

14<sup>th</sup> January 2003

Mr. Michael McDowell, T.D.  
Minister for Justice, Equality and Law Reform  
Department of Justice, Equality and Law Reform  
72-76 St. Stephen's Green  
Dublin 2

**Re: Limitations on the remit of the proposed Garda Inspectorate**

Dear Minister McDowell,

The Children's Rights Alliance welcomes the recent announcement by the Minister that the existing Garda Síochána Complaints Board is to be replaced by a Garda Inspectorate, with investigative powers similar to that of an Ombudsman. The Alliance sees the strengthening of a complaints system for the Garda Síochána as an important step in the promotion and protection of the rights of all citizens, including those of children and young people, as they interact with the Gardaí.

This development will advance Ireland's obligations under the UN Convention on the Rights of the Child to ensure that

*"No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment." (Article 37)*

and that

*Every child alleged as, accused of, or recognised as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, ... and which takes into account the child's age.... (Article 40)*

The Alliance is, however, concerned at reports that there are to be limitations on the Inspectorate's investigative remit. It has been reported that the proposed Inspectorate's remit will extend only to "the most serious allegations". All "minor disciplinary matters" and "more serious allegations" would continue to be dealt with internally within the Garda Síochána. Thus the majority of complaints against members of the Gardaí would continue to be investigated by fellow Gardaí, albeit internal investigations of "more serious allegations" would be overseen by the Inspectorate.

The Alliance believes this proposed arrangement to be deeply flawed. The proposal raises the question as to how and by whom a complaint will be defined as of "minor disciplinary matters", "more serious allegations" or "most serious allegations". Can this system operate in a transparent and accountable manner? What mechanism would be in place to ensure that when drawing a line between "more serious

allegations” and “most serious allegations” the decision will not be influenced by a complainant’s history of criminal behaviour, drug use or homelessness, their socio-economic or family background, or their age, gender, racial or cultural identity?

Fr. Peter McVerry, a campaigner for homeless children, recently highlighted the potential danger of introducing a system whereby complaints by young people are referred to an internal complaints mechanism. He commented that

*“Presumably, allegations of assault by young people in deprived areas would be covered by the term “more serious allegations”. In such cases, Gardaí will continue to investigate Gardaí, which is the central problem with the present system”*

In its 2001 Annual Report, the Garda Síochána Complaints Board expressed concern at a number of cases involving the treatment of juveniles detained at Garda stations and then released without a parent or guardian being notified. Advocates working with children who interact with the Gardaí state that they routinely hear credible individual allegations of ill treatment of juveniles by Gardaí at Garda Stations, and also reports of juveniles who have been detained for questioning by Gardaí without a parent or other adult being informed.

Not surprisingly, allegations of ill-treatment against members of the Gardaí are often unreported or not verified. Young people often fear that a complaint to the Garda Complaints Board may lead to further ill-treatment by Gardaí at a future date. In such instances *“It is the word of a poor, sometimes criminally involved, young person against adults with authority, power and respectability”* (Statement of Peter McVerry, SJ).

The Children’s Rights Alliance urges you, in your role as Minister for Justice, to extend the remit of the proposed Inspectorate to enable all citizens, including children and young people, to have their complaints against members of the Garda Síochána be heard by an independent body, irrespective of the gravity of the complaint. Only a comprehensive Inspectorate or Police Ombudsman will ensure that the rights of children and young people who interact with the Gardaí will be fully protected.

The Alliance also calls on you as Minister to ensure that the drafting of the legislation and the allocation of necessary resources to establish an Inspectorate will be sufficient for the Inspectorate to operate in a fair, accountable, transparent and independent manner.

The Alliance supports the recommendation of the Human Rights Commission that the new Garda complaints system be empowered on a level equal to that afforded to the Office of Police Ombudsman in Northern Ireland. This would serve to ensure compliance with the Good Friday Agreement which provides that all those living on the island of Ireland shall enjoy the same rights and an equivalent level of rights protection.

Thank you for your attention to these matters.

Yours sincerely,

Raymond Dooley  
Chief Executive