mitigate them, cases may be investigated by the staff of the centre or by selected Gardaí and social workers in consultation with the centre.

Risk Assessment and Investigation Strategy

Every reported case of child abuse should be risk assessed.

Formal risk assessment is a standard feature of child sexual abuse investigations in other jurisdictions. Different risk assessment instruments are in use but they are all geared towards identifying risks associated with the victim, suspect and location/household and determining appropriate interventions to protect the child from harm.

Formal risk assessment has the benefits of:

- Imposing rigour and completeness in the gathering of information.
- Ensuring that all available information is properly recorded.
- Requiring structured assessment of the information.
- Helping to determine investigative strategy and identify appropriate safeguarding responses, especially in cases where victims are at most risk.

¹³⁰ Laming, Lord (2003) *The Victoria Climbié Inquiry. Report of an Inquiry by Lord Laming*, pp.331-333, http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_110711.pdf (Accessed on 15 June, 2010).

The Garda Síochána does not currently use formal risk assessment in child sexual abuse investigations. The Inspectorate is satisfied that, properly done, formal assessments similar to those undertaken by UK police services would enable the Garda Síochána to realise the benefits listed above without commitment of significant additional resources.

Timeliness of Investigations

In its review of published reports, and in the course of international benchmarking for this inspection, the Inspectorate encountered consistent recommendations urging the involvement of police at the earliest possible stage when child sexual offences are suspected.¹³¹ Once police are involved, they should commence and pursue their investigations without delay.¹³²

The Inspectorate has a number of concerns about timeliness of child sexual abuse investigations in this jurisdiction. Gardaí at local level cited delays in notification of child sexual abuse cases by the HSE. They instanced individual cases in which the prospects of achieving a successful prosecution were jeopardised because of investigations pursued without Garda involvement, and without due regard to criminal justice processes. The absence on child protection notification forms of the date of the initial report of child abuse to HSE frustrated the Inspectorate's wish to achieve objective measurement of the extent of delays between the time of reporting of child protection concerns and the issue of HSE notifications to the Garda Síochána. The Office of the Minister for Children and Youth Affairs should be asked to consider a revision of the child protection notification forms used by the Garda Síochána and the HSE to provide for recording of this date.

Concerns about delays in involving the Garda Síochána in child sexual abuse cases have surfaced in reports as far back as the Law Reform Commission's 1990 Report on Child Sexual Abuse. As indicated in Chapter 3, the Commission identified one of the issues involved as the perceived conflict between the demands of the criminal justice process and the needs of the victim. The solution

was seen to lie in accommodations that convince "health care professionals that prosecutions will not proceed without regard to the welfare of the child victim."¹³³ At that time, child welfare was taken into consideration in decisions to prosecute or not prosecute a case but social workers operated at such a distance from the criminal justice process that their influence on such decisions was not apparent to them. Twenty years on, little has changed. It is still clear that early Garda involvement in investigations depends on closer working relationships between the Garda Síochána and the HSE. Those relationships should be built on revised Children First guidelines that make it explicit that prosecution is an option that will be considered within the wider objective of child protection/welfare.

Timeliness is also an issue after the Garda Síochána becomes involved in a child sexual abuse case. In fifty-six sample Garda investigations examined in detail by the Inspectorate, the elapsed time from the date of reporting to the date of the final witness statement was as follows:

- 9 cases (16%) ≤ 14 days
- 13 cases (23%) ≤ 30 days
- 29 cases (52%) ≤ 90 days
- 46 cases (82%) ≤ 183 days

In comparison, the Inspectorate found that in two other police services significantly greater proportions of child sexual abuse investigations were completed within fourteen and thirty days. A critical factor accounting for the difference appeared to be the speed of commencement of the investigations. In one of the two police services, police officers aimed to interview every victim of child sexual abuse within forty-eight hours of a report being made. The target in the other police service was seventy-two hours. Other reasons why Garda investigations of child sexual abuse have not proceeded as quickly as they might include:

- Lack of specialisation in the investigation of child sexual abuse.
- Misplaced acceptance that child sexual abuse cases take a long time to investigate.

¹³¹ Ibidem, p.316.

¹³² Ibid., p.300.

¹³³ Law Reform Commission (1990) *Report on Child Sexual Abuse*, p.14, <http://www.lawreform.ie/fileupload/Reports/rChildSexAbuse.pdf> (Accessed on 20 June, 2010).

- Absence of policy according priority to the investigation of child sexual abuse cases.
- Inadequate case tracking mechanisms for supervisors.

The need for greater specialisation has already been addressed in this chapter. The Inspectorate is satisfied that establishment of multi-disciplinary specialist child advocacy-type centres would help to reduce the amount of time being taken to investigate child sexual abuse cases. The advantages associated with such centres – shared objectives, faster notification processes, better information sharing, more joint investigations, and a working environment conducive to inter-agency team working – would all speed up the investigation process.

The new Garda Síochána policy on investigation of offences against children includes important new provisions for monitoring and review of the progress of child sexual abuse investigations. The Inspectorate welcomes these provisions in principle. Combined with implementation of new case tracking features in PULSE, they will provide vastly improved management data on child sexual abuse cases.

At the same time, the Inspectorate has concerns about the new provisions from a timeliness perspective. In particular, there is no specific requirement on investigating Gardaí to provide reports on the progress of investigations within specific time intervals. Instead, the policy requires district superintendents to generate monthly requests for updates. This approach appears too bureaucratic, is set at too high a level in the organisation, and involves time intervals that are too long. In contrast, in one police service visited by the Inspectorate, sergeants must review electronic updates that are required of investigating officers every seven days. The sergeants report to more senior officers and provide them with summary reports. The senior officers can dip sample individual cases as they consider appropriate.

The provision in the new Garda policy for quarterly audits by each district superintendent of all reports of sexual crimes, crimes against children and child welfare concerns is particularly welcome. Based on investigation times in other jurisdictions, the Inspectorate believes that most child sexual abuse

investigations should be completed within three months.¹³⁴ This is a realistic timescale for the majority of child sexual abuse investigations that are undertaken by the Garda Síochána.

