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Minister for Justice, Equality and Law Reform,
94 St. Stephen's Green,
Dublin 2.

31st March 2008.

Dear Minister,

Garda Síochána Ombudsman Commission
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It is with pleasure that we present to you our second Annual Report, to be laid before the Houses of the Oireachtas, as prescribed by the Garda Síochána Act 2005.

The Garda Síochána Ombudsman Commission became operational on May 9th 2007 when it started receiving complaints, in accordance with the Act. On the same date, the Garda Síochána Complaints Board ceased to receive complaints.

The advent of the Garda Síochána Ombudsman Commission marks a significant advance in the accountability and transparency of civil policing in this State. It places Ireland among a very small cohort of Common Law jurisdictions where similar provisions now operate.

It was gratifying, therefore, during the period in review, to learn that a number of other EU jurisdictions are now studying this model with a view to adapting it to their own requirements.

As with any new organisation, something of an evolutionary process is taking place at the Garda Síochána Ombudsman Commission as it clarifies its role and as its corporate character becomes more clearly defined. There are similarities between the Garda Síochána Ombudsman Commission and its counterpart in Northern Ireland, the Office of the Police Ombudsman for Northern Ireland. There are also similarities with the Independent Police Complaints Commission in England and Wales.

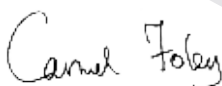
Nonetheless, these similarities only go a certain distance. The Commissioners wish to emphasise their determination to continue the development of the Garda Síochána Ombudsman Commission to meet the very specific requirements of the public and the police service in this jurisdiction.

The Commissioners have a clear view of the organisation's role in the relationship between the general public and the Garda Síochána. Consent and trust between police and public should underpin our model of policing and confidence in the accountability of the police is an essential element in building trust.

The operation of a system for dealing with issues of police conduct, which is efficient, effective and fair to all concerned and which has the confidence of those who use it, has to lie at the heart of this process.



Kevin Haugh (Chair)



Carmel Foley (Commissioner)



Conor Brady (Commissioner)



Garda Ombudsman

INQUIRY INDEPENDENCE IMPARTIALITY



Garda Síochána Ombudsman Commission staff on launch day, 8th May, 2007.

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Acronyms

GSOC	Garda Síochána Ombudsman Commission
OPONI	Office of the Police Ombudsman for Northern Ireland
IPCC	Independent Police Complaints Commission (for England and Wales)
CAF	Central Applications Facility
GSCB	Garda Síochána Complaints Board
ICS	Independent Computer Services
NUI	National University of Ireland
DJELR	Department of Justice, Equality and Law Reform
HSE	Health Service Executive
EPAC	European Partners against Corruption
NACOLE	National Association for Civilian Oversight of Law Enforcement
CACOLE	Canadian Association for Civilian Oversight of Law Enforcement
OPW	Office of Public Works
PAS	Public Appointments Service
HR	Human Resources
T&S	Travel and Subsistence
HEO	Higher Executive Officer
EO	Executive Officer
ICT	Information Communications Technology
VoIP	Voice over Internet Protocols
CMS	Case Management System
MIS	Management Information Systems
IT	Information Technology
PSNI	Police Service of Northern Ireland
FAQs	Frequently Asked Questions
AGSI	Association of Garda Sergeants and Inspectors
GRA	Garda Representative Association

EXECUTIVE SUMMARY

This report deals with developments over the period since the presentation of the Garda Síochána Ombudsman Commission's (GSOC) first Annual Report, on March 31st 2007, to December 31st 2007. It thus covers a brief period, April 1st to May 8th, when the organisation was preparing to become fully operational and a period of 7 months and 22 days of operational activity.

Chapter 1 sets out objective (a) of GSOC and the functions assigned to GSOC under the Garda Síochána Act 2005 (the Act). The chapter deals with the receipt and processing of 2,084 complaints against members of the Garda Síochána and the investigations carried out by GSOC. Of the complaints, 556 were held to be inadmissible and 952 were held to be admissible. It also received a further 1135 queries from the general public.

Of the complaints which were deemed admissible 228 were deemed suitable for informal resolution or mediation, 340 for investigation by the Garda Síochána, either supervised or unsupervised by GSOC, and 384 for investigation by GSOC investigators as the allegations would, if proven, amount to a criminal offence. GSOC closed 470 cases in 2007. Five files were sent to the Director of Public Prosecutions (DPP) for his consideration. The Director determined that there would be no prosecution in relation to these five files.

Data gathered by GSOC in 2007 indicates that the most typical complainant is Irish, male, aged 18-30, from the Dublin region and alleges abuse of authority on the part of a member of the Garda Síochána.

In the same period GSOC received 247 referrals from the Commissioner of the Garda Síochána under section 102(1) of the Garda Síochána Act 2005. These are cases in which it appeared to the Commissioner that the conduct of a garda may have resulted in the death of, or serious injury to, a person.

Twelve of these referrals concerned the death of a person.

In the period under review, GSOC decided to open one investigation in the public interest, under section 102(4) of the Act.

GSOC, on two occasions in the period under review, wrote to the Minister for Justice, Equality and Law Reform (the Minister), concerning examinations into a 'practice, policy or procedure' of the Garda Síochána, in accordance with section 106 of the Act. The Minister requested that GSOC undertake an examination in one instance.

During the pre-operational period operational protocols were agreed with the Commissioner of the Garda Síochána. The Protocols were agreed and signed on the 08/05/2007. The Protocols were reviewed, revised and a new version was signed on the 01/08/2007.

Chapter 2 looks at GSOC's activities towards meeting objective (b) - to promote public confidence as set out in the Act. In order to bench-mark GSOC's performance, public and Garda attitudes were surveyed in April. These will be compared to a similar exercise to be carried out in 2008. A consultative group, which includes the Garda Síochána, garda staff associations, the Irish Human Rights Commission, NUI Galway and the Department of Justice, Equality and Law Reform (DJELR) met twice in 2007. This proved a very useful forum in which to discuss matters of mutual interest. GSOC responded to all media queries received during 2007. The website was re-designed and updated on a monthly basis with figures on complaints and referrals, as well as any public statements made by GSOC as they arose. Information booklets were produced for the public and the Garda Síochána. Booklets were distributed to Garda Stations, civic information centres, libraries and made available to any organisation or group that requested them. Information packs for members of the Garda Síochána were distributed to every member in advance of GSOC becoming operational. GSOC embarked on an outreach programme which included making presentations to groups which expressed an interest in GSOC. Staff gave lectures to students and probationer gardaí at the Garda College in Templemore and at management supervisory development programmes to serving members of the Garda Síochána. GSOC hosted visits by interested parties, including Thomas Hammarberg, the Council of Europe's Commissioner for Human Rights.

Chapter 3 looks at the functioning of the Act. A number of amendments were incorporated into the Criminal Justice Act 2007 at the request of the Commissioners. Some further amendments are now sought and GSOC is in discussion with officials of the DJELR in order to advance these. These are set out in more detail in the Two Year Report of the Garda Síochána Ombudsman Commission presented to the Minister in February 2008, in accordance with section 80(2) of the Act. The Commissioners would like to express their appreciation of the responsiveness and courtesy of the relevant officials of the DJELR in discussions with them on these matters.

Chapter 4 outlines the organisation's various core administrative achievements in 2007. The object of the administrative sections was to ensure that staff were recruited, trained, equipped and provided with a safe working environment. Staff from a wide range of backgrounds were recruited through the Public Appointments Service (PAS), reaching a total of 75 by the year end. Intensive training was provided

for investigators and case officers at the pre-operational stage by the University of Portsmouth and the Honourable Society of Kings Inns, Dublin and subsequently on an on-going basis. A comprehensive human resources service was designed and put into operation.

To enable all other sections of the organisation to function effectively and to enable GSOC to be accountable for expenditure, corporate services put in place essential services ranging from the fit-out of the offices to procurement procedures. Policies were written and compiled into a staff handbook.

IT ensured that essential telephone and computer services were available to GSOC's operational period. An interim case management system was designed and operated to year end. A contract was awarded to ICS Computing Ltd., Belfast, to provide a custom-built case management system and that system is expected to become operational in 2008. A vulnerability test was carried out on the current system and it was found that GSOC's systems were secure. Specific security arrangements were made for staff who work outside of the office, e.g. at scenes of incidents.

Chapter 5, the conclusion of this report, sets out GSOC's view that in the period covered by this report, satisfactory progress was achieved towards establishing GSOC as a functioning body, capable of meeting its objectives under the Act.

GSOC believes that the relevant provisions of the Act are generally appropriate to enable GSOC to fulfil its obligations. Nonetheless, as the organisation has moved towards full operational status, it has become clear that some modifications are required. GSOC believes that with the appropriate amendments in place, it will be possible for GSOC to deal expeditiously and appropriately with a great volume of relatively trivial complaints. In turn, this will enable the organisation to concentrate its resources on more serious matters. The Commissioners feel that it will be possible to measure accurately the organisation's human resources requirements, in relation to its workload, once the legislative amendments are given effect.

It has been particularly gratifying to note that working arrangements between GSOC officers and Garda personnel on the ground have generally functioned well and have been conducted with professionalism and mutual respect. It is apparent to the Commissioners that the great majority of members of the Garda Síochána discharge their functions with professionalism, discipline, commitment and a sense of duty.

The Commissioners believe that in spite of some difficulties, perhaps inevitably associated with start-up, GSOC is now well-established and functioning generally as envisaged in the Act.

