



Garda
Ombudsman
INQUIRY INDEPENDENCE IMPARTIALITY

GARDA SÍOCHÁNA OMBUDSMAN COMMISSION

ANNUAL REPORT 2013



**Garda Síochána Ombudsman Commission,
150 Upper Abbey Street,
Dublin 1.**

Phone: (01) 871 6600

Lo Call: 1890 600800

Fax: (01) 814 7026

Email: info@gsoc.ie

Web: www.gardaombudsman.ie

Mr Alan Shatter T.D.
Minister for Justice & Equality
94 St. Stephen's Green
Dublin 2

Dear Minister

It is with pleasure that we submit to you the eighth Annual Report of the Garda Síochána Ombudsman Commission, which covers the period 1 January 2013 to 31 December 2013. This Report is submitted in accordance with section 80 of the Garda Síochána Act, 2005.

Yours sincerely



Simon O'Brien, Chairman



Kieran FitzGerald, Commissioner



Carmel Foley, Commissioner

Garda Síochána Ombudsman Commission

March 2014

GARDA SÍOCHÁNA OMBUDSMAN COMMISSION
8th ANNUAL REPORT

CONTENTS

Letter to Minister for Justice & Equality.....1
Ombudsman Commission’s Review of the Year5

1. Complaints

Table 1. Complaint receipt method.....9
Table 2. Complaint throughput9
Chart 1. Allegation types9
Chart 2. Factor in complaints.....10
Chart 3. Allegation location11
Chart 4. Complainant sex.....11
Chart 5. Complainant age12
Chart 6. Complainant nationality.....12
Table 3. Allegations per Division excl. Dublin Metropolitan Region (DMR)..... 13
Map 1. Allegations per Division excl. DMR.....13
Table 4. Allegations per Division - DMR14
Map 2. Allegations per Division - DMR14
Chart 7. Rank of gardaí about whom complaints were made.....15
Chart 8. Sex of gardaí about whom complaints were made15
Table 5. Outcomes of complaints closed in 2013.....16
Table 6. Outcomes of section 94(10) reviews completed in 201316

2. Section 102 referrals

Table 7.	Referrals per Division excluding DMR.....	17
Map 3.	Referrals per Division excluding DMR	17
Table 8.	Referrals per Division - DMR.....	18
Map 4.	Referrals per Division - DMR	18
Chart 9.	Sex of non-garda injured party	19
Chart 10.	Factor in section 102(1) referrals	19
Chart 11.	Day of the week of referrals	20
Chart 12.	Time of day of referrals	20
Table 9.	Outcomes of referrals	21

3. Investigations in the Public Interest

Investigations in the Public Interest (Section 102(4)).....	22
---	----

4. Informing Policy Development and Policing Practice

Table 10.	Suggestions/ Observations brought to the attention of the Garda	
Síochána in 2013		23
Recommendations from Special Report to Minister for Justice & Equality		26
Use of informants by the Garda Síochána (CHIS)		26
Use by Gardaí of ‘participating informants’ and regulation of such activity.....		27
Intelligence handling.....		28
Impact on GSOC and oversight		29

5. Complainant Profile

Chart 13.	Ethnicity of complainants	30
Chart 14.	First language of complainants.....	31
Chart 15.	Housing status of complainants	31
Chart 16.	Health/disability status of complainants.....	32
Chart 17.	Employment status of complainants.....	32
Chart 18.	Highest education attainment of complainants.....	33

6. Public Attitudes Surveys

Review of results of the Public Attitudes Survey 2013.....	34
--	----

Appendices

Appendix 1. Expenditure & Savings 2013	35
Appendix 2. Staffing Levels 2013.....	36
Appendix 3. Training & Development 2013.....	38
Appendix 4. Legal Review of 2013	40

Ombudsman Commission's Review of the Year

The Garda Síochána Ombudsman Commission (GSOC) aims to be an active driver of ever-improving police accountability. We believe that the provision of fair, effective and impartial oversight of the Garda Síochána by an independent body can promote public confidence in the process for resolving complaints. It is a testament to the staff of the organisation that, in 2013, we dealt with a workload very similar in scale to that of the previous year despite that fact that we, in common with many other public bodies, operated with diminished resources.

Notable Events in 2013

It was a busy and, at times, difficult year. Notable events included:

- **Our submission to the Minister for Justice & Equality, and the subsequent publication by the Minister, of a Special Report by the Garda Ombudsman**, issued pursuant to section 80(5) of the Garda Síochána Act 2005, on completion of a Public Interest Investigation launched under that Act. On 9 May 2013, GSOC issued the Special Report and the Minister for Justice & Equality laid that report before the Houses of the Oireachtas on the same day. The report arose from a long-running investigation which touched on some sensitive areas such as informant-handling practices in the Garda Síochána. The recommendations made in that report are set out on pages 26 - 29. (Full report available at www.gardaombudsman.ie.)
- **Our appearance, for the first time, before the Joint Oireachtas Committee on Public Service Oversight and Petitions**. On 3 July 2013, the Commission appeared before the Joint Oireachtas Committee on Public Service Oversight and Petitions to discuss our Annual Report, the Special Report mentioned above and timeliness issues more generally. This was the first appearance by the Commission before an Oireachtas Committee. We appreciated the invitation and the hearing we received from the Committee and hope that this first appearance heralded a heightened level of interest in the work of GSOC and a new and deepening reporting relationship with the Oireachtas. (A transcript of the appearance is on the Oireachtas website www.oireachtas.ie.)
- **The agreement of revised Protocols with the Garda Síochána covering, among other matters, the exchange of information**. Timeliness in investigations is critical to GSOC in order that we provide an effective service. Following concerns highlighted in our 2012 Annual Report about the nature and the timeliness of responses from the Garda Síochána in relation to requests for information, and following helpful intervention by the Minister for Justice & Equality and his officials, re-negotiated Protocols were agreed and signed by GSOC and the Garda Commissioner on 23 September 2013. It will be essential for both parties to ensure that momentum is not lost and that real improvements in performance can be reported for 2014. The previous agreement that investigations undertaken by the Garda Síochána following referral from GSOC (which lie at the less serious end of the disciplinary scale), be completed within 12 weeks (as it is in everyone's interest that such matters be dispatched quickly), was rarely achieved. It appeared

unrealistic to attempt again to achieve adherence to these timescales. The re-negotiated Protocols extended those time limits to 16 weeks in unsupervised cases and 20 weeks in supervised cases. It is hoped that this extension will facilitate a more efficient service to the public and gardaí alike. (The revised Protocols are available at www.gardaombudsman.ie.)

Key Figures

In 2013, GSOC received 2,027 complaints from members of the public (2,089 in 2012). The number of allegations of misconduct by gardaí made in these complaints was 5,299.

The four most common types of allegation related to:

- abuse of authority (34%)
- neglect of duty (27%)
- non-fatal offences (13%)
- discourtesy (11%).

The most prominent situations which gave rise to complaints were Garda Síochána operations involving investigation, arrest and road policing.

The Garda Commissioner referred 41 incidents to GSOC under section 102(1) of the Garda Síochána Act, 2005 (the Act), which was down from 72 in 2012, 90 in 2011 and 103 in 2010. GSOC has no immediate explanation for this trend. While there are some positive aspects (notably a decrease in road traffic incidents (RTIs) involving Garda members, resulting in death or serious harm), GSOC intends to explore with the Garda Síochána any factors that may further explain the trend.

Of the 41 incidents referred by the Garda Commissioner, eight involved fatalities. There were no gardaí among the fatalities. GSOC investigated one additional case involving a fatality, in accordance with section 102(2)(b).

The Ombudsman Commission opened three investigations in the public interest, in accordance with section 102(4) of the Act (see page 22).

GSOC continued to engage in an Outreach programme during 2013 to raise awareness of GSOC's role, delivering presentations to schools and community groups. GSOC attended the Garda College, Templemore, to provide input to the Garda management supervisory training programme.

Paving the Way to Greater Effectiveness in the Future

Legislative Amendments

On 31 May 2012, GSOC submitted proposals to the Department of Justice and Equality in relation to changes that we believed were necessary to the Act in order to improve GSOC's ability to deliver effectively on its remit. In 2013, in the absence of legislative change, we engaged in discussions with the Garda Síochána to seek to introduce new ways of dealing with some less serious matters, largely of a quality-of-service nature. Those discussions have not resulted in any changes. With the passage of time and in light of our discussions with the Garda Síochána, we may revisit our own views on legislative amendments in 2014.

Lessons Learned

On page 4 of our Statement of Strategy 2012-2016 (available on www.gardaombudsman.ie), the Commission stated that "the identification of systemic issues will be part of an enhanced learning loop between the investigation of cases, research into the overall caseload and the return of findings to the relevant bodies. This approach has the potential to reduce complaints and also to induce lasting improvement in the quality of the service provided to the public by both GSOC and the Garda Síochána. It has the potential to achieve these goals while reducing pressure on scarce resources".

The Commission, throughout 2013, sought to identify opportunities to provide the Garda Síochána with feedback so as to inform policing practice constructively. The feedback occurred generally on foot of investigations which highlighted a potential systemic issue. The potential systemic issue will not necessarily have been the central focus of the investigation; in many cases, these issues arose in the course of investigations into other matters. In this context, the feedback was not specific to individual members but to the Garda Síochána as an organisation. The Commission recognises that, on occasion, members of the Garda Síochána can be placed in difficult situations where the correct course of action might not be clear to them. The feedback sought to identify opportunities for the Garda Síochána as an organisation to assist members through whatever means it considers optimal. The suggestions are outlined in this report from page 23.

Communications

We expanded our communications with the public in 2013 by leveraging digital media, notably our own website and Twitter account, to improve public understanding of our activities.