The Minister for Children and Youth Affairs has tasked a high level group, which includes a representative from the Garda Síochána, to examine the timeframes in the investigation and prosecution of crimes against children. The Inspectorate acknowledges the Minister's initiative and, if called upon, will be pleased to assist the group in whatever way it can.

No Formal Complaint/Complaint Withdrawn

Reluctance on the part of a victim to make a formal statement of complaint, and returns to withdraw a formal complaint already made, are well recognised phenomena in child sexual abuse investigations. Eighty-one (32%) of the 254 Garda cases of child sexual abuse examined by the Inspectorate were found to have involved either refusal or withdrawal of a formal complaint. Investigative and prosecution strategies must, from the outset, take account of the likelihood that the victim may refuse to make a formal statement or, having made one, may withdraw it at a later date.

In one police service visited by the Inspectorate, there is a working assumption in all child sexual abuse cases that the victim may not make a formal statement of complaint. This prompts the development of investigative strategies that aim to:

- Achieve corroborating evidence without delay.
- Take the victim statement as soon as possible after the initial report is made so as to minimise the time available for the victim to be influenced to withdraw cooperation with the police.
- Adopt any and all safeguarding options open to the police and social services if there is any continuing risk, high or low, to the well being of the victim or other person.
- Review cold cases periodically, taking account of any changed circumstances that may prompt new criminal justice options.

¹³⁴ Feedback from one jurisdiction indicated that an average completion time for investigations of child sexual abuse cases was 10 to 14 days. The speed of investigation was attributed in part at least to a rule that the first statement in a case of child sexual abuse be taken within forty-eight hours of reporting.

By comparison, the Inspectorate did not consistently find the same rigour in the development of formal investigative strategies in Garda Síochána cases, or consistency in the pursuit of all potential safeguarding avenues. Again, the absence of specialisation, risk assessment and continuing experience of child sexual offences on the part of the investigating garda appeared to be factors here. From the sample Garda cases examined and from discussions with Garda personnel, the emphasis in Garda child sexual abuse investigations is on achieving a prosecution. When this is frustrated by a victim's refusal, or withdrawal, of a formal complaint, and when there is no obvious immediate child protection issue the Garda file is often closed and the case referred to the HSE.

By way of exception, the Inspectorate encountered a case in which evidence of grievous child sexual abuse was uncovered as a result of the concerns of a garda who maintained contact with victims after they had withdrawn their complaints. (The garda was unaware at the time that related complaints had been made years previously at a Garda station in another Garda region. Those earlier complaints were not on PULSE.) The Inspectorate understands that the victims in this case may have been affected by a variety of emotions and influenced to withdraw their statements. The Inspectorate commends excellent police work on the part of the Garda investigation team in achieving evidence for a prosecution and affording protection for the victims. The case should, in due course, ensure significant corporate learning for the Garda Síochána and, indeed, all law enforcement agencies.

Historical Child Sexual Abuse Cases

It is by no means unusual for adults to complain to police that they are victims of sexual offences perpetrated on them during childhood. The 'Murphy' and 'Ferns' reports refer to such cases. They are also covered in the new Garda policy on investigation of crimes against children. The terms of reference for this inspection specifically requested the Inspectorate to consider the investigation of such complaints.

The Inspectorate is satisfied that the Garda Síochána is well aware of the particular issues and difficulties associated with the investigation and prosecution of complaints of child sexual abuse that are made long after the abuse occurred. These include loss of forensic evidence, destruction of records and death of potential witnesses who could corroborate aspects of the victim's statement. Unfortunately, there is no panacea to be found in other jurisdictions that would overcome the investigative difficulties that arise in such cases.

Indeed, compared with other jurisdictions, Irish policing is fortunate in that investigation of cases involving child sexual offences can proceed in the knowledge that prosecution is not subject to a statute of limitations. The length of time between the occurrence of the abuse and making of the complaint is not an issue per se. The Murphy Report states that, arising from the judgement of the Supreme Court in *H v DPP*, the Director of Public Prosecutions "no longer considers the mere fact of delay as a reason that might inhibit a prosecution for child sexual abuse. The DPP now analyses in each case whether or not there is any prejudice caused to the accused in conducting his defence arising from the delay."¹³⁵

While international benchmarking does not suggest helpful investigative practices specific to historical cases of child sexual abuse, the Inspectorate wishes to stress that the general recommendations made throughout this chapter in relation to reporting, recording, investigation, prosecution and monitoring are no less relevant to such cases.

Access to Church Files

As indicated in Chapter 3, both the Murphy Commission and the Ferns Inquiry identified issues relating to Garda access to church files on allegations of child sexual abuse against priests. More recently, police access to church files was the subject of international media coverage when Belgian police seized two truckloads of church documents related to complaints of child sexual abuse.

¹³⁵ *H v DPP* (2000) Supreme Court decision of Murray CJ delivered on 31st July 2006. IESC 55.

There are two ways in which police obtain access to documents that they believe contain evidence for a criminal prosecution. They can be given documents voluntarily on request to the person who holds them. Alternatively, they can seize documents on foot of a lawful search warrant.

The Catholic Church authorities in Ireland are likely to be more cooperative now in making Church files available to the Garda Síochána than they were in the 1990s. However, in any case – clerical or non-clerical – where difficulties are encountered, or are likely to be encountered, in obtaining documentation by voluntary means, it is not an acceptable option for the Garda Síochána to do nothing. The gravity of sexual offences against children requires that all available evidence be secured in as complete a state, and as timely a fashion, as possible. Accordingly, the Garda Síochána has to consider the option of obtaining a search warrant in such cases.