1. Complaints and Investigations

Objective (a) for the Garda Síochána Ombudsman Commission (GSOC) is, as set out in section 67(1) of the Garda Síochána Act 2005 (the Act),
 “to ensure that its functions are performed in an efficient and effective manner and with full fairness to all persons involved in complaints and investigations under Part 4 concerning the conduct of members of the Garda Síochána..”

1.1 Receipt of complaints

Section 67(2)(a) assigns to GSOC the function

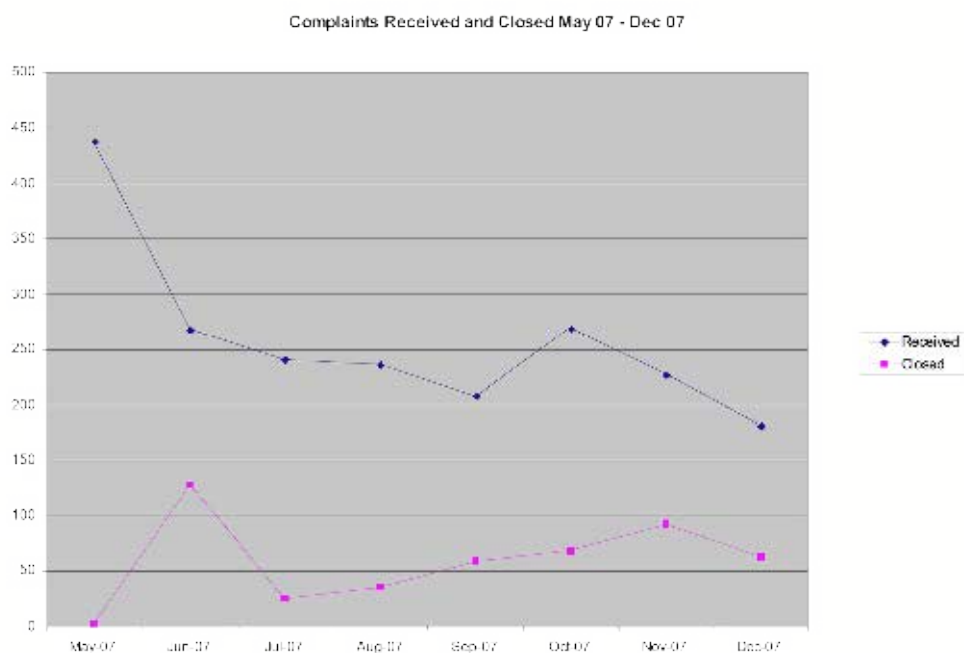
“to receive complaints made by members of the public concerning the conduct of members of the Garda Síochána,”

Table 1: Number and admissibility status of complaints received between 9/5/2007 and 31/12/2007

Status	Complaints
Admissible	952
Pending	576
Inadmissible	556
Not applicable	0
Total	2084

GSOC closed 470 cases in 2007.

Table 2: Complaints received and closed between 9/5/2007 and 31/12/2007



The casework section received all complaints from members of the public in 2007. There were 18 case officers at the end of 2007. GSOC operates a walk-in facility for members of the public to come to the office and make a complaint. This office is open between 9.30 and 16.30 each weekday, including lunchtimes.

It also receives complaints by post, 'phone, fax, on-line complaint form, email. Much case officer time is taken up responding to queries, e.g. members of the public trying to establish what might happen if they make a complaint, whether or not GSOC is the right place to make their particular complaint. A complaint may contain several allegations. Those allegations may suggest breaches of discipline, criminal offences or both. Case officers establish the nature of the complaint(s) and proceed accordingly.



Marta Alvarez

is from Asturias, in the north of Spain. She is a Case Officer in the Case Work section of GSOC. This involves taking complaints; checking the files received by the team; looking for further information when required; drafting submission documents for the commissioners; and providing feedback to complainants or gardaí about their case.



Case Officer, Susan Butterly, in GSOC's reception area.

1.2 Response to complaints

Section 67(2)(b) assigns to GSOC the duty

"to carry out the duties and exercise the powers assigned to it under Part 4 in relation to those complaints,"

When a complaint is received, case officers commit to providing regular updates on the progress of the complaint-handling process.

The initial step is to decide on the admissibility of a complaint. The Act stipulates certain criteria. No complaint is determined to be inadmissible without the approval of the Commissioners.

Cases deemed suitable for informal resolution were handled by case officers. Of the other cases, those alleging offences were passed to the investigations section. Where a case was deemed suitable for investigation by the Garda Síochána, case officers, in the majority of cases, usually handled the relevant liaison between the agencies.



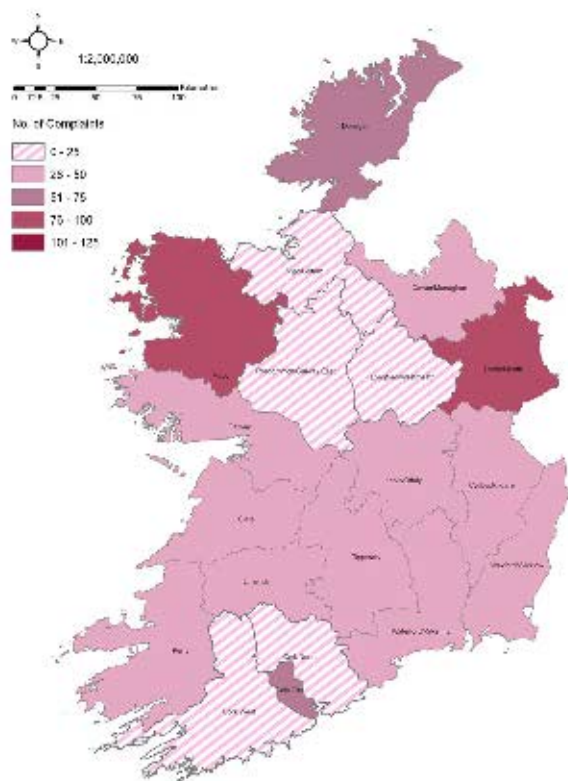
Case Officer, Paul Bourke, receiving a call in GSOC's call centre.

Table 3: Status of admissible complaints on 31/12/2007

Status	Complaints
S90 IR and Mediation	228
Section 94 Supervised	28
Section 94 Unsupervised	312
Section 91	-
Section 98	384
Total	952

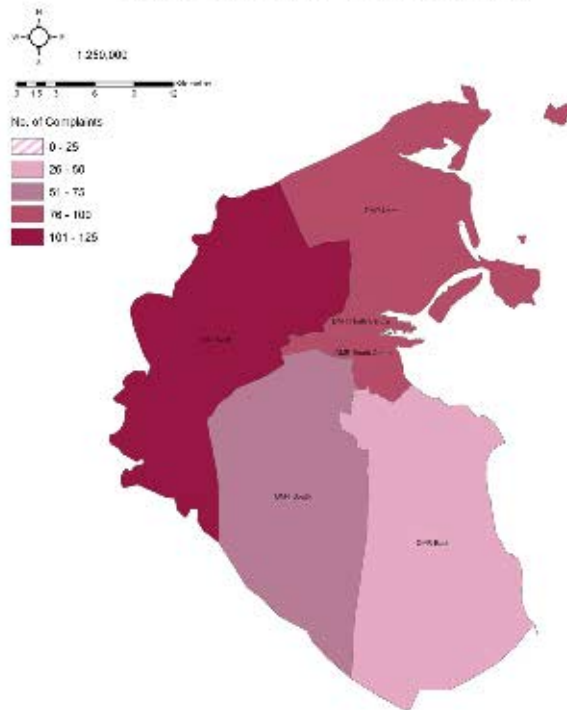
Map 1

Incidence of Complaints per Garda Síochána Division



Map 2

Incidence of Complaints per Garda Síochána Division (DMR)



Case Officer, Louise Miller, in one of GSOC's interview rooms.

All tables represent the data arising from the caseload received up to 31/12/2007.
Note: Personal Information is provided on a voluntary basis

Complainant Sex

Data was available for 2037 cases.

Males comprised the main complainant group to GSOC by sex (1492 against 545). As there are similar numbers of both sexes in all age groups in the Irish population, it is not immediately apparent as to why males should be so heavily represented. However, the figure is reflective of existing research findings that suggest males experience more instances of police interaction than females.

Table 4: Complainant Sex

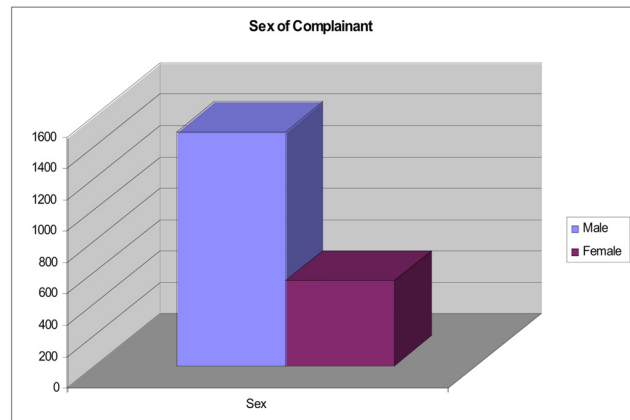


Table 5: Complainant Age

Complainant Age

Data was available for 1015 cases.

The graph shows that the most common age category of complainants was 18-30 yrs. This is reflective of the most common age group in the most recent Census of population.