Budget

For 2013, the allocated annual budget was €8,011,415. This was subsequently reduced, in line with Departmental budgetary adjustments, to an actual budget of €7,970,675. In 2013, as with previous years, we demonstrated GSOC's commitment to value for money and maintenance of tight fiscal controls. We recognise the difficult financial climate within which State organisations operate and we will continue to use the resources at our disposal carefully. Expenditure and savings for 2013 are set out in Appendix 1.

Staff

In common with many other public service organisations, GSOC operated with reduced resources. We are now operating with staff numbers well below the original planned workforce targets (Appendix 2).

Acknowledgments

In addition to our own very dedicated staff, we would like to acknowledge the input of many others. This group includes staff within the Department for Justice and Equality, the Office of the Director of Public Prosecutions (DPP), the Judiciary, the Coroners, the Defence Forces, the Forensic Science Laboratory and the State Pathologist, the Irish Human Rights Commission and the Garda Commissioner and his colleagues. We would like to thank all of these people for their courtesy and professionalism.

Conclusion

GSOC is committed to a continuous focus on our mission, vision, values and objectives. We believe that our independent role is a key element in police accountability. 2013 was a year of very frank exchanges with various interested parties. We hope that those exchanges have borne fruit in new agreements and new awareness and that the public and gardaí will be the beneficiaries in the future.

1. Complaints

Table 1. Complaint receipt method

Complaint Receipt Method	Number
Online	731
Post	641
Garda Station	307
Telephone	167
Public Office	156
Fax	17
Interviewed off site	8
Total	2,027

Table 2. Complaint throughput

Complaint Throughput	Number
Open at start of year	1,052
Received in 2013	2,027
Closed in 2013	2,072
On hand at end of year	1,007

Chart 1. Allegation types

Chart 1, below, shows a breakdown of the main categories of allegation types received. The four most prominent types were abuse of authority, neglect of duty, non-fatal offence and discourtesy. The category of “other” includes a range of allegations such as accessory to the above, corrupt or improper practice, criminal damage, discreditable conduct, improper disclosure of information, intoxication, misuse of drugs, road traffic infringement and/or sexual offence.

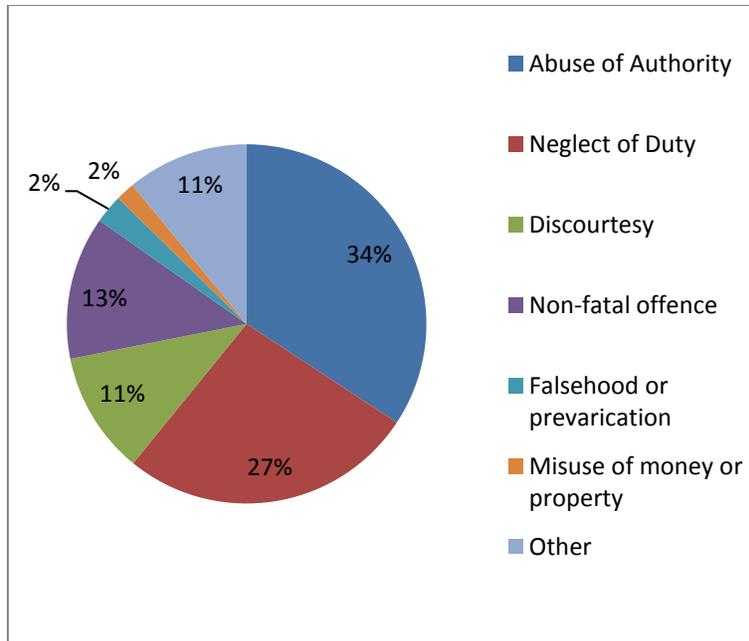


Chart 2. Factor in complaints

“Factor in complaints” is defined as the main context in which the interaction took place which gave rise to the complaint. The most prominent factors were investigation, arrest and road policing (Chart 2). The category of “other” includes a range of factors such as civil matters, disclosure of information, immigration, property issues and/or public events.

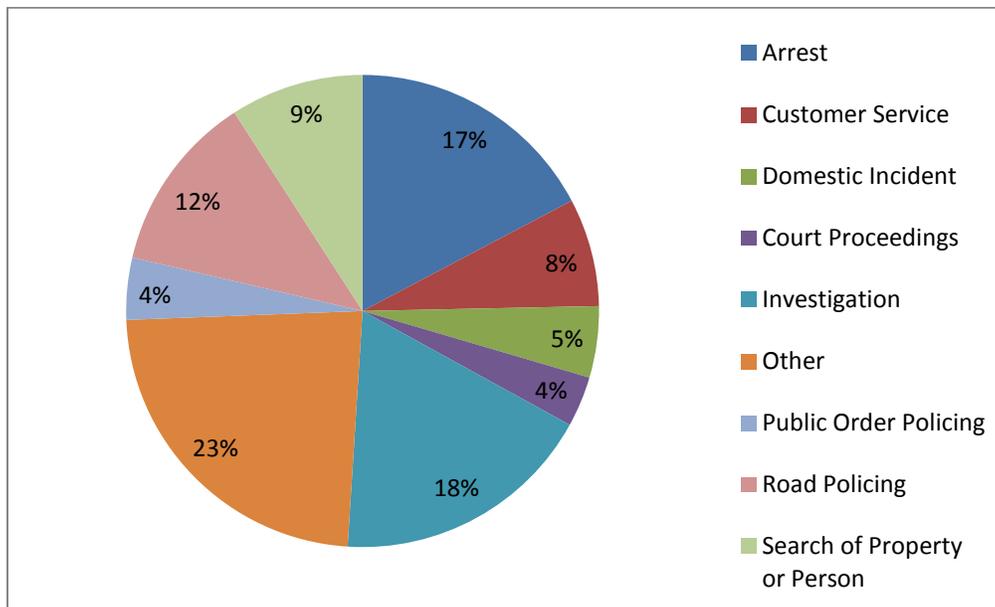


Chart 3. Allegation location

“Allegation location” is the physical place in which the interaction that gave rise to the allegation took place. The most prominent locations were public place, garda station (not in custody), domestic residence and garda station (in custody).