PROSECUTION

Low prosecution rates are a feature of child sexual abuse cases in all jurisdictions reviewed by the Inspectorate. There are indications, however, that close working relationships between police and social services can help increase prosecution and conviction rates. For instance, a study conducted by the Center for Policy Research in Denver, Colorado which analysed 1,800 cases in five US jurisdictions established that a close working relationship between police departments and child protection service agencies “is critical to effective child abuse prosecutions. In DuPage County, Illinois, which had the closest working relationship between police officers and CPS caseworkers, 75.3% of sexual abuse cases indicated by the CPS were referred for criminal prosecution...The conviction rate for these prosecutions was 94.6%.”¹³⁶

Out of the 254 Garda sample cases analysed by the Inspectorate, only fifty-three (21%) resulted in a file being sent to the Director of Public Prosecutions. A direction to prosecute was given in only fourteen cases and convictions were secured in eight of them. This high attrition rate must be the subject of further detailed analysis. There would appear to be significant headroom to increase the proportion of cases in which prosecutions are taken¹³⁷ but higher numbers of prosecutions should not be the sole focus. The emphasis at all times must be on child welfare and protection. Accordingly, it should be possible to determine two categories of positive outcomes of Garda investigations into child sexual abuse as follows:

- Number/proportion of cases getting to Court. This should be benchmarked against the international norm of 10% – see footnote 137.)
- Number/proportion of cases that would have got to court, but for a decision not to proceed in the interest of the welfare of the child victim.

Investigations involving outcomes outside these two categories should be the subject of analysis and review.

MONITORING AND REVIEW

In Chapter 3 the Inspectorate recommended a new system of monitoring and reviewing the operation of child protection arrangements that would apply across the Garda Síochána and the HSE. The Inspectorate also believes that there is a requirement for closer monitoring of crime recording and crime investigations in the Garda Síochána that extends beyond cases of child sexual abuse.

Effective Garda Síochána responses to reported crime are central to the core mission of the organisation. Crime recording and investigation must, accordingly, be carried out to the highest standards.

¹³⁶ Temporary Commission of Investigation of the State of New York (1996) *Secrets That Can Kill: Child Abuse Investigations in New York State*, p.7, <http://www.nysl.nysed.gov/edocs/investigation/secrets.htm> (Accessed on 17 June, 2010).

¹³⁷ In *The Seduction of Children: Empowering Parents and Teachers to Protect Children from Child Sexual Abuse* p.307 (see Footnote 102), Professor Christiane Sanderson asserts that “10% of child sexual abuse cases get to court.” The comparable rate in the sample Garda data is 5.5%.

Crime Recording

The absence of PULSE records of reported sexual offences against children, failure to input PULSE records in accordance with formal Garda crime counting rules, and inordinate delays in creating crime records, were a matter of significant concern to the Inspectorate during this inspection. The issues involved were sufficient to question the integrity of Garda crime recording of sexual crime.

When these failures were brought to the attention of senior Garda management, they responded swiftly and comprehensively. However, the Inspectorate remains concerned that something more than a once-off response is required. There is a need for a process of ongoing monitoring and review to ensure the continuing integrity of the crime statistics. The scope of that process should not be confined to recording of sexual offences against children but should encompass all crime recording.

The Inspectorate sees a role for the Garda Síochána Professional Standards Unit in ensuring adherence to crime counting rules and other Garda directives on crime recording. The Unit should be in a position to provide quality assurance on PULSE records to the Central Statistics Office, the body with responsibility for publication of crime statistics.

Also, in regard to quality assurance, the Inspectorate has noted that PULSE records of sexual offences are exceptional in that they are created by Gardaí only whereas PULSE records of all other offences are created by the Garda Síochána Information Centre (GSIC) at Castlebar. The Inspectorate understands that the basis for this exception is a decision to restrict access to records of sexual offences on a need-to-know basis. The Inspectorate sees merit in a review of this decision in the interest of quality assurance of sexual offence records. One option might be to have nominated staff in the GSIC input records of sexual crime. In May/June, 2010, Garda management utilised the GSIC most successfully to input the significant backlog of child sexual notifications/offences brought to their attention by the Inspectorate.

Investigations

The Inspectorate also has concerns about supervision of child sexual abuse investigations by local Garda management. Of seventy-one sample investigation files examined by the Inspectorate, only twelve (16%) showed evidence of systematic review or direction by supervisors, another forty-eight (68%) showed evidence of limited review and eleven (16%) showed no indication of having been reviewed.

The Inspectorate welcomes the Garda Síochána initiative whereby the Sexual Crime Management Unit will monitor and evaluate a number of investigations each year of child sexual abuse, child neglect and other sexual offences. This represents a very worthwhile quality assurance mechanism for Garda investigations. The Inspectorate will follow the work of the Unit with considerable interest and looks forward to reviewing its first year of operation as part of the planned further review of Garda arrangements for dealing with allegations of child sexual abuse.

CHAPTER

05

SPECIFIC
CHALLENGES

In the course of this inspection, the Inspectorate encountered four specific issues relevant to child protection that need to be addressed individually. These are:

- Child trafficking
- Internet threats to child safety
- Vetting of persons working with children
- Management of sex offenders

CHILD TRAFFICKING

The trafficking of human beings, including children, is the third most lucrative illicit business in the world after arms and drug trafficking. According to UNICEF, estimates have as many as 1.2 million of the world's children being trafficked each year.¹³⁸ Some of these unfortunate children are trafficked for the purpose of sexual exploitation.

Sixty-six cases of potential/suspected human trafficking came to the attention of the Garda Síochána during 2009, seventeen of which involved minors.¹³⁹ Gardaí investigated ten of the seventeen cases for potential trafficking for sexual exploitation. A prosecution is before the courts in one case for child trafficking for the purpose of sexual exploitation. No evidence was forthcoming in three other cases. Six cases remain open. Two of them are under active investigation.

Counter-Trafficking Measures

Ireland has put in place a multi-faceted response to human trafficking in recent years. Since 2008 all forms of human trafficking are prohibited in the Criminal Law (Human Trafficking) Act 2008. Other measures to counter human trafficking include:

- Establishment of dedicated anti-trafficking units within the Department of Justice and Law Reform and the Garda National Immigration Bureau.