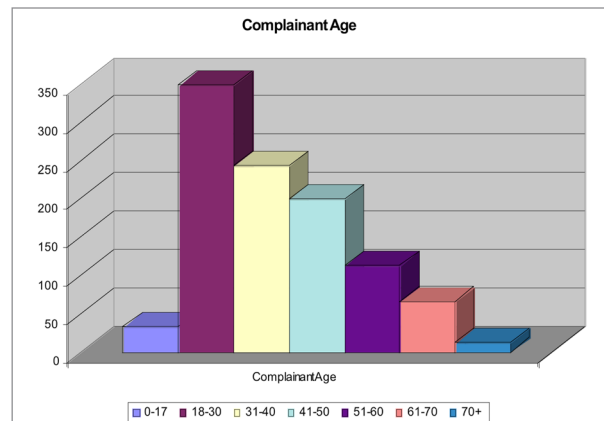


Table 6: Complainant Nationality

Complainant Nationality

Data was available for 813 cases.

While Irish nationals make up almost 17 out of every 20 complainants, the representation of non-Irish nationals among the GSOC caseload (17%) is higher than the Census estimate of their representation in the resident population at any one time (10%).

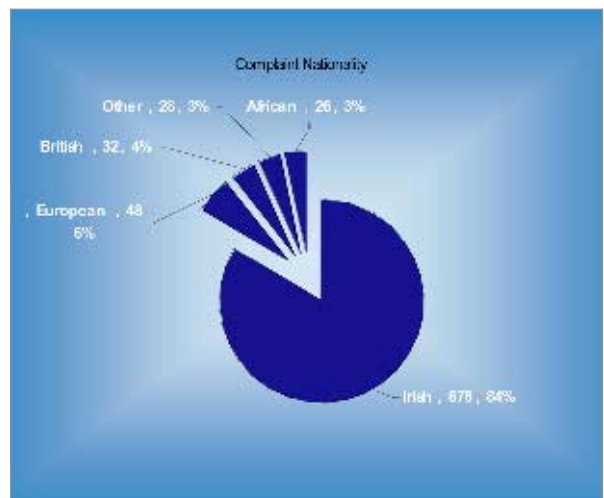


Table 7: Allegation Type

Allegation Type

Many cases contained more than one allegation. Abuse of authority was the largest single category. This category of alleged misbehaviour includes relatively minor issues and allegations of assault.

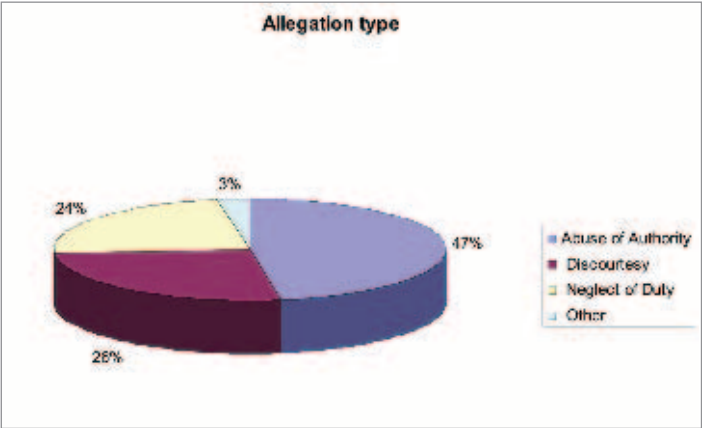
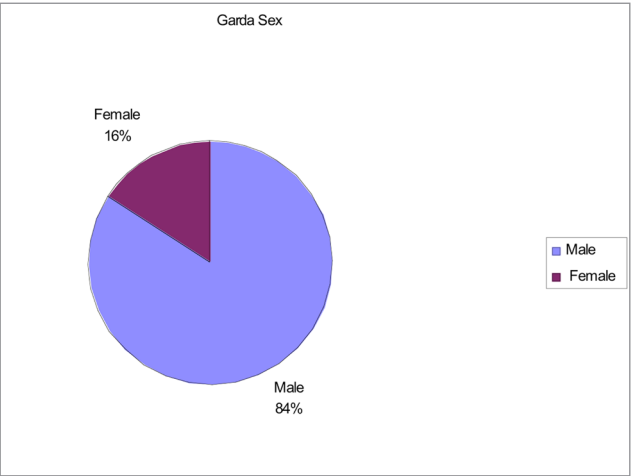


Table 8: Garda Sex

Garda Sex

Data was available for 1205 cases.

84% of complaints made to GSOC related to male gardaí. On 31/12/07, male gardaí made up 80% of the Garda Síochána.



Research suggests not all complaints are about local gardaí. It is noticeable that those garda divisions where complaints are most prevalent are those in which the greatest population growth was experienced in recent years. This suggests implications for the current and future delivery of community policing.

Section 94 supervised and unsupervised investigations

GSOC referred 340 cases for investigation by the Garda Síochána under section 94 in 2007. Allegations which, if proven, could amount to a breach of the Garda Síochána (Discipline) Regulations 2007 can be investigated by the Garda Síochána under section 94 and GSOC can determine if the investigation should take place under the supervision of GSOC or without supervision.

Section 98

By 31/12/2007, GSOC's 28 investigators were conducting over 600 investigations into allegations of criminal offences. (That figure includes 241 referrals under section 102)

The Act obliges GSOC to mount an investigation into allegations of misbehaviour which, if proven, would constitute an offence. This can range from allegations of very serious assault to minor offences such as summary offences under the Road Traffic Acts. The result is that all the resource-heavy mechanisms of a criminal investigation must be applied even where the offence in question may not be serious. Criminal investigations may include witness appeals, scene examination, taking of statements, securing and storage of exhibits. It is questionable whether or not this is always a useful deployment of scarce resources and whether or not it provides a proportionate response to the allegations made.

1.3 Guidelines for the informal resolution

Section 67(2)(c) assigns to GSOC the function "to issue guidelines for the informal resolution under section 90 of certain categories of complaints and to make procedural rules for investigations under section 95,"

Prior to commencing operational duty, and following extensive consultation with interested parties, GSOC issued guidelines relating to informal resolution. The guidelines are published in booklet form and are available from GSOC with no charge.

1.4 Procedural rules for investigations under section 95

The Commission is considering procedural rules for investigations under section 95.

1.5 Reporting of the result of investigations

Section 67(2)(d) gives GSOC a function "to report the results of its investigations under Part 4 to the Garda Commissioner and, in appropriate cases, to the Director of Public Prosecutions and, if it reports to the Director, to send him or her a copy of each investigation file,"

In 2007, GSOC sent five files to the Director of Public Prosecutions for his consideration. The Director determined that there would be no prosecution in relation to these five files.

1.6 Investigations under section 102

Section 67(2)(e) assigns to GSOC the function

“to conduct, in accordance with section 102, other investigations of matters concerning the conduct of members of the Garda Síochána,”



Nick Harden

previously worked as a detective with the South Australia Police specialising in drug and organised crime investigation and covert operations. In GSOC, he is a Senior Investigations Officer, responsible for the management of a team of investigators. He personally undertakes the investigation of complex cases. With other Senior Investigations Officers, he provides a 24 hour on call response to critical incidents.

Section 102(1) Referrals by the Garda Commissioner

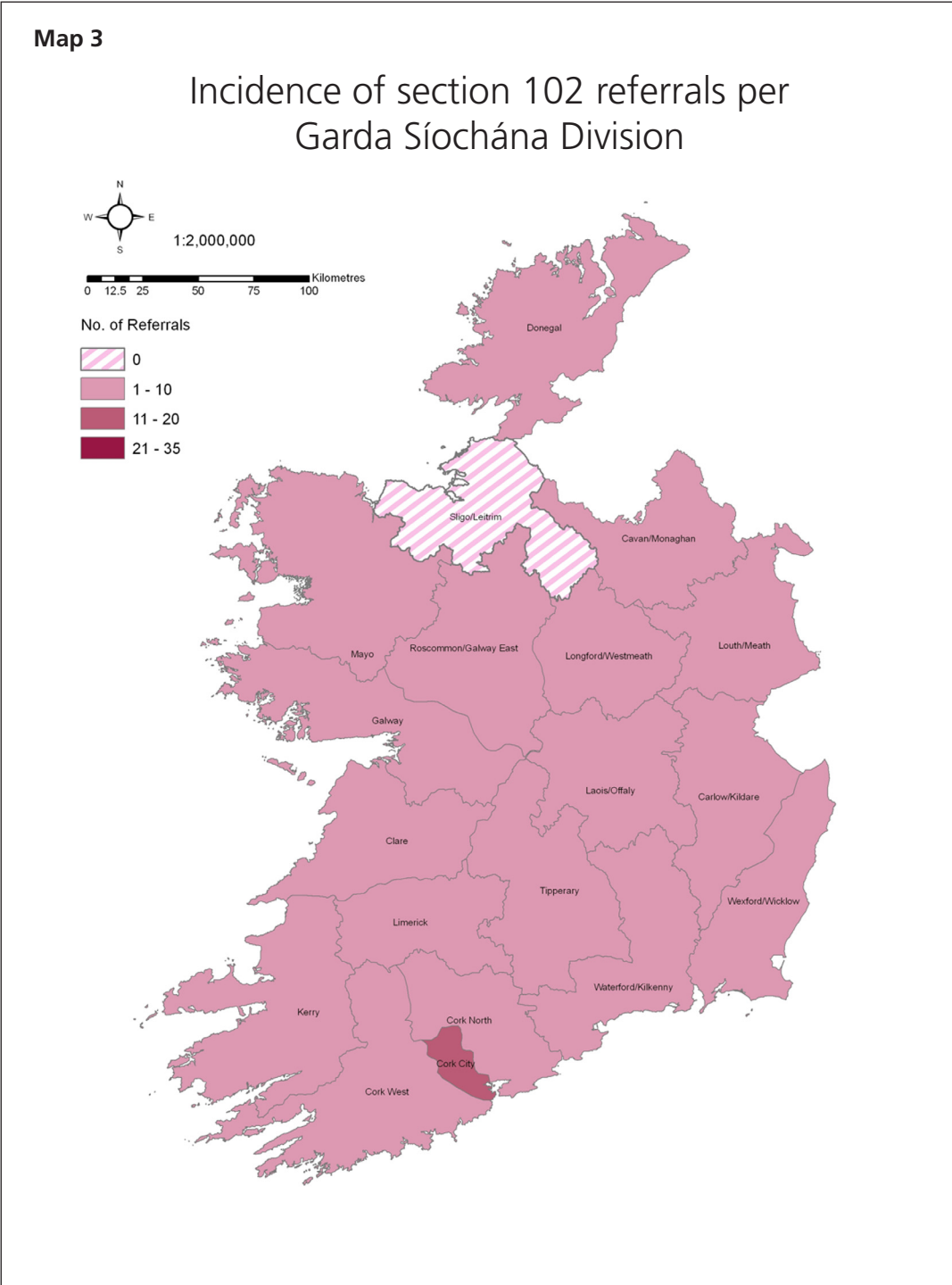
Referral under section 102(1) arises when the Garda Commissioner forms the view that “the conduct of a member of the Garda Síochána may have resulted in the death of, or serious harm to, a person.” In such instances, GSOC is obliged to investigate.