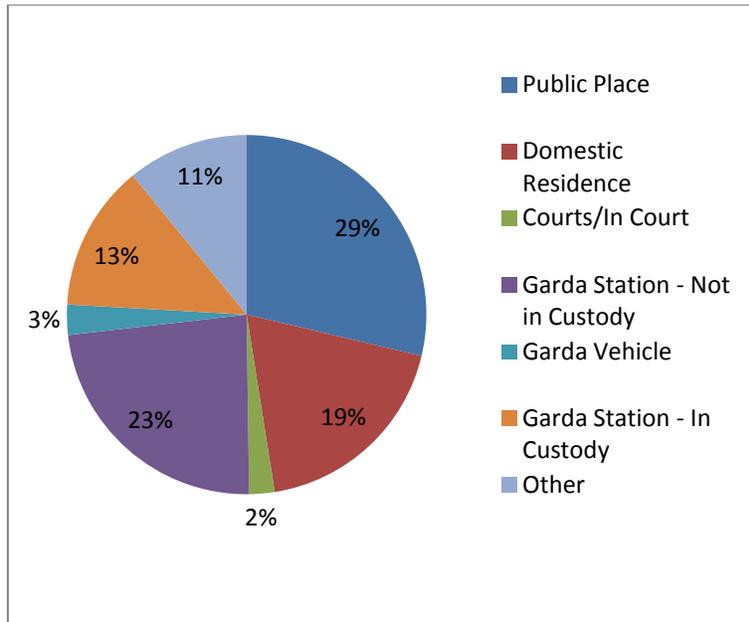


Chart 4. Complainant sex

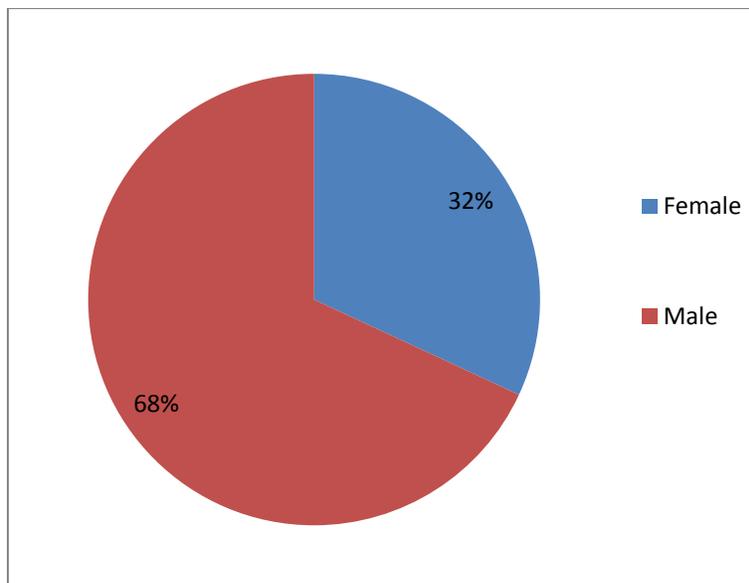


Chart 5. Complainant age

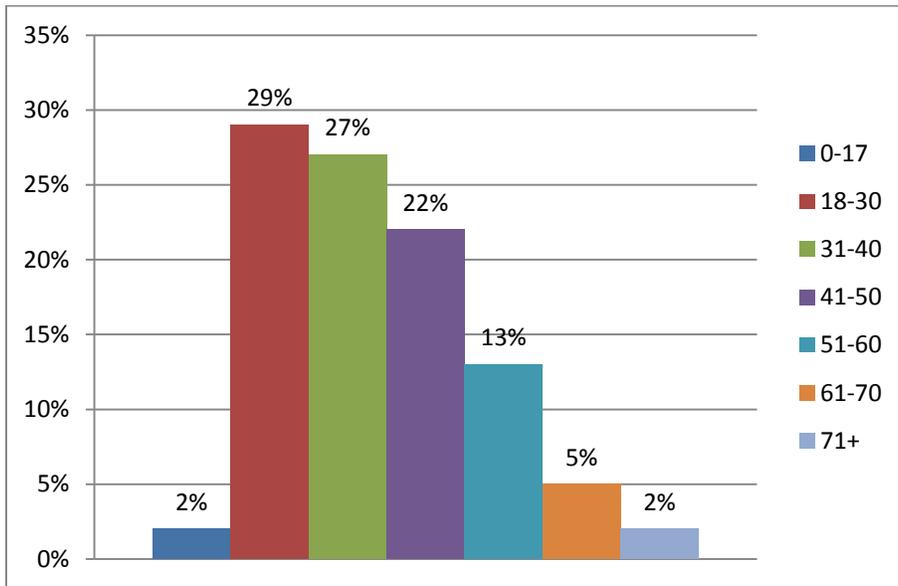


Chart 6. Complainant nationality

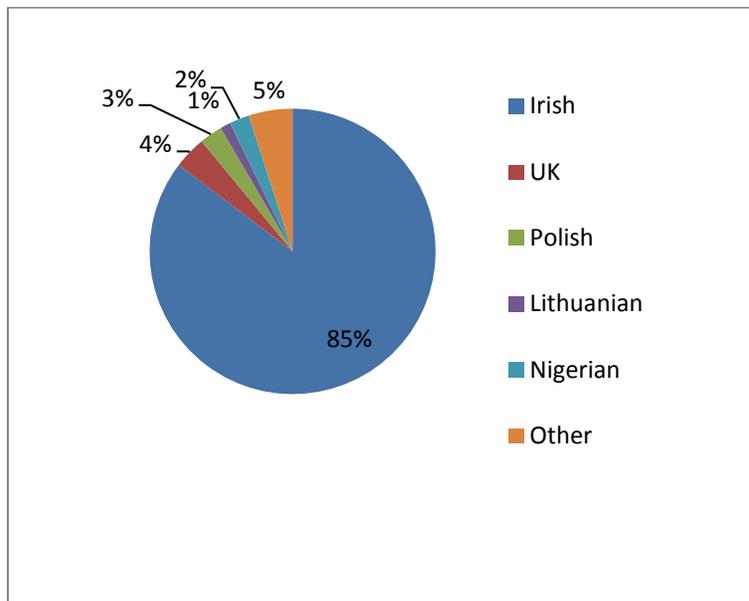


Table 3. Allegations per Garda Division excluding Dublin Metropolitan Region (DMR)

Division	Count	Division	Count
Cavan/Monaghan	170	Limerick	184
Clare	121	Louth	67
Cork City	186	Mayo	106
Cork North	97	Meath	69
Cork West	86	Roscommon/Longford	78
Donegal	183	Sligo/Leitrim	90
Galway	180	Tipperary	257
Kerry	116	Waterford	125
Kildare	130	Westmeath	168
Kilkenny/Carlow	161	Wexford	91
Laois/Offaly	150	Wicklow	85

Map 1. Allegations per Garda Division excluding DMR

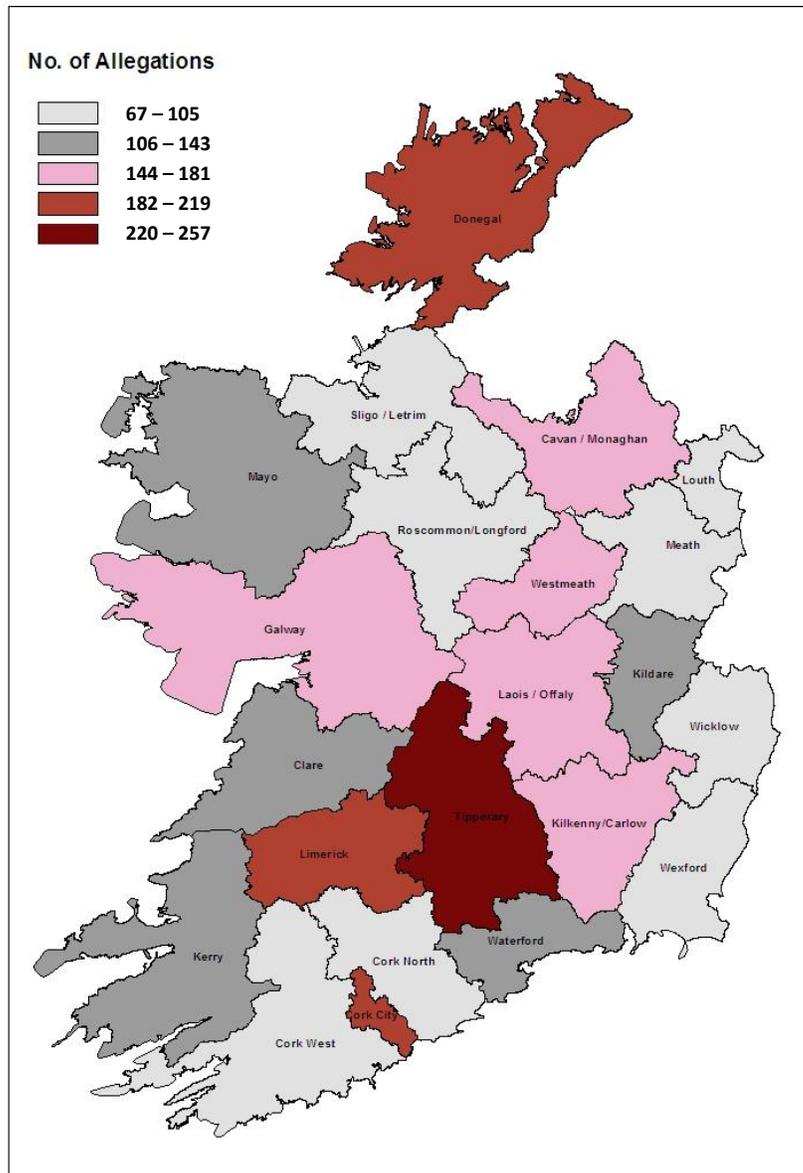


Table 4. Allegations per Garda Division - DMR

Division	Count
DMR East	144
DMR North	248
DMR North Central	231
DMR South	452
DMR South Central	383
DMR West	357

