



**REPORT, PURSUANT TO SECTION 103 OF THE GARDA SÍOCHÁNA ACT 2005,
FOLLOWING AN INVESTIGATION INTO THE HANDLING BY
THE GARDA SÍOCHÁNA OF ALLEGATIONS OF SEXUAL ABUSE OF CHILDREN,
RAISED IN THE COMMISSION OF INVESTIGATION REPORT
INTO THE CATHOLIC DIOCESE OF CLOYNE, 2011.**

On 20 March 2012, GSOC opened an investigation pursuant to section 102(4) of the Garda Síochána Act, 2005 (which allows GSOC to open an investigation in the public interest, without having received a complaint). A particular section in Chapter 10 of the Commission of Investigation Report into the Catholic Diocese of Cloyne (in Appendix to this Report) outlined evidence given to the Inquiry which indicated that the Garda Síochána did not act upon information that it had in relation to complaints of sexual abuse by the Roman Catholic Dioceses of Cloyne. The GSOC investigation was to establish whether these matters may have constituted an offence by members of the Garda Síochána or justified disciplinary proceedings.

The Commission of Investigation (*Cloyne Commission*) report provided pseudonyms for the two victims, *Nia* and *Oifa* respectively, and one priest, *Fr. Corin*, which we will use in this report. The report outlined that, in 1994 and 1996, *Nia* made allegations to a Catholic Bishop relating to being sexually abused by Fr. Corin in the late 1960s. These matters were referred to Macroom Garda Station, Cork, but there was, thereafter, a lack of further action. *Oifa* made very similar allegations relating to the same priest to the Mid Western Health Board. Gardaí from Henry Street, Limerick, took a statement from her, but there was no further action.

The investigation had terms of reference to focus on eight areas:

1. Whether or not a proper investigation took place into the case of the first victim - *Nia*.
2. Whether or not a proper investigation took place into the case of the second victim - *Oifa*.
3. Whether or not documentation existed or exists in relation to the cases.
4. If documentation was created and cannot be located, why this occurred.

5. If documentation which should have been created was not created, why this occurred.
6. Whether proper procedures in relation to the recording of notifications were followed.
7. Why a file in relation to these matters was not sent to the DPP in accordance with what the Commission of Investigation described as 'the rules for garda investigations...in cases of sexual assault'.
8. Any other significant issues which may arise during the investigation.

TERMS 1 & 2: INVESTIGATIONS IN RELATION TO EACH VICTIM.

The first victim - Nia.

This investigation, along with evidence to the *Cloyne Commission*, showed that, despite a complaint of alleged sexual abuse in relation to the first victim being referred to the Garda Síochána by a Monsignor O'Callaghan in 1996, no investigation was directed, or conducted, by the receiving garda.

This would have been the responsibility of then District Officer, Macroom Garda Station, Cork. He acknowledged receipt of a report of historical child sexual abuse. He did not direct a crime investigation. He contended that he assumed an investigation had commenced. However, investigation has shown that that assumption was unfounded (see below).

The second victim - Oifa.

With respect to whether a proper investigation took place into the case of the second victim, evidence given to the *Cloyne Commission*, along with further investigation by GSOC, revealed that a Health Board notification form was issued by the Mid Western Health Board and was later in the possession of the Southern Health Board. However, in further investigating this matter, we subsequently established evidence that the Health Board notification was unsigned and no evidence exists that it was actually sent to its intended recipient – the then superintendent at Henry Street Garda Station.

There was a lack of a policy on the part of the Health Board in addressing historical child sexual abuse allegations and, notably, no policy in relation to notifying the Garda Síochána. It was made clear by Health Board personnel serving in 1996 that, at that time, they only dealt with persons under 18 years of age and did not deal with historic cases of child sexual abuse (explaining why the notification might not have been issued). The then District Officer, Henry Street, Limerick, was unaware of the allegations and a formal investigation was not conducted by Henry Street Gardaí. A statement was reportedly taken from the victim, but this cannot now be located and there is some dispute as to the motivation and authority for it being taken in the first place.

TERMS 3-6: PROPER PROCEDURES AND DOCUMENTATION

It has been established that no formal garda investigations took place in relation to the complaints and allegations made on behalf of, or directly by, either victim to the Garda Síochána. We have found that this was mostly the result of a lack of adherence to procedures and processes. There were also lapses in the creation and proper retention of documents.

The first victim - Nia.

In relation to the first victim, it is clear that the then District Officer at Macroom, was made aware of two cases of alleged historical child sexual abuse against a named person – Fr. Corin. The District Officer did not provide any evidence to support his claim that he believed that an investigation was being conducted. Numerous, comprehensive searches for documents and material were conducted at Macroom Garda Station. The searches produced no document, or other evidence, to support the assumption that an investigation was being conducted. Additionally, gardaí that were serving at that Garda Station in 1996, when interviewed, did not recall an investigation being conducted. No formal garda investigation was launched into the allegations of child sexual abuse and therefore no official garda documentation was created. Ensuring adherence to proper procedures was the responsibility of the then District Officer.