In 2007, there were 247 such referrals, 241 of which were the subjects of investigation on 31/12/2007. The volume of referrals was high in the early months. The number of referrals decreased in the course of the year, though GSOC is anxious that all matters which appear to warrant GSOC involvement should be referred.

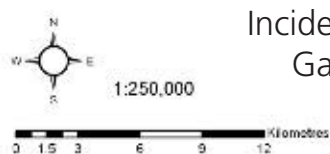
The referral of a matter under section 102(1) necessitates an appropriate and prompt response from GSOC. Officers are on call to meet this need on a 24/7 basis. In serious cases, some of which have involved death of persons, GSOC officers attend at the scene and take control of whatever aspects of the incident rightly fall under GSOC’s jurisdiction. Scene management is critical and this means that co-operation between the GSOC senior investigating officer and the senior Garda is vital to successful operations. Management may include scene preservation, evidence-gathering, interviewing of witnesses and family liaison. There may also be need for garda involvement in road closures, forensics, etc.

Co-operation from GSOC’s perspective has been good.

In 2007, section 102(1) referrals included six deaths in or following garda custody or following garda contact and six deaths arising from road traffic incidents. One of these deaths occurred outside the jurisdiction - in Northern Ireland - but certain possibly related road traffic aspects were referred to GSOC by the Garda Commissioner because they occurred in the Republic of Ireland.



Map 4



Incidence of section 102 referrals per
Garda Síochána Division (DMR)

No. of Referrals

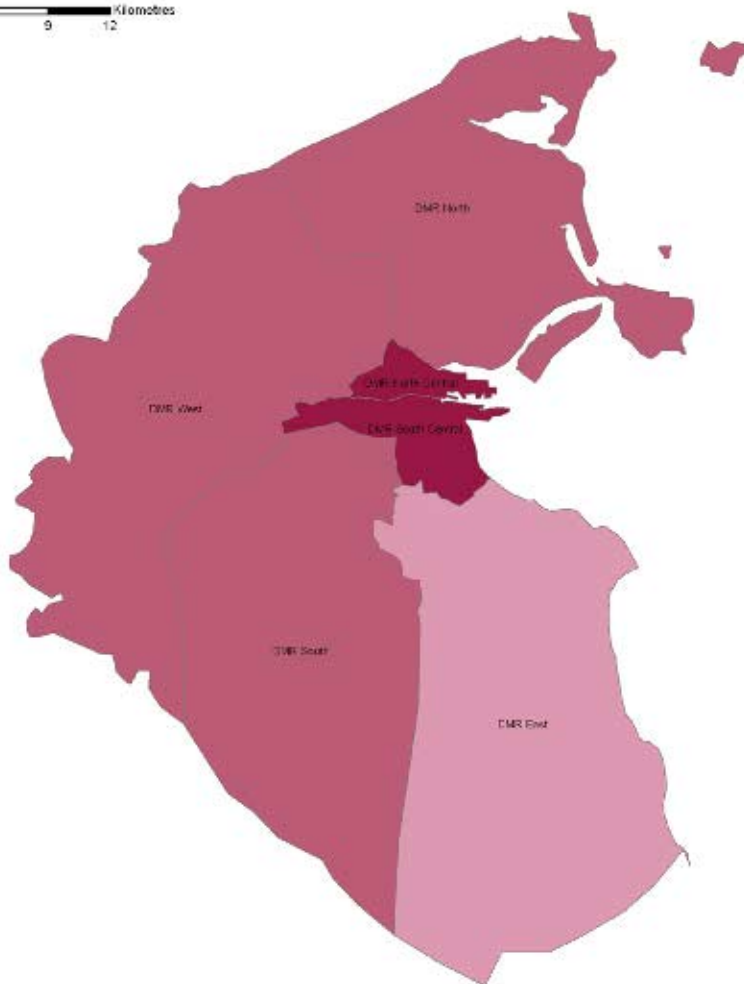


Table 9: Age of Non-Garda injured party

Age of Non-Garda injured party

Data was available for 111 referrals.

The most common age group was that for persons aged 18-30. The next most common age group was that of minors.

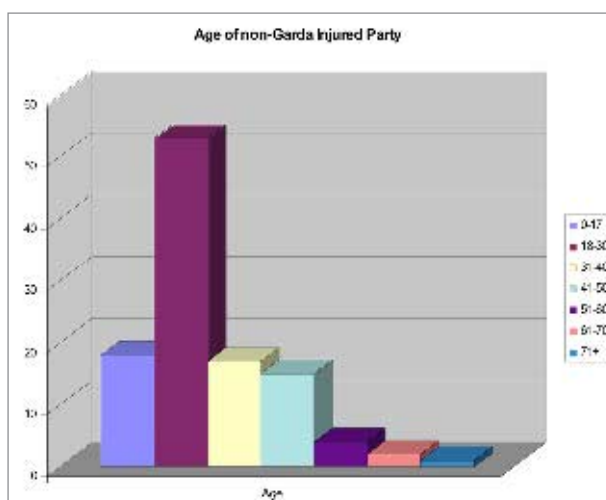
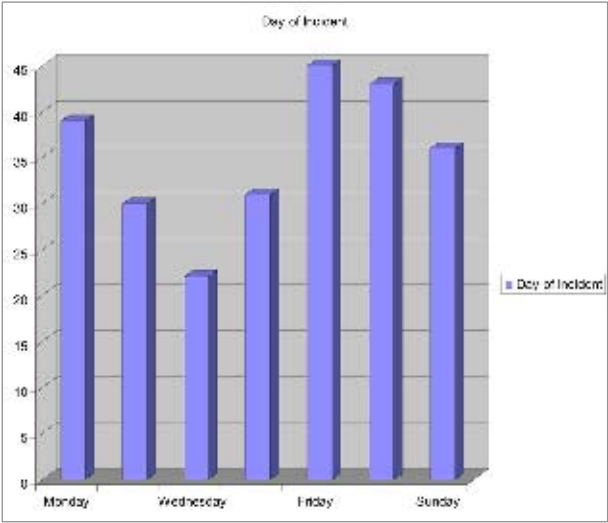


Table 10: Day of the week of referral

Day of the week of referral
Data was available for all 247 referrals.

Just over 50% of all referrals took place on weekend days. Further analysis would be required to ascertain whether late night and alcohol is a common factor in these events.



GSOE investigators attending the scene of a section 102(1) referral.

Section 102(4) Public interest investigations

Section 102(4) empowers GSOC

“to 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”

On the 27th of July 2007, GSOC announced its decision to investigate the circumstances surrounding the death of Mr. Terence Wheelock on the 16th of September 2005.

On the 2nd of June 2005, Mr. Wheelock was arrested for offences under the Road Traffic Act and brought to Store Street Garda Station. At 14.40 on the 2nd of June, Mr. Wheelock was found unconscious in his cell with a ligature tied around his neck. He was rushed to hospital but never recovered consciousness and remained in a coma until he died at the Mater Hospital on the 16th of September 2005.

GSOC took the view that it was necessary to investigate any possibility of any failure by any member of the Garda Síochána in allowing for the presence of the cord/ligature in the cell and any act or omission by member(s) surrounding Mr. Wheelock’s arrest and detention that may have contributed to the death of Mr. Wheelock.

The investigation is using powers conferred under section 98. An extensive amount of documentation has been gathered and the GSOC investigators are in the process of interviewing witnesses who may be in a position to assist the investigation. The Garda Síochána appointed a liaison officer to assist with any requests the GSOC investigation team may have.

The investigation is ongoing.



Dennis Murphy

was a member of the New Zealand Police for 28 years, with 18 years spent as an investigator with the Criminal Investigation Branch. He has held a number of leadership and management roles within the Criminal Investigation Branch and wider Police organisation, including the command and control of critical incidents. He is a Senior Investigating Officer leading and managing a team of investigators.

1.7 Examination of practices, policies and procedures of the Garda Síochána – section 106

Section 67(2)(f) assigns to GSOC the function

“to examine practices, policies and procedures of the Garda Síochána in accordance with section 106,”

In July 2007, GSOC wrote to the Minister concerning a possible examination under section 106 of the management of incidents of crowd protest or civil disobedience by groups or persons. The Minister, following discussions with GSOC, did not feel that it was appropriate at that time for him to request such an examination.

