

## **SOUTH EASTERN HEALTH BOARD HANDLING OF ALLEGATIONS OF CHILD SEXUAL ABUSE.**

### **FR. JAMES GRENNAN (Deceased)**

#### **Monageer 1988**

The Monageer case, which arose in 1988, is the first recorded case of child sexual abuse involving a priest that came to the attention of the South Eastern Health Board. The details of the allegations made and the Church response to such allegations are outlined in Chapters 4 and 5 of this Report. It is necessary to repeat some of the relevant facts here.

On 26 April 1988, a group of 10 girls approached Mr Higgins, Principal of Monageer National School complaining that Fr Grennan, the Chaplain and Chairman of the Board of Managers of the school, had touched them under their skirts and inside their clothing. They also complained about Fr Grennan's harsh approach to teaching religion and his preparation for Confirmation. Mr Higgins contacted Childline who advised him to refer the matter to the South Eastern Health Board and gave him the name and contact number of the relevant official, Mr. Joe Smyth.

The following day, Mr Higgins telephoned Mr. Joe Smyth, who asked a social worker, to visit the school. By 12 o'clock on 27 April 1988, Mr Higgins had made available a room in which the social worker met with the girls concerned. This was followed up with another meeting some days later. The social worker interviewed the girls collectively over a two-day period. She told Mr Higgins that she was concerned that there was substance in the allegations. She described to the Inquiry how she called to each individual family and asked the parents to bring the children to the Community Child Centre at Waterford Regional Hospital for the purposes of assessment. The children were interviewed by the Validation Unit Medical Officer, Dr Geraldine Nolan on 4 May 1988.

Dr Nolan, a qualified paediatrician, took up a position with the South Eastern Health Board in 1986. She had studied the problem of child sexual abuse and the means of validating allegations over a period of some seven weeks in both Canada and the UK. She explained to the Inquiry that the purpose of a validation unit was to establish whether an allegation of child sexual abuse was credible. In fact, the facility in the South Eastern Health Board was only in the course of being set up and was not fully commissioned until December 1988. The task undertaken by Dr Nolan was the first of its kind in the Health Board area.

Originally ten girls made complaints but the parents of three of the girls did not give consent for their children to be interviewed by Dr Nolan.

Dr Nolan described to the Inquiry how she spent an entire day interviewing each of the girls individually in order to assess whether their allegations could be validated. Dr Nolan was quite clear that she did not see her role in any way as determining guilt or innocence but as simply establishing that the allegations made by the girls, were on the face of them, credible. She said that the stories were consistent and varied only in minor detail. Dr Nolan's report of 5 May 1988 consisted of a brief summary of the allegations of the children, a conclusion that the allegations were not made for any malicious motive, a finding that Fr Grennan had been abusing the girls particularly over the past year, sexually, emotionally and physically, and a recommendation that the children be protected from further abuse. No individual reports were made in respect of each child although Dr Nolan interviewed each child individually and had individual case notes on each child.

In the course of the validation procedure, evidence of a criminal nature emerged which involved a person other than Fr Grennan but which had implications for child protection. Dr Geraldine Nolan did not include this information in her report but did refer to it in the letter accompanying that report. This information does not appear to have been passed on the Gardai although one of the witnesses to the Inquiry described how she was visited by a detective some months later for a statement on this matter. It is not clear how the information got to the Gardai or whether it was communicated by the Health Board and no record of such a visit appears on Garda files.

Dr Patrick Judge, Director of Community Care of the South Eastern Health Board, spoke with Dr Nolan about the content of her report on the evening of 4 May and called to see Monsignor Breen, Vicar General of the Diocese, who was acting in Bishop Comiskey's absence. Dr Judge informed Monsignor Breen that Fr Grennan was alleged to have sexually abused the girls in Monageer and that he should be immediately removed from the parish. As has already been described at Chapter 5, a misunderstanding arose as to whether Dr Judge alleged a sexual assault involving exposure by Fr Grennan on the altar during Confession or whether what was involved was inappropriate touching.

Monsignor Breen spoke with Fr Grennan who vehemently denied all the allegations. Fr Grennan called to Dr Judge but after an acrimonious meeting, he left.

On 5 May, Dr Judge instructed Mr Higgins that he was never again to release children alone into Fr Grennan's company. When Mr Higgins protested that Fr Grennan was "*his boss*" Dr Judge said; "*well you can't, how will it look if we have a file that thick on him and he reoffends*". This placed Mr Higgins in a difficult position because Fr Grennan, as Chairman of the Board of Management of the National School, was effectively Mr Higgins's employer. Nevertheless, Mr Higgins improvised and created a permission slip which he asked parents of children to sign before he would release them to attend the church or the parish house.

The Inquiry has heard from Bishop Comiskey that he considered Dr Judge to be anti-clerical and to have a personal agenda in his pursuit of Fr Grennan. It is clear that Dr Judge took a personal and active interest in this case at the beginning but there is no evidence that he was involved in any way after the Confirmation ceremony had taken place.

Dr Judge reported the allegations to the Gardai on 5 May. The Gardai took statements from the girls involved and also from the social worker. Informal approaches were made by a member of the Garda Síochána to Fr Grennan, suggesting that he should absent himself from the altar for the Confirmation ceremony. Tension was high in Monageer with the community becoming more and more divided over the issue. Fr Grennan went on a short holiday to Spain in order to diffuse some of the tension in the parish but refused to absent himself from the Confirmation ceremony.

The Inquiry understands that some of the parents were led to believe by Dr Judge that Fr Grennan would not be on the altar for the Confirmation. They were then informed that whilst he would be on the altar, he would be playing a minor role in the ceremony.

Bishop Comiskey had returned to the Diocese some weeks before the Confirmation ceremony, which took place on 21 June, 1988. He informed the Inquiry that he did not believe the allegations of the girls and felt that Fr Grennan should not absent himself from the Confirmation ceremony as to do so would be to imply guilt. He did not speak with any of the Health Board officials nor with any of the girls. He knew of the existence of the Validation report by Dr Geraldine Nolan and knew that it had been given to the Gardai on 5 May but he did not see it until 29 August 1988.

When Fr Grennan entered the church and walked up through the centre aisle accompanied by Bishop Brendan Comiskey and the curate from the neighbouring parish, two parents stood up, signalled to their children and left the ceremony before the entrance hymn was over.

The walk-out was reported in some local papers the following Sunday. After the walk-out at the Confirmation and the subsequent publicity, the Monageer incident appears to have died down.

In her report of 5 May 1988, Dr Geraldine Nolan recommended that the girls receive further counselling and support. The Inquiry asked the South Eastern Health Board whether any such counselling or support had been made available to the girls at the time. The social worker who had originally interviewed the girls explained to the Inquiry that the Health Board simply did not have facilities to offer counselling or support. She said that there were only four social workers serving the whole of Wexford at the time. This meant that each social worker was serving 25,000 people. The resources were not available to offer the children any realistic support after the Monageer incident occurred.

Mr Higgins, the Principal of the school, described to the Inquiry how, immediately after the incident occurred, Fr Grennan did not attend the National School as regularly as he had previously done. However, within a few months, his previous pattern resumed and the incident faded into the background. Mr Higgins contacted his union, INTO, and was assured of their support in the event of any action being taken by Fr Grennan against him. He also reported the matter to an Inspector of the Department of Education. The Department took the view that as no formal complaint was made to it and a Garda investigation had occurred it could take no further action in the matter.

## Monageer 1995

In November 1995, Councillor Garry O'Halloran requested that the Chief Executive Officer of the South Eastern Health Board prepare a Report for the Board on all aspects of the child sexual abuse allegations that arose in Monageer in 1988. Mr John Cooney, Chief Executive Officer, reported that the Medical Officer who interviewed the children concerned at the Validation Unit in Waterford concluded that the allegations were not malicious, that the abuse had taken place and that the children needed protection from further abuse.

Mr. Cooney further reported that two health board staff members brought the matter to the attention of the Gardai and also advised the diocesan authority of the allegations made by the school children. The alleged abuser was advised of the allegations but denied them. The report by Mr Cooney went on to say that the abuse of the girls ceased following the Board's investigation. He said that the children were from good homes and received ongoing support from their families during that time. He said that the social worker also provided support and concluded by saying that if anybody wished to have assistance from the Board at this stage by way of counselling they should make themselves known and assistance would be given.

The report concluded *"we are satisfied that the Board's local staff dealt quickly and competently with the case and not only did they comply with the then recently introduced Department of Health Guidelines on child abuse, but they went beyond them. Our staff is to be complemented on their professional competence on dealing with this sensitive matter, especially in the light of the limited resources available to them in 1988, and the newness of the guidelines and the general levels of awareness of this problem at the time"*.

This report did not advert to the lack of any power on the part of the Health Board to intervene in a case of child sexual abuse arising outside of the family.

Extensive newspaper coverage followed the Health Board investigation and Bishop Comiskey was severely criticised for not responding appropriately to the allegations of sexual abuse. In particular, Bishop Comiskey was accused of allowing his priests to confront the media about the allegations without informing them that the Health Board had investigated the claims in 1988 and found them to be credible.

Fr Grennan died on 9 May 1994, aged 61. The following day a 13 year old local boy (Fergus 4.4.5) took an overdose of medication and was admitted into hospital. On 30 May, the boy disclosed to his mother that Fr Grennan had molested him. On 6 June he spoke about this abuse to a clinical psychologist, who was dealing with his case in the South Eastern Health Board. This psychologist approached Father Paul Andrews S.J. and asked him to contact Bishop Comiskey on her behalf and enclosed a letter from her and from Fergus. As has already been outlined, Bishop Comiskey wrote to Fergus assuring him that his allegations were being taken very seriously and offering to meet him. Fergus' psychologist wrote to Bishop Comiskey in December 1994 to say that Fergus had been greatly relieved by his letter but that he did not think a meeting would be necessary at that point.

## **THE INQUIRY VIEW ON THE SOUTH EASTERN HEALTH BOARD HANDLING OF THE FR GRENNAN CASE:**

- **As has already been pointed out in Chapter 3 of this Report, Health Boards have express statutory powers in dealing with child sexual abuse perpetrated by, or through the negligence of, a parent or guardian. It has no express statutory power of intervention where the abuse is perpetrated by a third party.**
- **The Inquiry appreciates the speed and urgency of the Health Board in dealing with this matter but believes this response must be seen in the context of the legislative powers available to the Board.**
- **The Health Board involvement in the Monageer case raised an expectation on the part of the complainants and Mr Higgins that it would be able to resolve the matter. In fact, the Director of Community Care was not authorised to notify the Diocese. He did not have authority to ask for Fr Grennan's removal from the Confirmation ceremony or from the parish, nor did he have any authority to require Mr Higgins not to release children to Fr Grennan in the future.**
- **Where a number of complainants of any criminal offence are interviewed, such interviews should always be carried out individually and privately in order to avoid contaminating evidence for future court proceedings. In this case, all girls were initially interviewed together in a classroom which might have jeopardised subsequent prosecution.**
- **The Inquiry is satisfied that no follow-up services were offered to the children involved in the Monageer case. The Inquiry is aware of the very limited personnel and financial resources available to the Health Board in 1988 but feels that where an intervention has occurred by the Health Board with serious consequences for the children, priority ought to have been given to minimising the consequences of that intervention.**
- **The Inquiry appreciates that the assessment unit of the Community Child Centre of the South Eastern Health Board was in its early stages of development and that in those circumstances, it provided an effective response for the children at the time. Nevertheless, the Report which attempted to combine all the allegations into a single document was, by today's standards, inadequate. There was however an urgency about the issue given the proximity of the Confirmation ceremony, and the speed with which Dr Nolan dealt with it should be commended.**
- **Had there been a proper formal communication in the form of a liaison between the South Eastern Health Board and Gardai and proper**

monitoring of the situation in Monageer, the Inquiry believes that an effective investigation of this incident would have been more likely and the outcome more satisfactory for all concerned.

- **The Inquiry has not examined the files or records of the Department of Education in this matter but believes that the Department should have been proactive in ensuring that children were protected once a complaint had been communicated to it.**
- **When senior personnel of the South Eastern Health Board investigated the Board's handling of the Monageer incident in 1995 and 1996, there was no reference to the lack of any statutory power to intervene in such cases.**

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**FR JAMES DOYLE.**

**ADAM (4.2.3)**

This case had its origins in an assault on Adam (4.2.3) by Fr James Doyle on 26 April 1990. On 26 June Adam's father spoke to Bishop Comiskey who suggested that he should speak to his General Practitioner so that his GP might refer the matter to the Health Board. As had already been stated, Bishop Comiskey was aware of the 1987 Department of Health Guidelines and knew that they imposed a duty on GPs to report allegations of child sexual abuse to the Health Board. On 27 July 1990, the then senior social worker in Wexford, Mr Joe Smyth, contacted Gardai regarding the assault. He also referred Adam's case to the regional child abuse unit, which, from that point on, played the key role in the day to day management of the case. Two members of that unit, a social worker and a psychologist, interviewed Adam and his parents on 31 July, and interviewed his parents again on 14 August 1990. It is clear from case notes on these visits that the unit was aware of the strain the case was having on the family and on Adam's father in particular.

A case conference was called by the South Eastern Health Board in August 1990; one month after the South Eastern Board was first informed of the allegations. It was attended by personnel from the South Eastern Health Board, the family GP, a representative of the regional child abuse unit and Garda Patricia Whelan. The case conference made a number of decisions including:-

- *That Mr Joe Smyth of the South Eastern Health Board would liaise with Adam's father's GP in order to offer support to him.*
- *That social work support would be offered to the family.*
- *That the community care centre in Waterford would see the family again if so required and offer support during the process as deemed necessary.*
- *That Dr Judge would contact the Garda Superintendent to clarify any intervention in relation to Fr Doyle.*

This case conference was a positive step in that it gave the various organisations and relevant individuals an opportunity to hear and discuss the history of the case. However, no mechanism was set up to convey the results of the implementations of the decisions made at that meeting and neither the victim or his family were consulted or informed of the calling of the conference or what had been decided.

Although concern was expressed at the case conference for Adam's father, there was no discussion on how to help his family after the court case had ended. Neither was there any discussion on the possible implications of Fr Doyle's activities in the area over the previous ten years. Adam had identified another boy to the interviewing social workers whom he believed was also abused by Fr Doyle who, he alleged, touched his private parts some years previously.

The assessment unit in the Community Child Centre in Waterford continued to be in regular contact with the family until the court case. After the trial, the file recorded the case as closed. There was one more contact that year in November and another in January 1991, the last contact seems to have been in July 1991.

An unforeseen consequence of the court case was the identification of Adam by a local newspaper. There was hostility in the area against the newspaper which reported this court case which it was felt had unfairly publicised the allegations against Fr Doyle with consequent damage to the Church. This hostility was extended to Adam and his family. This had very serious consequences for them.

In a letter dated 10 December 1990, Adam's father said that the family were grateful for the help and support given by the regional child abuse unit since the previous July.

#### **THE INQUIRY VIEW ON THE SOUTH EASTERN HEALTH BOARD HANDLING OF THE FR DOYLE CASE:**

- **The Inquiry believes that the South Eastern Health Board acted appropriately in reporting the Doyle case. It immediately referred the allegation to the Gardai and then offered a supporting role to the family in assisting them through the court case.**
- **The Inquiry believes that the case conference called by the South Eastern Health Board and attended by the local GP and the Gardai was an important precedent and afforded the agencies a useful opportunity of exchanging information but believes that communication with the family**

**on matters dealt with at this case conference should have been maintained as far as possible.**

- **The Inquiry believes that the support extended to Adam and his family by the SEHB should have continued after the court case particularly in light of the damaging publicity that ensued.**

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### **FR ALPHA**

In early 1996, Eric (4.3.3), who was 16 years old, told a doctor in Wexford general hospital who was treating him for a medical condition that Fr Alpha had sexually abused him. The doctor wrote to Dr Antoinette Rogers, Director of Community Care for the South Eastern Health Board informing her of this and she informed An Garda Siochana.

Subsequent contact between the South Eastern Health Board and the Gardai concentrated on whether Eric would make a Garda statement. At that time, the Gardai had received an allegation from Edward (4.3.1) which had been made in November 1995, although the South Eastern Health Board were not informed about this allegation. In March 1996, the Gardai interviewed Fr Alpha about both Edward's and Eric's allegations.

In September 1996, Gavin made a statement to the Gardai in which he also made allegations against Fr Alpha.

On 12 March 1996, Dr Rogers informed Bishop Comiskey that child abuse allegations had been made against a curate of a named parish in the Diocese. No information was given about Eric's identity and Dr Rogers informed Bishop Comiskey that the Gardai and the Social Services were looking into the case.

In August 1996, Fr William Cosgrave, the diocesan delegate asked the South Eastern Health Board and the Gardai for help in arranging a meeting with Eric, whose identity was still unknown to him. Ms Geraldine Quigley a social worker with the SEHB acted as a liaison. This meeting took place in January 1997. The main outcome from the South Eastern Health Board perspective was that Eric expressed concern that Fr Alpha might have abused the children of a third party. Dr Rogers stated that it was her duty to make sure as far as possible that such children were not put at risk and when she heard that this fear had been expressed, she asked Bishop Comiskey to act as liaison between the South Eastern Health Board and the third party concerned. Ms. Quigley met the third party in February 1997, and was informed that this person had



no concerns whatsoever for the safety of their children in the presence of Fr Alpha and that they were perfectly safe and happy in his company. The social worker was of the opinion that there was no need for further action. This third party has expressed annoyance to this Inquiry that the family has been implicated in the allegations against Fr Alpha which they believe to be false. However, once the question had been raised, the Health Board could not ignore the potential risk to children and had to investigate the matter.