- Anti-trafficking training, including specialist training for 400 Gardaí and training on identification of potential suspected trafficking victims to 2,500 probationer Gardaí.
- Co-ordination of anti-trafficking efforts by means of a high-level interdepartmental group.
- Public awareness initiatives.
- International cooperation arrangements.
- Publication of the National Action Plan to Prevent and Combat Trafficking of Human Beings¹⁴⁰

In light of these and other measures Ireland has received international recognition as a country that “fully complies with the minimum standards for the elimination of trafficking.”¹⁴¹ Ireland recently ratified the Council of Europe Convention on Action against Trafficking. The Convention came into force as regards Ireland on 1 November, 2010.

Investigation

The area within the Garda Síochána charged with responsibility for investigation of allegations of child trafficking is the Garda National Immigration Bureau (GNIB). Detective Chief Superintendent John O’Driscoll, GNIB informed the Inspectorate that he considers the investigation of child trafficking to be his most important responsibility. As already indicated, there is currently one case of child trafficking for sexual exploitation before the

¹³⁸ UNICEF *Child protection from violence, exploitation and abuse*, http://www.unicef.org/protection/index_exploitation.html (Accessed on 15 June, 2010).

¹³⁹ Anti Human Trafficking Unit, Department of Justice and Law Reform (2009) *Summary Report of Trafficking in Human Beings in Ireland for 2009*, p.7, <http://www.justice.ie/en/jelr/AHTU%20Summary%20Report%202009.pdf/Files/AHTU%20Summary%20Report%202009.pdf> (Accessed on 15 June, 2010).

¹⁴⁰ Department of Justice and Law Reform (2009) *NATIONAL ACTION PLAN TO PREVENT AND COMBAT TRAFFICKING OF HUMAN BEINGS IN IRELAND 2009 – 2012*, <http://www.justice.ie/en/JELR/Final%20National%20Action%20Plan2.pdf/Files/Final%20National%20Action%20Plan2.pdf> (Accessed on 15 June, 2010).

¹⁴¹ US Department of State (2010) *Trafficking in Persons Report*, 2010, p.183 <http://www.state.gov/g/tip/rls/tiprpt/2010/> (Accessed on 15 June, 2010).

courts and two other cases under active investigation. The Detective Chief Superintendent briefed the Inspectorate on arrangements currently in place to check all GNIB files on movements of children for anything that might indicate that a child may have been trafficked.

The Inspectorate was separately apprised of cooperation arrangements in the area of anti-trafficking between the Garda Síochána and the HSE. These arrangements include joint training, collaboration involving Gardaí at ports-of-entry to the State and close working between Gardaí, social workers and childcare staff.

Unaccompanied Minors

One issue of concern to the Inspectorate in the context of child trafficking for sexual exploitation is the numbers of unaccompanied minors who enter the State each year and subsequently go missing from accommodation provided for them. An Economic and Social Research Institute (ERSI) report states that sixty-one of the 486 unaccompanied minors who went missing from State care in the years 2000 to 2009 (to end-May) were later traced.¹⁴² The Garda Síochána was not in a position, however, to indicate to the Inspectorate the circumstances in which these minors were located or whether there was evidence that any of them had been sexually abused. The Inspectorate believes that this information should be readily available given repeated concerns that some of these children may be victims of sexual exploitation.

The Inspectorate acknowledges the efforts being made by the Garda Síochána to trace young people who go missing from State care. This is a difficult and resource-intensive task but Garda efforts in this area must be at least sustained, and where possible increased, in the interest of the young people involved, and as a demonstration of the State's commitment to countering any possible means of human trafficking.

SEX OFFENCES AGAINST CHILDREN ON THE INTERNET

The creation and swapping of child abuse images is a significant problem across the world. There are an estimated 1,000,000 websites that contain child abuse images that support transactions valued at \$2bn to \$3bn per year.¹⁴³

The FBI reports that the number of investigations of child abuse images on the internet grew by 2,062 per cent between 1996 and 2007.¹⁴⁴ As an indication of the potential scale of individual downloading of child abuse images, one man in Lincolnshire, UK and another in New York were found by police to have accumulated 500,000 and over 1,000,000 images respectively.¹⁴⁵

The Internet is also significant in the grooming of young children by predatory paedophiles. Investigations in the UK reveal that such offenders are making predatory contact with over forty children at any one time. If a child seems to be wary, or indicates an inclination to tell a parent or guardian of the contact, the predator switches attention to other children. The internet provides a target-rich environment for their purposes.

The Inspectorate received a briefing from Detective Superintendent John McCann, NBCI on Garda Síochána efforts to combat cyber sexual offences against children. At present, the Paedophile Investigation Unit at the NBCI supports the investigative efforts of front-line Gardaí. The seven-member Unit includes two members who are trained in forensic interrogation of computer systems. The Unit completes a good deal of the initial investigative enquiries before passing a case to local Gardaí for further investigation.

¹⁴³ Sanderson, C. (2004) *The Seduction of Children: Empowering Parents and Teachers to Protect Children from Child Sexual Abuse*, p.129. London: Jessica Kingsley Publishers.

¹⁴⁴ Federal Bureau of Investigation, *Innocent Images National Initiative*, p.4 <http://www.fbi.gov/publications/innocent.htm> (Accessed on 20 June, 2010).

¹⁴⁵ Sanderson, C. (2004) *The Seduction of Children: Empowering Parents and Teachers to Protect Children from Child Sexual Abuse*, p.129. London: Jessica Kingsley Publishers.

¹⁴² Joyce, C. and Quinn, E., *Policies on Unaccompanied Minors in Ireland*, p.36 <http://www.esri.ie/UserFiles/publications/20090902092430/BKMNEXT145.pdf> (Accessed on 20 June, 2010).

Detective Superintendent McCann advised that the Unit provides front-line Gardaí with detailed supporting documentation to guide and assist them in their enquiries. A full examination of any seized computer is carried out by the Computer Crime Investigation Unit at the Garda Bureau of Fraud Investigation (GBFI), which also deals with fraud and other computer-related offences. The workload of the Unit is such that there can be extensive delays in returning a result and in completing the investigation process.