Map 2. Allegations per Garda Division – DMR

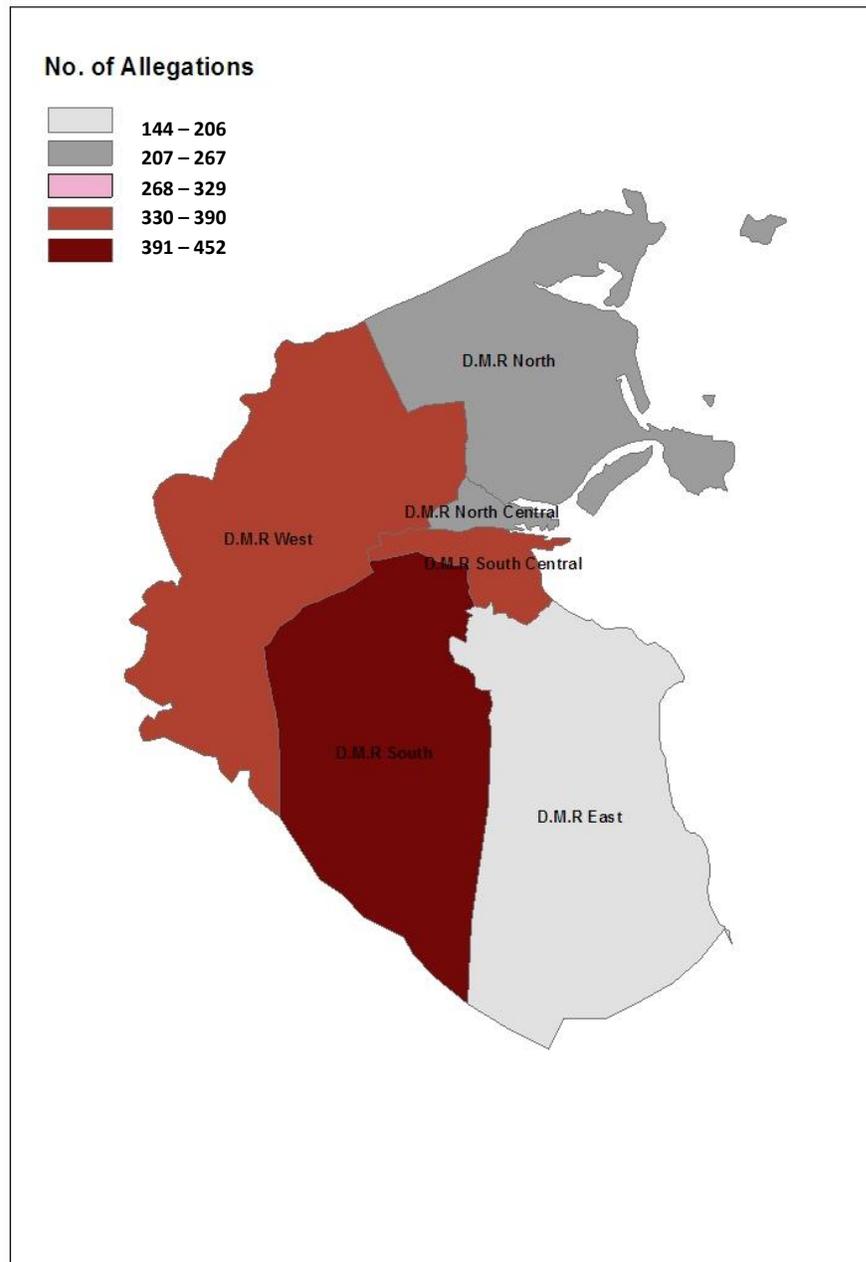


Chart 7. Rank of gardaí about whom complaints were made

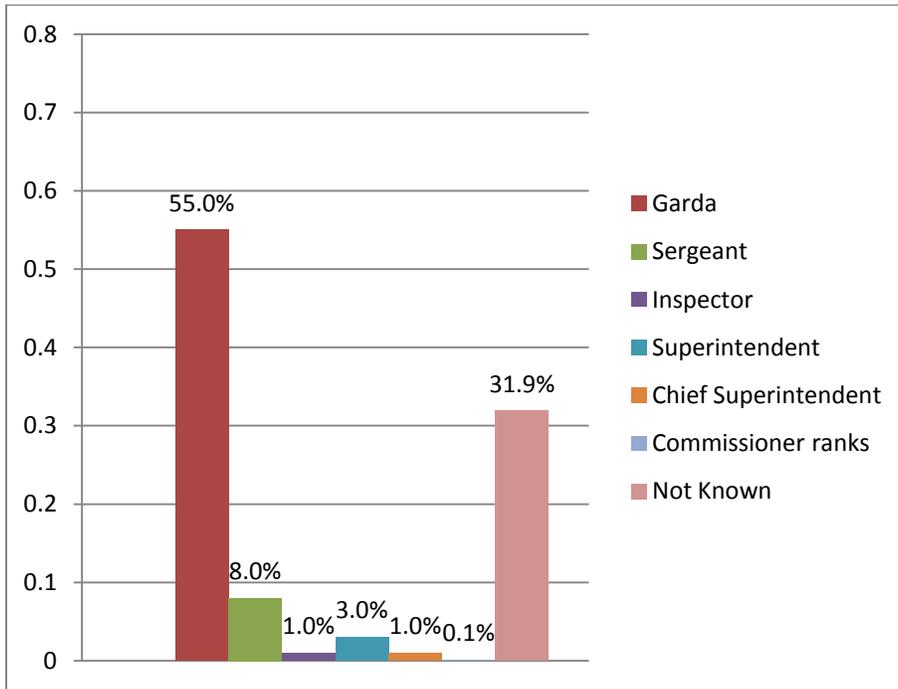


Chart 8. Sex of gardaí about whom complaints were made

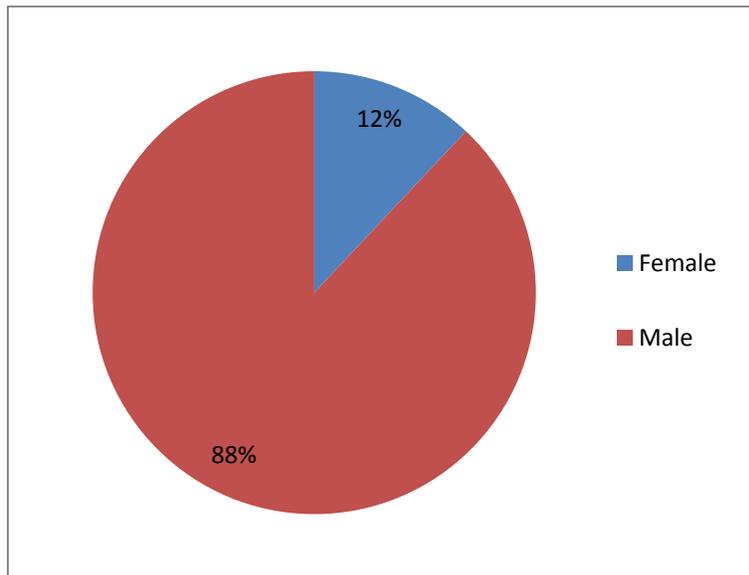


Table 5. Outcomes of complaints closed in 2013

In 2013, GSOC closed 2,072 cases containing 5,883 allegations. The table below outlines the outcomes of these cases.

Outcome	Count
Further investigation not necessary or reasonably practicable	2,277
Inadmissible	1,612
Garda Commissioner identified no breach of the Discipline Regulations	1,176
Allegation withdrawn	307
GSOC identified no misbehaviour by garda following s.98	220
Non cooperation by complainant	124
Advice	49
Informally resolved	24
Referred to DPP - no prosecution directed	24
Reduction in pay not exceeding two weeks pay	19
Referred to DPP - prosecution directed	18
Caution	17
Garda Síochána (Discipline) Regulations, 2007 no longer apply to garda	7
Fine	5
Reprimand	2
Warning	2
Total	5,883

Table 6. Outcomes of section 94(10) reviews completed in 2013

GSOC received 112 requests for reviews of unsupervised garda investigations in 2013, in accordance with section 94(10) of the Act. GSOC completed 136 reviews in 2013, arising from requests made in 2013 and previous years. The table below shows the outcomes of these reviews.

Outcome	Count
Requested the Garda Commissioner to review the investigation of the complaint	20
Decided that no further action was required	116
Total	136

2. Section 102 referrals

GSOC received 41 referrals from the Garda Commissioner, in accordance with section 102(1) of the Garda Síochána Act, 2005, during 2013. (Section 102(1) states that the “Garda Commissioner shall refer to the Ombudsman Commission any matter that appears to the Garda Commissioner to indicate that the conduct of a member of the Garda Síochána may have resulted in the death of, or serious harm to, a person”.) Of the 41 referrals received, 8 related to fatalities.

Table 7. Referrals per Garda Division excluding DMR

Division	Count	Division	Count
Cavan/Monaghan	0	Limerick	4
Clare	0	Louth	0
Cork City	1	Mayo	1
Cork North	0	Meath	0
Cork West	0	Roscommon/Longford	0
Donegal	7	Sligo/Leitrim	1
Galway	2	Tipperary	0
Kerry	2	Waterford	2
Kildare	1	Westmeath	0
Kilkenny/Carlow	4	Wexford	0
Laos/Offaly	1	Wicklow	1

Map 3. Referrals per Garda Division excluding DMR

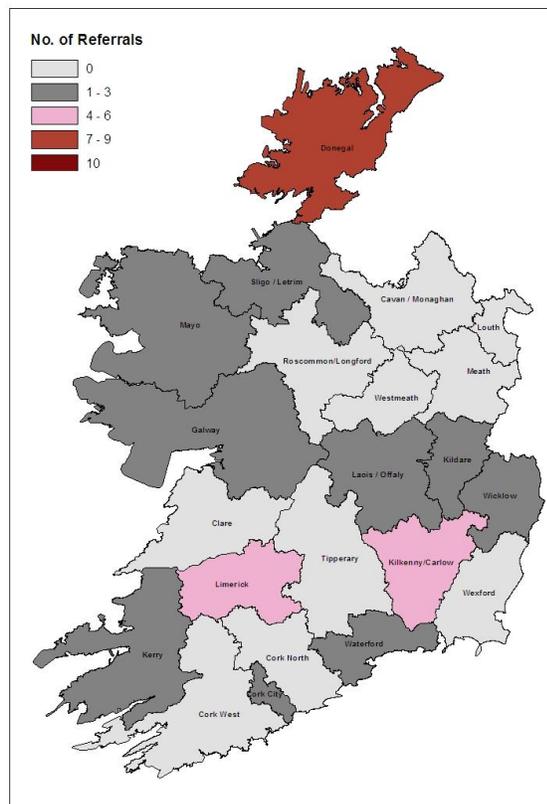


Table 8. Referrals per Garda Division – DMR

Division	Count
DMR East	4
DMR North	0
DMR North Central	3
DMR South	1
DMR South Central	4
DMR West	2