#### **THE INQUIRY VIEW ON THE SOUTH EASTERN HEALTH BOARD HANDLING OF THE FR ALPHA CASE:**

- **When the Health Board received the allegation from Eric, it immediately informed the Gardai and shortly after the Diocese. However, Eric was not prepared to have his name disclosed to either and the Health Board respected that confidentiality. In this case, the Health Board encouraged Eric to make a statement to the Gardai and meet with the Diocese which he eventually did.**
- **The Gardai did not inform the South Eastern Health Board about these allegations, despite the protocol agreed in 1995 between the Gardai and the Health Board, which required cooperation and an exchange of information between the two agencies. Where such an exchange of information might result in the compromising of the criminal investigating, it would be appropriate for the Gardai to withhold relevant information from the Health Board. Such a withholding of information should never result in an increased risk to children in the community. The Inquiry understands that there is increasing awareness on the part of the Gardai of the need for child protection implications in any investigation to be taken into account.**
- **A question arises as to whether the Health Board acted appropriately in informing the Diocese of the allegations of child abuse against Fr Alpha, without informing Fr Alpha of its intention to do so. This is yet another example of the difficulties faced by the Health Boards in fulfilling a duty imposed by statute without any clear legislative guidelines to assist it.**
- **The Inquiry believes that it is in the interests of encouraging reporting of child sexual abuse that persons who report abuse to Health Boards ought not have their name passed on to other agencies without their consent. Whilst obviously, complete confidentiality cannot be guaranteed, the Health Board should encourage victims themselves to report the allegations of abuse to the Gardai. Where a report is made without the consent of the complainant, that complainant is not obliged to cooperate with the Gardai and indeed may be discouraged from so doing by a perceived breach of faith on the part of the Health Board. The allegation should however be reported to the Gardai with the name of the alleged perpetrator where that perpetrator may be in a position to abuse other children.**

- **The Diocese has expressed itself frustrated at its inability to proceed canonically against this priest in the absence of an identified complainant at the time when the complaint was initially made to the Health Board. Bishop Walsh has expressed the view that he would like to be able to get more information from the Garda and Health Board Authorities for the purposes of canonical procedures. The Inquiry believes that the Inter-Agency Review Committee established by Bishop Eamonn Walsh would have been a particularly useful device in this case where information could have been exchanged on a confidential basis and each party would have been given an indication of what was happening in the matter. Under the Child Care Act 1991, the Health Board is given quite a wide remit for the protection of children in the community. Dr Rogers believed that she had an obligation to follow up on concerns expressed by Eric for the safety of the children of a third party. The Inquiry believes that the obligations imposed by Section 3 of the 1991 Act are a matter for the Oireachtas and in the absence of any clear legislative guidelines as to how the obligations imposed by Section 3 are to be achieved, the Inquiry was unable to express a view on the matter.**

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### **MONSIGNOR MICHAEL LEDWITH**

Raymond (4.6.2) met with Bishop Comiskey on April 1994, and informed him that he had been sexually abused by Monsignor Ledwith during the early 1980s in his family home and also at Monsignor Ledwith's house. Raymond stated that he was aged 13 to 15 years at the time of the alleged abuse although the records from the three bodies examined by this Inquiry do not concur on the dates when this alleged abuse is said to have commenced and concluded.

Bishop Comiskey arranged for Raymond to be interviewed by two diocesan priests and they informed him that they were satisfied that Raymond's allegation was capable of being true. Bishop Comiskey met Raymond and he confirmed to this Inquiry that he was impressed by the young man and that he too found his complaint to be credible.

On 23 December 1994, Bishop Comiskey informed Dr Antoinette Rogers who was Acting Director of Community Care in the South Eastern Health Board, that this allegation had been made. He did not give Dr Rogers the name of the complainant because he had guaranteed confidentiality to him but he did inform her of the identity of Monsignor Ledwith.

In January 1995, Dr Rogers wrote to Chief Superintendent Murphy in Wexford to notify him of the allegations. She also communicated with the Mid Western Health

Board because the complainant was residing in that Health Board's region. Neither the Health Board nor the Gardai were aware of the identity of the complainant as he, and his family, were quite adamant that they would not speak with Gardai and would not co-operate if approached. The family were fearful of the publicity that would undoubtedly attach to the prosecution of a man in the position of Monsignor Ledwith. The Mid-Western Health Board requested identifying information from Bishop Comiskey who provided it by giving the name of Raymond's solicitor.

Coincidentally, the solicitor acting for the family of the complainant asked Mr Gerard Crowley, Child Care Development Officer with the Mid Western Health Board, to meet with a family that he was acting for. The family spoke of child sexual abuse by Monsignor Ledwith. Mr Crowley realised that this was the same allegation that had been communicated by the South Eastern Health Board some months earlier. Subsequently, Bishop Comiskey referred the Mid-Western Health Board to this same solicitor.

The Mid Western Health Board offered counselling and support to the family but the family and the complainant, who was by this stage a young adult, were adamant that they would not cooperate with any Garda investigation and would deny the allegations if approached by the Gardai. Mr Gerard Crowley communicated all information other than the identity of the young man to An Garda Síochána and was requested to make a statement to the Gardai confirming that the young man or his family would not make a complaint to them. According to Mr Crowley, the Gardai discovered the name of the complainant through other means and therefore the necessity of informing the Gardai of his identity did not arise.

In November 1995, the Mid Western Health Board informed the Eastern Health Board in whose region Maynooth College is situated, that this allegation had been made against Monsignor Ledwith. At a meeting of the three relevant Health Boards in February 1996, a decision was made that the hierarchy should be contacted to establish Monsignor Ledwith's whereabouts and that the Department of Education should be informed of the allegation. Accordingly, in April 1996, a letter was written to the Secretary of the Department of Education informing the Department that an allegation of sexual abuse had been made against Monsignor Michael Ledwith, former President of Maynooth College. The letter stated "*...The Eastern Health Board is concerned that no-one in respect of whom such allegations have been made, and are still under investigation or consideration, should be in direct contact with children or young or vulnerable persons.*

*"In the circumstances there is no direct action that the Eastern Health Board can take. It is nonetheless of the view, that the Department of Education and the Board of Management or Board of Governors of Maynooth College should be advised so that no young persons are exposed to potential risk. It is to obviate this danger that the Eastern Health Board's concerns are being made known to you."*

In November 1995, the Mid Western Health Board informed the Eastern Health Board in whose region Maynooth College is situated, that this allegation had been made against Monsignor Ledwith.

As recommended by the Department of Education, the Eastern Health Board wrote to Monsignor Matthew O'Donnell and Dr William J. Smyth in Maynooth who were in charge of the pontifical and the national universities respectively and expressed the concern of the Eastern Health Board that Monsignor Ledwith should not be in direct contact with children or young or vulnerable persons. Monsignor Ledwith was not contacted prior to this letter being sent.

The Inquiry is aware that Monsignor Ledwith was on sabbatical in the United States during this period and that the Bishop of Seattle and the authorities in Seattle had been informed by Bishop Comiskey of the allegations against him.

The Trustees of Maynooth College commenced proceedings against Monsignor Ledwith under the "Statutes of Maynooth" and these culminated in Monsignor Ledwith agreeing to retire from his teaching position in Maynooth.

Raymond and his family did not make a complaint to the Gardai but received private counselling paid for by the Diocese of Ferns. Raymond reached a financial settlement with Monsignor Ledwith in respect of civil proceedings commenced by him. A confidentiality clause was a condition of this settlement.

The Mid Western Health Board was concerned with regard to other members of Raymond's family but no complaint was made in respect of them and therefore the Health Board was not in a position to offer any assistance to them.

#### **THE INQUIRY VIEW ON THE HEALTH BOARD HANDLING OF THE MONSIGNOR LEDWITH CASE:**

- **Bishop Comiskey did not reveal the identity of the complainant to the SEHB but did inform them of Health Board area in which he resided. Accordingly, Dr Rogers (acting DCC) informed that Board of the allegation. The Inquiry believes that confidentiality should be maintained as far as possible in dealing with complainants although it would recognise that the paramountcy of child protection may not always allow that to happen.**
- **An issue arises as to whether the Health Board was correct in informing the authorities in Maynooth without first communicating with Monsignor Ledwith whose address in the United States was readily available. This fell short of compliance with the judgement of Barr J.<sup>55</sup> and illustrates once again the difficulty of attempting to exercise powers which are inferred from general provisions and not expressly granted.**

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<sup>55</sup> MQ .v. Robert Gleeson & Ors. [1997] IEHE 26

## **FR OMEGA**

On 20 October 1994, a teacher reported concerns to the local public health nurse about a 14 year old boy who was not attending school, was unsupervised, isolated and who had been befriended by the local curate, Fr Omega. The public health nurse made a child abuse notification regarding the boy. The Director of Community Care (DCC) for the South Eastern Health Board discussed the matter with the Principal of a school where the priest had previously worked and from where he had apparently left "*under a cloud*". The Principal told the DCC that Fr Omega had shown inappropriate diagrams to children in the course of sex education classes and that the Principal had spoken to Bishop Comiskey at the time (mid 1980s). Bishop Comiskey transferred Fr Omega out of the school and it is believed, referred him to a psychiatrist.

In November 1994, the Health Board informed the Gardai about the concern that had been expressed to them but stressed that they had no evidence against Fr Omega. The Gardai arranged for the mother of the boy to be interviewed by a member of An Garda Síochána. The mother made no complaint and seemed perfectly satisfied about the relationship between her son and the curate. The Gardai decided that they would monitor the situation for the time being.

Bishop Comiskey also spoke with Mr Joe Smyth, the senior social worker with the Health Board, in December 1994, in relation to this case. At that time, Bishop Comiskey undertook to speak to Fr Omega, and when asked whether he had done this, Bishop Comiskey confirmed that he had.

In October 1995, this case came up for routine review by the South Eastern Health Board and a letter was written to the Gardai asking whether there was any further action that should be taken. The Gardai informed the Health Board that no complaint was forthcoming and that the mother of the boy in question was absolutely satisfied that nothing untoward had occurred or was occurring between her son and the priest. The matter rested there.

### **THE INQUIRY'S VIEW ON THE SOUTH EASTERN HEALTH BOARD HANDLING OF THE FR OMEGA CASE :**

- **The Fr Omega case which occurred in 1994, illustrates a willingness on the part of the South Eastern Health Board to consider seriously, allegations or concerns expressed by third parties. The Health Board referred the matter to the Gardai and facilitated them in interviewing the mother and child in question. The Health Board did not themselves attempt any formal investigation other than to elicit some background information from a former employer.**
- **The Inquiry believes that the Health Board acted correctly in this matter.**

## **FR UPSILON**

An allegation by Denis (4.17.1) came to the attention of a Dublin social worker in July 1998. This allegation was immediately communicated to the South Eastern Health Board, since Fr Upsilon resided within its area. Denis alleged that he had been abused by Fr Upsilon approximately twenty years previously. He was a young man in his late twenties at the time of making the complaint. The South Eastern Health Board notified Gardai in Wexford of the complaint citing the names of both the accused and accuser. It did not notify the Church Authorities at any time. Five weeks later, the South Eastern Health Board was informed by An Garda Síochána that Denis had withdrawn the complaint and did not want any investigation into the matter.

As far as the Health Board was concerned, the allegations made by Denis were completely withdrawn and in its view no further action could be taken.

## **THE INQUIRY'S VIEW OF THE SOUTH EASTERN HEALTH BOARD HANDLING OF THE FR UPSILON CASE:**

- **The allegation made by Denis was handled appropriately by the Health Board in notifying Gardai and providing counselling to the complainant. However, the withdrawal of an allegation by a complainant, particularly in circumstances where the complaint as originally made was not stated to be false, does not necessarily preclude further action being taken by the employer of the alleged abuser where that employee's job brings him into unsupervised contact with children.**

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## **BISHOP BRENDAN COMISKEY**

In August 1990 in the course of an investigation of another matter, the South Eastern Health Board became aware of an allegation of inappropriate behaviour which was made against Bishop Comiskey by the parents of a girl who was over 16 at the time of the alleged incident. The South Eastern Health Board did not report the incident to the Gardai or to Church Authorities as the complainant was over 16 at the time and she was adamant that the matter should not be mentioned to any Authority. The complainant likewise, did not pursue the complaint with the Gardai or the Church Authorities. The Inquiry was concerned that either such behaviour itself or the existence of an allegation of such behaviour against a Bishop would influence his

ability to deal effectively with a problem of sexual abuse when it was brought to his attention in relation to other priests.

Bishop Comiskey has no recollection of any such incident occurring and denies the allegation.

He also stated that he was not influenced in his handling of allegations of child sexual abuse by the existence of this complaint as he had no knowledge that this complaint had been made to anyone until after his resignation in 2002.

The Inquiry contacted the mother of the young woman involved who said that Bishop Eamonn Walsh became aware of this allegation early in 2004. He called to see her daughter and urged her to make a statement to Fr Dennis Brennan, Diocesan Delegate, which she did. Fr Brennan also interviewed Bishop Comiskey and all persons who were present when the incident was alleged to have occurred.

Bishop Walsh reported the matter to the Metropolitan for the Diocese of Ferns, Archbishop Desmond Connell. Consequently, a report on the matter was presented to the Holy See as prepared by Monsignor Dolan, Chancellor of the Archdiocese of Dublin, at the request of Archbishop Desmond Connell on the advice of the Papal Nuncio. Bishop Comiskey was not interviewed during the preparation of this report. The report concluded that a delict had not been committed as regards the behaviour alleged but the fact that under the influence of alcohol Bishop Comiskey was alleged to have acted in such a manner was something that needed to be addressed to ensure that no repetition of such behaviour could take place.

The Inquiry has been informed by Bishop Comiskey that although he agreed to step aside from active ministry when this allegation was first made known to the Church authorities, he is now returned to ministry by the Congregation of Bishops. Bishop Comiskey has agreed to refrain from high-profile acts of Episcopal ministry.

## **GARDA SÍOCHÁNA HANDLING OF ALLEGATIONS OF ABUSE**

In this Chapter, we look at the specific Garda response in all cases of child sexual abuse identified by the Inquiry as relevant to its Terms of Reference.

By letter dated 7 November 2003, Chief Superintendent David Roche wrote to the Inquiry confirming that the Garda Commissioner had appointed Superintendent Kieran Kenny, Crime Policy and Administration, Garda Headquarters, to act as Liaison Officer with the Inquiry and the Inquiry is most appreciative of the assistance provided to it by him throughout the course of its operation.

The Inquiry has 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 Gardai in respect of seven priests living at the date when the complaint was made. In one case, the Gardai recommended no prosecution should be instituted. In the remaining six cases, a prosecution was recommended. In only 3 cases did the DPP institute criminal proceedings. In two cases, convictions were secured and in the third case, proceedings were discontinued after the accused committed suicide.

### **FR JAMES DOYLE**

Two complaints of child sexual abuse concerning this priest were made known to An Garda Síochána in 1980/1981. A further complaint made known to An Garda Síochána in 1990 resulted in Fr Doyle's conviction within a period of four months from the date of notification.

A Superintendent (now retired) confirmed that a complaint concerning Fr Doyle initially came to his attention from one of his detectives at Wexford Garda Station to the effect that the detective had received confidential information that Fr Doyle had interfered with children and altar servers in the area. He was not aware of the names of any alleged victims. The Superintendent told the detective that it would be necessary to have information from an injured party or other facts to secure a warrant for Fr Doyle's arrest. He understands that the detective pursued inquiries and involved other Gardai who were residing in the Clonard area, particularly those who had school-going children or children who acted as altar servers.



The Superintendent later learned of an incident involving Fr Doyle through a conversation with a colleague at Gorey station. The incident concerned a youth whom he believed to be approximately 17 or 18 years of age. The youth was hitchhiking to Dublin when he either entered Fr Doyle's car or refused to do so whereupon some form of inappropriate advance was made to him. The Superintendent was contacted by his colleague at Gorey and asked if he knew Fr Doyle. The Superintendent told his colleague whatever information he had about Fr Doyle and in particular that he knew of rumours surrounding Fr Doyle in relation to altar servers.

The Superintendent made it clear to this Inquiry that nobody would make a formal complaint and that the rumours emanated from people who would not provide details such as the names of alleged victims. He had instructed his investigating officers that they would need to obtain a formal statement from a victim in order to arrest Fr Doyle but no statements were forthcoming.

At this time, the Superintendent was contacted by Bishop Herlihy in relation to an unrelated matter and in the course of discussions with the Bishop, he mentioned the rumours surrounding Fr Doyle. The Superintendent stated that the Bishop gave him the impression that he was aware of these problems. The Superintendent also discussed the matter with the then parish priest of Clonard. He believes that the parish priest advised him that Fr Doyle had been sent or was being sent for treatment. These discussions took place in or about 1980/81.

In October 1982, Fr Doyle was sent to Professor Feichin O Doherty for psychological assessment.

The Superintendent was in contact with Bishop Herlihy over different matters on various occasions. He had no other dealing with Bishop Herlihy in relation to child sex abuse allegations and he never met with Bishop Comiskey. He left Wexford in 1983. He maintained a record of all incidents in his official journal and believes that the detective whom he instructed to investigate had done likewise. His notes were retained by him for a period of ten years following his retirement in 1987 but have now been destroyed.