GSOC wrote to the Minister concerning a possible examination in relation to certain aspects of the fixed charge processing system. In December, the Minister, following discussions with GSOC, requested that such an examination be undertaken and that a report be made to him along with any recommendations. That examination is ongoing.



GSOC Management with the Investigation team on launch day, 8th May, 2007.

1.8 Protocols

Section 67(2)(g) assigns to GSOC the function:

“to draw up with the Garda Commissioner protocols in accordance with section 108,”

Section 108 of the Garda Síochána Act 2005 requires GSOC and the Commissioner of the Garda Síochána to “make arrangements...by written protocols” for:

- (a) Use of detention facilities at Garda Stations by Designated Officers of GSOC
- (b) Application of Criminal Justice Act 1984 (Treatment of Persons in Custody in Garda Stations Regulations 1987)
- (c) Handling of any investigations by GSOC that coincide with investigations by the Garda Síochána into the same matters
- (d) The sharing with each other of information including evidence of offences obtained by either GSOC or the Garda Commissioner.

The Protocols were agreed and signed on the 08/05/2007.

The Protocols were reviewed, revised and the new version was signed on the 01/08/2007. This version remains in place, subject to review in the future. The protocols and associated Memorandum of Understanding are available on the GSOC website www.gardaombudsman.ie. See Appendix I. Considerable time was invested in working through the practical application of the agreed Protocols with members of the Garda Síochána. GSOC investigators found that, once people’s respective roles were understood, co-operation between the two organisations was good and continued to improve through 2007.



GSOC's Communications & Research team on launch day, 8th May, 2007.

2. Promotion of public confidence

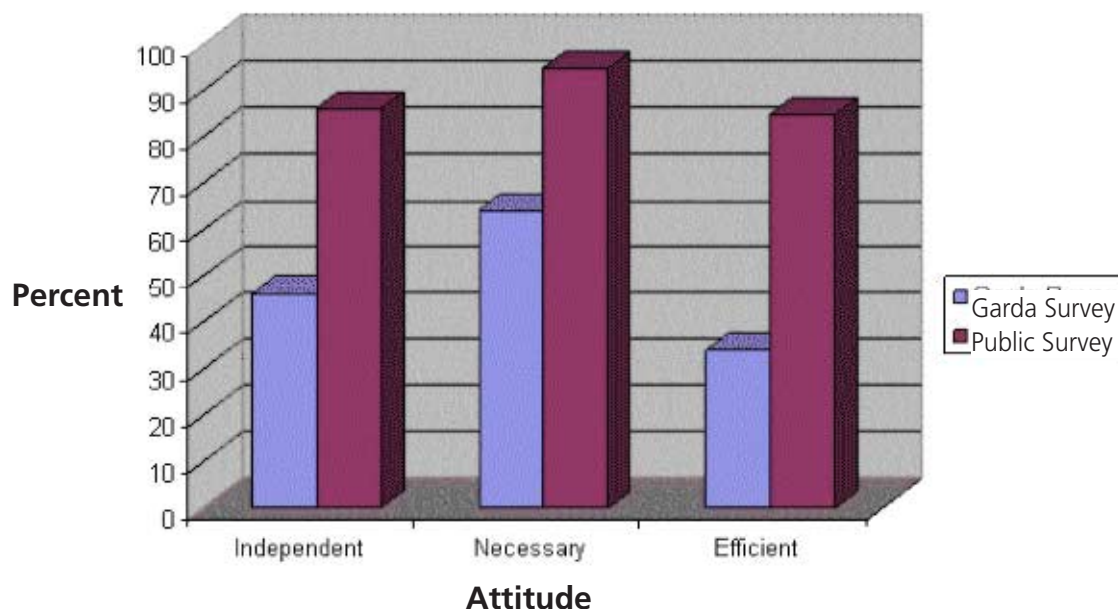
Objective b of GSOC as set out in section 76(1) of the Act is:
 "to promote public confidence in the process for resolving those complaints."

2.1 Public and garda attitudes

GSOC undertook, in March and April, a survey of public attitudes and a survey of garda attitudes to the organisation. This was done to benchmark its performance in creating confidence in the new system of independent oversight of police action. The table indicates a high level of public belief in the independence, need for and efficiency of GSOC. The figures for Garda attitudes are lower. The table figures includes positive and 'don't know' responses.

Table 11: Attitude surveys of the public and the Garda Síochána compared

Perceptions of GSOC 2007



2.2 Consultative group

In 2006 a consultative group was set up to explore issues of common interest to GSOC and the Garda Síochána and to seek guidance from several expert and interested bodies. The membership is drawn from the following organisations:

The Garda Síochána Ombudsman Commission
 The Garda Síochána
 The Department of Justice Equality and Law Reform
 The Association of Garda Sergeants and Inspectors
 Garda Representative Association
 Garda Síochána Inspectorate
 Garda Síochána Complaints Board
 Irish Human Rights Commission
 Association of Chief Superintendents
 Association of Garda Superintendents
 NUI Galway

The group met twice in 2007.

Meeting of 13th February.

This meeting provided an opportunity for the Commissioners to introduce their Senior Management Team to GSOC's stakeholders on the consultative group.

The Transition team, a team of civil servants which had been formed to get GSOC off the ground, briefed the meeting on progress on several issues. The team gave an update regarding

- the number of new appointments
- training which would be provided to staff
- preparations for putting an IT system in place.

Meeting of 21st November.

GSOC provided an update of developments since the last meeting.

- The Protocols were agreed and signed on the 08/05/2007
- The Protocols were reviewed and signed on the 01/08/2007
- GSOC opened to the public on the 09/05/2007
- A summary of GSOC staff issues was presented
- A summary of the amendments to the Garda Síochána Act 2005 was presented
- A summary of the GSOC Attitude Surveys was presented

2.3 Media relationship

GSOC's major interactions with the press, radio and television media arose from the reporting of critical incidents. The incidents which attracted most media interest were those which involved fatalities.

GSOC's press office provided a 24/7 media service on all high-profile incidents. This included briefing press, radio and television, providing audio-visual briefings to the latter two. On three occasions, GSOC put out witness appeals.

2.4 Web-site

GSOC undertook a major upgrading of its website www.gardaombudsman.ie. This was completed in April, so as to be available to the public when GSOC became operational. It was amended regularly in response to user feedback.

As well as pages on relevant legislation, FAQs, publications and information about GSOC's mission, a section dedicated to providing information for members of the Garda Síochána was added. This section aims to answer any questions a member may have regarding GSOC.

On the publications page, GSOC undertook to publish statistics every month on its case-load and GSOC's management of it. That practice commenced in June and is ongoing.

In order to augment the various steps GSOC has taken to make itself accessible to the people it serves, the facility to make a complaint on-line was included.



Brian Fennell,

from Limerick, joined GSOC from the Revenue Commissioners. He is a member of the Communications & Research team where he deals with press queries, creates and maintains files on the coverage of GSOC investigations in the media and manages the GSOC website. He manages the team's subscriptions to magazines, newspapers, periodicals and online services as well as looking after the team's IT resources. Brian also acts as photographer for GSOC events.

2.5 Booklets

GSOC produced an information pack for the use of the public and the Garda Síochána alike.

"What you need to know" is a simple, illustrated guide to the work of GSOC including how, where and in what circumstances a member of the public may make a complaint to GSOC. Copies were made available at citizen advice centres, libraries and a copy was posted to each member of the Oireachtas.

"Questions and Answers for Gardaí - an information booklet for members of the Garda Síochána" is a resource designed for members of the Garda Síochána and aims to answer the questions a garda might ask including addressing issues like time limits, being interviewed by GSOC officers, a garda member's rights in relation to GSOC, etc. It also provides a guide to parts three and four of the Act.

A copy of this booklet was posted to every member in early May to coincide with GSOC's becoming operational. A copy is provided by GSOC to student and probationer gardaí at Templemore during the lectures which GSOC gives at the Garda College.

"A Guide to Informal Resolution" is available to Gardaí and the public alike. It outlines how informal resolution should work and what the benefits might be to those who engage in it. A copy of this booklet is also provided by GSOC to each student and probationer garda at Templemore during the lectures which GSOC gives at the Garda College.



GSOC's information pack.



Former Tánaiste and Minister for Justice, Equality and Law Reform, Mr. Michael McDowell officially opens GSOC on May 8th, 2007.

2.6 Launch Event and Advertising

The launch of GSOC - May 8th - was viewed as an opportunity to present the organisation to the civil and administrative society. Over one hundred and fifty invited guests including representatives of the Garda Síochána, DJELR, the Defence Forces, the Law Society, the Bar Council, the Courts Service, the Oireachtas, the media, Garda staff associations, the Prison Service, and independent police oversight practitioners from Northern Ireland and England and Wales joined the staff of GSOC at 150 Abbey Street Upper, Dublin 1, where former Minister for Justice Equality and Law Reform, Michael McDowell performed the opening ceremony. In his address the Minister described the role of GSOC as "central in maintaining confidence in policing and in the administration of justice in Ireland."

GSOC undertook a brief public awareness campaign to bring GSOC to the attention of the public. The campaign consisted of advertisements in the daily press and Sunday press of the week of May 8th. GSOC placed the same advertisements in the Garda press magazines. It was augmented by a five-day campaign of radio advertisements which informed the public of GSOC's existence.

2.7 Public outreach programme

An outreach programme was designed to promote public confidence in the process for resolving complaints about Garda Síochána members. It aimed to disseminate information about the organisation to various interested parties.

Prior to commencing operational duty on May 9th, the Communications and Research team made contact with over 200 organisations around the country offering to inform them about GSOC.

