



**RCNI Response to the Garda Inspectorate Report
2010 (published February 2012)**

March 2012

1.0 Introduction – Rape Crisis Network Ireland

Rape Crisis Network Ireland **is the national representative body for the rape crisis sector**. It is a specialist information and resource centre on rape and all forms of sexual violence. The RCNI role includes the development and coordination of national projects including expert data collection, supporting Rape Crisis Centres to reach best practice standards, and using our expertise to influence national policy and social change. We are the representative, umbrella body for our member Rape Crisis Centres who provide free advice, counselling and support for survivors of sexual abuse in Ireland, including a growing number between the ages of 14 and 18.

Our members work directly with An Garda Síochána whenever our clients take a complaint to the criminal courts. RCNI staff and members also collaborate with An Garda Síochána locally and nationally in a number of inter-agency structures, such as Regional Advisory Committees, Sexual Assault Treatment Unit committees, the National Steering Committee on Violence against Women, among others. In addition, there is a lot of ongoing informal contact between our member Centres and local Gardai.

1.1 “The Garda Inspectorate Report November 2010 on Responding to Child Sexual Abuse” and Survivors of Sexual Violence:

“Only a holistic, collaborative approach by all statutory and voluntary organisations to this very important issue will make the difference that is required”.¹

RCNI endorses this sentence from the Foreword of the Report. RCNI also acknowledges the commitment which An Garda Síochána has already shown to the implementation of its recommendations. Real progress has been achieved since the Report was first submitted, and RCNI has no doubt that An Garda Síochána will continue to implement these recommendations as far as this lies within its power. For its part, RCNI members and staff remain committed to working with An Garda Síochána in every possible way to ensure that together we do make that important difference to survivors of sexual violence facing the criminal justice system, or indeed, trying to decide whether they can face it.

1.2 RCNI welcomes this Report and many of its recommendation

The RCNI response to specific Garda Inspectorate Report (GIR)² recommendations is set below, with the relevant recommendations in *italics* for easy reference. We have grouped together certain recommendations with a common theme. Our response also takes account

¹ Garda Inspectorate Report on Responding to Child Sexual Abuse 2010 by Chief Inspector Kathleen O’Toole, see link at note 2 for access to the whole Report

² Available online at: <http://www.justice.ie/en/JELR/Garda%20Inspectorate%20Report%20-%20Responding%20to%20child%20sexual%20abuse.pdf/Files/Garda%20Inspectorate%20Report%20-%20Responding%20to%20child%20sexual%20abuse.pdf>

of the Garda Response (GR) document,³ published alongside GIR in early February 2012. We also acknowledge the very positive developments in this area of crime which have been introduced by An Garda Síochána and others, for example: the Garda Síochána Policy on the Investigation of Sexual Crime, Crimes against Children and Child Welfare⁴, published April 2010, the publication of the inter-agency Revised National Guidelines for Sexual Assault Treatment Units⁵, and the training and deployment of a cadre of Gardai to take statements from child victims under 14, vulnerable children or adults, and older victims without a disability where possible.⁶

1.3 GIR Recommendation 9: AGS First Response to Victims of Child Sexual Abuse

“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)”

RCNI Response: RCNI endorses this recommendation. While it is certainly true that there is information for victims on the Garda website and elsewhere, and that the stated Garda policy is victim-focused, there needs to be **specialist information for victims of sexual crime** readily available on the website, and on posters and leaflets in local Garda stations.

- All such information should have as a headline statement that the member of An Garda Síochána who receives this information **will treat it as true and believable and act upon it**.
- We would also recommend that the information online or in hard copy form addresses the precise details of how and where to report a sexual crime.

³ Available online at:

<http://www.justice.ie/en/JELR/Response%20to%20Garda%20Inspectorate%20Report%20-%20201%20Feb%202012.pdf/Files/Response%20to%20Garda%20Inspectorate%20Report%20-%20201%20Feb%202012.pdf>

⁴ Available online at:

<http://www.garda.ie/Documents/User/WEB%20Investigation%20of%20Sexual%20Crime%20Crimes%20Against%20Children%20Children%20Welfare.pdf>

⁵ Available online at:

<http://www.hse.ie/eng/services/Publications/services/Hospitals/sexualassnatguidelines.pdf>

⁶ Referred to in the Garda Síochána Policy as “Specialist Victim Interviewers”.