The Inquiry spoke with a priest of the Diocese who confirmed he was approached by a Sergeant (now deceased and then based at Gorey station) in or about 1979 or 1980 in relation to a similarly described incident involving a complaint by a youth (described as being a member of the army) of sexual abuse or attempted sexual abuse by Fr Doyle when hitch hiking from Gorey to Dublin. This priest has told the Inquiry that he believed that the matter was being dealt with by An Garda Síochána at the time.

An incident involving abuse against Adam (4.2.3) occurred in 1990.

Garda Patricia O'Gorman was contacted on 27 July 1990 by Mr Joe Smyth, senior social worker in the Wexford area of the SEHB. A complaint of Indecent Assault had been made in respect of Fr James Doyle concerning Adam. Details were taken from Mr Smyth, Adam and his father by Garda O'Gorman, two days later. Fr Doyle was interviewed on the same day but did not make a statement and said he did not remember the incident although he did not deny the allegations when put to him.

Garda O’Gorman then interviewed the victim’s family and took statements from them.

In her report to the Sergeant in Charge at Wexford station, Garda O’Gorman stated that rumour and innuendo had surrounded this priest for the previous ten years. She commented that Bishop Herlihy had been made aware of the matter and it was arranged for Fr Doyle to receive psychiatric attention at that time. Garda O’Gorman recommended charges for a common assault on Adam.

The file was promptly sent to the State Solicitor who referred the matter to the DPP. The DPP directed that Fr Doyle should be prosecuted for indecent assault contrary to Section 62 of the Offences against the Person Act 1881 and for common assault. The Chief Superintendent and Garda Commissioner were duly informed.

Fr Doyle pleaded guilty to both charges at the trial of this matter in 1990 and was convicted of indecent assault and common assault and received a three month suspended sentence. The suspension arose from an undertaking given by Fr Doyle to the court that he would stay outside of the jurisdiction. Fr Doyle had been sent to Stroud in England, which was a treatment centre for priests by Bishop Comiskey some months before the trial date. The Garda Commissioner and the Department of Justice were informed of the outcome of the trial.

Shortly after the trial, the Superintendent contacted the Chief State Solicitor in relation to two newspaper reports on the outcome of the court proceedings which included photographs of Fr Doyle. The Superintendent sought instructions on whether the reports could be in contempt of court. The DPP directed that no action should be taken in relation to the matter.

The Inquiry is aware that two complaints were made to An Garda Síochána by Barry and his brother (4.2.4) in 2003. A file is currently being prepared for the Director of Public Prosecutions in respect of these complaints.

#### **THE INQUIRY VIEW ON THE GARDA HANDLING OF THE FR DOYLE CASE:**

- **The Inquiry is concerned that no record of any nature appears on Garda files in relation to Fr Doyle prior to 1990, in circumstances where at least three members of An Garda Síochána were aware of complaints of child sexual abuse made against him by young men and boys. The Inquiry was informed that a Superintendent and Detective Garda had kept proper notes in their official journals but these notes do not appear to have been maintained or readily accessible by Gardai in Wexford. The Inquiry was also advised that the information noted by the Superintendent was passed on as required by investigating Gardai to other Gardai living in the Clonard area. The Inquiry was told by the Superintendent that a record of such information was not kept at the Garda station in order to safeguard the constitutional rights of the suspected person. In the overriding interests of child protection, the Inquiry believes it is essential to maintain a record of all complaints, allegations and clear suspicion surrounding child sexual abuse and that these records should be available**

**under proper conditions to members of the Gardai who are conducting investigations.**

- **The Superintendent who spoke with the Inquiry believes that the practice of the Gardai in the 1980s would have involved monitoring of suspected offenders. Unfortunately, no Garda records evidencing such a response appear on files furnished to the Inquiry.**
- **In the view of the Inquiry, the handling by Gardai of the complaint by Adam was entirely appropriate.**

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### **FR DONAL COLLINS**

**21 November 1994 – 22 November 1996**

There is evidence that Church authorities in Ferns had known since 1966 of the sexual abuse of students at St Peter's College by Fr Collins. However, the first record of a complaint made or information provided to An Garda Síochána about this priest's sexual abuse of children was Rory's complaint (4.1.4), to the Superintendent at Wexford Station by letter dated 21 November 1994.

Detective Garda Pat Geoghegan took a statement from Rory on 11 December 1994 in relation to this complaint which was passed up the line to the Garda Commissioner in January 1995. Statements were also taken from Monsignor Breen and Bishop Comiskey. Monsignor Breen told Gardai that he found this complaint credible. In his statement, Bishop Comiskey said that he had no knowledge of Fr Collins's alleged abuse prior to Rory's complaint in 1994. In fact, Fr Collins had admitted to engaging in inappropriate conduct with young boys including Rory, in 1991 and again in 1993. Bishop Comiskey has told this Inquiry that he has no memory of making this statement to Gardai. Fr Collins refused to make a statement to Gardai.

On 19 April 1995, Edmund (4.1.7) made a statement to Garda Geoghegan in relation to sexual abuse by Fr Collins whilst at St. Peter's. Again, no statement was made by Fr Collins in relation to this complaint and Fr Collins refused to sign any notes taken by the investigating Gardai.

Sergeant Willie Walsh recommended to Superintendent Smyth that one charge be brought of indecent assault for each school quarter from 1975-1979 in relation to

Rory. With regard to Edmund, Sergeant Walsh recommended one charge of indecent assault for each school quarter from 1976-1979 together with a charge of indecent assault at a guesthouse in January 1978 and a charge of attempted buggery at St. Peter's between January and June 1979. The Assistant Commissioner was duly notified.

On 21 October 1995, Dylan (4.1.6) made a statement to Garda Pat Mulcahy in respect of Fr Collins.

On the 7 November 1995, the South Eastern Health Board sent Superintendent Kehoe of Wexford Station details of a complaint made by Darren (4.1.9) which had been received from the Diocesan Secretary on 25 September 1995. In his complaint, the abuser was not named but it appears that Fr Collins was identified. Fr Collins again denied the allegations and made no statement.

Detective Sergeant Walsh was instructed by Superintendent Keogh on 17 November to comply with all aspects of the DPP's directions, and attend to the matter "*as a first priority*". Detective Walsh reported to the Superintendent at Wexford on that date in relation to the three additional complainants, Dylan, Conor and Darren. He recommended prosecutions in respect of each complaint.

#### **22 November 1995 – 23 April 1996**

A warrant was issued to arrest Fr Collins on 22 November 1995 (one year after the initial letter of complaint by Rory to An Garda Síochána).

Fr Collins was charged and remanded on bail by Wexford District Court in December 1995. A Book of Evidence was prepared and the matter was adjourned to March 1996.

On 1 March 1996, the DPP wrote to the State Solicitor with directions on charges in respect of Conor and Darren and recommended that these be brought before the court on 6 March, when the case was adjourned to 3 April for submissions.

Richard (4.1.10) made a statement to a Garda at Enniscorthy Garda Station on 4 April in respect of sexual abuse by Fr Collins. This complaint was considered by the Gardai to be similar in nature to the complaint of Derek (4.1.8) which had been considered by the DPP in February and was not proceeded with on the DPP's directions, and not forwarded to the State Solicitor.

The criminal trial of Fr Collins was adjourned to November 1996.

#### **Judicial Review Process 20 May 1996 – 31 October 1997**

The Judicial Review proceedings came before the High Court on 14 occasions. The application was heard on 16 October 1997 and judgment was delivered on 31 October 1997, by Mr Justice Hugh Geoghegan who refused Fr Collins's application.

The reason for the delay in hearing the Judicial Review proceedings was the necessity on the part of the DPP of obtaining expert evidence to justify the apparent delay of the victims in reporting the abuse.

### **31 October 1997 – 25 March 1998**

The criminal proceedings came before Wexford Circuit Court on 25 March 1998, when Fr Collins pleaded guilty to four charges of Indecent Assault and one charge of Gross Indecency. Evidence was heard from a psychologist who had been treating Fr Collins for four years, indicating that there was little chance of Fr Collins re-offending as he had accepted the reality of his behaviour. Fr Collins was sentenced to four years imprisonment on each charge, to run concurrently. The Judge, in passing sentence, said that she had been influenced by the effect of Fr Collins's actions on the lives of his victims. However, she indicated that she would review the position in one year due to Fr Collins's ill-health. Fr Collins was released from prison one year later.

### **23 July 1998 – 8 January 2003**

A further complaint was notified to the Chief Superintendent of Wexford on 23 July 2002, in respect of Sam (4.1.1) by Fr Denis Brennan, the diocesan delegate. A statement was obtained from Sam by Garda Pat Mulcahy on 19 August 2002 and Fr Collins was interviewed in respect of this complaint but made no comment. The Gardai recommended seven counts of indecent assault in relation to Sam but the DPP directed that proceedings should not be taken because of difficulties which might arise in relation to judicial review proceedings.

The DPP believed that if Fr Collins had been prosecuted in relation to Sam at the same time as the previous offences brought before the court in 1998, it was unlikely that his sentence upon conviction would have been any greater than the sentence received. To wait until after the sentence was completed could be seen as prejudicing the suspect.

A further complaint was made known to An Garda Síochána in respect of this priest on 14 April 2003. However, a statement has not yet been made by this complainant.

### **THE INQUIRY VIEW ON THE GARDA HANDLING OF THE FR COLLINS CASE:**

**The Inquiry is satisfied that the investigation by An Garda Síochána was conducted in an appropriate and efficient manner and that the delay caused by the Judicial Review proceedings is not attributable to them.**

## **FR SEAN FORTUNE**

**9 February 1995 – 1 November 1995**

On 27 February 1995, Frank (4.5.12) made a formal complaint to Garda Patrick Mulcahy of Wexford station of child sexual abuse against Fr Fortune. This initiated a Garda investigation. Garda Mulcahy contacted former employees of Fr Fortune and other persons who could verify seeing Frank at Fr Fortune's house.

Garda Mulcahy informed his Superintendent of the complaint and a team was established to investigate the allegation consisting of Superintendent N. Smyth with Sergeant Quigley, Sergeant Walsh and Garda Mulcahy. As the investigations concerned the Garda district of New Ross, the Chief Superintendent of that district was informed of them.

These officers together with the Chief Superintendent of New Ross were the only persons privy to all of the information being compiled. Garda Mulcahy confirmed that there were weekly meetings with all four officers present as the case developed. Garda Mulcahy told the Inquiry that during the course of his investigation, he was told by the housekeeper's daughter that many boys were seen coming and going every weekend from Fr Fortune's house. He stated that once the investigation started "*it just mushroomed*" and he described it as "*a blister ready to burst*". He confirmed that he did not "*cold-call*" any person but merely reacted to complainants coming forward to him.

Garda Mulcahy commented upon Bishop Comiskey's co-operation with the investigation. He made contact with Bishop Comiskey on three occasions and on each occasion Bishop Comiskey declined to make a statement. He stated that Bishop Comiskey told him "*I spoke to your superiors the night before and I am making no statement.*" Bishop Comiskey has confirmed to the Inquiry that he was in contact with a senior Garda officer at that time. No statement was made by Bishop Comiskey in the course of this investigation. Bishop Comiskey has said that he was not asked for a statement and therefore did not give one. The Gardai have said that attempts to contact Bishop Comiskey with a view to taking a statement from him were unsuccessful.

In February 1996 upon his return to the Diocese almost a year into the Garda investigation, Bishop Comiskey offered the Gardai full access to all diocesan files on this priest although this had not been requested by the Gardai. By this time Fr Fortune had been arraigned on 66 charges before Wexford District Court and a Book of Evidence had been served on him. The Gardai did not require an examination of the diocesan files to be conducted at that time.

Three cases had been reported to Bishop Comiskey prior to Frank's complaint in 1995 namely, Simon (4.5.9) in 1985, William (4.5.10) in 1988 and Mark (4.5.14) in 1990. None of these complaints were communicated to An Garda Síochána until Frank had made his complaint in 1995.

During the course of his investigation, Garda Mulcahy received phone calls on an almost daily basis from Fr Fortune in relation to general progress being made with regard to these complaints. At all times, Fr Fortune denied the allegations describing them as "*a conspiracy of lies*".

Ten additional Garda statements were procured from victims of abuse by Fr Fortune. The statements that had been made related to a period of abuse between 1979 and 1987. Fr Fortune was arrested by Garda Mulcahy at 9.05 a.m. on 31 March 1995 and released at 5.40 p.m. on the same day.

Garda Mulcahy compiled a report following his investigation of all complaints which was sent to Superintendent James Kehoe of Wexford Division on 27 June 1995. Superintendent Kehoe sent Garda Mulcahy's report to Mr J. McEvoy, State Solicitor, on that date, seeking a direction from the DPP. The Commissioner was informed of this report on 24 July.

On the then Assistant Commissioner, Noel Conroy's recommendation, the complaint by Charles (4.5.6) was referred to the RUC as the abuse was alleged to have occurred in Belfast. A similar decision was made by the DPP in relation to Luke (4.5.20).

The State Solicitor wrote to the DPP enclosing Garda Mulcahy's report on 1 August 1995 (5 weeks after his receipt of the report). The DPP directed prosecution in relation to eight complainants and directed that further information be obtained. These directions were received by the Superintendent at Wexford Division on 27 October 1995.

#### **1 November 1995 – 11 November 1996**

An arrest warrant was eventually issued in respect of twenty two charges on 1 November 1995, as directed by the DPP. Owing to Fr Fortune's unexplained absence, the warrant could not be executed until 15 November 1995, when Sean Fortune surrendered himself at Wexford Garda Station.

Fr Fortune appeared before Wexford District Court on 15 November 1995 arraigned on 22 sexual abuse charges. Detective Garda Mulcahy gave evidence on oath of arrest, charge and caution and told the court that he had arrested Fr Fortune that morning on foot of the warrant. Garda Mulcahy told the court that his application was for an adjournment to 6 December. Fr Fortune was remanded on bail and his passport was handed into Court. On 6 December, Fr Fortune appeared again at Wexford District Court when he was remanded on continuing bail to the same court on 18 January 1996.

On 18 January 1996, forty four additional charges were served against Fr Fortune, and on 22 January, a complete Book of Evidence was served on him.

The case was adjourned on several occasions until 23 September 1996, when the case was sent forward for trial to Wexford Circuit Court. During this period, the Assistant Commissioner and Commissioner were notified of all developments.

#### **Judicial Review Process - 11 November 1996 – 17 December 1997**

On 11 November 1996, Fr Fortune was granted leave by Mr Justice Geoghegan to apply for Judicial Review for the prohibition of his criminal trial. The criminal proceedings were adjourned accordingly pending the outcome of this Judicial Review.

As part of the Judicial Review process, reports were prepared by Mr. Alex Carroll, Senior Clinical Psychologist, in relation to eight of the complainants, with a view to providing his expert opinion as to the reasons why these complainants failed to make a complaint at the time when the incidents of abuse were taking place. These complainants were assessed from 27 December 1996 until 14 February 1997. An affidavit was prepared by Mr. Carroll and filed and served on behalf of the DPP in March 1997.

The Judicial Review hearing was initially listed before the High Court for 14 April, 1997, and was thereafter adjourned until 13 May in order to allow the DPP deliver further affidavits. In all, the DPP delivered twelve affidavits including seven by individual complainants, four by investigating Gardai, and one by the expert psychologist. The Judicial Review hearing occurred on 2 and 3 December 1997, at which time judgement was reserved.

On 17 December 1997, Mr. Justice Geoghegan in the High Court delivered a judgment refusing all reliefs claimed on behalf of Fr Fortune other than in respect of William's complaint (4.5 10) where an order of prohibition was granted.

#### **17 December 1997 – 12 January 1999**

A Notice of Appeal to the Supreme Court was filed and served on 28 January 1998, by solicitors on behalf of Sean Fortune. The DPP cross-appealed against that part of the High Court Order of 17 December 1997, which restrained him from proceeding with regard to the complaint of William. The appeal was withdrawn by Fr Fortune in November 1998. The cross appeal in respect of William was heard on 12 January 1999, and the Supreme Court allowed this prosecution proceed. The Chief Justice indicated that the Supreme Court would give its reasons at a later stage but directed that the criminal proceedings should continue in the meantime. The Supreme Court gave its reasons on 30 June 1999.

#### **12 January 1999 – 23 March 1999**

A special sitting of Wexford Circuit Court was arranged for 2 March 1999 where, after hearing submissions from both sides, Judge Joseph Matthews decided that the issue of Fr Fortune's mental health and his fitness to stand trial should be decided by a jury. Fr Fortune was remanded in custody.



On 5 March 1999, Fr Fortune formally applied for and obtained bail at the High Court.

Fr Fortune took his own life on 13 March 1999, and on 23 March 1999, the criminal case against Fr Fortune was struck out at Wexford Circuit Court.

Sergeant Brendan Kelly compiled a report on Fr Fortune's suicide (including reports obtained from the coroner and toxicology labs) for the Superintendent in New Ross on 6 August 1999. A copy of the report was passed to the Assistant Commissioner and Department of Justice, Equality and Law Reform. The Garda investigation into Fr Fortune's suicide has already been dealt with at Chapter 5 of this Report.