The programme adopted a theme in year one of ‘the new communities’. The people who responded positively to initial contacts were overwhelmingly people in those communities so it was decided to target them as a group. That has not prevented any group from inviting GSOC and receiving a presentation e.g. Monaghan Community Forum. Groups to whom GSOC made presentations include:

- Immigrant Council of Ireland
- Focus Ireland
- Migrant Rights Centre
- Emigrant Advice (Dublin)
- SPIRASI
- Crinán Youth Project (Dublin)
- Free Legal Advice (Dorset St, Dublin)
- Information and Support for New Communities (Waterford)
- Monaghan Community Forum
- KNIT
- Western Region Drugs Task Force
- Ballymun Community Law Centre
- Probation Service, St Patrick’s Institute
- Westmeath Community Development

A particularly useful development was that some of the service providers in the area of the new communities asked that their management and training staff be spoken to so that they could pass information along where appropriate.

At some events, the Garda Síochána was actually in attendance. The relations between the two organisations on such occasions have been very good. The community liaison gardaí understand clearly what GSOC is doing and have been supportive and welcoming.



Graham Doyle

is one of GSOC's Communications and Research team. He previously worked in the Department of Justice, Equality and Law Reform. His job includes liaising with the media - issuing of press releases and witness appeals on critical incidents. Graham makes presentations to groups as part of GSOC's outreach programme to the public. He is part of GSOC's Partnership Committee and PMDS Steering Group. Graham also edits the organisation's in-house newsletter – 'Oversight'.

2.8 Lectures at the Garda College, Templemore

GSOC believes strongly in communicating its message of independence and impartiality to garda members. At the kind invitation of Chief Superintendent Kieran McGann, Superintendent Sarah Meyler and Inspector Frank Flood, it provided lectures to graduating classes in the Garda College in Templemore throughout 2007. These lectures are typically two-hours each, presented to students at either Phase Three or probationers at Phase Five of their training. The aim is to meet students at Phase three, i.e. before they spend time dealing with the public. However, some students had already passed through that phase by May 9th, when GSOC became operational, hence the lectures to Phase Five probationers in 2007.



A GSOC lecture in the Garda College, Templemore.

2.9 Garda management supervisory development programmes

GSOC assisted in Garda Síochána management supervisory development programmes for newly-promoted inspectors and sergeants which take place in Nenagh Co. Tipperary. GSOC's participation was undertaken at the kind invitation of Superintendent Gordon Ryan, Inspector Tony Healy and Sergeants Philip Ryan, Karen O'Reilly, Leonard Conaty and Ailís Myles. These seminars were a half-day long each and consisted of presentation and discussion.

2.10 Visits to GSOC

GSOC invited guest speakers to address the entire staff on dedicated training days. This practice was begun in December 2007. The first guest speaker was Chief Inspector of the Garda Síochána Inspectorate, Kathleen O'Toole, to whom GSOC extends its thanks.

GSOC received visits from Aengus ÓSnodaigh, T.D., Charlie Flanagan, T.D., Pat Rabbitte, T.D., and a delegation of staff from the embassy of the Kingdom of Lesotho.



Kathleen O'Toole speaking to GSOC staff

Thomas Hammarberg, Council of Europe's Commissioner for Human Rights, who visited in the autumn, described GSOC as "a serious agency and a model for other countries" He commented that "some of the Scandinavian countries are looking very closely at your model. We also know that the authorities in Poland are examining it with a view to setting up something similar there".



Thomas Hammarberg, 3rd from left, on his visit to GSOC.

3. Powers of GSOC

3.1 Legislative changes in 2007

When GSOC became operational it became apparent that some modifications, if enacted, would greatly enhance its efficiency and would, in certain places, remove potentially troublesome ambiguities.

The DJELR was immediately receptive to GSOC's requests for certain amendments and these were passed into law on 9th May 2007 within the Criminal Justice Act (2007).

The amendments of May 2007 and the reasons advanced in favour of these are set out below.

3.2 Significant Amendments to the Act to date.

- Section 98: removal of the restriction of GSOC powers and responsibilities to the member of the Garda Síochána under investigation. The original wording restricted GSOC's ability to exercise its "garda-type" powers making them effective only in relation to the member of the Garda Síochána under investigation. The removal of that restriction allowed GSOC to conduct investigations more effectively by extending those powers to cover members of the Garda Síochána and members of the public alike.
- Section 39: A garda's duty to account was extended to a duty to account to a designated officer of GSOC. The duty here provided enhanced GSOC's ability to investigate acts or omissions by on-duty Gardaí.
- Section 94: removal of the necessity for GSOC to form the opinion that a breach of the Disciplinary Regulations has been committed. The amendment means that GSOC need only be of the opinion that a breach may have been committed in order to make an appropriate report on the matter. Since the matter could be due for further consideration, it was felt that this was an infringement on due process.

3.3 Further amendments

GSOC maintained a close dialogue with the DJELR on certain other aspects of the legislation. On June 6th 2007 the Commissioners and members of their executive team met the Minister, along with senior DJELR officials, and set out some further modifications to the Act which they believe will aid the efficiency and effectiveness of GSOC. These suggestions are set out in GSOC's Two Year report which was submitted to the Minister on February 20th 2008.

GSOC believes that consideration should also be given to addressing issues which may arise out of the operation of section 94 of the Act. Under this section, when a matter is sent by GSOC to the Garda Síochána for investigation by the Garda Síochána, it would appear that GSOC has very limited say in advising or deciding how the matter is to be investigated, including whether as a potential serious or less serious breach of discipline. This arises out of regulation 22 of the Garda Síochána (Discipline) Regulations 2007 which sets out in order for a matter to be dealt with as a serious breach of discipline this has to be "...in the opinion of the Commissioner...".



Niamh McKeague

is a Solicitor / Legal Advisor to GSOC and part of the in-house Legal Department. Her role is to provide legal advice to GSOC and staff members - on Irish and European law – as well as advising on the progress of investigations, preparing files for the Director of Public Prosecutions and working with external legal specialists when appropriate.

4. Management and Control



GSOC Management with the Administration teams on launch day, 8th May, 2007

Section 67(2)(5) states that

“The chairperson of the Ombudsman Commission shall manage and control generally the officers, administration and business of the Commission.”

The Director of Investigations, Paul Buschini, has overall responsibility for the management of the investigations section. The core administration function was managed through sections dealing with human resources, corporate affairs, IT and finance, under the direction of the Director of Administration, Anthony Duggan. Recruitment, training, procurement and system improvement is ongoing.

4.1 Officers

4.1.1 Recruitment

At the close of 2007 GSOC's staffing complement had reached 75 made up as follows:

- Commissioners: 3
- Administration- Corporate Services, IT, Human Resources: 17
- Investigations: 28
- Case Officers: 18
- Legal services: 5
- Communications and Research: 4

The core GSOC staff number was augmented by four superintendents seconded from the Garda Síochána.

The closing figure represented incremental changes from opening day when staffing levels were at 62%. By late February 2007 a significant number of the permanent GSOC staff (investigations officers and administrative staff) was appointed. These were recruited through competitive competitions, assignment from the Public Appointments Service (PAS) and assignment under the Decentralisation Programme. Subsequent appointments of staff to GSOC were made through the PAS.



Catherine Bermingham

works in the HR section and attends DIT at night, completing a Human Resource Management Degree. On a daily basis, she answers general HR queries in relation to pay, holidays, overtime, pensions, flexi, etc. She administers the Clockwise and HRMS systems and liaises with the Public Appointments Service in relation to recruitment and also assisting with the induction of new staff members.

4.1.2 Training

Casework staff underwent training with the University of Portsmouth in relation to interviewing and dealing with complainants.

All other staff received appropriate training in preparation for their functions in GSOC.

Outside of formal training modules, guest lecturers were invited to GSOC to address the staff, e.g. the Rape Crisis Centre shared its expertise in relation to the handling of investigations of a sexual nature.

4.1.3 Investigations Officers

The priorities for investigations in the pre-opening weeks were to ensure that the team would be trained and equipped in readiness for operational duty from May 9th. Staff members were drawn from many different backgrounds among them former police officers and former police oversight personnel. There are several nationalities represented - New Zealand, Australia, South Africa, Ireland, United Kingdom. A shared attribute was familiarity with the practice of law enforcement in a common law environment.

4.1.4 Investigators' Training

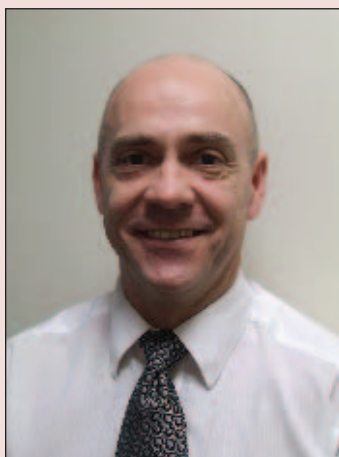
During the period February – April 2007 Investigations staff underwent an extensive 6 week training programme provided by the University of Portsmouth and the Honourable Society of Kings Inns, Dublin in order to ensure their ability to conduct investigations when GSOC commenced operations. Specific training in family liaison was undertaken by those staff selected for family liaison officer deployment. Experts from Lancashire Constabulary were employed for this training. Officers also took part in training in scene photography. GSOC participated in a joint training exercise, held in Winchester, U.K., which focused on major crime review with officers from the PSNI and the Garda Síochána. The senior management team took part in critical incident management training.