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- Outside of emergencies where there is a need to attend a SATU or hospital without delay, the norm should be that such reports are made in the course of a private appointment, made in advance.
- Victims should be informed that they can ask their local Rape Crisis Centre to provide a trained volunteer to accompany them to either Garda appointment or SATU.
- The information provided by An Garda Síochána should always include a link to the RCNI website, the rape and sexual assault 24 hour helpline number, and contact details for local Rape Crisis Centres and other relevant services, such as Sexual Assault Treatment Units.
- We would also recommend that a detailed protocol for swift and appropriate reception and onward referral of complaints of sexual violence which come in to local Garda stations be devised and followed by all “first-responder” Guards.
- Finally, links to information for victims on the DPP, Victims of Crime Office, and Courts Services websites should also be included in any online or hard copy information for victims.

We entirely agree with Chief Inspector O’Toole about the **primary importance for victims of sexual crime of being believed and being able to trust that their complaint will be acted upon**. We would comment, however, that both our everyday experience and the findings of “Rape and Justice in Ireland”⁷ tell us that our clients find more reason to complain of their treatment by An Garda Síochána in the more advanced stages of the investigation than in the initial ones. It is at this point that many report the feeling of being disbelieved, and/or that it is difficult to make contact or get information on their case, from the investigating Garda. While we understand that as an investigation continues, the personal views of an individual investigator may change, we would stress that it is vital that she/he does not let any such change become apparent to the victim. Of course it happens that contrary statements from the accused and others must be put to the victim, but in this situation, the obligation on An Garda Síochána to project compassion, sensitivity, respect and acceptance of her/his story to the victim does not diminish.

1.4 GIR Recommendations 10, 11, 15 On Specialised Training For An Garda Síochána

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)

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)

RCNI Response: RCNI agrees with these recommendations, which have been realised in part already with the advent of Specialist Victim Interviewers working in Special Victim Units at

⁷ Pages 180/1 “Rape and Justice in Ireland”, Hanly et al (2009), Liffey Press, available to order online through www.rcni.ie.

several different locations around the country, primarily with child victims under the age of 14 and vulnerable children and adult victims.

RCNI has long advocated⁸ the development of further specialisation in the area of child sexual violence and indeed, in the area of sexual violence crimes generally. Sexual crime needs a specialist approach to investigation as well as to victim interviewing and victim support. We would like to see **specialist sexual crime teams** responsible for all aspects of investigation and victim liaison from first report to final disposal, and more general training for first-responder Guards to whom a report is made of a sexual crime. This means that the current 4 week intensive training programme for Specialist Victim Interviewers would be complemented by another intensive programme for sexual crime investigators, and that there would be more general training made available to “first responder” Guards.

We also think that there is a need for the existing cadre of Specialist Victim Interviewers to have more intensive training in interviewing 14-17 year old victims, and for more intensive training for this cadre and/or another, in the particular issues faced by **adults** reporting child sexual abuse, and also sexual crimes experienced by them as adults. The RCNI National Rape Crisis statistics (latest edition 2010)⁹ indicate that growing numbers of adult clients have experienced child sexual abuse, growing numbers of them report these crimes to the Gardai, and sadly, that numbers of them experience sexual violence **both as children and as adults**. This means that Gardai dealing with adult victims of child sexual abuse should have an in-depth knowledge of **adult** sexual violence issues as well as **child** sexual violence ones.

RCNI members and staff are happy to assist An Garda Síochána in any way they can with such training.

1.5 GIR Recommendation 13: Close working relationships between AGS and NGOs

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)

RCNI Response: We endorse this recommendation. We should also say that our recent experience with An Garda Síochána has been broadly positive in this regard. We have noted that there is now a designated liaison officer for NGOs in each district, and that the Gardai have been active in their participation in various local State and NGO inter-agency structures dealing with sexual violence

⁸ See for example RCNI “Improvement of Investigation of Sexual Violence” (2009) discussion document, available online at:

<http://www.rcni.ie/uploads/ImprovingtheInvestigationofSexualViolenceRCNIdocuMarch2009.pdf>

⁹ RCNI National Rape Crisis Statistics and Annual Report 2010, available online at:

<http://www.rcni.ie/uploads/RCNINationalRapeCrisisStatisticsAndAnnualReport2010.pdf>

issues, sexual violence information sessions, and so on, around the country. With regard to the development of formal protocols, it seems to us that this would have to be initiated as far as An Garda Síochána are concerned, by the Commissioner and his team. A formal protocol which would oblige the local Superintendent/NGO liaison officer and local Rape Crisis Centre(s) to inform and consult each other¹⁰ – about important issues affecting a number of sexual violence victims - as soon as possible after they arise, - and settle on a common policy to deal with survivor queries and fears – would be very helpful.