#### **THE INQUIRY VIEW ON THE GARDA HANDLING OF THE FR FORTUNE CASE:**

- **The Inquiry believes this case was handled in a professional and effective manner at all stages. This was repeatedly acknowledged to the Inquiry by various complainants and other witnesses. Garda Mulcahy was particularly praised for his part in the investigation.**
- **The Inquiry believes that the successful handling of the Fr Fortune case was facilitated by a number of complainants who were prepared to make clear statements to the investigating Garda and to co-operate fully with the criminal prosecution.**
- **Again, the Inquiry recognises that an application for Prohibition by way of Judicial Review proceedings by an accused may cause significant and often unavoidable delay.**
- **The Inquiry is concerned at the level of cooperation extended to the Gardai at the initial stages of their investigation by Bishop Comiskey. Bishop Comiskey did not make a statement to the investigating Garda although he has stated that he was in communication with senior Gardai at the time. He did not volunteer diocesan files relating to Fr Fortune to Gardai which would have facilitated the investigation until a year after the investigation had commenced by which time they were not required by the Gardai. The Inquiry is aware that Bishop Comiskey was out of the country from September 1995 until February 1996.**

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## **FR JAMES GRENNAN**

This case represents the first recorded allegation of child sexual abuse by a member of the diocesan clergy dealt with by An Garda Síochána. The case was comprehensively reviewed by An Garda Síochána in 1996. It must be viewed in the context of the time, in which the original complaints arose in May 1988.

### **(i) 1988**

Garda Donal Behan was living in Monageer in 1988 when former Superintendent Vincent Smith gave him a copy of the report of Dr Geraldine Nolan dated 5 May 1988. He told the Inquiry that Superintendent Smith instructed him to speak with the girls identified in the report. Garda Behan interviewed the seven girls in the presence of their parents and took statements from them. He was assisted by Garda James Sheridan and Sergeant Jim Reynolds.

Sergeant Reynolds recalled Superintendent Smith instructing him to deliver immediately to Superintendent Smith, the statements which had been taken. Sergeant Reynolds told him that the statements were not yet typed or copied and that he had no covering report prepared. However, he was instructed to hand over the files notwithstanding this and accordingly he handed the statements to Garda Behan and directed him to take the statements to Superintendent Smith and could not, as a result, retain any copies. He had no further input into the case after this point.

Garda Behan has stated that he believes that the matter should have been fully investigated and the statements sent to the law officers for a direction as he thought that the matters complained of were of a criminal nature.

Garda Behan told the Inquiry that Superintendent Smith later informed him that he had discussed the matter with Chief Superintendent Doyle. Garda Behan stated; *"I concluded at the time that it was just quashed and that was it"*. Garda Behan confirmed that he never met with any member of the South Eastern Health Board or the Diocese.

Superintendent Smith recalled a man from the South Eastern Health Board, believed to be Dr Patrick Judge who was Director of Community Care at the time, calling to his office in relation to complaints about Fr Grennan in May 1988. He recalled visiting the parents of some of the children who made complaints. He stated that some of these people were anxious not to have any investigations carried out for fear that it would upset the children. He then recalled former Chief Superintendent Doyle enquiring about the investigation and requesting to see the statements. On foot of this request he contacted the Garda station in Ferns and requested the statements from the alleged injured parties to be brought to his office. He confirmed receipt of them,

reading them and being satisfied that there was evidence that the children had been molested by Fr Grennan.

Superintendent Smith then travelled to Wexford Garda station and gave the statements to Chief Superintendent James Doyle. He stated that Chief Superintendent Doyle read the statements and handed them back to him without comment on them. Superintendent Smith retained the statements but was not satisfied that there was sufficient corroboration to justify further action. He stated that he has no idea what became of the statements but is adamant that he did not dispose of them. He retired from An Garda Síochána in August 1989. He stated that nobody influenced him in relation to this case.

Superintendent Smith stated that he was reluctant to prosecute Fr Grennan and thought it would only damage the complainants further. He accepted that he should have sent the file to the DPP with a recommendation not to prosecute rather than take that decision himself. He had no doubt that the complainant girls were interfered with and he knew that the matter was serious but thought that a prosecution was not the answer. He confirmed that he did not inform Garda Behan and Sergeant Reynolds of his decision not to prosecute. He assumed when Chief Superintendent Doyle did not ask him how matters were progressing that he would not take any action.

Chief Superintendent Doyle recalled being informed by Superintendent Smith in May 1988, of the allegations of sexual abuse of school children in Monageer by Fr Grennan. He confirmed attending with Bishop Comiskey at the Bishop's house to tell him of the allegations and that some of the parents had threatened to take their children off the altar if Fr Grennan appeared at the Confirmation ceremony. He stated that he had no doubt whatsoever when leaving Bishop Comiskey that the Bishop was aware and understood the nature of the allegations. He also confirmed that Bishop Comiskey did not attempt to exert any pressure or influence on him. He stated that he never saw a file, the statements of the children or a Health Board report on the matter which is in conflict with Superintendent's Smith recollection of bringing the files to him to Wexford Garda Station. Chief Superintendent Doyle said his visit to Bishop Comiskey was his sole involvement in the case.

Garda Tony Fagan told the Inquiry that he was requested by Chief Superintendent Doyle to ask Fr Grennan to absent himself from the parish during the impending Confirmation ceremony. He reported to Chief Superintendent Doyle that Fr Grennan appeared prepared to visit an uncle or other family member in Wexford. He then recalled being contacted by a solicitor in Wexford Town questioning his authority to order a priest to leave his parish.

**(ii) 1996**

On 6 February 1996, Mr Garry O'Halloran of the South Eastern Health Board sent a letter to the Garda Commissioner and the Minister for Justice in relation to the Monageer incident. The Garda Commissioner appointed Detective Superintendent Dermot Dwyer to carry out an investigation on 12 February 1996, assisted by Detective Sergeant Kelleher.

During the course of the investigation by Superintendent Dwyer, the investigating officers became aware of a fourteen year old boy (Fergus 4.4.5) who had been receiving treatment allegedly as a consequence of sexual abuse by Fr Grennan who had died on 10 May 1994. The boy's mother made a statement to the Gardai. However, this allegation was not within the brief of the investigating officers.

A report was compiled by Superintendent Dwyer on 10 June 1996, which detailed the Garda and Health Board investigations into the allegations. The report concluded that the original investigation was poorly directed and displayed a marked reluctance to intervene with the clergy. The matter was not investigated fully as the senior investigating officers apparently believed that there was not sufficient corroboration to justify taking the matter further. In addition, no directions were sought from the DPP. According to the report, the defective investigation was mainly the fault of the Superintendent, although it was noted that the Chief Superintendent did not follow up the matter. The initiation of criminal proceedings against the officers concerned for subverting the course of justice was considered but the report recommended that no charges be brought. It also concluded that there was no evidence of any collusion between Church and State organisations to stifle, obstruct, or abandon the investigation.

Superintendent Dwyer wrote to the Assistant Commissioner on 5 June 1997, reporting that the investigation had concluded. The file was not forwarded to the DPP as there was no evidence to suggest that the offence of subverting the course of justice had taken place. In fact, the investigation report had recommended that this matter be referred to the DPP.

The Superintendent recalled meeting with Bishop Comiskey during the course of his investigation. He was surprised that Bishop Comiskey did not make enquiries in relation to the Garda process – a process which the Bishop clearly relied upon. He suggested that Bishop Comiskey could have insisted upon the Garda process being officially completed and sought reports on progress. However, he also believes that Chief Superintendent Doyle, who was on friendly terms with Bishop Comiskey, would have spoken to him about the matter in any event. He was surprised that none of the parents of the complainants made any enquiries about the progress of the investigation. He said that he could not fault the Garda investigation at local level.

He understands that all cases of this nature would now invariably be sent to the State Solicitor for forwarding to the DPP for a direction.

#### **THE INQUIRY VIEW ON THE GARDA HANDLING OF THE FR GRENNAN CASE:**

- **The Inquiry believes that the response of An Garda Síochána to the complaints made in 1988 was wholly unsatisfactory and it endorses the findings by Superintendent Dwyer in this regard and it regrets that the report was not forwarded to the DPP as recommended by the investigating officers.**

- **The Inquiry considers it important to ensure that all complaints and allegations relating to child sexual abuse are fully investigated in an expeditious and professional manner and a report sent to the DPP in all such cases at the earliest possible opportunity.**
- **The Inquiry is satisfied that current procedures render it extremely improbable that a file on a serious Garda investigation would not be referred to the DPP for his directions and advice. Moreover, facilities are available to any complainant who believes that his complaint has not been adequately or effectively investigated to report the matter to another station or level of An Garda Síochána, the State solicitor or indeed, the DPP.**
- **The Inquiry is of the view that where a complaint of sexual abuse is made by females, particularly in the case of sexual abuse of a minor, then at least one member of the investigation team should be female. The complainants in this case have stated to the Inquiry that they were very upset at having to make statements to a young male Garda who was also a neighbour. This was not a criticism of the Garda in question who handled the matter with sensitivity and discretion but was a criticism of Garda practice at the time.**

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## **FR ALPHA**

### **(i) 1995 – 2002**

On 27 November 1995, Edward (4.3.1) made a formal statement of complaint to Garda Tom Murphy at Enniscorthy Garda Station alleging sexual abuse perpetrated by Fr Alpha over a period of approximately five years from 1974. Edward had made a previous informal complaint and it was recommended that he should think about the allegation before making a formal complaint. Edward was then advised by Garda Murphy to seek counselling and did so.

On 17 February 1996, Eric (4.3.3) made a complaint to a Sergeant at Enniscorthy Garda Station alleging sexual abuse by Fr Alpha in 1992 or 1993. Eric told the Inquiry that he felt pressurised into making a statement and as a consequence the full extent of the abuse suffered by him was not revealed. The Sergeant recalled Eric as being anxious to make a statement and stated that the Gardai had been in contact with the South Eastern Health Board prior to his attendance at the Garda station. On 23 April 1996, Eric requested the withdrawal of his initial statement.

This Sergeant and another member of the Gardai interviewed Fr Alpha on 1 March 1996. In the statement taken, Fr Alpha is recorded as admitting to a sexual relationship with Edward from 1978 – 1981/2. Edward was 19 years old in 1978. This is a matter of considerable contention between Fr Alpha and the two Garda members. Fr Alpha denies he ever made such an admission but the two Garda members are clear that their statement is accurate. The Inquiry cannot resolve this issue. The Sergeant met with Fr Alpha again on 11 March 1996. Fr Alpha informed the Inquiry that at this meeting, he came under considerable pressure to repeat his alleged admission made during the course of the previous interview. Fr Alpha described the conduct and manner of both interviews as threatening and aggressive. The Gardai do not agree with Fr Alpha's account in this regard.

The Garda Sergeant prepared an initial report for Superintendent Moynihan on 15 May 1996. Charges of Gross Indecency by Fr Alpha against Edward between 1 January 1974, and 1 December 1979 were recommended. No recommendations were submitted in respect of Eric as he had withdrawn his complaint at that time.

On 10 May 1996, the Superintendent sent the report to the State Solicitor for forwarding to the DPP. The DPP agreed with the recommendations of the Superintendent. Between July and September 1996, the DPP sought further information in relation to Edward's statement.

On 17 September 1996, a statement was made by Gavin (4.3.2) alleging sexual abuse perpetrated by Fr Alpha. In that statement, Gavin mentioned that he complained of sexual abuse by Fr Alpha to the Spiritual Director of St Peter's College during his time as a student there in the late 1980s. The Spiritual Director was not interviewed at any stage of the investigation. Gavin was annoyed that this aspect of his statement was not properly investigated by An Garda Síochána. The Inquiry also notes that no direction from the DPP, who had been furnished with Gavin's statements, touched upon this issue.

A report was submitted to the State Solicitor, who in turn submitted it to the DPP on 20 September 1996. On 25 September, the DPP requested an additional statement from Gavin accounting for the delay in making the complaint.

In his initial statement, Gavin made reference to photographic images of him semi-naked being retained at Fr Alpha's house. He expressed to the Inquiry his dissatisfaction that no search had been carried out on the premises for such material. However, An Garda Síochána did not possess search powers in relation to such material until the enactment of the Criminal Justice (Miscellaneous Provisions Act) 1997.

A second statement was obtained from Gavin on 15 October 1996. Fr Alpha was interviewed on 14 November 1996 and all statements were sent to the State Solicitor by the Sergeant on 28 November 1996.

On 19 November 1996, Superintendent Moynihan received notification of a complaint by Fr Alpha in the form of a letter written by his solicitor. The complaint related to allegations of sexual assault by Gavin. The Superintendent forwarded Fr Alpha's letter to the State Solicitor on 21 January 1997.

Fr Alpha was interviewed by another Garda Sergeant from Blackwater Station in March 1997. In that interview, Fr Alpha reiterated his counter-complaint of sexual abuse against Gavin. A statement was made by an employee of Fr Alpha in support of Fr Alpha's counter complaint.

Gavin told the Inquiry that when attending with the Garda Sergeant on 17 September 1996 (his initial attendance), he expressly stated prior to making his statement that he had returned to Fr Alpha as an adult when sexual relations resumed. He explained to the Inquiry that he was told by the Sergeant that it would not be necessary to go into detail in relation to this aspect of the complaint. This is vehemently denied by the Sergeant in question. The statements in relation to Fr Alpha's counter claim were sent to the DPP by the State Solicitor on 10 April 1997.

On 24 March 1997, Eric re-entered his original complaint with two amendments. He confirmed that he had withdrawn his original complaint owing to family pressures that had arisen as a result of a note of a meeting between him and Bishop Comiskey being transmitted to his father through a diocesan official. The updated statement was forwarded to the DPP on 29 April.

The DPP responded on 13 May, stating that there should be (i) no prosecution relating to Edward because of a difficulty in proving a lack of consent, and (ii) no prosecution relating to Eric due to inconsistencies in the statements made.

The DPP was undecided at that time in relation to the allegations by Gavin.

On 13 May, Gavin made a statement addressing the points of Fr Alpha's allegation and stating that his behaviour on that occasion was attributable to Fr Alpha's long-standing abuse of him throughout his youth. On 4 June, the Sergeant, who had taken the original statement from Gavin, wrote to the Superintendent Moynihan stating that it would be unsafe to proceed with a prosecution in this case. The DPP advised by letter dated 23 June, that there should not be a prosecution of either Fr Alpha or Gavin in this case.

On 15 September 1997, Eric made another statement. This was added to his file which was sent to the DPP on 1 October. On 31 October, the DPP requested detailed reports in respect of Eric's psychiatric and psychological condition with reference to medical and Health Board reports.

In September 1998, Eric wrote to the Gardai instructing them to discontinue their investigation. He stated that he believed that the first statement he had made was more accurate and this statement had already been considered by the DPP with directions not to prosecute.

On 3 March 1999, the DPP confirmed that a prosecution in respect of Eric's complaint would be unsafe, even before he considered Eric's letter of withdrawal of September 1998. Fr Alpha has informed the Inquiry that he was not made aware of this decision at this time and that as far as he was concerned the investigations were continuing. He has stated that the stress and anxiety of this seriously impacted on his health at that time.

By that time, all complaints made to An Garda Síochána against this priest had been decided upon by the DPP. The Garda files do not evidence further formal Garda contact with any alleged victim of Fr Alpha until April 2002.

**(ii) 2002 – 2003 - GAVIN**

On 16 September 2002, Gavin made a complaint to the Gardai of buggery allegedly perpetrated against him by Fr Alpha when he was aged 8 or 9 years. This complaint was made to Garda Thomas Murphy of Enniscorthy station and gave rise to Fr Alpha's arrest on 21 November 2002 at 9.50 am. Fr Alpha was released at 3.43 pm on that day.

In December 2002, a report was compiled for the DPP with a recommendation that there was a lack of independent evidence to sustain a prosecution. In April 2003, the DPP directed no prosecution in respect of this case.

**(iii) 2002-2003 - ERIC**

In April 2002, Eric made a written complaint to Gardai at a Co Wexford Station repeating his complaint in respect of sexual assault and adding a new complaint of Buggery.

Arising from this complaint, Fr Alpha was arrested in August 2002, and brought to Enniscorthy station at 10.49 am and released at 4.18 pm on that day. In January 2003, a Garda report recommended a prosecution for sexual assault and buggery in respect of Eric. The Superintendent of Enniscorthy Garda station sent the report to the State Solicitor on 23 January 2003, agreeing with this recommendation and pointing out that whilst Eric's evidence showed inconsistency it was corroborated by other witnesses.

In April 2003, the DPP directed no prosecution in respect of this case.

**THE INQUIRY VIEW ON THE GARDA HANDLING OF THE FR ALPHA CASE:**

- **The Inquiry is satisfied that the different issues raised by the complainants in this matter were investigated by Gardai in an effective and professional manner over a lengthy period with commendable sensitivity.**
- **The Inquiry believes that this case illustrates the difficulty encountered by Gardai in investigating cases involving child sexual abuse. These are offences for which corroborative evidence can be difficult to obtain. Furthermore, the impact of child sexual abuse on complainants is recognised by psychologists as often impairing their ability to make clear and concise statements in relation to their experiences.**



- **The Garda investigation coincided with the first diocesan investigation under The Framework Document and illustrates the potential conflict to which such duplication may give rise. The Inquiry is informed that the disclosure of Eric's statement to his father in the course of this diocesan investigation led to his being forced to withdraw his original statement to the Gardai. The Inquiry has been informed by the Garda Authorities that the investigation carried out by the Diocese did not adversely affect Garda investigations in any other way.**
- **The initial complaint against this priest was made to Gardai in November 1995 and detailed inquiries continued until March 1999 when the DPP decided against any prosecution against Fr Alpha. In September 2002 further allegations were made and investigations continued until April 2003. In circumstances where allegations are made at such intervals the continuing uncertainty for the priest against whom these allegations are made is inevitable but regrettable. Fr Alpha has informed the Inquiry that he was not aware of the DPP decision not to prosecute which was taken in 1999 and therefore for him, the Garda investigation appeared to continue uninterrupted for a period of eight years. The Inquiry would regard it as most unusual that an accused person would not be informed of decisions taken by the DPP and would recommend that such information should be communicated as soon as possible.**

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### CANON MARTIN CLANCY

By letter dated 2 June, 1991 Clare's father wrote to Canon Clancy alleging that he had abused his daughter and threatening to report the matter to An Garda Síochána unless a payment of IR£20,000.00 was made. Clare (4.7.4) had made a written complaint to Bishop Comiskey in relation to such abuse on 1 May 1991. That letter was not provided to Gardai. The letter from Clare's father was forwarded to the diocesan solicitors and thereafter sent to An Garda Síochána. Two members of the Gardai called to Clare's home in early 1992 with instructions to investigate the matter.