Map 4. Referrals per Garda Division – DMR

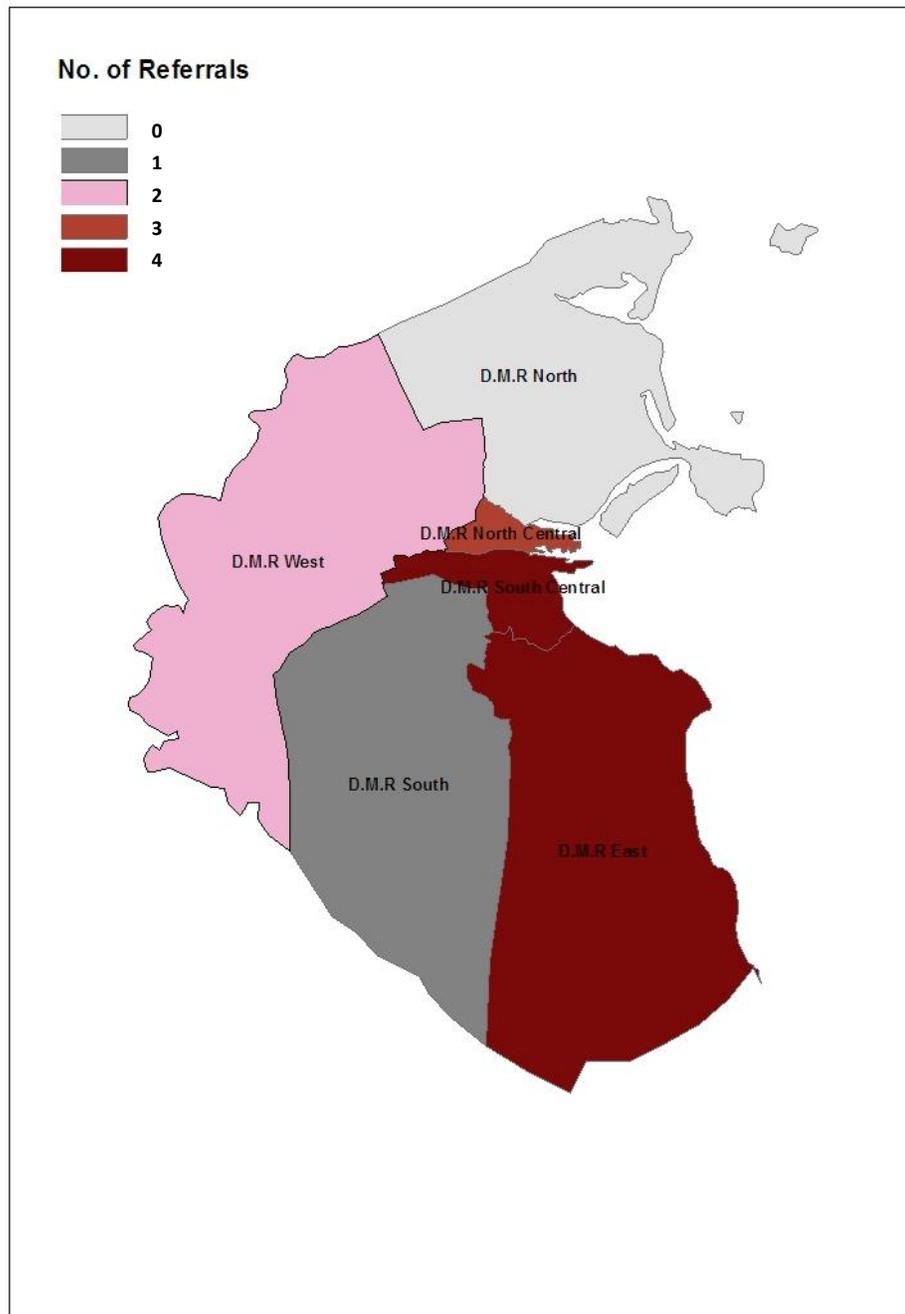


Chart 9. Sex of non-garda injured party

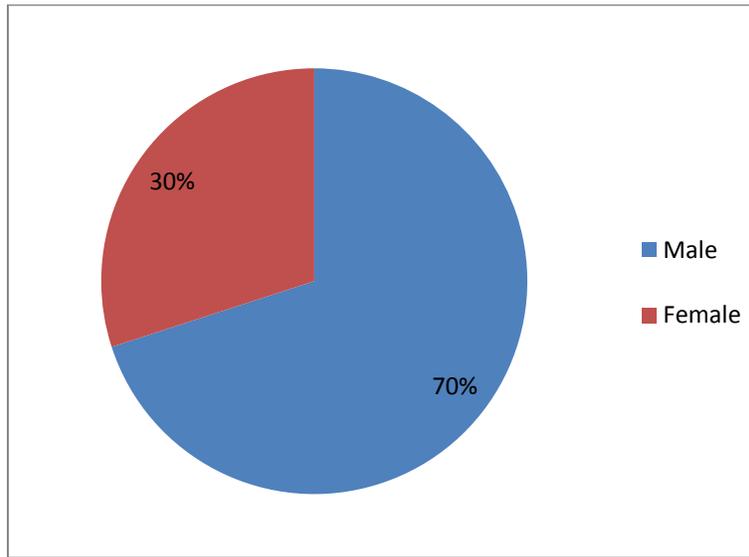


Chart 10. Factor in section 102(1) referrals

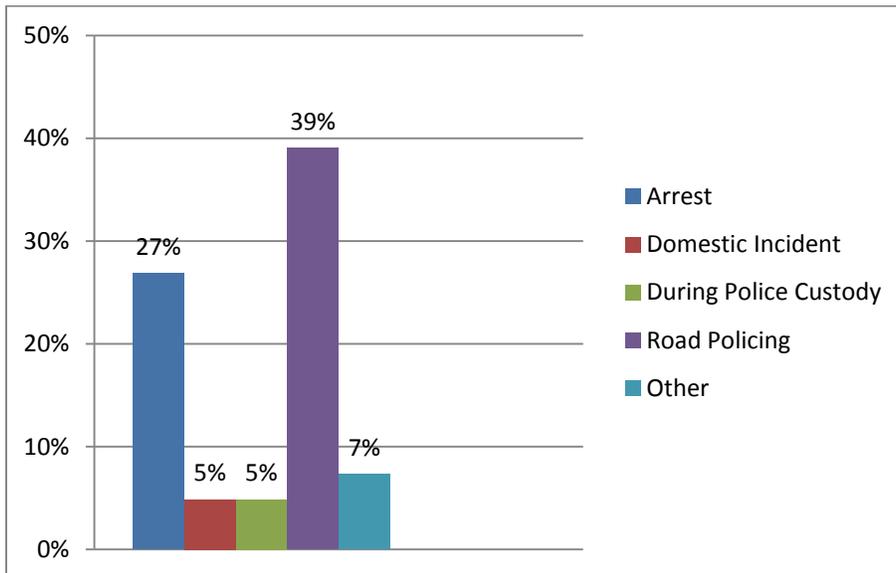


Chart 11. Day of the week of referrals

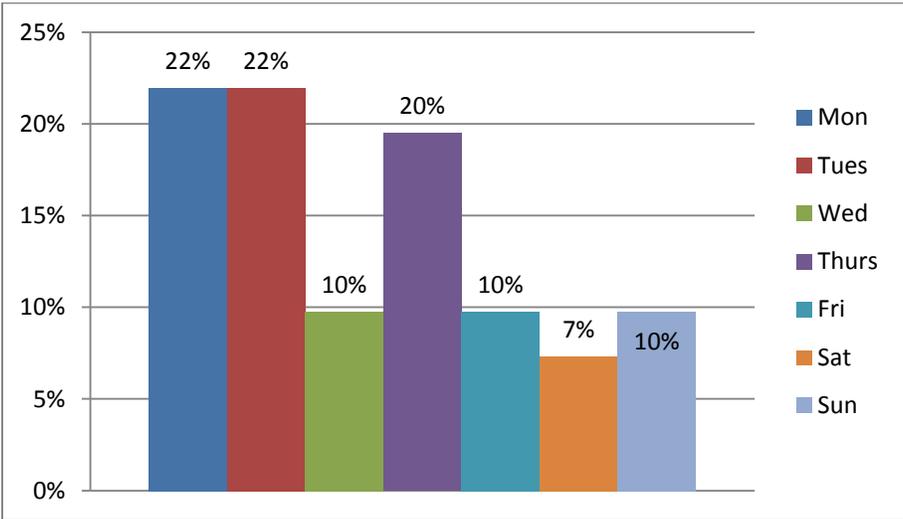


Chart 12. Time of day of referrals

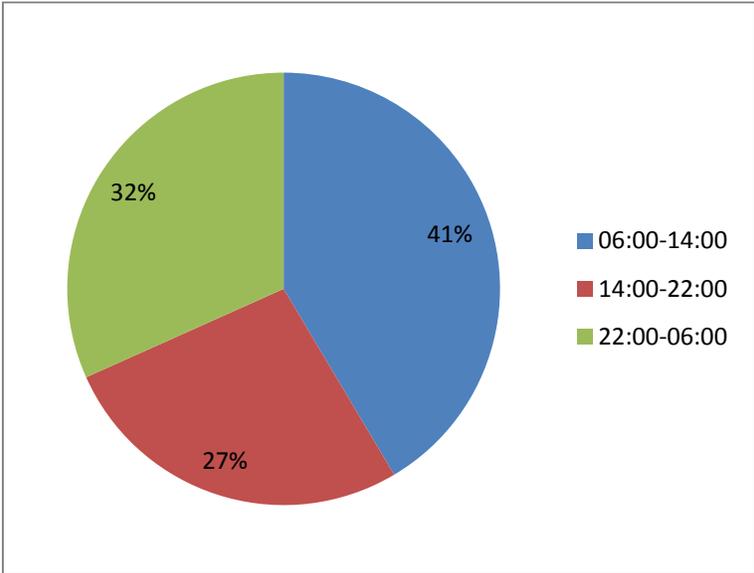


Table 9. Outcomes of referrals

In 2013, GSOC closed 72 investigations arising from referrals received during 2013 and previous years. The table below shows the outcomes of these closed investigations.

Outcome of Section102(1) Referrals	Count
Further investigation not necessary or reasonably practicable/ No misbehaviour identified	105
Referred to DPP - prosecution directed	10
Referred to DPP - no prosecution directed	34
Advice, following section 95	4
Caution, following section 95	2
Reduction in pay, following section 95	2
Total	157

Note: The number of outcomes may exceed the number of closed cases because a single investigation may relate to several individuals.

3. Investigations in the Public Interest (Section 102(4))

On 1 January 2013, GSOC had four investigations ongoing which were opened under section 102(4) of the Garda Síochána Act, 2005, i.e. *“the Ombudsman Commission may, if it appears to it desirable in the public interest to do so and without receiving a complaint, investigate any matter that appears to it to indicate that a member of the Garda Síochána may have–*

(a) committed an offence, or

(b) behaved in a manner that would justify disciplinary proceedings” .

1. An investigation into the adequacy of the Garda investigation into a road traffic incident involving a fatality and the compilation of the subsequent Garda report to the Director of Public Prosecutions (DPP). This investigation was the subject of judicial review proceedings that were ongoing on 31 December 2013.
2. An investigation into allegations of collusion by members of the Garda Síochána with a named individual in the movement and supply of controlled drugs, and into the nature and extent of any relationship(s) between members of the Garda Síochána and that named individual. This investigation was concluded in May 2013.
3. An investigation arising from concerns regarding the quality of Garda evidence expressed by Judge Frank O’Donnell of the Circuit Criminal Court during a criminal trial. This investigation was ongoing on 31 December 2013.
4. An investigation into matters arising from the Commission of Investigation Report into the Catholic Diocese of Cloyne. This investigation was ongoing on 31 December 2013.

GSOC opened three such investigations during 2013:

1. An investigation to determine if any Garda witnesses (including reserve Gardaí) committed an offence(s) and/or an act(s) of indiscipline in his/her provision of evidence under oath or in preparing to give evidence at a trial. This investigation was ongoing on 31 December 2013.
2. An investigation following the receipt of information from a member of the public in relation to alleged corrupt activities on the part of a Garda member. This investigation was ongoing on 31 December 2013.
3. An investigation into security concerns pertaining to GSOC. This investigation concluded in 2013.

At the end of 2013, five of the above seven investigations were open.