1.6 GIR Recommendation 19, 20: Achieving Best Evidence in Child Sexual Abuse Cases

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)

RCNI Response: RCNI is in broad agreement with these recommendations, with some qualifications:

With regard to taking the victim statement as soon as possible after the initial report is made, sometimes this is not appropriate from the victim's perspective. It may be too soon, for example the victim may be so traumatised after a recent incident of sexual violence that she/he is self-contradictory and incoherent as a result. There may also be protection issues, e.g. a barring order has been applied for by the child's mother against the accused but this is not yet in force. The need to delay a formal statement on occasion is recognized both in the recommendation at the beginning of "Rape and Justice in Ireland"¹¹. The Garda Policy¹² also

¹⁰ and also a local HSE person if appropriate, such as the official responsible for the local SATU

¹¹ Rape and Justice in Ireland Recommendation 6, "It is recommended that, where possible, victims be allowed time to recuperate before their full statement is taken in order to reduce the impact of shock and post-traumatic stress disorder", pxxxii. [Full citation at note 7 above]

lays great stress on the paramountcy of the welfare of the child principle. It will not always be in the best interests of a child victim to proceed to the taking of the formal statement, although he/she could probably get through it at a significant cost to their own well-being.

RCNI must also take issue with the suggestions implicit in Recommendation 13 that a victim always “withdraws co-operation” voluntarily, and indeed, that there is something inappropriate about any decision to withdraw a statement. Victims are under no obligation to report a crime against them, or to pursue proceedings through the criminal courts. RCNI’s view is that as victims are the ones who bear the burden of pursuing a case through the rigours of our criminal justice system, it is they who should decide whether to do so¹³. Further, the findings of “Rape and Justice in Ireland” on withdrawal by victims identify a large number of reasons why victims may **feel unable** to proceed with the case¹⁴.

1.7 GIR Recommendations 3, 4 and 5: Inter-agency working with the HSE

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)*

¹² Garda Síochána Policy on the Investigation of Sexual Crime, Crimes against Children, and Child Welfare (April 2010), at paragraph 27.3 among other references: “**the welfare of children is of paramount importance**”, available online at: <http://www.garda.ie/Documents/User/WEB%20Investigation%20of%20Sexual%20Crime%20Crimes%20Against%20Children%20Children%20Welfare.pdf>

¹³ See Rape and Justice in Ireland, cited above at note 7, at page 367: “The complainant’s decision should take precedence over society’s need to prosecute because it is the complainant who is the one who will have to pay the price demanded by the criminal justice system. Under no circumstances should the complainant be compelled to make a complaint”. See also similar views expressed in Baroness Vivien Stern’s Report of her Review of Rape Reporting (2010), in her conclusions: “Support and care for victims should be a high priority. The obligations the State has to those who have suffered a violent crime, and a crime that strikes at the whole concept of human dignity and bodily integrity, are much wider than working for the conviction of a perpetrator. Those reporting that they have been raped must be treated well”. Available online at: http://webarchive.nationalarchives.gov.uk/20100418065537/http://equalities.gov.uk/PDF/Stern_Review_acc_FINAL.pdf [INDEPENDENT REVIEW INTO HOW RAPE COMPLAINTS ARE HANDLED BY PUBLIC AUTHORITIES IN ENGLAND AND WALES]

¹⁴ See Rape and Justice in Ireland, cited above at note 7, at pages 159-162 and 245-248 among other references

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)*

RCNI Response: RCNI agrees with the general thrust of these recommendations that current inter-agency working between An Garda Síochána and the HSE should be developed and supported. However, it is vital for this to work properly that the HSE also participates fully in that process of development.

1.8 GIR Recommendations 22, 25, 26, 27: Recording of Sexual Crime

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)*

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)*

RCNI Response: RCNI agrees with the general principle expressed in these recommendations that there should be timely and accurate recording of all reports of sexual crime by An Garda Síochána. We understand from the GR that most of these recommendations have now been implemented, and that GIR 26 is under active consideration. In our view this is a very important recommendation, as it allows all stakeholders to be very confident that Garda figures for recorded sexual crime are being kept as accurately as is possible.