The Garda Síochána has established valuable international police links with the Europol, Interpol, CIRCAMP¹⁴⁶, the Child Exploitation Online Protection Centre (CEOP)¹⁴⁷ in the United Kingdom and European Police College – CEPOL¹⁴⁸ and the International Center for Missing and Exploited Children in Washington, D.C.¹⁴⁹ These links are important in ensuring a firm foundation for future development of cyber-related operations. The Inspectorate is concerned, however, that Garda resources assigned to tackling cyber-related offences against children are currently limited and appear to be allocated on a reactive basis. While the Garda Síochána is satisfied that resource levels in this area are sufficient to meet current commitments, including efforts to secure the cooperation of internet service providers in blocking access to sites carrying child abuse images, the Inspectorate believes that the matter needs to be kept under close review.

MANAGING SEX OFFENDERS

In common with other jurisdictions, Ireland has recognised the benefits to community safety, including child safety, of having arrangements in place to manage sex offenders. Effective management of sex offenders is all about identifying those individuals who pose a serious risk of re-offending and putting in place programmes to monitor, supervise and support them. That is not to say that

sex offenders are a homogenous group and that all sex offenders present a serious risk of re-offending.

Last year, the Department of Justice and Law Reform published an important discussion document on managing sex offenders that envisaged four critical actions:

- “a much more integrated approach involving the Garda Síochána, the Probation Service, the Irish Prison Service and possibly other agencies;
- the use of evidence based risk assessment tools to identify the higher risk sex offenders and to focus efforts on them;
- a throughcare approach to the management of sex offenders from conviction, through imprisonment and out into the community with a view to protecting the public and reducing the risk of re-offending by appropriate rehabilitative interventions combined with:
- protecting the public and reducing the risk of re-offending by appropriate rehabilitative interventions combined with a more active supervision and monitoring of higher risk sex offenders after their release from prison by local risk management committees involving the Gardaí and the Probation Service.”¹⁵⁰

The Inspectorate endorses this evidence-based and pragmatic approach and was mindful of it in reviewing current Garda Síochána input to the management of sex offenders.

Garda Síochána Monitoring

The Sex Offenders Management and Intelligence Unit of the Garda Síochána has a monitoring role in the management of sex offenders. A person found guilty in court of a sexual offence automatically becomes subject to the requirements of Part 2 of the Sex Offenders Act 2001. This requires that a sex offender notify the Garda Síochána of his/her name and address. Where a custodial sentence is imposed, the sex offender must notify the Garda Síochána of the conviction within seven days of release from

¹⁴⁶ http://circamp.eu/index.php?option=com_content&view=article&id=11:circamp-overview&catid=1:project&Itemid=2.

¹⁴⁷ <http://www.ceop.gov.uk/>.

¹⁴⁸ <http://www.cepola.europa.eu/>.

¹⁴⁹ <http://www.icmec.org/missingkids/servlet/PublicHomeServlet>.

¹⁵⁰ Department of Justice and Law Reform (2008) *The Management of Sex Offenders A Discussion Document*, p.3 <http://www.justice.ie/en/JELR/FINAL%20REPORT.pdf/Files/FINAL%20REPORT.pdf> (Accessed on 15 June, 2010).

prison. A sex offender must also notify any change in address or name and must give notice of intention to leave the State. The Garda Síochána may apply to the courts for a Sex Offenders Order for the purpose of protecting the public, e.g. prohibiting a sex offender from being in the vicinity of a school.¹⁵¹

The Inspectorate was pleased to note that there is now more and real integration between the Garda Síochána, the Probation Service and the Irish Prison Service in the management of sex offenders. To date,¹⁵² some 1,019 of the 1,118 sex offenders with obligations under the 2001 Act have been jointly assessed by Gardaí and probation and welfare officers using the RM 2000 risk assessment tool.¹⁵³ The Inspectorate was also pleased to note that, with effect from 24 June, 2010, Sex Offender Risk Assessment and Management (SORAM) committees involving the Gardaí and the Probation Service have been established in five pilot areas (two in Munster and one each in Connacht, Dublin and Leinster), to manage high risk and very high risk sex offenders. For this purpose, Gardaí and probation officers have been trained in the use of a second risk assessment measure – Stable and Acute 2007 – which involves more in-depth and dynamic risk assessment. Importantly, all of these developments have been overseen by a strategic group at national level and local monitoring groups.

Overall, the Inspectorate is impressed by the progress made by the Garda Síochána and its partner services in the management of sex offenders since the publication last year of the discussion document by the Department of Justice and Law Reform. While the Inspectorate has not reviewed the arrangements in place for managing individual offenders, it is clear that the structures and processes now operating are in line with international best practice. The Department has recognised that new

statutory provisions¹⁵⁴ are required to enhance current arrangements. The Inspectorate understands that the necessary legislation is being prepared.

Non-convicted Sex Offenders

In addition to managing the risk posed by sex offenders who are subject to the provision of the 2001 Act, the Garda Síochána must also have regard to the threats posed by individuals who engage in sexual offences but have not been convicted in the courts. This requires diverse pro-active approaches using current intelligence to design individual interventions. The Inspectorate found some evidence in the course of this inspection of committed Gardaí working innovatively to mitigate threats from non-convicted individuals. The Inspectorate notes the use by the Garda Síochána of the Violent Crime Linkage Analysis System (ViCLAS), a system that can identify commonalities in crimes and link them together.

VETTING OF PERSONS WORKING WITH CHILDREN

It is established practice in Ireland and other jurisdictions to conduct character checks on candidates for recruitment to posts that involve working with children. This is an important function in the prevention of child abuse.

In Ireland, the Garda Síochána Central Vetting Unit, which is headed by a garda superintendent and comprises a predominantly civilian staff, undertakes about 7,000 character checks per week. It provides prospective employers with a statement of any convictions or prosecutions, successful, unsuccessful or pending, recorded against a candidate for employment. It also provides this information to employers on a periodic basis in respect of serving employees where their employment contracts provide for it. Legislation is currently being drafted which will regulate the release by the Vetting Office of “soft” information. It would not be appropriate for the Inspectorate to comment on a matter which is the subject of draft legislation.