4. Informing Policy Development and Policing Practice

In the course of conducting investigations, GSOC has identified issues that it considered should be brought to the attention of the Garda Síochána, with a view to informing policing practice constructively. The issues centred around record-keeping, role of members at property repossessions, public order policing, provision of information to GSOC, treatment of detained persons, family liaison and conduct of members of the Garda Síochána who may witness wrong-doing while off-duty.

The Garda Síochána response to the feedback was mixed: action has been taken in some instances, however in others no response had been received by 31 December 2013.

Suggestions/ Observations brought to the attention of the Garda Síochána in 2013

General	Specific	Suggestion/ Observation made by GSOC
Record-keeping	Warrants	Highlighted concern over the loss of a search warrant.
	Notebooks	Forwarded recommendations of a jury that members of the Garda Síochána should make proper notebook entries regarding the events in which they are involved. <i>(Report issued following a death in custody.)</i>
	Search records	Suggestion made that a reminder should be sent to members of the Garda Síochána to complete search records when conducting searches and highlighted the importance of noting existing damage as this may reduce the likelihood of future complaints.
	Custody records	Highlighted concern about when a custody record should be opened.
		Suggested the use of a digital clock in the custody area.
		Suggested that the digital clock in the custody area be synchronised to CCTV.
		Suggested that appropriate members check times periodically on CCTV systems and compare this to digital clock in custody area to ensure that they are synchronised and accurate.
Duties	Attendance and role at repossessions	Suggested that guidance be issued in relation to the issue of Gardaí assisting in the repossession of property.
Public order policing	Uniform	Suggested reminding members of the need to ensure that epaulette and helmet markings are correct and visible.
	Baton reports	Suggested that rather than permit the Member in Charge of a party to make a written report to the Member in Charge of the station setting out an account of the occurrence, that

		baton reports should be submitted by individual officers accounting for each individual strike.
	Equipment	Highlighted the non-availability of official leg restraints. <i>(Report issued following a death in custody.)</i>
Provision of information		Comment made regarding delay in providing information and that information received was inaccurate.
Treatment of detained persons	Access to solicitor	Suggested that the Garda authorities may wish to consider advising members that if a prisoner requests access to a solicitor while in custody that this request is forwarded directly to the member in charge.
	General	Highlighted an incident where Gardaí were observed ignoring a detained person. The detained person had earlier pretended to faint. Suggested that the Garda Síochána remind members that prisoners should be treated in line with the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations, 1987 and 2006, at all times.
	Regulations	Highlighted concerns over the application of the Treatment of Persons in Custody in Garda Síochána Stations regulations 1987. Suggested that the only scope the Member-in-Charge (MIC) has for deviation from the requirement to visit persons in custody and make the necessary enquiries is where the MIC is unable to perform these duties and provides authorisation in writing for another member to perform them.
		Suggested that Custody Regulations or guidance may require amendment to encourage more consideration of obtaining a formal medical opinion on whether medical treatment is needed, when arrests are for section 4 of the Criminal Justice (Public Order) Act 1994 or section 25 Licensing (Ireland) Act 1874.
	Role of Members in Charge and Gaolers	Noted that there appeared to be no documented Garda policy defining the role and responsibilities of the Gaoler.
	Training for Members in Charge and Gaolers	Suggested training in relation to intoxicated prisoners and those who may be suffering from a brain injury; that consideration be given to giving members clearer guidance about rousing, and the need to get a coherent response from a prisoner, not just a response; that further awareness training be delivered to members to alert them to potential

		risks to persons in custody who may be under the influence of different intoxicants.
		Forwarded recommendations of a jury that members of the Garda Síochána should receive refresher training in relation to First Aid, Positional Asphyxia and the use of restraint techniques while dealing with persons suffering from excited delirium.
		Suggested that the Garda Síochána consider making Occupational First Aid training either a mandatory or a desirable criteria for members performing the function as Member in Charge.
	Equipment	Recommended use of cameras in cells.
	General	Forwarded recommendations made by a jury, following a verdict of death by misadventure, that: <ul style="list-style-type: none"> • in circumstances when Gardaí arrive at a scene and a person is unresponsive, professional medical intervention must be sought • all Gardaí be trained in CPR • all Garda Stations have a defibrillator.
		Forwarded recommendations made by a jury, following a verdict of death by misadventure, that greater consideration be given to whether a person be brought to a hospital for immediate medical attention rather than a Garda station.
Investigation into (sudden) deaths		Suggested that: <ul style="list-style-type: none"> • investigating members may benefit from greater knowledge of, and familiarity with, guidance on the investigation of sudden deaths • supervisors of members involved in the investigation of sudden deaths should consider the members' knowledge of, and familiarity with, relevant guidance • guidance issued or re-issued in this regard may be of benefit to the investigation of similar incidents.
Family liaison		Highlighted an instance when there was poor liaison with a family, including no contact between Gardaí and the deceased's father from the time of the death until just prior to the inquest, when a statement was required.
Off-duty conduct	Exercise of powers	Suggested that the Garda Síochána may wish to review any guidance that has previously been issued in relation to off-duty members putting themselves on duty and exercising Garda powers.

		<i>(Arose from a Garda member attempting to stop a vehicle whilst in plain clothes, in their personal vehicle and without the benefit of Garda identification.)</i>
	Witnesses	Recommended that members be informed of the appropriate course of action to take when they witness an alleged offence while off duty, particularly when socialising and under the influence of alcohol. This should help to ensure that, where possible, the alleged offender is dealt with by the appropriate personnel and in the appropriate manner, as well as serve to safeguard the integrity of the member who has witnessed the alleged offence.
Recording all incoming and outgoing calls on a particular phone line		Suggested that the Garda Commissioner may wish to re-evaluate his practice regarding the recording of such calls and the consents required, if it is to be permissible to use such recordings in evidence.

Special Report

On 9 May 2013, the Commission submitted a Special Report to the Minister for Justice & Equality, pursuant to section 80(5) of the Garda Síochána Act 2005. This arose following an investigation pursuant to section 102(4). The report included 20 recommendations which are grouped here under various headings for ease of reference.

Regarding the use of informants by the Garda Síochána:

1. It is recommended that a review of current training in respect of the Covert Human Intelligence Source (CHIS) system be conducted to ensure awareness of, compliance with and consistent use of the system, not only for those in prescribed informant management positions within the system, but at all levels of the Garda Síochána.
2. It is recommended that increased emphasis be placed upon the accuracy and completeness of records made or required under the CHIS system.
3. It is recommended that mechanisms be employed to identify Garda members failing to comply with their obligations under CHIS policy and ensure that individuals who fail to comply are removed from further involvement in CHIS-related issues until certified remedial training is successfully completed.
4. It is recommended that consideration be given by the Garda Síochána to the production of a current and effective protocol with other State law enforcement agencies to manage the eventuality of an informant providing information to more than one agency.

5. It is recommended that consideration be given to the production of guidance for intelligence gathering by gardaí from non-registered informants and the supervision thereof. Such guidance should provide clarity as to when, and in what circumstances, the collection of intelligence from non-registered informants can be undertaken as well as the management of such interactions and the use of such information.
6. It is recommended that systems be put in place to ensure compliance with the CHIS system e.g. compliance with the system should be a positive consideration in the Garda Síochána's promotion process.
7. It is recommended that a new and specific breach of discipline, that of non-compliance with established procedures in respect of CHIS related matters, be created. This concurs with one of the recommendations made by the Morris Tribunal in July 2004, namely:
'A failure to comply with informant management procedure should lead to prompt management action. Failure to comply with the procedure or to familiarise oneself with procedure should be regarded unfavourably. It should lead to disciplinary action of some kind...' (Morris Tribunal, first report, chapter 13).
8. It is recommended that a methodology for oversight of CHIS – both internal to the Garda Síochána and by external authority - be revisited to include all issues pertaining to:
 - recruitment/registration and handling of all informants;
 - security and dissemination of sensitive intelligence;
 - completion and security of documentation;
 - rewards and incentives for information/informants;
 - its relationship with other covert information gathering techniques;
 - this scrutiny should be transparent, accountable, comprehensive, independent and intrusive.

Regarding the use, by gardaí, of 'participating informants' and the regulation of such activity:

9. It is recommended that consideration be given to the formulation and introduction of:
 - guidance on deployment and management of 'participating informants' in garda operations;
 - the guidance should also stipulate if, and when, gardaí should seek the advice of the DPP on the utilisation of a participating informant prior to his/her deployment;
 - it should also address how, or if, the DPP's views would be incorporated by the gardaí into any operational or CHIS-handling strategy;
 - the guidance should also require gardaí to place, on the relevant file, a full record of all communications both internal and external (including a precise record of advice sought or received from the DPP and decisions taken during discussions or meetings concerning such cases);
 - this guidance should also set down as to what gardaí should bring to the DPP's explicit attention, in relation to informant issues, when files are submitted to that office, in advance of a decision to prosecute;

- any such guidance could take the form of garda guidance, protocols, codes of practice and/or legislation.
10. It is recommended that any conduct of an informant which, potentially, may be viewed as that of participating in an offence with the knowledge of a State agency, be subject to the utmost scrutiny and ethical considerations. Such scrutiny should be intrusive, robust, and meticulously recorded.
 11. It is recommended that the scrutiny of the implementation of the CHIS system be conducted independently of the authorities involved in the activity of the informant and that this scrutiny be transparent and accountable to a Government-approved authority.
 12. It is recommended that training be provided in respect of the deployment and management of persons who may be considered to be a 'participating informant'. This should include the setting of parameters and the preparation of detailed written risk assessments.