The second victim - Oifa.

In the case of the second victim, a document, in the form of a statement, was created. There are, however, deficiencies in the procedures employed in taking the statement and also in relation to its retention.

The statement was taken by a female garda, stationed at Henry Street, Limerick, instigated at the request of a colleague, since retired. It has transpired that the victim, *Oifa*, was related by marriage to the garda who requested his colleague to take the statement. It appears that this action was unsanctioned and was not part of a formal investigation. So it is possible that it may simply have been an attempt to appease the victim, as a favour from one relation to another.

In any case, the statement cannot be located by any of the persons involved. This investigation has not produced the actual statement, nor did it produce any tangible investigative leads as to its possible discovery. Neither of the two gardaí involved can recollect accurately the statement's movements. The female garda who took the statement believes she may have given it to her colleague. He stated, however, that he had nothing to do with the investigation after suggesting to his female colleague to take the statement.

The informal manner in which a garda was sent to obtain a statement, at the request of the alleged victim's relative, is problematic. There are also discrepancies in the accounts of the two gardaí and further information has not been provided.

The lack of formal procedure, or accountability, in relation to the taking of this statement has resulted in a Garda Síochána document being misplaced or destroyed. As the statement cannot now be located and the reasons for the non-existence of an investigation remain unclear, these matters remain unsatisfactorily unresolved.

TERM 7: SUBMISSION OF FILES TO THE DPP

As outlined above, no formal garda investigations were conducted into the allegations of historical child sexual abuse and therefore files were not submitted to the DPP.

TERM 8: OTHER SIGNIFICANT ISSUES

There is no evidence that any matter investigated by GSOC may have constituted a criminal offence, but some actions *may* have justified disciplinary proceedings.

The first victim - Nia.

It is clear from the evidence that the then District Officer was the recipient of a complaint of historical child sexual abuse. The absence of any document, or account, of an investigation being conducted in 1996, or thereafter, makes it clear that he did not ensure a formal investigation of the complaints referred to him. His actions may have amounted to a Neglect of Duty under the Garda Síochána (Discipline) Regulations. However, as he is retired, he is no longer subject to such regulations.

The second victim - Oifa.

The garda at Henry Street who requested his female colleague to take a statement may have committed an act, contrary to the Garda Síochána (Discipline) Regulations, amounting to a Neglect of Duty. The evidence showed that a crime was reported to him but he did not report that crime formally to his superiors. However, as he is retired, he is no longer subject to such regulations.

The evidence suggests that the then District Officer at Henry Street Garda Station did not receive any formal information that the second victim - *Oifa*, had made complaints of historical child sexual abuse. He, therefore, had no reason to sanction a formal investigation. In these circumstances there is no evidence that he acted contrary to the Garda Síochána (Discipline) Regulations. He has since retired.

The female garda, who was requested to obtain a statement from the second victim - *Oifa*, is still serving with the Garda Síochána. While she provides an account that at

times differs from others, our investigation does not reveal any evidence that she acted contrary to the Garda Síochána (Discipline) Regulations.

Our investigation revealed some possible explanations as to why formal investigations were not conducted by the Garda Síochána into serious allegations of sexual abuse. There were failures of systems and individuals. It became evident in the course of the investigation that the existence of these allegations was known to different individual gardaí in Macroom, Co. Cork and Henry Street, Limerick. The fact that they were known to gardaí and not investigated formally indicates that the Garda Síochána as an organisation failed in its duty.

Disciplinary issues

As per the above section, while there is evidence to suggest that two officers may have been in breach of the Garda Síochána (Discipline) Regulations for Neglect of Duty, both are now retired and therefore no longer amenable to these. It should be noted that GSOC is not empowered to make findings of fact in relation to whether or not there has been a breach of the Garda Síochána (Discipline) Regulations. GSOC is empowered only to make recommendations to the Garda Commissioner as to whether or not disciplinary proceedings should be instituted. In the present cases, such recommendations are, due to retirement, moot. Retirement renders an investigation into possible breaches of the Garda Síochána (Discipline) Regulations not reasonably practicable, as the process could not be brought to a conclusion in the context of those Regulations.

Systemic issues

These incidents occurred many years ago. There have been substantial recommendations by the Garda Inspectorate in relation to the investigation of child sexual abuse since then. Those recommendations, if followed, should mitigate the risk of a repeat of this unsatisfactory set of circumstances.

Accordingly, the Garda Síochána Ombudsman Commission shall take no further action in relation to this matter.

APPENDIX

Chapter 10 of the Commission of Investigation Report into the Catholic Diocese of Cloyne (downloaded from the Department of Justice website at time of publication of issue of this Report: http://www.justice.ie/en/JELR/Cloyne_Rpt.pdf/Files/Cloyne_Rpt.pdf).