Senior Investigations Officers provided assistance to the Garda College in its running of serious incident management courses. This proved a useful exercise giving GSOC an opportunity to get to know gardaí they might encounter at real-life incidents and to explain the GSOC role. This philosophy also underpins the investigators' participation in seminars which GSOC has presented to internal Garda training and review groups. GSOC has found this a fruitful exercise and it is intended to continue to give the Garda Síochána what assistance it can in this regard.

4.1.5 Human Resources

The HR unit completed a variety of tasks in 2007

- Completed & distributed a comprehensive staff handbook
- In liaison with the Public Appointments Service conducted recruitment campaigns...(Service Officer, Librarian, Investigations Officers)
- Implemented the Human Resource Management System
- Implemented a Time & Attendance system
- Provided HR advice to Management
- Facilitated training within GSOC
- Established the GSOC secretariat
- Employee Assistance Service – ensured that an Employee Assistance Officer was appointed to GSOC
- Training and development strategy drafted
- Facilitated the conducting of staff probationary reviews



Paul Rothwell

previously worked in the Refugee Appeals Tribunal. He is an Assistant Principal Officer with the responsibility for Corporate Services, (including Finances), Human Resources & Training. Supporting the Director of Administration, he assists in leading and managing the teams which provide all the required resources and office services so that other business units and individuals in GSOC are equipped to meet GSOC's statutory duties.

4.2 Administration

The establishment of efficient and effective core administrative structures was an essential task throughout 2007.

4.2.1 Investigations

The Investigations division was managed in four operational investigative teams. Each team was led by a senior investigating officer, who managed the day-to-day operations of the case-load assigned to that team. That case-load consisted of investigations arising out of complaints made to GSOC and investigations arising out of section 102. Structures were put in place to facilitate flexible working arrangements to enable the teams to provide a 24/7 response to incidents. Some incidents, particularly those involving fatalities, required extensive resources. This was particularly onerous given the geographical size of GSOC's area of jurisdiction.

Memorandums of Understanding were entered into with

- The Defence Forces
- The Forensic Science Laboratory
- The Rape Crisis Centre
- OPONI
- IPCC

4.2.2 Legal Services

The Legal Department, comprising three lawyers, a legal executive and administrative assistant was heavily involved in the development of systems and processes that are in compliance with the Act. It also provided a legal advisory service to all parts of the organisation, including the Commissioners, Case Officers, Investigators and Corporate Services. It was heavily involved in the devising and delivery of regular training to GSOC's staff as well as participating in the organisation's outreach programme. It was involved in the development of working arrangements with the Office of the DPP.

4.2.3 Corporate services

Corporate Services established systems for all essential and required services within the organisation. The most essential systems were prioritised in the pre-opening phase of the year so as to enable GSOC to open its doors as planned. As the year progressed, others were established. The major systems in place relate to

- Postal Services
- General GSOC Tendering and Procurement Services
- Environmental management within the GSOC premises
- Corporate Services and Supplies filing
- General Facilities Management
- Establishment of services



Tara Cassidy

came to GSOC from the Office of the Refugee Applications Commissioner. She is a Higher Executive Officer in Corporate Services where she fulfils a facilities management and procurement officer role. She is also designated as Secretary to the Commission. As Secretary to the Commission, Tara minutes the Commissioner/Executive meetings and facilitates governance functions such as drafting documentation for delegations, designations and resolutions and she authenticates the official seal of GSOC.

4.2.4 Building

150, Abbey Street Upper, Dublin 2 was made ready for GSOC. The organisation of this project involved desk allocation, stationary packs, phone registering, mobile phone allocation, welcome packs, staff handbooks, security arrangements and floor access arrangements, equipment ordering and process implementations, move co-ordination and identity badge preparation.

- Building re-organisation
- Staff relocation facilitation, new staff arrival preparation, etc.
- Individual office requirements
- Snagging of all areas and management of resolutions
- Building softening project
- Building alterations project: preliminary work completed pre-December 07
Liaising with OPW Architecture and M&E
- Landlord liaison/building contractor liaison.



GSOC's Reception area before and after launch day.



GSOc's Investigations Office before and after launch day.

4.2.5 Policies:

- Corporate policy drafting pre-May 2007
- Gradual refinement and ongoing drafting and implementation of all aspects of corporate management and procurement



Margot Loughman

is an Administrative Officer and a large part of her job involves identifying areas where policies need to be drawn up and developed. This requires a broad overview of happenings within the organisation. She is currently working on a Statement of Strategy and Business Plan.

4.2.6 Safety

- Drafted and implemented Safety Statement for GSOc, 150 Abbey Street Upper
- Conducted mandatory Fire Drills
- Survey and testing of GSOc Fire Equipment.
- Site visited conducted, at GSOc initiative, by the State Claims Agency

4.2.7 Information Technology Infrastructure

The ICT infrastructure was installed in GSOC in March/April 2007 by Eircom. It consists of:

- a Microsoft Exchange (E-mail) Cluster
- Windows Domain Controller
- File & Print Server
- 5 application Servers
- a Mail Content Policy Engine
- an interim CMS server
- an access control server
- a high availability firewall pair
- back-up and restore unit
- a storage area network.

The telephone system (also installed by Eircom under the same contract) uses VoIP techniques for call switching and distribution. The phone system is configured so that incoming calls to the Case Management Help Desk can be recorded.

The Local Area Network consists of an arrangement of Cisco Switches and a Cat 6 structured cabling system.

4.2.8 Mobile Computing:

The investigation unit relies heavily on mobile computing. Staff have been supplied with laptops and/or XDA units. The Laptop hard drives are encrypted and all communications with Head Office take place over a Virtual Private Network (VPN) which encrypts the data traffic and protects from eavesdropping and safeguards the integrity of the data on the network.

4.2.9 The Case Management System

The Contract for the Supply, installation & support of a Case Management Solution was awarded to ICS Computing Ltd., 205 Airport Road West, Belfast, BT3 9ED, Northern Ireland. This project commenced at the beginning of June 2007 when a number of Business Process Workshops were held to establish GSOC's requirements for the Case Management System.

- The Business processes were defined and agreed in Mid-August
- Screen design workshops took place from 16/7/07 to 24/7/07. The software development work commenced on 22/8/07 and continued for the rest of 2007
- The Data Migration workstream of the CMS project commenced on 17/9/07 and is ongoing

- MIS Reporting Analysis & Specification sign off took place in Sept 2007
- Training needs analysis was conducted from 30/10/07 – 30/11/07
- MIS Reports development commenced on 31/10/07 and continued for the rest of the year



Paul Ng

was born in Liverpool and previously worked in the Central Statistics Office. He works in the IT Department in GSOC. On a day to day basis, he runs the helpdesk for the department, receiving and answering IT queries. These may involve general desktop queries or larger projects such as networking issues.

4.2.10 IT Support Services

Fujitsu were awarded the contract to provide IT Support services to GSOC. The support personnel commenced in March 2007. The contract provided for the drawdown of staff as required for the period of one year. Sanction was sought and obtained for the ongoing retention of the Support staff from the IT Control Unit in Dept of Finance on a number of occasions throughout the year.

4.2.11 Vulnerability Assessment

A vulnerability assessment of the GSOC ICT infrastructure was carried out by RITS in August 2007. The assessment included a penetration test where RITS tried (and failed) to establish unauthorised access to the IT infrastructure. RITS issued a very positive report in relation to the IT security systems that are present in GSOC.

4.3 Business

Financial Management

Reporting regarding GSOC accounts and audits is covered by section 77 of the Act and is separate from this report. In general terms, the budget for GSOC in 2007 was greater than the budget for 2008 due to the inclusion in the 2007 figure of a provision to cover the acquisition of a lease on and the fitting out of offices to accommodate the organisation.

Table 12: GSOC Budget and Expenditure, January – December 2007

Category	Original Budget	Expenditure Jan.-Dec. 2007 *	Budget Remaining
A01 Salaries, Wages & Allowances		€3,369,691.28	
A02 Travel & Subsistence		€177,864.58	
A03 - Incidental Expenses		€1,132,062.31	
A04 - Postal & Telecommunication Services		€198,945.28	
A05 - Office Machinery & Other Office Supplies		€2,450,358.75	
A06 - Office & Premises Expenses		€6,600,856.35	
A07 - Consultancy Services		€129,285.90	
A08 - Research Expenditure		€19,844.00	
Sundry Codes		€21,000.74	
Totals	€17,027,000.00	€14,099,909.19	€2,927,090.81

The year was a busy time for the finance unit as the organisation became operational shortly after the unit had been put together. The unit dealt with the demands of ongoing fitting out of the building and ongoing tendering for various services as well as the design and implementation of structures to manage the financing of an organisation with very many expenditure types e.g. teams on the road; translation requirements; information book production; outreach and educational tools; changes in staff numbers. To facilitate the sound management of and reporting on GSOC finances, the finance unit focussed on the following achievements during 2007:

- Financial Procedures Manual produced
- Streamlining of organisation financial procedures
- Submission of detailed monthly reports on GSOC expenditure
- Development of GSOC Finance Register
- Development of GSOC all Financial Procedures Forms
- Tax Information Folder – assists the team on general tax queries
- Asset Register Record
- Central Record of all Department of Finance sanctions
- Establishments of working relationships with DJELR Garda Division - Finance and Resources Unit, Financial Shared Services (DJELR), Department of Finance (re Travel and Subsistence Circulars), State Claims Agency
- Completion of Introduction to Public Financial Management Course by HEO and EO
- GSOC membership and contribution to Risk Management Network, State Claims Agency.

5. Conclusion

The Commissioners are of the view that in the period covered by this report satisfactory progress was achieved towards establishing GSOC as a functioning body.