Regarding intelligence handling:

13. It is recommended that consideration be given to a review of access levels to sensitive intelligence and that the recording thereof be conducted to ensure compliance and probity.
14. It is recommended that consideration be given to a review of the processes in place governing intelligence dissemination and targeted distribution, including mechanisms to ensure strict compliance.
15. It is recommended that consideration be given to a review of the interaction amongst the Garda Síochána national units including their performance in respect of joint operations and shared intelligence.
16. It is recommended that non-compliance with established procedures in respect of intelligence-handling and dissemination be identified as a disciplinary offence.
17. It is recommended that compliance with established procedures in respect of intelligence-handling and dissemination related matters should be a consideration in the promotion process.
18. It is recommended that the methodology for oversight – both internal to the Garda Síochána and by external authority - of intelligence-related matters be revisited to include all issues pertaining to:
 - security and dissemination of sensitive intelligence;
 - covert information gathering techniques;
 - completion and security of documentation; and
 - rewards and incentives for information/intelligence.

This scrutiny should be transparent, accountable, comprehensive, independent and intrusive.

Regarding impact on GSOC and oversight:

19. It is recommended that the Ombudsman Commission be provided with independent access to the PULSE system immediately.
20. It is recommended that the disclosure and transfer, to the Ombudsman Commission, of evidence and information belonging to, held by or in the possession of the Garda Síochána, in criminal investigations, be bolstered, either through legislation or other means, to ensure full, verifiable, timely and unredacted provision. This should include the supply of sensitive and/or informant-related intelligence to the Ombudsman Commission.

Subsequent to the submission of the Special Report, the Commission was invited to a meeting convened by the Minister for Justice & Equality and also attended by the Garda Síochána. This meeting had as its central focus the advancement of agreement regarding protocols between GSOC and the Garda Síochána in relation to the sharing of information. The Commission was unaware of any developments in relation to other recommendations on 31 December 2013.

5. Complainant Profile

GSOC completed the second full year of its Complainant Profile which is designed to assist GSOC in understanding whether certain categories of person are more likely to make a complaint about garda actions. The survey does not gauge whether certain persons are more likely to experience alleged garda misbehaviour.

The findings show that complainants to GSOC are most likely (going by the highest % in each category) to be white, Irish, in good health, English-speaking, renting accommodation and with a secondary level education. There is also a strong representation of people who are home-owners and people who are unemployed. Overall, and as with previous years, the findings suggest that complainants to GSOC are not drawn generally from categories of greatest social disadvantage.