A Garda Superintendent (now retired) informed the Inquiry that he advised Clare's father, in a Garda patrol vehicle outside the family home, that it would be more prudent to make a formal complaint rather than to seek a payment from the priest. The second Garda who was present at this meeting, a retired Sergeant, confirmed the Superintendent's account. The Superintendent heard nothing further in relation to the complaint against Canon Clancy but the Sergeant informed the Inquiry of rumours surrounding Canon Clancy in respect of which no actual complaints were made.

This Sergeant recalled being told by an anonymous lady of abuse by Canon Clancy at Kiltaly from 1978-1981 about which she refused to make a formal complaint. He also told the Inquiry that he received a letter from the office of the Garda Commissioner in or about 1981 enquiring if he had any further information of complaints made against Canon Clancy. He replied advising that he had heard rumours but no official complaint had been made and he would not investigate on the basis of such rumours without a written direction from the office of the Commissioner. No such direction was issued. Such correspondence has not been sighted by the Inquiry.

In May 1993, Canon Clancy died.

In February 1996, Clare's mother wrote to Fr Cosgrave, diocesan delegate, referring to abuse alleged by her daughter. In that letter she adverted to Gardai calling to her home in 1991/1992 in respect of the original complaint. Fr Cosgrave notified Superintendent Moynihan of this allegation pursuant to The Framework Document. The matter was investigated by Superintendent Kehoe at the direction of Superintendent Moynihan. The Superintendent met with Clare's mother who was upset about the matter. She explained to the Superintendent that Gardai had called to their home uninvited and spoke with Clare's father telling him not to talk about the alleged abuse and not to go to the press. Clare's father had died in the meantime and the Inquiry was unable to pursue the apparent conflict of accounts further. No Garda record was made in relation to the 1991 meeting.

#### **THE INQUIRY VIEW ON THE GARDA HANDLING OF THE CANON CLANCY CASE:**

- **The Inquiry was shocked at the extent of sexual abuse allegedly perpetrated by this priest in the Diocese of Ferns over a period of some thirty years. The Inquiry is satisfied that rumour, suspicion and innuendo had come to the attention of members of the Gardai as well as members of the teaching profession, the medical profession, the Church and the general public and were never acted upon.**
- **The Inquiry is concerned that no record was kept of the allegation of abuse on behalf of Clare. The Garda files do not include the letter from the diocesan solicitors in 1993 informing Gardai of the alleged abuse.**
- **The Inquiry appreciates the difficulties which would be involved in conducting an investigation of allegations of child sexual abuse without the co-operation of the victim but the Inquiry is strongly of the view that in this case, where, in addition to the written complaint by Clare's father, Gardai 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.**

## **MONSIGNOR MICHAEL LEDWITH**

### **(i) RAYMOND**

On 5 January 1995, Dr A. Rogers, acting Director of Community Care, wrote to Chief Superintendent Murphy in Wexford with notification of information received from Bishop Comiskey in relation to allegations of sexual abuse against Monsignor Michael Ledwith. Dr Rogers had met with Bishop Comiskey on 23 December 1994 and was informed of the allegations made by Raymond (4.6.2) - Bishop Comiskey would not identify him further. Raymond alleged that he had been abused by Monsignor Michael Ledwith in the mid 1980s when he was aged approximately 14 years.

The Chief Superintendent met with Dr Rogers and Dr Liddy and in January 1995, gave the file to Superintendent Smith in Wexford for investigation.

In February, Bishop Comiskey wrote to the relevant Health Board and Superintendent Smith stating that the complainant had refused to allow the Bishop to disclose his identity. However, Bishop Comiskey did provide the name of Raymond's solicitor.

In May 1995, Superintendent Smith, then in Naas, prepared a report for the Chief Superintendent in Wexford. The report stated that the Superintendent had contacted the complainant's solicitors who were not prepared to release the identity of the complainant. The Assistant Commissioner was notified on the following day.

In July 1995, the Chief Superintendent of a different area was advised by Inspector Kerin that Monsignor Ledwith had a holiday home and Gardai had conducted a limited surveillance on that premises with a view to ensuring that young persons were not frequenting it. Such surveillance did not produce any evidence of wrongdoing on the part of Monsignor Ledwith. It was pointed out by Gardai that surveillance is a resource not available for every investigation and it is usually carried out on the basis of specific information.

Between July 1995 and February 1996, several attempts were made by Gardai to encourage the alleged victim to meet with them and report the matter. Further inquiries were also made at various locations where Monsignor Ledwith, lived, worked and holidayed.

On 2 February 1996, Superintendent James Kehoe wrote to the Chief Superintendent with a report on the matter. This stated that the family of the complainant would still not cooperate with the Gardai. Further updates were sent in June and August 1996, from the investigating officers confirming that there had been no change in the case.

**(ii) SHANE**

On 19 April 2000, Detective Garda Malachy Dunne met with Shane (4.6.3) as a result of contact from a firm of solicitors. A detailed statement of complaint was taken in relation to allegations of sexual abuse by Monsignor Ledwith at St. Patrick's College Maynooth on two occasions in November 1994. These allegations were categorically denied by Monsignor Ledwith.

As a result of the allegations made, twelve people were interviewed and provided Garda statements. The interviews uncovered a number of inconsistencies in the original statement made by Shane.

On 31 May 2001, Garda Dunne met again with Shane. During the meeting, Shane indicated that the incident described in his first complaint was inaccurate. He then claimed that what had been alleged as abuse was consensual. On 20 June 2001, the allegations of criminal wrongdoing were retracted. Following Shane's retraction of the allegations made, Garda Dunne informed all relevant persons. Monsignor Ledwith vehemently denied that any relationship with Shane occurred.

In May 2002, a file was prepared for the DPP recommending that because of Shane's psychological state of mind, a prosecution for making a false statement should not be pursued. In November 2002, the DPP directed no prosecution in respect of either Monsignor Ledwith or Shane.

**THE INQUIRY VIEW ON THE GARDA HANDLING OF THE MONSIGNOR LEDWITH CASE:**

**The Inquiry is satisfied that An Garda Síochána carried out as full and effective an investigation of the allegations made on behalf of Raymond as could have been undertaken without his co-operation.**

**The complaint by Raymond illustrates the dilemma faced by many complainants of sexual abuse who, whilst wishing to see the perpetrator punished, are fearful of being identified as a victim of such abuse. Even if he was granted confidentiality by the courts, details of the evidence could identify him and he was understandably concerned about the effect that would have on his family. The Inquiry believes that this is one of the main impediments to victims making a complaint to the Gardai. The Inquiry believes that this fear, whilst understandable, is not properly informed. The Courts can and do effectively protect the identity of victims in sexual abuse cases.**

**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.**

## FR DELTA

On 11 October 2002, Fr Denis Brennan, diocesan delegate, notified Inspector Thomas Dixon of the Domestic Violence and Sexual Assault Investigation Unit, Harcourt Street, Dublin 2 that information came to the attention of the Diocese relating to a complaint by Bill (4.10.1) of child sexual abuse. The alleged victim was not identified in this notification. Fr Brennan noted in that letter that he made contact with the alleged victim to see if he was prepared to confirm or deny the allegation. He would do neither and said he wished to hear no more about the matter. Chief Superintendent Camon of the National Bureau of Criminal Investigation confirmed that where Gardai had no complaint, it could not undertake an investigation, and if the alleged victim did not wish to report the matter to the Gardai there was nothing the Gardai could do. He stated in a letter to Superintendent Saunderson on 4 January 2003, *"I do not feel that we should approach [Fr Delta] or cast any aspersions on him without a statement of complaint."* Superintendent Gallagher of the Child Abuse Special Investigations Unit at Harcourt Street raised the question with the Superintendent at New Ross Garda Station at 2 October 2003, of whether or not a child care issue arose in the matter, in light of Fr Delta's current residence. This query was repeated on 22 April 2004, and a reply to same does not seem to have been made.

On 15 April 2003, Fr Denis Brennan wrote to the Chief Superintendent at Wexford station in relation to a complaint against this priest by Terry (4.10.2.). That letter of notification appears not to have been received and as a result of there being no acknowledgement, Fr Denis Brennan, the diocesan delegate wrote again to Chief Superintendent Murphy on 15 November 2004 (over one and a half years later). The Chief Superintendent forwarded that letter to the District Officer at Wexford and a local Sergeant was nominated as investigating officer. The Sergeant met with Terry on three occasions and spoke with him on two other occasions by telephone. He stated that Terry had received legal advice and did not wish to pursue the matter any further. Accordingly, no further Garda action could be taken and Fr Brennan was so advised.

## **THE INQUIRY VIEW ON THE GARDA HANDLING OF THE FR DELTA CASE:**

- **This case aptly highlights the necessity of a willing complainant in order to pursue properly a Garda investigation. The Inquiry is satisfied that Gardai made sufficient efforts to procure the co-operation of the complainant and could not proceed any further in the absence of the complainant.**
- **The Inquiry is concerned at the failure of the Gardai to acknowledge the notification of this allegation by the Diocese.**

## **FR UPSILON**

In July 1998, a complaint made by Denis (4.17.1) was notified by the South Eastern Health Board to Enniscorthy Garda Station. Denis had made a complaint of sexual abuse against Fr Upsilon to a social worker in Dublin one week earlier. That complaint was immediately communicated to the South Eastern Health Board, the area in which Fr Upsilon resided. The alleged abuse took place in the late 1970s and early 1980s. The Diocese of Ferns was notified of this complaint by this Inquiry.

The Gardai at Enniscorthy notified the Superintendent at Wexford of the complaint and recommended that the file be forwarded to the local Garda station where the complainant resided so that a statement of complaint could be taken from the alleged victim. A few weeks later, Denis was informed by Gardai that his complaint had been made known to them. He attended his local Garda station approximately one month after making the complaint to the social worker, and made a statement that he had withdrawn his complaint against Fr Upsilon and did not want an investigation in the matter to continue. The Superintendent at Wexford was then furnished with the original Garda file on the matter and all Gardai involved in the investigation were informed that the matter could not be pursued because of the objection of the complainant.

### **THE INQUIRY VIEW ON THE GARDA HANDLING OF THE FR UPSILON CASE:**

- **It is accepted that Gardai cannot act or be expected to act where a complaint has been withdrawn.**
- **The Inquiry is satisfied that adequate measures were taken by Gardai from the time they received notification of the complaint until the time it was withdrawn.**

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## **FR GAMMA**

Ten females made statements of complaint to An Garda Síochána alleging indecent assault by Fr Gamma. Three of these complainants were made known to An Garda Síochána by the Diocese of Ferns. On 28 May 2002, the Diocese notified Gardai of Julie's complaint (4.9.1). Julie made a statement of complaint to a female Garda in

July 2002 and a further statement in October 2002, in relation to sexual abuse alleged during the 1970s. In her initial statement, Julie alleged sexual abuse which occurred in 1974 but on An Garda Síochána checking records, it was confirmed that the abuse could only have occurred in 1976 as alleged. A file was sent to the DPP in June 2003. In July 2003, at the request of the DPP, Julie made a further statement explaining that the delay in her making a statement of complaint arose from the issue of child sex abuse becoming heightened in terms of public awareness as a result of recent media coverage.

In October 2002, a local curate met with Grace (4.9.2). She alleged sexual abuse against Fr Gamma but did not wish to meet with Gardai about her complaint. The curate spoke with a local Garda at Tinahely Garda Station in October 2002 in relation to this complaint. He then alerted Fr Brennan, diocesan delegate, to the matter. He said that he had several discussions with the local Garda in relation to parish records and dates. In November, 2002, the diocesan delegate made a notification to the Gardai of child sexual abuse against this priest by Grace. Grace made a statement to the Gardai describing the abuse which she suffered from 10 to 13 years of age during the early 1970s. Grace made a further statement to Gardai in July 2003, explaining that she only became encouraged to make a complaint as a result of a recent Prime Time television programme.

A complaint was made by Orla (4.9.4) to Gardai directly in November 2002. Orla complained of four incidents of child sexual abuse during the 1980s when she attended Fr Gamma during confession. She explained that the delay in making her statement arose from a belief she held that she would not be believed.

Bernadette (4.9.5) made a statement of complaint of child sexual abuse directly to An Garda Síochána in July 2002 in relation to events which occurred when she was 7 or 8 years of age. Gráinne (4.9.6) made statements to An Garda Síochána in November, 2002, and in July, 2003, in relation to abuse which occurred when she was approximately 10 years of age. She also stated that the reason for her not making a complaint sooner was that she did not think she would be believed. Caroline (4.9.7) made a statement of complaint to An Garda Síochána in November 2002. She was 18 years of age when the alleged abuse occurred. Hilary (4.9.8) made a statement directly to An Garda Síochána in January 2003, in relation to sexual abuse against Fr Gamma which occurred when she was approximately 11 years of age. This related to two incidents of sexual abuse whilst she was a car passenger with Fr Gamma. Deirdre (4.9.9) made a statement of complaint to An Garda Síochána in December 2002, in relation to sexual abuse by Fr Gamma when she was a teenager. She stated that she did not want the matter pursued for personal reasons and did not provide any further details in respect of the alleged abuse. Marie (4.9.10) made a statement of complaint directly to An Garda Síochána in April 2004, in relation to sexual abuse by Fr Gamma whilst she was attending Confession with Fr Gamma as preparation for her First Holy Communion.

Fr Gamma was interviewed in relation to all complaints made to An Garda Síochána and all statements were notified promptly to the DPP. On 14 June 2004, the DPP directed that all complaints made known to it at that stage would not merit prosecution on the basis that the DPP believed that a court would be unlikely to hold a view that the reason given by complainants that they would not be believed was a

reasonable explanation for the delay given the ages of the complainants and the fact that this type of matter has been in the public arena for ten years at least. On 4 May 2005, the DPP directed in relation to Marie's complaint, that the delay was not satisfactorily explained and the inconsistencies in her account would be exploited by the defence in any prosecution.

**THE INQUIRY VIEW ON THE GARDA HANDLING OF THE FR GAMMA CASE:**

- **The Inquiry believes that these investigations were carried out effectively and reported promptly to the DPP.**

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**FR BETA**

On 7 April 2002, a complaint by Trevor (4.8.1) was made known to An Garda Síochána by the diocesan delegate. Trevor made a statement to Gardai in May 2002, and a file was sent to the DPP in October. The DPP decided not to institute criminal proceedings on foot of the complaint as there was insufficient evidence that Trevor was under 18 years old at the time of the incident. In addition, Trevor's inability to recall the detail of the abuse suffered would have made a successful prosecution less likely. The Garda file in relation to this complaint is now closed.

On 24 December 2003, An Garda Síochána received another complaint through a third party (Ben 4.8.2). The Garda file in respect of this complaint is now closed on the basis that it has been unable to contact the alleged victim.

**THE INQUIRY VIEW ON THE GARDA HANDLING OF THE FR BETA CASE:**

- **The Inquiry is satisfied that these complaints were investigated appropriately.**



## CONCLUSIONS AND RECOMMENDATIONS

This chapter of the Report sets out an overview of the findings of the Ferns Inquiry in accordance with its Terms of Reference.

*“A. To identify what complaints or allegations have been made against clergy operating under the aegis of the Diocese of Ferns in relation to alleged events that transpired prior to 10 April 2002, and to report on the nature of the response to the identified complaints or allegations on the part of the Church authorities and any public authorities to which complaints or allegations were reported”*

### (i) **Complaints or Allegations Notified to the Inquiry.**

The Inquiry has identified approximately 100 complaints against priests operating under the aegis of the Diocese of Ferns. These allegations were made in respect of 21 priests.<sup>56</sup> Ten of these priests are now deceased and in respect of six of them, the allegations were not notified to the Diocese, or to any authority, until after their death. Of the other four deceased priests, two died subsequent to a complaint being made. A third did not have charges brought against him and the fourth priest, Fr Sean Fortune, committed suicide days before his criminal trial was due to commence in Wexford Circuit Court.

Of the eleven priests who are alive and against whom allegations have been made, three have been excluded from the priesthood by the direction of The Holy See and seven of the remaining eight have stood aside temporarily from active ministry at the request of Bishop Eamonn Walsh, Apostolic Administrator of the Diocese of Ferns pending investigations of the allegations against them. The eighth priest is advanced in years and is in retirement.

An Garda Síochána investigated complaints of child sexual abuse by eight priests of the Diocese and proceedings were instituted by the DPP in three of those cases.

Chapter Four of this report is a summary of all the allegations which have come to the attention of this Inquiry. The complainants have been given pseudonyms to protect their identity. Where practicable, the identity of the alleged perpetrators has similarly been protected.

**The persons against whom the allegations were made were not given an opportunity to confront or cross-examine the complainants in the course of this**

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<sup>56</sup> This figure does not include those priests included in the Appendix annexed hereto.