¹⁵¹ The application must be made by a member of a rank not below chief superintendent.

¹⁵² As of July, 2010.

¹⁵³ The results of that process were that 503 offenders were assessed as low risk, 360 as medium risk, 128 as high risk and twenty-eight as very high risk. Programmes and resources have been tailored accordingly.

¹⁵⁴ Department of Justice, Equality and Law Reform (2009) *The Management of Sex Offenders*, p.32/33 <http://www.justice.ie/en/JELR/FINAL%20REPORT.pdf/Files/FINAL%20REPORT.pdf> (Accessed on 15 June, 2010).

The Inspectorate visited the Vetting office and was favourably impressed by its management and work practices. It was clear that the Office has put in place well structured business processes suited to its purpose and the significant demands being made on it. The Office achieved the ISO 9001 standard in 2007. It has been through two external audits, neither of which found a control failure. The Office itself conducts on-going quality assurance audits.

The Vetting Office uses the PULSE database to provide information on recorded convictions and prosecutions. As a single national police database, PULSE is a very powerful tool for this purpose. Harnessing its full power is, of course, dependent on the quantity and quality of data input and management.

The Inspectorate was concerned that the Vetting Unit was not best served by the absence from PULSE at the outset of this inspection of significant numbers of records of child sexual abuse cases. This absence represented a major information/intelligence gap that, as indicated in Chapter 4, has since been addressed. In the interest of effective vetting, it is essential that PULSE data entry is complete, accurate and timely. This will take on even greater significance when there is legal authority to release “soft” information.

The prospect of legislation on release of “soft” information also raises other major issues for the Vetting Office by way of the need for additional staffing to cope with the increased work involved, additional office accommodation, and new IT approaches to streamline processing. The Inspectorate is satisfied that these issues are being addressed. They are matters that will be looked at again by the Inspectorate in its further review of Garda arrangements for dealing with child sexual abuse.

CHAPTER
06

RECOMMENDATIONS

1. The Garda Inspectorate recommends that the Garda Síochána take every opportunity to stress that there is no place for deferential treatment in modern Irish policing. (Chapter 2)
2. The Inspectorate recommends that the Garda Síochána assign responsibility for all aspects of development of child protection arrangements to a member of assistant commissioner rank. The assistant commissioner should provide visible leadership and direction in the development of new organisational policies and structures, and in monitoring and evaluating the Garda contribution to the operation of national child protection guidelines. (Chapter 3)
3. The Inspectorate recommends that the Garda Síochána include the promotion of inter-agency working with the HSE and the development of child protection policies, practices and procedures as a priority in the organisation's business plans. The Garda Síochána should track and publish progress made in implementing change. (Chapter 3)
4. The Inspectorate recommends that the Garda Síochána, in co-operation with the assistant national director with responsibility for child protection in the HSE, prioritise and provide supports for inter-agency working between Gardaí, social workers and staff in child assessment units. (Chapter 3)
5. The Inspectorate recommends that the Garda Síochána work with the HSE in addressing the barriers to joint working identified in reviews of the Children First guidelines and ensure, as far as possible, the use of shared systems and agreed records. (Chapter 3)
6. The Inspectorate recommends the establishment, on a pilot basis, of at least two child advocacy centres in Dublin involving participation by the Garda Síochána, the HSE, and St Louise's and St Clare's assessment and therapy units. The centres should work closely with the Director of Public Prosecutions. The pilots should be monitored on an ongoing basis and evaluated within a defined time period. (Chapter 3)
7. The Inspectorate recommends that Gardaí assigned to the proposed child advocacy centres should be detectives. They should be trained specialist victim interviewers and have specialist training for child sexual abuse investigations, including training for inter-agency working. They should be engaged full-time on child protection cases. (Chapter 3)
8. The Inspectorate recommends that counselling support be provided for (i) all Gardaí working full-time in the area of sexual offences and (ii) Gardaí who investigate particularly difficult cases involving grievous sexual offences. (Chapter 3)
9. The Inspectorate recommends that the Garda Síochána publish information for complainants on how, where and when they can make a complaint about child sexual abuse. This should reassure victims that it is right to report child sexual abuse, confirm that child protection is a top priority for the Garda Síochána and outline how complainants will be treated in their dealings with the Garda Síochána. It is a daunting prospect for a victim of child sexual abuse to approach the counter in a public office at a Garda station to report an offence of this kind. The Garda Síochána should devise victim-friendly options to encourage reporting of child sexual abuse. Most importantly, the information should emphasise that complainants will be believed and that their complaints will be acted upon. (Chapter 4)
10. The Inspectorate recommends that the Garda Síochána specially train a cadre of front-line Gardaí in each Garda district to take reports alleging child sexual abuse. (Chapter 4)
11. The Inspectorate recommends that only specially trained Gardaí take statements from child and adult victims of child sexual abuse. (Chapter 4)
12. The Inspectorate recommends that Garda help lines for reporting of allegations of child sexual abuse be staffed on a 24/7 basis and that use of automated answer lines be discontinued. (Chapter 4)