1.9 GIR Recommendation 17 on the revision of Child Protection Notification Forms

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)*

RCNI Response: RCNI would agree with this recommendation, as we can see the importance of establishing the date of the initial report for any criminal investigation.

1.10 GIR Recommendation 29 on Child Sexual Violence and the Internet

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)

RCNI Response: While we understand that the Garda Paedophile Investigation Unit is proactive in its surveillance and investigation of online paedophile activity, and that other stakeholders have done very good work to help increase internet safety for our children and young people, we would recommend that there should also be easily accessible information on the Garda website to help parents and young people identify and eliminate dangerous online activity from paedophiles, or even a link to another website with that information. It seems to us that to combat this kind of criminal activity most effectively, the Gardai have to have the co-operation of other agencies, both national and international. We would urge the Government to ensure that appropriate resources, including technical expertise, are made available to the Gardai to enable them to secure that co-operation as much as possible.

1.11 GIR Recommendation 28 on Unaccompanied Minors

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)

RCNI Response: We are happy to see that this recommendation already forms part of Garda practice, as we have been aware for a long time of the acute vulnerability of young people in this situation to sexual exploitation and indeed, sexual violence generally.

1.12 GIR Recommendation 8 on Prevention of Vicarious Trauma

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)

RCNI Response: We would endorse this recommendation, as we are very much aware of the high impact of sexual violence work on all our own staff and volunteers, and provide training, supervision and other supports to enable them to deal with this effectively. We have heard recently from several Guards engaged for much of their time in this kind of work, who feel that in their world, there is no one to whom they can talk about this, and that there are times when they feel close to burn-out. In our view, specialised counselling is needed. We would be happy to provide An Garda Síochána with any help we can in this area, with training and/or supervision of Garda counsellors, and with small-group training for Gardai in self-care and in how to avoid vicarious trauma, for example.

Finally, we note that the recommendation says that "counselling support be provided". By contrast, in our world, counsellors engaged in this kind of work, even part-time, **must** have supervision sessions with an outside expert supervisor. Indeed, even those in other roles have themselves been **directed** to take up at least one or two supervision sessions following involvement in a case with a

child victim. We suggest that An Garda Síochána considers seriously whether such an approach should be introduced, not only because of its own duty of care to its employees, but also to ensure the long term sustainability and popularity of the Specialist Victim Interviewer project.

1.13 GIR Recommendations 6 and 7 on Pilot Child Advocacy Units

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)*

RCNI Response: We feel that we can only comment on these two recommendations as far as our own client group of 14 to 17 year olds is concerned, as we do not see young people under the age of 14. With regard to recommendation 6, we would recommend that if it is acted upon, at least one of the pilot centres be established outside Dublin, so that access is made easier for country-based child victims and their families, and so that the perspective of the pilots is not entirely Dublin-centred but links in with provincial expertise, such as that available in the Galway SATU and in the current non-Dublin Special Interview Units. Also with regard to recommendation 6, if acted upon, we think it would be very valuable to involve at least some of those voluntary organisations with expertise in this area from the outset, as their perspectives and experience are different from those within the HSE. We would endorse recommendation 7 in principle, not least the need for training for inter-agency working.

1.14 GIR Recommendation 14 on False Allegations of Child Sexual Violence

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)*

RCNI Response: We think it is very important that such complaints are investigated very thoroughly, and we agree with both GIR and GR that they are rare. Our own research indicated that only about 1% were deemed by either An Garda Síochána or the DPP to be made maliciously,¹⁵ and both our research and our experience tell us that the background to many false complaints reveals other non-malicious factors at play, such as mental health issues, and/or a report made by a third party, for example.

1.15 GIR Recommendation 1 on Absence of Deference in Irish Policing

¹⁵ pages 249/250 Rape and Justice in Ireland, cited above at note 7

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)

RCNI Response: We have not found such inappropriate deference, to the senior clergy and/or politicians or others, among An Garda Síochána at any level in recent times. However, repeating the message that such deferential treatment will not be tolerated sends out the right signal of acceptance and belief to survivors of historic child sexual abuse who may have had a very different experience of An Garda Síochána in the past but who are now thinking about making a formal statement.

1.16 GIR Recommendation 2 on Leadership in An Garda Síochána on Child Sexual Abuse Issues

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)

RCNI Response: It seems to us that there is real commitment to child protection in the most senior ranks of An Garda Síochána. We would urge senior Gardai to continue to be seen and heard **by survivors of child sexual abuse who have not yet considered reporting** as well as by all members of An Garda Síochána.