**Inquiry. The Terms of Reference of the Inquiry require it to identify the allegations of child sexual abuse as reported and to consider the response to those allegations by the appropriate authorities. Such response could not be predicated on proving the truth or otherwise of such allegations. The Inquiry does not express, and was not required to express any view as to the truth or otherwise of any allegation.**

**(ii) The Nature of the Responses of the Church Authorities**

The nature of the Church response evolved over a forty year period and may be summarised as follows:

1. The response of Bishop Donal Herlihy (Bishop of Ferns 1964 – 1983) to an allegation of child sex abuse by a member of the diocesan clergy which was brought to his attention in 1966 was to remove the priest immediately from his post and send him to the Diocese of Westminster. Two years later the Bishop returned the priest to his position as a teacher in St Peter's College in the Diocese of Ferns. The priest was not treated or assessed. The alleged victims do not appear to have been contacted by or on behalf of the Bishop. It appears that the Diocese of Westminster was not alerted to the reasons for the priest's transfer. No written record of the complaint was created by the Diocese, or if created, preserved. Virtually no restriction was placed on the priest after his return to St Peter's. The fact that no records were kept of these matters meant that no impediment to the appointment of this priest as principal of St. Peters in 1988 was apparent.
2. In 1973, Bishop Herlihy became aware of a complaint against another priest of the Diocese who had allegedly sexually abused a young girl. His response was to send the priest in question to the Diocese of Westminster although on this occasion the Church Authorities there were informed, to a limited extent, of the circumstances that led to his removal. This priest received no assessment or treatment and was subsequently appointed to curacy positions in the Diocese and to chaplaincy and managerial roles in local schools before being transferred abroad. The Bishop did not meet with the victim although financial assistance may have been offered.
3. When allegations of sexual misconduct were made against two priests in the Diocese of Ferns in the early 1980s, Bishop Herlihy's response was to send the alleged perpetrators for assessment to the Reverend Professor Feichin O' Doherty, who was then the Professor of Logic and Psychology at University College Dublin. Notwithstanding the extremely unfavourable reports provided by the Professor, both priests were appointed to curacies in the Diocese of Ferns and continued in those positions without any effective monitoring or control.
4. During his episcopacy from April 1984 to April 2002, Bishop Comiskey received allegations in respect of ten priests who were living at the time of the allegations. In addition, he received allegations against four further priests who were deceased.

5. Bishop Comiskey agreed that the proper response to an allegation of child sexual abuse against a priest was to remove him from active ministry pending the determination of the allegation. Notwithstanding this belief, no priest was stood aside from active ministry during the episcopacy of Bishop Comiskey and no precept was issued preventing any priest from saying Mass and partaking in religious ceremonies. Priests were moved out of the diocese in some cases but no child protection measures were put in place to ensure that children in the diocese to which the accused priest was sent were not placed in danger.
6. Where an allegation of child sexual abuse was made against a priest of the diocese and denied by him, as happened in the majority of cases, the Bishop attempted to institute or conduct some form of enquiry to satisfy himself of the guilt or innocence of the accused. For the greater part, these enquiries and investigations were protracted and inconclusive and in all cases failed to meet the standard of proof required by the Bishop.
7. Complaints were made to Bishop Comiskey alleging child sexual abuse by priests who had died before the complaint was made. Where the complainant in those cases sought financial assistance from the Bishop to pay for counselling to redress the problems caused by the alleged abuse, such assistance was provided.
8. Bishop Eamonn Walsh became Apostolic Administrator of the Diocese of Ferns in May 2002. His response to allegations of child sexual abuse was to require the priest against whom the allegation was made to step aside from ministry pending a determination of the matter. He takes this action where he is of the opinion that a "reasonable suspicion" exists against a priest and after consulting the Advisory Panel. Bishop Walsh reviewed all of the allegations of child sexual abuse against priests which had been made prior to his, Bishop Walsh's, appointment and requested six priests to stand aside; each of them did so without any proof or admission of guilt.
9. Bishop Walsh invited two priests who had been convicted of child abuse to apply for laicisation but they declined. Therefore, Bishop Walsh applied for and obtained an order from The Holy See excluding them from the priesthood. A third priest against whom an allegation was made but who was not convicted of child sexual abuse has likewise been excluded from the priesthood by direction of the Pope.

**(iii) The Nature of the Response of the South Eastern Health Board**

The responses by the South Eastern Health Board to allegations of abuse are identified by the Inquiry in Chapter Six of this Report. Those responses were not consistent in all cases but included the following:

1. In relation to the allegations of child sexual abuse made by ten school children against the then parish priest of Monageer, the Health Board arranged that

seven of the children should be interviewed and assessed at the Community Child Centre in Waterford. The Health Board informed the Gardai and the Church Authorities about the allegations.

2. The Health Board did not provide counselling or support to the girls or their families after these allegations were made known in 1988. Counselling was offered through a public statement in 1995, some seven years after the alleged incident.
3. When the Eastern Health Board was informed of allegations of child sexual abuse (then and now unproven) by a former President of Maynooth College, the Health Board, as directed by the Department of Education, wrote to the then Presidents of the Pontifical and Lay Universities at Maynooth informing them of those allegations.
4. When notified of an allegation of child sexual abuse against a priest of the Diocese by a victim who was still a child, the South Eastern Health Board offered a degree of support to the family and the child throughout the criminal trial. This support was not continued after the trial.
5. The South Eastern Health Board conducted a risk assessment when furnished with evidence of a possible danger to particular children posed by one priest who was at that time the subject of a Garda investigation. It also informed the Diocese of Ferns about the allegation without first informing the priest in question of its intention to do so.

**(iv) The Nature of the Response by An Garda Síochána**

Responses to complaints or allegations on the part of the Gardai are set out in Chapter Seven of the Report:

1. The Inquiry is aware that some complaints of child sexual abuse were made to individual members of the Gardai on an informal basis between the 1970s and the 1980s. There is no record of such complaints on the Garda files or elsewhere.
2. The first incident of child sexual abuse recorded by the Gardai arose when a number of school children made a complaint against the parish priest of Monageer. A member of the Gardai was directed to take a written statement from each of the girls concerned. Another member spoke with the accused priest. It does not appear that any further investigation took place. Such statements or files as were prepared were not forwarded to the Director of Public Prosecutions. Subsequently those files and documents disappeared.
3. Between 1990 and 1995, complaints were made to the Gardai in Wexford by victims alleging offences of child sexual abuse perpetrated by three individual priests. The complaints were carefully investigated and successful

prosecutions ensued in two cases. A third was pre-empted by the suicide of the accused.

4. Between 1990 and September 2005, the Gardai have investigated a further four cases of child sexual abuse against priests of the Diocese of Ferns recommending prosecution in all but one of these cases. The DPP has not instituted criminal proceedings in any of these cases.

*“B. To consider whether the response was adequate or appropriate, judged in the context of the time when the complaint or allegation was made, and if the response to the complaint or allegation appears inadequate or inappropriate when judged by those standards, to identify if possible, the reason or reasons for this, and report thereon.”*

### **The Adequacy of Responses of the Church Authorities**

#### **A. Bishop Donal Herlihy ( Bishop of Ferns 1964 – 1983)**

1. Before 1980, Bishop Donal Herlihy had evidence that two priests of the Diocese had abused children sexually a further two priests came to his attention in the late 1970s. In the case of the first two priests, his response was to remove the priest concerned from the Diocese without taking any steps to protect other children from the dangers which the priest presented. In the context of the time, the danger that a person who had abused children once could do so again was clearly understood, even if the compulsion to do so was not as apparent as it is today. Bishop Herlihy’s failure to take even basic precautions to protect children from men known to have abused in the past must be seen as inadequate and inappropriate.
2. Clearly Bishop Herlihy regarded priests who abused children as guilty of moral misconduct. He does not appear to have recognised that the wrongdoing was a serious criminal offence. Neither he nor the medical and health care community appreciated the grave damage which child sexual abuse can cause to its victims.
3. Bishop Herlihy’s decision to restore the two offending priests to their former positions after a two-year period of “penance” in the Diocese of Westminster was ill-advised and to do so without any supervision or monitoring was neither adequate nor appropriate.
4. The Inquiry is satisfied that the Diocese of Ferns knew or ought to have known that allegations of child sexual abuse were made against two seminarians in St Peter’s in the mid 1970s. Notwithstanding this information, these men were ordained for the Diocese.
5. The decision of Bishop Herlihy in 1980 to refer these two men who went on to abuse again after ordination to Professor Feichin O’Doherty for assessment was entirely appropriate and reflected the developing understanding of the nature of child sexual abuse. The failure of Bishop Herlihy to act on the reports received from the Professor and the appointment of those two priests to

curacies is inexplicable. It represented a wholly inappropriate and inadequate response to the allegations of child sexual abuse.

6. The Inquiry believes that the Bishop felt bound to appoint any priest ordained for his Diocese to a curacy notwithstanding his manifest unsuitability for the position.

**B. Bishop Brendan Comiskey (Bishop of Ferns 1984 – 2002)**

1. Where Bishop Comiskey had a suspicion about the propensities of a particular priest either arising from the Bishop's own unease or from specific information reported to him, he requested the priest to attend a psychiatrist or psychologist for assessment and, if necessary, to undergo the treatment then considered appropriate. It was intended that the priest would be re-appointed to an appropriate position in the Diocese if a certificate was obtained from the medical consultant certifying his fitness for the position. That programme would have been an appropriate and adequate response to any suspicion of sexual abuse. However, even when such medical intervention had been availed of, Bishop Comiskey was unable or unwilling to implement the medical advice which he received. In addition, the Inquiry has seen some evidence that Bishop Comiskey did not fully inform these medical experts of the full history of priests against whom previous allegations had been made.
2. By the late 1980s, Bishop Comiskey accepted that the appropriate response to an allegation of child sexual abuse was to have the accused priest to step aside from active ministry pending a determination of the allegation made against him. Bishop Comiskey consistently failed to achieve this objective. In the majority of cases the failure to achieve the desired result was due to the conviction of the Bishop that it would be unjust, if it were possible, to remove even temporarily a priest on the basis of an allegation which was not corroborated or substantiated by what he considered to be convincing evidence. In the nature of the alleged criminal activity, evidence of that nature was unlikely to be obtained. Indeed Bishop Comiskey recognised that he did not have the resources or the expertise to carry out investigations into what were serious criminal offences. The particular and inconclusive investigations conducted by Bishop Comiskey were an inappropriate and inadequate response to serious allegations. The bishop was rightly conscious of the need to protect the good name and reputation of his clergy but he failed to recognise the paramount need to protect children as a matter of urgency, from potential abusers.

**C. Bishop Eamonn Walsh (Apostolic Administrator of Ferns, 2002 – present)**

1. Bishop Eamonn Walsh has told the Inquiry that he would be prepared to require a priest to step aside from active ministry where he had a "reasonable suspicion" that the offence of child sexual abuse had been committed. He said that a rumour or suspicion emanating from a single source might not in itself be sufficient grounds for acting against a priest, but that he would note it and if he received any further information of untoward behaviour on the part of that priest, he would act immediately.
2. In practice Bishop Walsh has not invoked his powers under Canon law to stand aside from active ministry any priest of the Diocese. Seven out of the eight priests whom Bishop Walsh asked to stand aside agreed to do so. One further priest so requested has been the subject of a dismissal from Rome following an application by Bishop Walsh. This approach and the response to it may reflect a more efficient management of the Diocese in combination with a clearer understanding on the part of members of the clergy of the need to respond promptly and effectively to allegations of child sexual abuse. Notwithstanding the hardship and embarrassment which this must cause to innocent members of the clergy, the responses made by the Diocese since the appointment of the Apostolic Administrator have been adequate and appropriate.

#### **The Adequacy of Responses of the South Eastern Health Board**

1. The legislative framework within which all Health Boards operated is described in full in Chapter 3 of this Report. The powers conferred on the Health Board are designed to protect a child from an abusive family situation. Where children are abused by third parties, the persons with responsibility for dealing with the matter are the parents or guardians of the child. In the absence of express statutory power to intervene in the manner in which they did in the Monageer case in 1988, the South Eastern Health Board would appear to have acted ultra vires. Although their intervention was well intended and undertaken with commendable expedition it could not be classified as appropriate.
2. The only power of the Health Board to inform interested parties that allegations of child sexual abuse have been made against a particular person, is one inferred from the wide ranging objective of child protection imposed on Health Boards by the Child Care Act 1991. There is difficulty therefore in determining whether, and in what circumstances, such notification should be given.
3. The Inquiry would question whether the circumstances in which notice was given to the authorities in Maynooth in relation to Monsignor Ledwith, or to the diocesan authorities in relation to Fr Alpha, conformed to the conditions prescribed in the judgement of Mr Justice Barr in MQ –v- Gleeson.<sup>57</sup>

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<sup>57</sup> 1997 1 IEHC 26

4. The provision by the Health Board of counselling and other support to alleged child victims and their families was appropriate where this occurred. Failure to provide such services, as happened in the Monageer case, must be regarded as both inadequate and inappropriate.

### **The Adequacy of Responses of An Garda Síochána**

1. Before 1990 there appears to have been reluctance on the part of individual Gardai to investigate properly some cases of child sexual abuse that came to their attention. This is dealt with in Chapter Seven of this Report. Such reluctance was neither appropriate nor adequate.
2. The institution of criminal proceedings against three priests from 1990 is confirmation of the evidence given by Gardai of all ranks to the Inquiry that they are not now deterred or hampered in the performance of their duties by the status of the accused or the respect accorded to the Catholic Church in Ireland generally, or in the Diocese of Ferns in particular. These prosecutions were conducted in an efficient manner and were an appropriate and adequate response.
3. An Garda Síochána has informed the Inquiry that they are not in a position generally to conduct an investigation on the basis of rumour or suspicion. They did monitor Fr Doyle for some time after the 1980 allegations were made and in relation to another allegation, the Gardai mounted surveillance on the alleged perpetrator's home even though no complaint was made by the victim to the Gardai. Generally however, the Gardai would not make such a response on the basis of an allegation or rumour unsubstantiated by a formal complaint.
4. The Inquiry concurs with the findings of the internal Garda investigation into the Monageer affair which criticised the handling of the complaints by the Gardai in 1988 and which found the Garda response to be neither appropriate nor adequate.

***“C To consider the response of Diocesan and other Church authorities and the State authorities to cases where they had knowledge or strong and clear suspicion of sexual abuse involving priests of the Diocese of Ferns, and to consider whether that response was adequate or appropriate judged in the context of the time when the knowledge was acquired or the suspicion formed.”***

1. Unless an allegation of child sexual abuse was admitted in full by the perpetrator or was successfully prosecuted by the Gardai, the church or civil authorities could not be said to have had “knowledge” of sexual abuse involving priests. No unqualified admissions of sexual abuse were made to the church or state authorities during the period investigated by this Inquiry.
2. Two priests were found guilty in court of child sexual abuse and the response of the church authorities was to obtain medical intervention for these priests and to remove them from active ministry. In the past year, Bishop Eamonn



Walsh has applied for and obtained an order dismissing these convicted priests from the priesthood.

3. In all other cases therefore, the Church and State response must be seen as a response to a strong or clear allegation or suspicion of child sexual abuse and, as already indicated at “B” above, the response to such information developed over the period of time considered by this Inquiry.

***“D. Insofar as responses are seen to be inadequate or inappropriate, and insofar as it may be possible to identify explanations for that inadequate or inappropriate response, to consider whether those factors remain applicable and to what extent they have been subsequently addressed.”***

### **Church Authorities**

1. The inappropriateness and inadequacy of responses by Bishop Donal Herlihy are, in the opinion of the Inquiry, explained by the failure of the Bishop to appreciate the very serious psychological damage which could be and was caused by the sexual abuse of children by adults, particularly adults in positions of authority and respect. An additional factor was the failure to anticipate the likelihood that an adult having once abused a child was likely to repeat the offence. It is the view of the Inquiry that Bishop Herlihy focussed on the moral aspects of the allegations made to him to the exclusion of criminal and social aspects of the conduct alleged.
2. The Inquiry believes that in failing to follow the compelling advice given by Rev Prof Feichin O’Doherty and others, both Bishop Herlihy and Bishop Comiskey placed the interests of individual priests ahead of those of the community in which they served.
3. The Inquiry identified a serious difficulty for both these Bishops in dealing with a priest such as Sean Fortune who refused to comply with the direction of his Bishop. Using Canon law to force a priest to step aside from active ministry was difficult in circumstances where that law was unclear and untried. Experience has solved some of these problems although the success achieved by Bishop Walsh in removing priests against whom allegations or suspicions arose was in all cases due to the voluntary actions of those priests and not because of any successful application of Canon law.
4. Bishop Comiskey correctly identified the objectives to be achieved in responding to allegations of child sexual abuse against priests operating under the aegis of the Diocese of Ferns. A variety of explanations were offered to the Inquiry for this failure to achieve these. Some complainants who gave evidence to the Inquiry suspected that the actions or inactions of Bishop Comiskey admitted of a sinister explanation. However, on the evidence available to it, the Inquiry believes that Bishop Comiskey failed to remove from active ministry priests against whom allegations of abuse were made, primarily because of his belief that he could not and should not take an action which would necessarily damage the reputation of one of his priests without

convincing evidence of their guilt. He did not prioritise child protection in his response.