13. The Inspectorate recommends that the Garda Síochána continue to develop and maintain close working relationships with non-statutory organisations that provide support and services for victims of child sexual abuse. Informal relationships with non-statutory organisations should be underpinned by formal protocols on matters such as sharing of information and referral processes. (Chapter 4)
14. The Inspectorate recommends that the Garda Síochána continue to deter the small minority of people who make false complaints of child sexual abuse by gathering sufficient evidence in such cases to prosecute them. (Chapter 4)
15. The Inspectorate recommends that the Garda Síochána develop further specialisation in the area of child sexual abuse and, in particular, move away from the current practice whereby the garda who takes the initial report is the investigating garda. (Chapter 4)
16. The Inspectorate recommends that every reported case of child abuse be the subject of a formal risk assessment. (Chapter 4)
17. The Inspectorate recommends that the Office of the Minister for Children be asked to consider revision of the child protection notification forms used by the Garda Síochána and the HSE to provide for recording of the date of the initial report of child abuse. (Chapter 4)
18. The Inspectorate recommends that the Office of the Minister for Children and Youth Affairs be asked to consider a revision to Children First such that the guidelines state explicitly that prosecution of a sexual offence against a child will be considered within the wider objective of child welfare/protection. (Chapter 4)
19. The Inspectorate recommends that the Garda Síochána review the timeliness of child sexual abuse investigations with a view to having all but complex and difficult investigations completed within three months. (Chapter 4)
20. The Inspectorate recommends that, from the outset, Garda investigative strategies take account of the likelihood that a victim of child sexual abuse may refuse to make a formal statement or, having made one, may withdraw it at a later date. Investigative strategies should aim to:
 - Achieve corroborating evidence without delay.
 - Take the victim statement as soon as possible after the initial report is made so as to minimise the time available for the victim to be influenced to withdraw cooperation.
 - Adopt any and all safeguarding options open to the Gardaí and social workers if there is any continuing risk, high or low, to the well being of the victim or other person.
 - Review cold cases periodically taking account of any changed circumstances that may prompt new criminal justice options. (Chapter 4)
21. The Inspectorate recommends that the Garda Síochána consider the option of seeking a search warrant in any case where difficulties are encountered, or are likely to be encountered, in obtaining, by voluntary means, church or other documentation that is believed to contain evidence for the purpose of a prosecution. (Chapter 4)
22. The Inspectorate recommends two categories of positive outcomes of Garda investigations into child sexual abuse as follows:
 - Number and proportion of cases in which prosecutions were directed by the Director of Public Prosecutions.
 - Number and proportion of cases not prosecuted in the interest of the welfare of the child victim and where concerns for the welfare of other children were met. (Chapter 4)
23. The Inspectorate recommends that when it is established that a complaint of child sexual abuse is false, the Garda Síochána should immediately inform the person against whom the complaint was made. (Chapter 4)

24. The Garda Inspectorate recommends that the Garda Síochána put arrangements in place to ensure that a person who is the subject of an allegation of child sexual abuse is informed without delay of a decision by the Director of Public Prosecutions not to prosecute. (Chapter 2)
25. The Garda Síochána should, as required by policy, “immediately” create an offence record on PULSE of each complaint of child sexual abuse. Ideally, the policy should set a specific time limit. (Chapter 4)
26. The Inspectorate recommends that the Garda Síochána Professional Standards Unit have a role in ensuring adherence to crime counting rules and other Garda directives on crime recording. The Unit should be in a position to provide quality assurance on PULSE records to the Central Statistics Office, the body with responsibility for publication of crime statistics. (Chapter 4)
27. The Inspectorate recommends that, in the interest of quality assurance, the services of the Garda Síochána Information Centre (GSIC) at Castlebar be used to enter records of sexual offences on PULSE. (Chapter 4)
28. The Inspectorate recommends that Garda efforts in tracing unaccompanied minors who go missing from State care be at least sustained, and if possible increased, in the interest of the young people concerned, and as a demonstration of the State’s commitment to countering any possible means of human trafficking. The Garda Síochána should collate information on the circumstances in which those who go missing are traced. (Chapter 5)
29. The Inspectorate recommends further investments of staff and resources in the countering of child sexual abuse offences on the internet. Law enforcement efforts should be complemented by preventive measures, including education of children about safe surfing on the internet. (Chapter 5)

APPENDIX

TERMS OF REFERENCE

In accordance with section 117 of the Garda Síochána Act 2005, as amended, the Minister for Justice, equality and Law Reform hereby requests the Garda Síochána Inspectorate, as part of its work programme, to carry out a review of Garda arrangements for dealing with allegations of sexual abuse of children and report to the Minister.

The review should take account of:

- the relevant parts of the report of the Commission of Investigation into Catholic Archdiocese of Dublin (November 2009);
- best practice in comparable jurisdictions;
- initiatives put in place by An Garda Síochána in recent years to bring Garda practices in line with international best practice, in particular, those put in place to implement the recommendations of the Ferns Report (October 2005);
- the provisions of the Children First national guidelines for the protection and welfare of children (September 1999 and any subsequent revised edition); and
- the particular requirements of dealing with allegations of historical sexual abuse.

**ADDENDUM TO GARDA INSPECTORATE REPORT -
'RESPONDING TO CHILD SEXUAL ABUSE'¹**

¹ Forwarded to the Minister for Justice, Equality and Defence, Alan Shatter, T.D., on 15 September, 2011



GARDA INSPECTORATE

PROMOTING EXCELLENCE & ACCOUNTABILITY

ADDENDUM TO GARDA INSPECTORATE REPORT - 'RESPONDING TO CHILD SEXUAL ABUSE'

On 13 July, 2011, when releasing the *Commission of Investigation Report into the Catholic Diocese of Cloyne* (Cloyne Report), Minister for Justice Equality and Defence, Mr. Alan Shatter TD and Minister for Children and Youth Affairs, Ms. Frances Fitzgerald TD issued a joint statement. The statement includes this excerpt:

“Following publication of the Dublin Archdiocese report, the Garda Síochána Inspectorate was requested to carry out a comprehensive review of Garda arrangements for dealing with child sex abuse. While that work has been completed, it has been agreed with the Chief Inspector Kathleen O’Toole, that prior to publication of their report, they would be given a chance to review it in the light of the findings of the Cloyne Report. This review is expected to take only a matter of weeks.”

This addendum is the result of the Inspectorate’s review of the Cloyne Report.

Overview

Allegations and cases involving nineteen clerics are addressed in the Cloyne Report. Twelve of the cases cited were referred to the Garda Síochána. While acknowledging that a number of complainants were “highly complimentary about the way in which the Gardaí dealt with their complaints,” the Commission stated that it was very concerned with Garda handling of certain cases. For example, in one instance, a senior garda stated that an investigation had commenced but the Commission found no evidence to corroborate that. Also, a victim’s statement was placed in a drawer by a garda who was soon to retire. It was forgotten about and discovered only after the Commission inquired about it several years later. In addition, a garda interviewed by the Commission made statements that conflicted with those he had made on two previous occasions. In other instances, the Commission expressed concerns about the lack of documentary evidence to confirm that Gardaí had conducted required risk assessments relating to two priests about whom complaints had been made.