Chart 13. Ethnicity of complainants

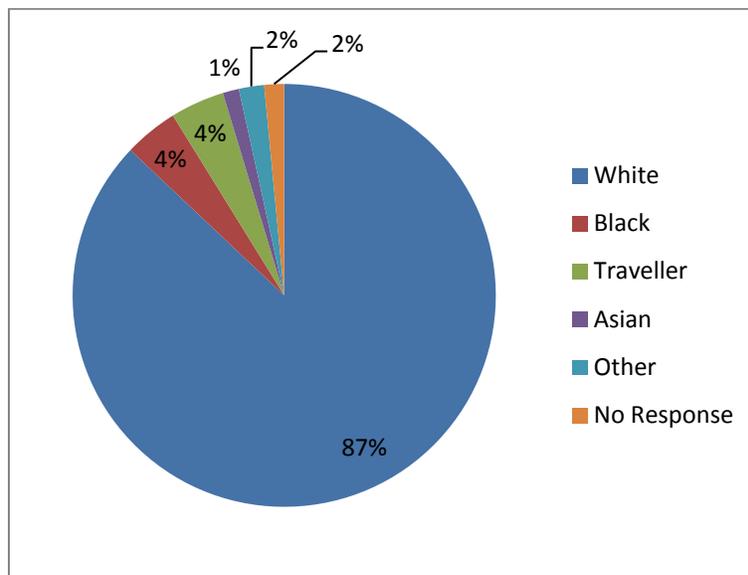


Chart 14. First language of complainants

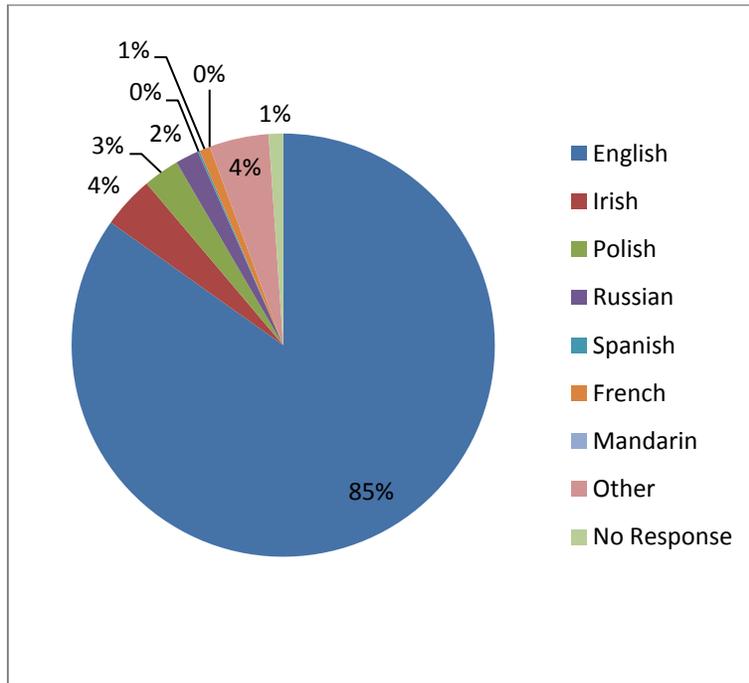


Chart 15. Housing status of complainants

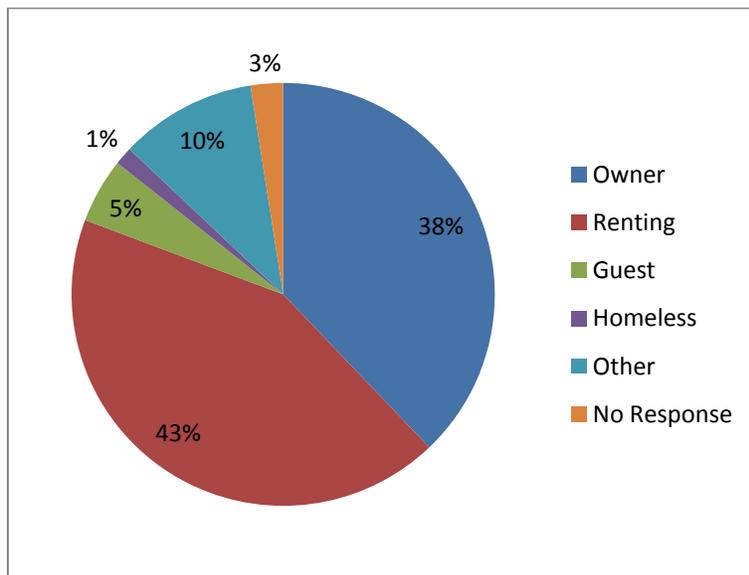


Chart 16. Health/disability status of complainants

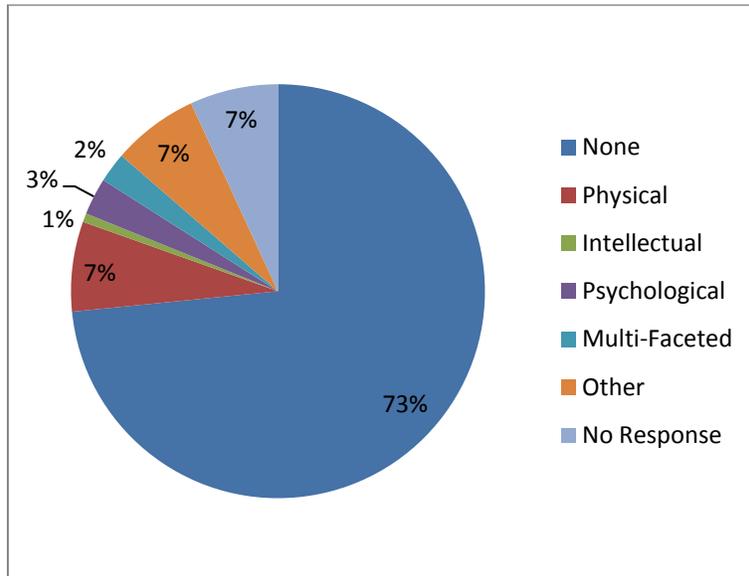


Chart 17. Employment status of complainants

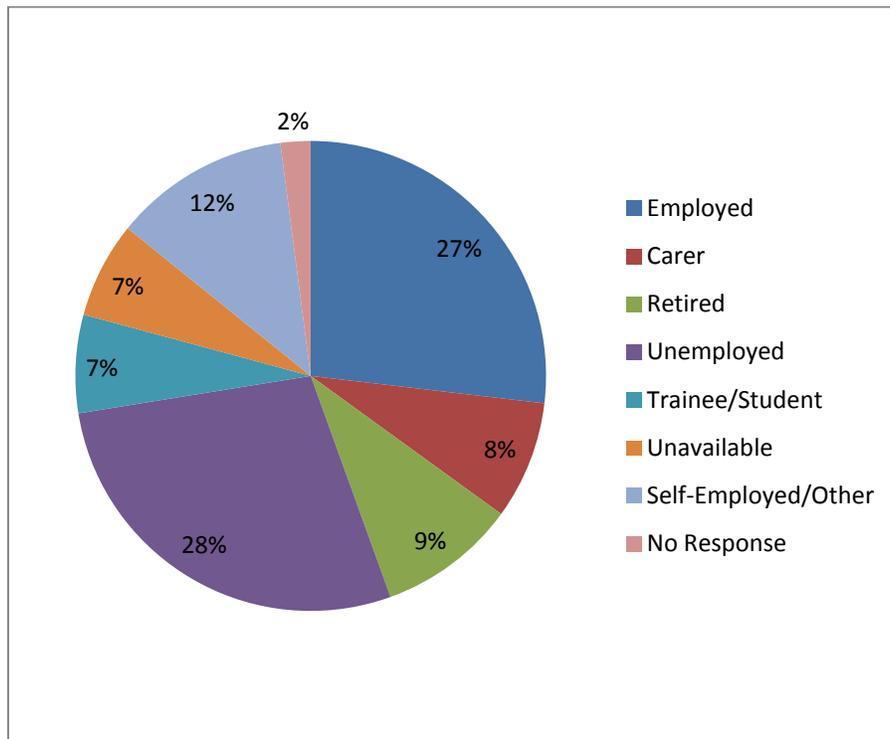
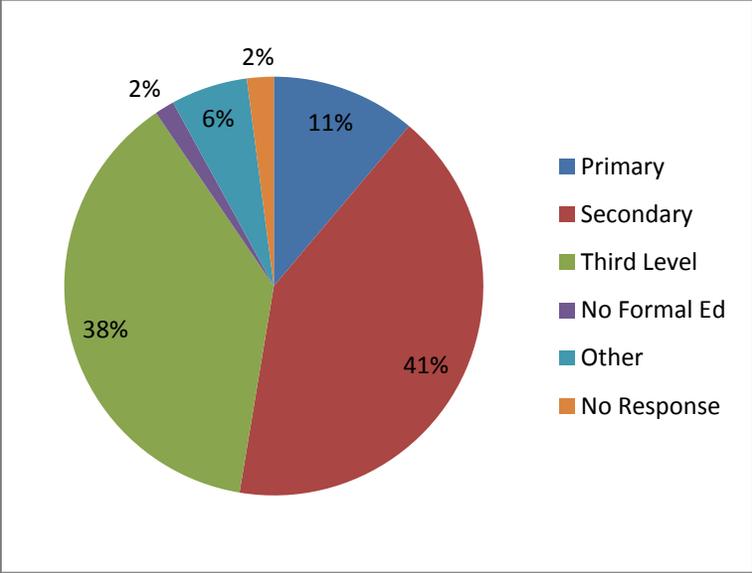


Chart 18. Highest education attainment of complainants



6. Public Attitudes Surveys

GSOC commissioned Behaviour & Attitudes to conduct a survey of public attitudes of the national population as they relate to GSOC. This survey was last carried out in 2011 and did not take place in 2012 due to budgetary constraints. The survey was conducted again in January 2014, reflecting on 2013.

The main findings for 2013 were:

- 69% of people perceive GSOC to be an independent body; this is an increase of 3% on the 2011 survey.
- 47% agree that GSOC goes about its work in an efficient manner. While this figure is down on the 2011 results by 3%, 40% of respondents stated they had no opinion; the net result is that 13% feel that GSOC is not efficient – this figure is unchanged since 2011.
- 61% perceive GSOC as being effective in making Gardaí more accountable for their actions. This figure is down 11% since 2011.
- A majority of adults surveyed (53%) agree that GSOC deals with complaints in an impartial manner. 61% also express confidence in the fairness of GSOC.

Appendix 1 Expenditure & Savings 2013

Category	Original Budget	Expenditure	
Salaries, Wages & Allowances	€5,435,000.00	A01 Pay & Allowances	€5,264,032.00
Non-Pay	€2,576,415.00	A02 Travel & Subsistence	€94,737.00
		A03 - Incidental Expenses	€321,377.00
		A04 - Postal & Telecommunication Services	€103,085.00
		A05 - Office Machinery & Other Office Supplies	€588,142.00
		A06 - Office & Premises Expenses	€1,591,274.00
		A07 - Consultancy	€00.00
		A08 - Research Expenditure	€9,656.00
		Appropriation in Aid	-€1629.00
Total Budget Allocation 2013	€8,011,415	Total Pay & Non-pay Expenditure 2013	€7,970,675.00
Total saving 2013 - €40,740			

Note: Figures quoted have not yet been audited by the Comptroller and Auditor General.

Appendix 2 Staffing Levels 2013

	Staffing Levels as at 1 January 2013	Staffing Levels as at 31 December 2013
Directors (Assistant Secretary)		
Administration Directorate	1	1
Operations Directorate	1	1
Casework Unit		
Assistant Principal	2	2
Higher Executive Officer	7	7
Executive Officer	6	5
Clerical Officer	8	7
Investigations Unit		
Deputy Director of Investigations	1	1
Senior Investigating Officer	6	8
Investigating Officer	16	18
Analyst	2	2
Assistant Investigating Officer	8	8
Corporate Services Unit		
Assistant Principal*	1	1
Higher Executive Officer	1	1
Executive Officer	2	1
Clerical Officer	2	2
Service Officer	1	1
Human Resources and Training Unit		
Higher Executive Officer	0	1
Executive Officer	1	0
Clerical Officer	1	0

	Staffing Levels as at 1 January 2013	Staffing Levels as at 31 December 2013
Information and Communication Technology Unit		
Assistant Principal	1	1
Higher Executive Officer	1	1
Executive Officer	1	0
Clerical Officer	1	1
Legal Affairs Unit		
Principal Officer	1	1
Assistant Principal	1	1
Clerical Officer	1	1
Communications and Research Unit		
Head of Communications and Research	0	0
Higher Executive Officer	1	1
Researcher	1	0
Librarian	1	1
Executive Officer	0	1
Policy Unit and Secretariat		
Assistant Principal	1	1
Higher Executive Officer	1	0
Clerical Officer	1	1
TOTAL	80	78

**Responsibilities for Corporate Services, Human Resources and Training and Finance.*

Appendix 3

Training & Development 2013

Conferences

Occupational Health and Safety: a Psychosocial Perspective conference – Critical Incident Stress Management Network Ireland.

Understanding European Procurement Rules – Achilles Procurement Services.

Effective Use of eTenders – Achilles Procurement Services.

Service Level Agreements and Contract Managers – Achilles Procurement Services.

Preparing Tender Documents – Achilles Procurement Services.

IPA Conference 2013, Maintaining the Momentum: Reform Priorities after the Troika Programme – Institute of Public Administration.

Criminal Law Conference 2013 – Thomson Roundhall.

In House and Public Sector Annual Conference – Law Society.

Conference on Business Process Improvement in the Public Service – Department Of Public Expenditure and Reform.

14th Annual National Prosecutors Conference – DPP.

District Court Essential Updates – Central Law Training.

Oral Hearings and Inquiries Conference – La Touche Training.

Inquests Conference 2013 – Central Law Training.

British and Irish Ombudsmans' Association Conference (BIOA) – BIOA.

Police Oversight Conference – Ombudsman for Police Northern Ireland OPONI.

Seminars

Network Of Civil and Public Service Mediators Training.

Zinopy I.T Seminar – Zinopy.

Association of Chief Police Officers' Family Liaison Officers' Professional Development event – ACPO.

Access All Areas – Providing and Protecting Information – Mason Hayes and Curran.

Courses

Manager and Employee Peoplepoint Training – GSOC internal training.

Human Rights Training for Trainers – Irish Human Rights Commission.

E file, file Management and Good Filing Practices – GSOC internal training

Crime Scene Investigator Development Training – GSOC Internal Training with guest speakers.

Prince 2 Foundation and Project Management – BT Training.

Family Liason Officer Professional Development day – GSOC internal training.

Investigative Interview Training – Sancus Solutions.

Working with Victims of Sexual Violence –Rape Crisis Centre.

PMDS Calibration Training – Department of Finance.

Cinergy Conflict Management Coaching – Blossom Development.

Policy Decision Log Development Workshop – GSC internal Training.

Continuous Education and Development of Staff

BSc (Hons) Business and Legal Studies – D.I.T Aungier Street.

BA Public Management – IPA.

MA Criminal Justice –IPA.

MSc Forensic Computing and Cybercrime Investigation UCD.

Appendix 4

Legal review of 2013

Cases before the courts in 2013 on foot of GSOC investigations

20 cases, involving 19 gardaí, one probationer garda and five civilians, came before the courts in 2013. Of these, 10 trials involving 11 accused persons have concluded and the outcomes can be seen below.

Court Outcomes

Two gardaí were convicted. One for defilement of a child, contrary to section 3 of the Criminal Law (Sexual Offences) Act, 2006 and another for careless driving, contrary to section 52 of the Road Traffic Act, 1961.

Two civilians were convicted of providing false and misleading information, contrary to section 110 of the Garda Síochána Act, 2005.

In one case, a garda member pleaded guilty - however subsequent to this, the District Judge struck out the summons.

In another case, a garda member admitted to the facts of the case - however subsequent to this, the District Judge struck out the summons.

A further prosecution was directed by the DPP against a garda member, but was subsequently withdrawn by the DPP.

One garda member and two civilians were acquitted of all charges before the court. Another garda member was acquitted following an appeal of his conviction in 2012. A further garda member was acquitted of 3 charges and judgment on a fourth charge was postponed until 2014.

The Probation of Offenders Act, 1907 was applied in one case, following a plea of guilty by a garda member to a charge of no NCT, contrary to section 18 of the Road Traffic Act, 1961.

One probationary garda member appealed his conviction, but later withdrew his appeal. Another garda member appealed his conviction and his appeal was conceded by the DPP.

Adult Cautions

One garda member received an informal adult caution.

Files sent to the DPP in 2013

- 32 files were sent to the DPP including files relating to three civilians.
- The DPP directed prosecutions in nine cases, relating to eight garda members and two civilians.

Trials Pending

At the end of 2013 matters relating to ten accused persons, on foot of GSOC investigations, remain before the courts.

Directions for prosecution in 2013:

The DPP directed prosecutions in eight cases, relating to six gardaí and three civilians.

At the end of 2013 nine accused persons were the subject of trials before the courts, three of whom were appealing their convictions.

Garda Síochána Ombudsman Commission
150 Abbey Street Upper, Dublin 1.
Phone (01) 871 6700
LoCall: 1890 600 800
Fax:(01) 8147026
Email: info@gsoc.ie
Website: www.gardaombudsman.ie

An Irish version of this report can be
obtained from the Garda Síochána
Ombudsman Commission, on request