5. There is, in the view of the Inquiry, no adequate explanation for the failure of Bishop Comiskey to deal rigorously and effectively with Fr Fortune having regard to the information which was available to the Bishop from the outset in the reports from Professor O'Doherty and from information that was made known to the Bishop subsequently.
6. The Inquiry has identified some priests against whom complaints, allegations or suspicion of child sexual abuse existed who were transferred to other parishes and dioceses without proper notification of the potential dangers surrounding them. Failure to protect children from priests who were suspected of child sexual abuse wherever that priest served, was a failure to prioritise children over individual priests and the Church in general.
7. Factors which militated against an adequate or appropriate response by Church authorities to allegations of child sexual abuse included the following:
  - a. The failure to properly monitor and assess men during seminary admission and training and the admission of some clearly unsuitable men to the priesthood with the respect and esteem that such a position afforded them, had extremely serious repercussions for the children subsequently exposed to these priests.
  - b. Once ordained, there was a failure of the management system within which priests operated. Bishops in the Diocese of Ferns failed to deal expeditiously or decisively once a problem of child sexual abuse was identified and failed to acknowledge and address the serious and systematic nature of the problem.
  - c. The failure of successive Bishops to create and preserve proper records of allegations in relation to child sexual abuse, militated against a Bishop being able to access important information about priests in the Diocese and militated against proper management.
  - d. The absence of proper records together with the acknowledged reluctance of priests in the Diocese to report inappropriate behaviour to the Bishop meant that Bishops were often presented with an allegation on one hand and a denial on the other and no other information that might have helped him come to a decision.
  - e. The failure to operate a transparent complaints procedure whereby members of the public and individual priests could have confidence that any concerns expressed about child protection would be dealt with sensitively and confidentially.
  - f. The majority of priests who attended the Ferns Inquiry stated that they had no awareness or understanding of child sexual abuse until they read about it in the media in the early 1990s. This would appear to

point to a failure of church authorities in Rome to educate bishops and priests about the growing awareness of child sexual abuse within the Roman Catholic priesthood which had developed throughout the 1970s and 1980s. Such a failure left individual priests unable to deal with this situation when they confronted it and has left many good priests feeling guilty and inadequate. The Inquiry believes that such priests need understanding and support from their community and from their Church in helping them come to terms with what was occurring in their Diocese.

- g. The failure in some cases of the church authorities or those acting on their behalf, to listen sensitively and sympathetically to allegations of misconduct by their colleagues, prevented complainants from disclosing the full horror of the abuse they had suffered and prevented the urgency of the problem in Ferns from being recognised.
  - h. A culture of secrecy and a fear of causing scandal informed at least some of the responses that have been identified by this Inquiry. By failing to properly identify the problem of child abuse even to colleagues and professionals, Bishops placed the interests of the Church ahead of children whose protection and safety should at all times have been a priority.
8. Bishop Walsh has taken steps to overcome most, if not all, of the factors militating against an appropriate response to allegations or suspicions of abuse. He extended and improved the diocesan filing system, which had been updated under the direction of Bishop Comiskey. He promulgated Norms of Conduct to govern the relationship between priests of the Diocese and children. He encouraged the clergy and faithful to notify the church authorities in the event of any departure from those norms or of any case of child sexual abuse whether current or historical. He informed the priests of the Diocese as to the seriousness of the problem and the actions that would have to be taken.
  9. Most significantly Bishop Walsh satisfied himself that he had power under Canon law immediately to remove from active ministry any priest acting under the aegis of the Diocese in respect of whom he had a "reasonable suspicion" that the priest was guilty of child sexual abuse. It has so far been unnecessary for the Bishop to invoke the canonical power aforesaid as the priests whom he requested to step aside agreed to do so.
  10. Bishop Walsh asserts that there is now no priest under the aegis of the Diocese of Ferns in active ministry against whom an allegation of child sexual abuse has been made or a reasonable suspicion exists.
  11. The Inquiry is satisfied that the procedures adopted and applied by Bishop Walsh in response to allegations of child sexual abuse are appropriate and adequate and afford protection to children in the Diocese. The Inquiry believes that this response should be incorporated into the organisation and

management of the Diocese in order to ensure that it continues into future episcopacies.

12. A concern of the Inquiry is to ensure that the rights of innocent priests are safeguarded to as much an extent as possible given the priority that must be afforded to child protection. If that objective was not achieved the procedures would be unjust to the priests and in the long term unsustainable as a protection to children.

### **The South Eastern Health Board**

1. The adequacy of any response by the South Eastern Health Board to allegations of child sexual abuse coming to its attention must be considered in the light of the legislative framework within which it operates. As already pointed out in this Chapter and in Chapter 3 of this Report, the Health Board has no power of intervention except in cases where sexual abuse is occurring in the family situation. As far as the Inquiry is aware the South Eastern Health Board has not attempted to repeat the intervention which it made in the Monageer case and which in the view of the Inquiry was, although well-intentioned, *ultra vires*.
2. The conduct of the South Eastern Health Board in conveying information to interested parties in its possession concerning allegations made against a particular person is regulated in accordance with advice obtained by the Health Board from the office of the Attorney General. It is the view of the Inquiry that the powers and duties of the Health Services Executive in this connection should be regulated by the express terms of primary or secondary legislation and not by inferences drawn from general obligations imposed on those bodies.

### **An Garda Síochána**

1. The Inquiry noted that inadequate records appear to have been kept of complaints or allegations perhaps made informally of child sexual abuse prior to the early 1990s. That defect has been remedied in the manner set out in the body of the report.
2. There were grounds for suspecting that prior to 1990, some members of An Garda Síochána may have been reluctant to pursue investigations involving members of the clergy of the Diocese. However, the internal Garda inquiry conducted in 1996 into the Monageer case concluded that there was no evidence of any intervention by members of the clergy or the hierarchy with the investigation at that time.
3. As already pointed out, the investigations and subsequent criminal proceedings between 1990 and 1995 established and confirmed the independence and integrity of the Garda Síochána in dealing with complaints of child sexual abuse. There are cases during that period where Gardai had

information about possible child sexual abuse by clergy but in the absence of a formal complaint did not take any action.

***“E. To examine and report on the levels of communication that prevailed between Diocesan and State authorities, to consider whether more appropriate norms or improved communication between the Diocesan authorities and the State authorities are now desirable or practical.”***

1. Bishop Comiskey has told the Inquiry that prior 1990 he would never have considered reporting an allegation of child sexual abuse against a priest to the civil authorities. It is improbable that his predecessors did so either. In 1990, Bishop Comiskey having seen the 1987 Department of Health Guidelines, brought about the reporting of an allegation of sexual assault by a priest of the Diocese to the authorities. The complainant was still a child at the time of making the allegation. The communication of this complaint eventually led to the successful prosecution of the perpetrator.
2. The Inquiry noted that Bishop Comiskey did not report other allegations of child sexual abuse which came to his attention between 1990 and 1995. The Bishop made the distinction between allegations made by children and allegations which were made by adults. He said it was his belief that as adults were in a position to report allegations to the civil authorities themselves it was not a matter for him to do so. In all other cases where the allegation was made by a victim who was still a child, the alleged perpetrator had died before the complaint had been communicated to the Diocese and therefore no child protection issue arose.
3. From December 1995 onwards, Bishop Comiskey adopted the policy laid down in the Framework Document that all new allegations of child sexual abuse would be reported to the Gardai. Bishop Comiskey said that he would do this whether the victim wished him to do so or not. He believed it was not an appropriate response of the Diocese to afford confidentiality to victims of child sexual abuse and generally he did not do so.
4. Bishop Comiskey did not report incidents or allegations of child sexual abuse to the civil authorities which had come to his attention before the implementation in December 1995 of The Framework Document.
5. Bishop Eamonn Walsh has continued the practice established in 1995 pursuant to the Framework Document and he informs the Gardai and the Health Services Executive of all allegations of child sexual abuse against priests of the Diocese which come to his attention. Bishop Walsh has informed the Inquiry that all historical as well as current allegations have been so reported.
6. In 1995 a protocol was agreed between the Health Board and the Gardai entitled, “Notification of Suspected Cases of Child Abuse Between the Health Board and An Garda Síochána.” Under this protocol, the Gardai and Health Services Executive share information relating to any incident of suspected child abuse that comes to their attention. The Inquiry is aware that Gardai

must consider the impact of any notification on an on-going investigation but understands that in the Wexford area at least, the Gardai are now increasingly aware of the child protection dimension to investigations of child sexual abuse and will communicate any concerns in this regard with the Health Services Executive. The Inquiry believes that arrangements for joint investigation of suspected child abuse cases should be more firmly established between An Garda Síochána and the Health Services Executive in order to ensure efficiency in outcome and sensitivity to victims.

7. The Health Services Executive has informed the Inquiry that where a complainant has requested that their complaint or allegation should not be passed on to the Diocese, they did not do so. Health Boards have always extended a high degree of confidentiality to their clients and are reluctant to undermine that confidence. Nevertheless, there has been a growing recognition in the Diocese of Ferns that proper child protection demands that the Diocese be informed of any priest who appears to present a risk to children.
8. A particular difficulty for all of the authorities is the manner in which rumours or suspicions of sexual abuse should be dealt with. It has not been the practice of the Diocese of Ferns to communicate to either the Gardai or the SEHB suspicions or rumours of child sexual abuse concerning a member of the clergy unless the Bishop is satisfied that the suspicion is a reasonable one. The Inquiry believes that it would be more helpful if the Diocese, the Gardai and the Health Services Executive exchanged information in relation to all suspicions or rumours coming to their attention so that their different sources could confirm if there was any substance to the suspicion or rumour. Periodic meetings between designated representatives of the Diocese, the Gardai and the Health Services Executive (which this Report has described as “the Inter Agency Review Group”) at which the Diocese informs the other authorities of the status and circumstances of priests who have stood aside from active ministry, already take place in the Diocese at the instigation of Bishop Eamonn Walsh. This group provides a helpful means of maintaining an appropriate level of communication between the three authorities. The Inquiry believes that this agency would be an appropriate forum for discussing rumour or innuendo in order to establish whether a reasonable suspicion could be established against any priest.

*“F. To identify and report on any lessons which might usefully be learnt from how complaints or allegations were handled in the past, which will result in improved child protection.”*

1. The Inquiry wishes to record its revulsion at the extent, severity and duration of the child sexual abuse allegedly perpetrated on children by priests acting under the aegis of the Diocese of Ferns.
2. The Inquiry heard evidence from complainants of the severe damage which they suffered as a result of alleged abuse. The victims complained, and medical experts confirmed, that the impact of such abuse can have far-

reaching consequences not only for the victim but also for their relatives and friends and that this damage can continue over a period of many years and into subsequent generations.

3. It is universally recognised that child sexual abuse is morally reprehensible but it is important that the public, and in particular those exercising authority, should appreciate that in addition to the grave psychological damage which such abuse may cause, the criminal offences involved are of the utmost gravity. They attract a maximum penalty under the criminal law of life imprisonment.
4. The Inquiry recognises that the perpetration of the offence of child sexual abuse – and more particularly its ultimate disclosure – is a cause of hurt and embarrassment to the wider community including the family, friends and colleagues of the abuser as well as those who supported and respected the institution – in this case the Catholic Church – which the abuser purported to represent.
5. The Church Authority must have proper management systems and processes to ensure that their priests are performing effectively and safely and are supported in their development and work within the community. The Inquiry is satisfied that steps are being taken in the Diocese of Ferns to address such shortcomings as may have existed in the past in this area and would hope that such steps would be continued into the future as normal diocesan practice.
6. The Inquiry believes that the appointment as Chairman of the Board of Management of national schools which is at the discretion of the Bishop and which is usually, the local curate or parish priest, should be made with utmost care and diligence. As will be obvious from the allegations set out in this Report, some priests appear to have abused their position as Managers of national schools in order to access children. The powerlessness of children in such a situation was particularly acute and the Inquiry would urge all concerned to ensure that such situations as are described in this Report are prevented as far as possible. .
7. All organisations including the Catholic Church, whose operations bring their employees into unsupervised contact with children must ensure that proper systems are in place to protect children from abuse from such employees. The Gardai will generally only act if the victim makes a formal complaint and therefore, the onus is on employers to ensure that they do not have among their employees any person who may have a propensity to abuse children. This will not be achieved by waiting for victims to come forward but must be part of an on-going system of management, monitoring and control which can prevent abuse from occurring in the first place.
8. There is some evidence that persons with a propensity to sexually abuse children will be attracted to careers which will give them easy access to children, particularly vulnerable children. Organisations engaged in working with children at any level must be alert to that possibility and have systems in

place which will allow them deal with any problems immediately and decisively once they arise.

9. Organisations and employers who work with children should be aware that setting out clear norms of behaviour regulating the way in which interaction with children should occur, is in the interests of both employees and children.
10. The community can cooperate in tackling this heinous crime by reporting any relevant information to An Garda Síochána and to those exercising authority or control over the alleged or suspected abuser, that is to say, the Bishop of the Diocese in relation to any member of the clergy acting under his aegis.
11. The Inquiry has identified the failure of authorities and individuals to keep adequate records of relevant information furnished to them as a significant factor in the failure to deal effectively with the problem of abuse which has existed in the Diocese of Ferns. Information must be maintained and transmitted to those who have authority to take action in relation to it.
12. Ideally, the most effective response to child sexual abuse from a general child protection perspective is a formal complaint to An Garda Síochána by the victim so that they may investigate the allegation and initiate criminal proceedings leading to the conviction of the abuser. The Inquiry appreciates the formidable obstacles to the adoption of this course by any victim. The successful prosecutions undertaken and the publicity given to them have overcome many such obstacles. There will, however, always remain an understandable reluctance on the part of the victims of any crime, but in particular victims of sexual offences, to come forward and submit themselves to the embarrassment and anxiety which such proceedings must entail. Every effort should be made to encourage victims of child sexual abuse to come forward and invoke the legal process which is the procedure designed by society to punish the particular wrongdoer and deter others from engaging in the same crime. It is noteworthy that only two of the cases that have come to the attention of this Inquiry have resulted in a criminal conviction.
13. One of the principal lessons to be learnt from an exploration of the complaints and allegations made in relation to the Diocese of Ferns and the responses to them is the understanding that child sexual abuse may be perpetrated by persons in any occupation, profession or vocation. Child sexual abuse is not confined to those who are obviously depraved or dissolute. The crime may be committed by people of apparent charm, intelligence and high repute. Frequently it is the respect in which the abuser is held which affords the opportunity of perpetrating the crime and protects him from subsequent detection.
14. The Inquiry accepts that there is difficulty in proving or being satisfied that a wrong-doing, which is secretive of its nature, was committed. It is salutary to recall that a priest could abuse boys in a boarding school environment over a twenty year period without arousing any suspicion in the minds of his colleagues and friends. It is the view of the Inquiry that this problem has been addressed to some extent by introducing and promulgating a code of conduct



regulating the circumstances in which the relationship between priests and young people should be conducted. As already pointed out, such a code can offer a measure of protection to both the child and the adult.

15. The Inquiry is convinced that the Diocese of Ferns and every organisation exercising control over persons having unsupervised access to children must educate their priests and members to understand their personal responsibility to ensure the protection of children. In particular it should be emphasised that vigilant child protection involves reporting any concerns or suspicions which they have in relation to abuse or any information concerning departures from the code governing their conduct. The authorities must never criticise or penalise any of their members who, in good faith, seek to act for the protection of children. The Inquiry believes that the unhappy chapter of events in the Diocese of Ferns provided a painful step in the education of the community to their responsibility for the protection of children; a responsibility which outweighs considerations of fraternity or loyalty to any organisation whether lay or religious.
16. Crucially, parents and guardians must listen to children when they express reservations about being in the company of a particular adult and must encourage children to speak of activities in which they are encouraged to join and with which they feel uncomfortable.
17. Children must be taught that they are never responsible for sexual encounters with adults and must never be made to feel guilty or complicit in that activity.

***“G. To identify and report on any difficulties or shortcomings in current laws and regulations and make recommendations as to legislative or regulatory change that would remedy these.”***

**The Inquiry would make the following legal, regulatory and general recommendations:**

1. That the Department of Health and Children should launch and repeat from time to time a nationwide publicity campaign in relation to child sexual abuse. Such campaigns would assist parents in performing their constitutional rights and duties to safeguard their children. The content and style of such a campaign would be determined by the officers of the Health Services Executive or their successors and the experts available to them but the Inquiry believes that attention should be focussed on the following matters:
  - (i) That children must never regard themselves as responsible for acts of sexual abuse perpetrated on them by adults.
  - (ii) That abuse is perpetrated by persons in every walk of life including respected men and women in distinguished professions and vocations
  - (iii) That abuse may cause serious and lasting psychological damage.