The Inspectorate approached its review of the Cloyne Report in the same manner it applied to the Ryan, Ferns and Murphy reports. It was not within the Inspectorate’s remit to duplicate the Commission’s work, but rather, to review the comprehensive findings to identify possible gaps and/or flaws in Garda practices.

Having completed the process, the Garda Inspectorate has determined that no supplemental recommendations are required. The issues of concern identified in the Cloyne Report are the same or similar in nature to issues previously addressed in the Inspectorate's review of the Ryan, Ferns and Murphy reports. The concerns raised by the Commission underscore the need to implement the Inspectorate's recommendations published in the main body of this report.

Summary of Issues

The following is a summary of the three most significant issues identified in the Cloyne Report that relate to handling of cases by the Garda Síochána.

Nature of Complaint

The Commission cites five cases in which allegations of child sexual abuse were brought to the attention of the Garda Síochána, but no formal complaints were made.

The reasons formal complaints are not made vary depending on the circumstances. For instance, it was noted in the Cloyne Report that in the case of Fr. Calder, a boy's father declined to make a formal complaint because he thought his son's word would not be taken over the word of a priest. As stated previously, it is the view of the Inspectorate that the Garda Síochána should investigate all matters relating to allegations of child sexual abuse whether there has been a formal complaint or not. In the case of Fr Calder, Gardaí did take action. In contrast, they did not in the case of Fr Baird.

A formal complaint is not a legal requirement per se, but it can be important evidence when attempting to secure a conviction in court. As such, Gardaí should encourage complainants to formalise their statements whenever possible and assist them in doing so. All necessary support should be provided to victims and witnesses throughout an investigation and prosecution. Recommendation 9 and Chapter 4 of the Inspectorate's report address this issue in detail.

Investigative Processes

The Inspectorate shares the concerns of the Commission in relation to poor Garda practices in four specific cases cited in the report. Similar concerns emerged in the Inspectorate's prior review. As the result, the Inspectorate has made several recommendations relating to Garda investigation files, systems for case tracking, specialisation, training and supervision of investigations.

The Commission noted the following Garda deficiencies when investigating certain complaints of child sexual abuse. In the case of an allegation against Fr. Ronat, the one in which the victim's statement was eventually discovered in a drawer, the Commission did not accept Garda explanations as to how the case was handled. In another allegation made against the same priest, the Commission "found it surprising that the garda did not ask the diocese about any similar incidents" even though the Garda Síochána concluded that there was insufficient evidence for prosecution.

In relation to complaints made against Fr Corin, the Commission again noted serious concerns about the investigative process. The Commission found there was no documentary evidence that a file had been opened in relation to the complaints. The Garda Síochána failed to give the Commission a satisfactory explanation as to why a file on these complaints was not retained.

These issues and similar ones identified in the previous reports are highlighted and addressed in Chapter 4 of the Inspectorate's report.

Chapter 4 also addresses the need for robust and reliable information systems. Improper recording and processing of reports of child sexual abuse are highlighted again in the Cloyne Report. In one case, the Commission is critical of a senior Garda, who "had no recollection of the case but contends that a file was opened and that an investigation commenced." The Commission outlined that "no files in relation to this case have been found by the Gardaí and it is clear that at minimum, proper procedures in relation to the recording of notifications were not followed." The delay in investigating this case is a concern, as is the lack of an assessment to determine whether the priest involved was a risk to other children.

In another case of delayed investigation, Gardaí received notification of an alleged abuse case from Monsignor O'Callaghan in October, 2002. The victim (Peter) refused to make a formal complaint, but sent a statement to Gardaí in February, 2003 through his solicitor. The Commission stated, "Gardaí were never able to progress their investigation because no formal complaint had been made to them by Peter." In August, 2004 the priest, who was the subject of the complaint died. It is troubling that no investigation took place and no risk assessment was conducted despite the fact that Fr Baird was still alive at the time of the notifications to Gardaí.

Recommendation 16 in Chapter 4 of the Inspectorate's report suggests that every reported case of child abuse be the subject of a formal risk assessment. In addition, Recommendation 19 of the report calls for timely investigations, suggesting that all but complex and difficult investigations be completed with three months.

Child Protection and Interagency Notifications

The Cloyne Report highlights a number of deficiencies in Garda practices relating to child protection, including failure to adhere to the Children First Guidelines. The Commission found in two cases (Fr Drust and two unnamed priests) that "there is no documentary evidence that they (the Garda Síochána) addressed the question of whether or not there was on going risk to children." In both cases, Gardaí maintained that an assessment was done, but it is clear there was serious ongoing risk to children in the case of Fr Drust that went undetected.

The Commission also noted a number of cases where the Children First guidelines on notifying the HSE were not adhered to. In its report, the Inspectorate makes eight recommendations (2,3,4,5,6,13,17 and 18) that address the need for more effective interagency working and notifications. The Inspectorate considers this subject of paramount importance and addresses it extensively in Chapter 3 of the report. Government's recent decision to place the revised Children First National Guidelines

on a statutory basis will address some of the Inspectorate's concerns as it creates a legal obligation of compliance.

Conclusion

The Inspectorate appreciated the opportunity to review its previous work in light of the findings of the Cloyne Report. While official publication of the Inspectorate's report was delayed pending the resolution of legal issues involving the Cloyne work, it is important to note that the draft report and recommendations were forwarded to the Garda Síochána in late 2010 for their observations prior to its submission to the Minister. The Inspectorate acknowledges that the Garda Síochána is addressing the issue of child sexual abuse as a top priority and progress has been made in recent years. The Inspectorate will continue to monitor the implementation of recommendations in its report, *'Responding to Child Sexual Abuse'*.