- (iv) That child sexual abuse of any kind is a serious criminal offence which should be reported to the Gardai.
  - (v) Children should be informed of and assured of support and care by State authorities when they make a complaint.
2. The Inquiry recommends that every effort should be made by legislation and publicity to preserve and strengthen the more open environment of reporting which is one of the few redeeming features of the appalling scandals of sexual abuse that has besmirched the Diocese of Ferns. Criminal wrongdoing will not cease but the extent of the misery created by unchecked child abuse of children by adults in a position of power or privilege will be greatly reduced by the creation of an open and informed environment that will encourage a willingness to report promptly inappropriate sexual behaviour towards children. The Inquiry would like to state its admiration for the courage of victims of clerical abuse in the Diocese of Ferns in coming forward, the nobility of parents who understood and believed their children who did complain and the efficiency and professionalism of a significant number of men and women involved in the relevant civil and religious organisations to whom reports were made.
  3. The Diocese of Ferns and every other organisation which employs, qualifies or appoints persons to positions where they have a significant measure of unsupervised access to children should prepare, publish and revise from time to time a code of conduct dealing with the manner in which priests, or other employees or appointees, would interact with young people. The purpose of such a code is to ensure that the environment in which the priest (or other employee or appointee) meets a child is one in which the child is safe from abuse. The priest (or other employee or appointee) will also be afforded protection from unfounded allegations of such abuse. The code would also set an observable standard of conduct so that parents and priests (or other employees or appointees) would recognise any departure from the code. Nobody, least of all priests of the Diocese, or co-employees or appointees, should tolerate breaches of the code by any other person. Such a breach should be brought to the attention of the Bishop or relevant employer. The Inquiry is satisfied that Bishop Eamonn Walsh as Apostolic Administrator of the Diocese of Ferns implemented shortly after his appointment to that position, a code of conduct. The effectiveness of such a code obviously depends upon the ability and willingness of all persons in a community, including fellow priests being attentive to other person's interaction with children and reporting any transgressions on the part of any other person with regard to that code. It is crucial that this code be publicised by the Diocese in order to ensure its effectiveness.
  4. Every person to whom a complaint of child sexual abuse is made should immediately create a written record of the complaint. In the case of An Garda Síochána and officials of the Health Services Executive the creation of such

records is dealt with by regulation or established practise. In the case of a priest of the Diocese he should inform the intended complainant that the Bishop's delegate is a more appropriate person to whom the complaint might be made but this should not be a reason for discouraging the complainant if he prefers to speak directly with the priest selected by him. It should be made clear to the complainant that receipt of his complaint will be in any event acknowledged by the Bishop's delegate within 14 days of the making of it. Procedures for such an acknowledgement should be put in place. While it is essential for each organisation to have formal channels for reporting complaints, no complainant should be deterred from making a complaint and having same communicated to the relevant authority by a complainant's reluctance to adhere to an organisation's formal reporting procedures.

5. The Inquiry has not examined in detail the arguments in favour of and against a mandatory system of reporting as this has effectively been adopted voluntarily by the Catholic Church in the Framework Document 1996. The Inquiry would favour a continuance of the system adopted by the Diocese of Ferns in that regard pursuant to the Framework Document. Although the Document speaks of full disclosure with no guarantee of confidentiality, the practice as seen from the diocesan files has been to protect the identity of the complainant as far as possible. The non-disclosure of the identity of the victim or complainant does reduce the value of the information to the Gardai but not significantly. If the complainant is unwilling to go to the Gardai or continue to cooperate during the course of criminal proceedings, then information as to his identity is of little value to them. The preservation of anonymity in relation to the victim may be a valuable factor in persuading the victim to provide information to the person selected by him. The Inquiry has been told by An Garda Síochána that as a general rule, it would not approach a victim who has reported a complaint of child sexual abuse to a party other than the Gardai unless it was satisfied that the victim consented to such an approach being made by them. Nevertheless, the Inquiry appreciates that no meaningful investigation can be carried out by An Garda Síochána without the identity of the complainant being made known to them.
6. The Inquiry has observed the key role of the Bishop in the Diocese as the manager and leader of the priests within that diocese. It is the view of the Inquiry that Bishops should be supported by management training in order to fulfil that role.
7. The Inquiry has noted the reluctance of victims, whether children or adults, to report abuse to statutory authorities. Bearing these matters in mind, it therefore recommends that efforts be made to reduce this reluctance by enhancing public confidence in the reporting and investigative system. As is the case in many other jurisdictions, investigating Garda officers must be trained in how to interview children appropriately and be able to provide a child friendly and secure environment for this to take place in order to reduce trauma. Specialist child protection units in Northern Ireland are highly regarded and considered essential by police and social services, and could provide a useful model for implementation in the Republic.

8. The procedure of holding regular high level meetings between the Diocese, An Garda Síochána and the Health Services Executive which evolved in the Diocese of Ferns is seen by the Inquiry as having considerable merits. It is a procedure which should and could be adopted in any case in which continuing problems or a series of problems arises in relation to child sexual abuse. The immediate purpose of the procedure – referred to in the report as “The Inter Agency Review Committee” – was for the Diocese to advise the other agencies as to the circumstances and whereabouts of a priest who had been required to step aside from active ministry pending investigations of allegations or suspicions of child sexual abuse. It seems to the Inquiry that the functions of the Inter Agency Review Committee could be extended in the circumstances which exist in the Diocese of Ferns to enable An Garda Síochána to advise the other authorities of the status of any criminal investigation being undertaken by them into child sexual abuse and the Health Services Executive to express an opinion as to the suitability of the procedures taken by the Diocese to ensure the safety of children from priests in respect of whom allegations have been made or suspicions have arisen.
9. The Inquiry would also urge that the authorities should raise at meetings of the Inter Agency Review Committee, suspicions, rumour or innuendo which are known to them in relation to misconduct of any member of the clergy. The Inquiry would be anxious to eradicate the problem which so often arose in the past, namely, that after a disclosure of abuse, people in the community claimed to have known for a long time of rumours of wrongdoing or abuse by particular priests. If there are rumours it should be possible between the three authorities to establish whether there is any basis for them.
10. In relation to allegations, the Inquiry would suggest that it is in the interest of all of the authorities and of the people whom they serve that every allegation of child sexual abuse should be brought to the attention of the Inter Agency Review Committee. Even complaints which are demonstrably untrue or written by people known to be not credible or unbalanced should be noted by the Inter Agency Review Committee so as to ensure that each of these authorities have a full appreciation of all of the allegations made. In that way, each authority would know the totality of the problem and the manner in which it is being dealt with.
11. The Inquiry would recommend that the convening of meetings of the Inter Agency Review Group and the recording and maintaining of its records should be the responsibility of the Health Services Executive.
12. The Inquiry appreciates that the emphasis placed on the recording of complaints and the minutes of highly sensitive meetings does involve dangers of disclosure. The Inquiry would strongly recommend that all documents in relation to allegations, rumour, suspicion or innuendo of child sexual abuse created or maintained by the Diocese, An Garda Síochána or the Health Services Executive should attract by law, the same right of disclosure on an Order for Discovery as that conferred on State documents under the title “Executive Privilege”. It is the understanding of the Inquiry, that in that event,

no document would be produced for inspection pursuant to an Order for Discovery unless the Court was satisfied, having considered the relevant documents, that the need of the applicant for inspection to enable him to exercise his right of access to the courts outweighs the need to preserve the confidentiality of the documents.

13. The Minister for Health and Children should review the desirability of introducing legislation empowering the High Court on the application of the Health Services Executive, or other suitable body, to bar or otherwise restrain any person from having unsupervised access to children where reasonable grounds exist for the belief that the person has abused or has a propensity to abuse children. If the problem in removing or suspending individual priests was as intractable as Bishop Comiskey believed, the Inquiry would feel that a legislative solution might well be necessary, and in accordance with the advice received by the Inquiry, would not conflict with any provision of the Constitution.
14. The Inquiry believes that consideration should be given by the Legislature to the introduction of a new criminal offence which would apply to situations where any person “wantonly or recklessly engages in conduct that creates a substantial risk of bodily injury or sexual abuse to a child or wantonly or recklessly fails to take reasonable steps to alleviate such risk where there is a duty to act.” [General Laws of Massachusetts Part IV Title 1 Chapter 265]. The Inquiry believes that the implications of such a law on teachers, childcare workers and professionals whose work brings them into contact with children would have to be fully explored and the parameters of any such legislation would have to be clearly outlined.
15. It is clear that Bishop Walsh and his advisors have interpreted Canon law and the procedures identified in the Framework Document of 1996 as requiring him to place the needs of child protection above the rights of individual priests to the protection of their good name. The Inquiry believes that Bishop Walsh is correct in this approach.
16. The Inquiry recognises that every effort must be made to avoid unnecessary damage to the reputation of the priest and to afford him an opportunity to establish his innocence at the earliest practical date. It is in the public interest that an issue between a complainant and the priest as to whether abuse was perpetrated should be resolved in the only forum capable of adjudicating thereon, namely the Courts of Law established under the Constitution. Because of the need to safeguard children, a priest may be required to step aside from active ministry with all of the embarrassment that that entails before his guilt is investigated, less still established. The Inquiry is of the opinion that a priest who disputes an allegation of child sexual abuse made against him should be entitled to legal aid under the Civil Legal Aid Act 1995 to contest the issue irrespective of his financial resources. Similarly, the public interest would be served by establishing the truth, if such is the case, of the allegation made by the complainant. Accordingly, the complainant should also

have civil legal aid irrespective of his means in order to establish his claim against the alleged abuser.

17. The Inquiry has identified at Chapter Six of the report the shortcomings in relation to the ability of the Health Services Executive to intervene properly in relation to child sexual abuse perpetrated by a non family member without the connivance of a child's parents. The Inquiry recommends that an in-depth study be conducted on the full remit of the Health Services Executive's powers in relation to this issue and that express statutory recognition is given to those powers.
18. The Inquiry would recommend that all Gardai should notify their superior officers in writing, in relation to a decision taken by them not to investigate or proceed with a referral for prosecution to the Director of Public Prosecutions any offence concerning a complaint or allegation of child sexual abuse.
19. The Inquiry is satisfied that there are adequate procedures in place to enable any citizen to complain where he believes that his or her complaint has not been dealt with in an appropriate and satisfactory manner. These procedures exist within and outside of the Garda structure and the Inquiry would recommend that these procedures be made more widely known.
20. The Inquiry would recommend that a local Superintendent should consult with the Domestic Violence and Sexual Assault Investigation Unit in Dublin to seek their advice where issues arise in relation to the desirability of maintaining surveillance on an alleged or suspected perpetrator of an offence of child sexual abuse, whether or not a formal complaint has been made.

***“H. In the event of the withholding or withdrawal of full cooperation from the Inquiry by Church authorities or any State authorities, or any suggestion that cooperation is being withheld, to report that fact immediately to the Minister for Health and Children. In the event of the Minister for Health and Children receiving such a report he will then grant the Inquiry statutory powers.”***

The Inquiry is satisfied that, it received cooperation from all the agencies involved with the issue of child sexual abuse in the Diocese of Ferns.

***“I. At the conclusion of their inquiries, to deliver a full and final report to the Minister for Health and Children who will lay it before the Houses of the Oireachtas and publish the report in full subject to legal advice.”***

The Ferns Inquiry has concluded its investigations and the Report of the Inquiry is attached hereto.

## APPENDIX

On 5 August 2005, a complainant informed the Inquiry that she had been abused sexually by two priests of the Diocese of Ferns. In one case, if not both, it was alleged that the abuse occurred when the victim was a child. It appears that the same complainant had on 11 May 2005 spoken to the acting Diocesan Delegate in the Diocese of Ferns of her complaints and identified one of those priests but had not made a written complaint.

Upon receiving notice of this complaint, the Diocese reviewed the personnel file relating to the priest identified by her. This review resulted in the production of two letters which clearly related to the present complainant without identifying her by name. The same file revealed a third letter in which it was alleged that a young man had been abused by a priest as a child. This documentation was forwarded to the Inquiry by the Diocese.

In those circumstances, it was felt by both the Inquiry and the Diocese that an investigation should be undertaken as to the manner in which the discovery had been made in the first place.

An examination of discovery issues was carried out at a plenary hearing of the Inquiry on 2 of September 2005, at which the Diocese and the Inquiry was represented by Solicitor and Counsel. In July 2005, Bishop Walsh had instructed Arthur O'Hagan Solicitors, who are solicitors to the Diocese, to carry out an inspection of all of the files of the Diocese to establish as conclusively as possible what further documents (if any) existed that might be material to the work of the Inquiry. Mr Edward Gleeson, partner in Arthur O' Hagan Solicitors informed the Inquiry that he appointed a member of his staff to review the 234 personnel files in the possession of the Diocese relating to priests living and dead who had operated in the Diocese of Ferns.

A total of eight further files were identified as possibly being of relevance to the Inquiry. The Inquiry was satisfied that three of these eight files had no relevance to its Terms of Reference whatsoever.

The Inquiry has accepted the unequivocal assurance of the Apostolic Administrator and Arthur O'Hagan Solicitors based on the investigation and audit carried out that all relevant documentation has been furnished to the Inquiry. The Inquiry has also accepted that the omission of the documents identified in the course of this further investigation was due to a regrettable error on the part of the Diocese and did not constitute the withholding of cooperation on its part.

The Inquiry is satisfied that the cases cited below do not impact on the work done by the Inquiry or on the conclusions or recommendations reached by it.

A full examination of the files and documents relating to the cases which came to light subsequent to 31 August 2005 and the incorporation in the Report of the findings of the Inquiry in relation thereto would involve an unacceptable delay. On the other

hand, the Inquiry is conscious that the omission of any reference to the facts disclosed by this additional material would invite concerns and suspicions which would be contrary to the public interest. In the circumstances, the Inquiry has set out hereunder a précis of the material revealed by this documentation but not investigated by the Inquiry.

### **1. Fr V:**

The first indication of any difficulty with this priest was expressed by a parishioner who complained in a letter in 1993 to Bishop Eamonn Walsh that Fr V had seriously breached confidences when asked to counsel a matrimonial matter. The letter described this priest as having an involvement with the local school and youth organisations and as being *"in a position of trust and he abuses this trust on more than one level"*.

The author of the letter, who signed her name, stated that she no longer wanted this priest to be an influence on her children. A copy of this letter was sent to Bishop Comiskey who acknowledged it by thanking the correspondent for her courage in writing to him and who said that the contents of it had come as a shock to him. No further response appears to have been made to that letter.

In January 1995, a person met with the vicar general, Monsignor Breen, and alleged that he had heard indirectly that Fr V had been drinking heavily during a party and had made sexual advances towards a ten year old boy.

The vicar general informed Bishop Comiskey of the complaint. The bishop wrote to the father of the boy asking to meet with him and his wife to ascertain more clearly what was alleged to have occurred. Bishop Comiskey met with the family in January 1995 but no allegation or accusation against Fr V was made by either the parents or the child in question. Indeed, they were angered that a complaint had been made to the bishop.

Bishop Comiskey approached Fr V who denied that the alleged incident ever occurred. Bishop Comiskey took no further action in relation to the matter. Fr V on his own initiative attended a psychologist expert in this area to obtain reassurance and confirmation that he had no problems of a sexual nature.

When the personnel file relating to Fr V was reviewed by Bishop Walsh in July 2002, he interviewed Fr V and it was established, that on assessment, no evidence had been found that Fr V possessed any propensity or orientation towards minors which would have caused concern and that Fr V could continue to work well as a priest.

### **2. Fr W:**

It appears that in about September 1994, Bishop Comiskey received an anonymous complaint which suggested that there may have been a sexual relationship between Fr



W and an underage girl. The files indicate some measure of dispute between Fr W and his parishioners but do not disclose any specific complaint of child sexual abuse.

The only issue in this file that might have been relevant to the work of the Inquiry was the suggestion that there had been a complaint that Fr W had been in a sexual relationship with an underage girl. Bishop Comiskey has told the Inquiry that although he invited the anonymous caller to come forward to either the Gardai or himself, they did not do so. Fr W vehemently denied the allegation.

### **3. Fr X:**

In 1995, a complainant whom the Inquiry names as “Veronica” and who was then twenty three years of age, sought and obtained a meeting with Bishop Comiskey. Veronica complained of inappropriate sexual conduct by Fr X. The Bishop’s record of this meeting would suggest that some relationship had commenced when Veronica was sixteen years of age although the note clearly records “before 18 nothing criminal”. A further note on the file dated May 1995 records that an improper relationship between the priest and the complainant went back “as far as when she was fourteen years of age”.

It appears that another priest of the diocese conducted some investigation or acted as an intermediary of some description at that time.

A file note records the fact that the legal implications of Veronica being underage at the time of the inappropriate conduct had been explained to, and understood by Veronica.

The matter was reviewed by Bishop Walsh in May 2002 when the diocese was informed personally by Veronica, who subsequently confirmed by letter of June 2002 that the relationship between her and Fr C took place when she was over the age of eighteen years. In her letter and communications with the Diocese she insisted that the matter should not be re-opened as it would cause embarrassment to her and to her family.

On 24 June 2002, Bishop Walsh met with Fr X and informed him of the outcome of the meeting with Veronica, but did request that Fr X to meet with Dr James O’ Donoghue of the Kedron Counselling and Therapy Centre to obtain an assessment and reassurance in relation to his emotional needs. The Therapy Centre forwarded a detailed report to Bishop Walsh recommending –among other things- that the priest continue in ministry.

### **4. Fr Y:**

In a letter dated March 1991 from Fr Z to Bishop Comiskey, the priest explained that a female named by the Inquiry as “Gwen” had, in the previous summer, “become very attached to [Fr Y]” and became very upset when he left the diocese. Gwen was in fifth year in school at the time and therefore aged about 16. Bishop Comiskey said that he spoke with Fr Y about a teenage girl who was “hanging around the rectory” but that he had not heard any rumour or accusation of child sexual abuse. Bishop Comiskey

has told the Inquiry that he ordered Fr Y to discontinue this arrangement with Gwen. Some time after that, Fr Y left priestly ministry.

**5.Fr Z:**

In a letter dated 3 February 1991, Bishop Comiskey informed Fr Z that allegations had been made to him concerning his ministry especially in relation to priestly celibacy. The Bishop met with Fr Z in February 1991 after he had been informed that a female named by the Inquiry as "Geraldine" had stayed with Fr Z in his presbytery in a parish of the Diocese. Geraldine was aged 17 at the time. Fr Z readily admitted this and explained that his purpose in providing accommodation for Geraldine was to assist her at a time of crisis in her life. Fr Z vigorously justified his actions and the scandal which it might cause as being necessary for her welfare in spite of the risk of it being misconstrued. Bishop Comiskey accepted that Fr Z had not violated any law of the Church or of the land in "reaching out" to Geraldine. He queried the prudence of the action taken by the priest. It does not appear that any allegation of abuse by Fr Z of Geraldine was made by anyone at any time.

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