The volume of activity has been, as expected, higher than that experienced by the Garda Síochána Complaints Board (GSCB). The Act also places upon GSOC a number of additional functions in relation to the Garda Síochána that did not apply to the GSCB.

Civil, independently-resourced oversight of policing is in its infancy in this State. The Commissioners therefore take the view that the establishment and development of GSOC is still, to a degree, work-in-progress. Much yet remains to be done, in order to bring the organisation to optimum efficiency and effectiveness.

Operational Activity

In the period under review, GSOC received a total of 2084 complaints against members of the Garda Síochána.

Of the complaints, 556 were held to be inadmissible. 952 were held to be admissible.

In the same period GSOC received 247 referrals from the Commissioner of the Garda Síochána under Section 102 (1) of the Garda Síochána Act 2005. These are cases in which it appeared to the Commissioner that the conduct of a garda may have resulted in the death of, or serious harm to, a person.

Twelve of these referrals concerned the death of a person.

In the period under review, the Commissioners decided to open one investigation in the public interest, under Section 102(4) of the Act.

The Commissioners, on two occasions in the period under review, wrote to the Minister concerning examinations under section 106 of the Act. The Minister agreed to one such examination being undertaken.

Functioning of the Act

The Commissioners believe that the relevant provisions of the Garda Síochána Act 2005 are generally appropriate to enable GSOC to fulfil its obligations.

Nonetheless, as the organisation has moved towards full operational status, it has become clear that some modifications are required.

A number of amendments were incorporated into the Criminal Justice Act 2007 at the request of the Commissioners. Some further amendments are now sought and GSOC is in discussion with officials of the DJELR in order to advance these. These are set out in more detail in the Two Year Report of the Garda Síochána Ombudsman Commission presented to the Minister, in accordance with Section 80(2) of the Act.

The Commissioners believe that with the appropriate amendments in place, it will be possible for GSOC to deal expeditiously and appropriately with a great volume of relatively trivial complaints. In turn, this will enable the organisation to concentrate its resources on more serious matters.

The Commissioners would like to express their appreciation of the responsiveness and courtesy of the relevant officials of the DJELR in discussions with them on these matters.

Resources

The report (2005) of the committee chaired by former Senator Maurice Hayes that set out the template for the establishment of GSOC stated that the organisation's resources must be defined by the scale of the job it has to do, rather than the other way around.

At start-up, it was considered that a staff of approximately 100 people might be appropriate, initially at least, to the task ahead.

This was posited on a number of assumptions concerning the scope and scale of GSOC's responsibilities and duties under the Act.

However as the Act has had to be interpreted, GSOC's workload is far greater than that anticipated. Similarly, the organisation's capacity to deal swiftly and efficiently with many inquiries has also been limited by certain sections of the Act, as it has had to be interpreted.

GSOC is modestly-resourced by comparison with its counterpart body in Northern Ireland which deals with a police service and a population smaller than in this jurisdiction.

The Commissioners feel that it will be possible to measure accurately the organisation's human resources requirements, in relation to its workload, once the legislative amendments are given effect.

Staff at GSOC

The Commissioners would like to express their appreciation of the commitment displayed by the organisation's staff at all levels in the period under review.

Many staff members have been recruited from other jurisdictions and have brought important skills with them. It is recognised that building effective teams from personnel of disparate and varying backgrounds presents particular challenges to those in supervisory or leadership positions.

The members of the Transition Team assigned to GSOC from other public service departments and services in its early start-up phase have now been reassigned elsewhere. The Commissioners would like to express their appreciation of the work of the Transition Team members.

The Commissioners also wish to acknowledge the important input of a number of key personnel who have assisted on a consultancy basis during the year.

External Assistance and Relationships

A great number of organisations and individuals have interacted with the organisation over the period in review and the Commissioners would like to acknowledge their assistance. These include:

- State Forensic Laboratory
- State Pathologists Service
- Coroners Services
- Office of the Director of Public Prosecutions
- Air Corps
- Garda Síochána Complaints Board
- Garda staff associations
- The news media
- Morris Tribunal
- The Courts Services
- Courts, judicial and other personnel
- The Garda College Templemore
- The Honourable Society of Kings Inns
- University of Portsmouth
- HSE personnel
- Ombudsmans Association of Great Britain and Ireland
- Office of the Police Ombudsman for Northern Ireland
- Independent Police Complaints Commission (for England and Wales)

Central Applications Facility
Garda Síochána Complaints Board
National University of Ireland
Department of Justice, Equality and Law Reform
Health Service Executive
European Partners against Corruption
National Association for Civilian Oversight of Law Enforcement
Canadian Association for Civilian Oversight of Law Enforcement
Office of Public Works
Public Appointments Service
Department of Finance.

The Garda Síochána and GSOC

From the earliest days of their appointment, the Commissioners have stressed that GSOC's objectives will only be fully attained with the co-operation and support of the Garda Síochána itself.

The Commissioners have stressed the common objectives of both organisations and their common interest in developing an efficient, effective and fair system for dealing with complaints while maintaining public confidence.

The Commissioners would like to express their appreciation of the ready co-operation and assistance of the Garda Síochána at all levels and in all departments over the period in review.

By definition, situations will emerge in the relationships between the two organisations which will be complex, difficult and sensitive.

It has been particularly gratifying to note that working arrangements between GSOC officers and Garda Síochána personnel on the ground have generally functioned well and have been conducted with professionalism and mutual respect.

Conclusion

From the outset, the Commissioners have made it clear that while GSOC has the necessary powers to respond to misbehaviour, they see the organisation as having an important preventive role.

The Commissioners have kept firmly in focus the twin objectives of the organisation, as prescribed by the Act: the operation of a complaints system that is efficient, effective and fair, and promoting confidence in that system.

These considerations will be central to the continuing development of GSOC and will shape its approach to the task before it.



Garda Commissioner Fachtina Murphy (2nd from left) and Assistant Commissioner Catherine Clancy (4th from left) on a visit to GSOC



Appendix

PROTOCOLS BETWEEN THE GARDA SÍOCHÁNA OMBUDSMAN COMMISSION and THE GARDA SÍOCHÁNA

- Protocol on the use of detention facilities (Section 108 Garda Síochána Act 2005)
- Protocol on application of the Criminal Justice Act 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations 1987
- Protocol on handling of investigations that coincide
- Protocol on the sharing of information including evidence

Protocol on the use of detention facilities (Section 108 Garda Síochána Act 2005)

1.1 Use of detention facilities at Garda Síochána stations by GSOC

The Garda Síochána will identify and agree with GSOC at least one station with video and audio recording facilities in each GS division in which GSOC will, on request, be provided with a secure detention facility and working facilities to include a suitable office space, power, heat, water and sanitation and basic working furniture where available.

In large rural divisions more than one such station shall be required. In such instances a second station will be nominated in reserve

Facilities such as parking of GSOC official vehicles and vehicles in use by GSOC personnel will be provided for where possible.

GSOC undertakes, insofar as may be practicable, that if members of the Garda Síochána are detained, their detention will be in a district other than that in which they serve. If a member in such circumstances is of the rank of chief superintendent or above, detention, insofar as may be practicable, will be in a division other than that in which he/she serves.

1.2 Interviewing of witnesses who are members of the Garda Síochána by GSOC

Where possible and expedient witness interviews will take place by prior arrangement at an agreed venue. This may be at GSOC offices where facilities are provided. Where appropriate, audio/visual recording of interviews will be arranged.

1.3 Interviewing of persons who are witnesses by An Garda Síochána in GSOC premises

In the event that the Garda Síochána requires the use of GSOC facilities in regard to the interviewing of witnesses in connection with matters under Garda Síochána jurisdiction, such facilities may be extended on the authority of the Director of Investigations.

1.4 Interview of Persons detained by An Garda Síochána

In the event that GSOC require to interview a person in detention by An Garda Síochána, AGS shall provide reasonable access that recognises GSOC's duty and functions while GSOC for its part will ensure that its requirements will not impede, obstruct or interfere with the ongoing Garda investigation.

1.5 Arrest of Suspected Persons

Persons who are suspects in any inquiry by GSOC will normally be asked to present themselves voluntarily for interview under caution.

GSOC personnel will not be trained or equipped to apply force or restraint. In the event of a request from GSOC to the Garda Síochána for support then it will be provided as appropriate.

Requests for support will be routed from the Director of Investigations to the Assistant Commissioner Crime and Security or from a GSOC Designated Officer to the relevant Garda District Officer or Acting District Officer

1.6 Use of Recording Equipment and Copies of Recorded Material

Garda Síochána recording equipment will ordinarily be used by GSOC personnel at interviews of persons in Garda Stations.

GSOC officers may use their own equipment either in place of Garda Síochána equipment or to supplement it.

Copies of recorded material will be made available to the interviewee and the senior GSOC officer present.

GSOC undertakes to maintain and retain any written, audio or visual records made during the course of that detention according to the requirements of the various Persons in Custody regulations.

Protocol on application of the Criminal justice Act 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations 1987

2.1 Role of Member in Charge

Mindful of the provisions of Section 98(2) (b) of the Garda Síochána Act 2005 GSOC and AGS recognise that a reference in Section 4 of the Criminal Justice Act 1984 to member in charge of a Garda station is to be read as a reference to a designated officer of GSOC.

Criminal Justice Act (Treatment of Persons in Custody) 1984 will operate in this context of investigations by GSOC under Section 98. An appropriately Designated Officer of GSOC (D/O) will act as Member-in- Charge.

The GSOC officer, acting as Member-in-Charge, will not discharge functions in respect of any other person or persons in custody, other than a person or persons under investigation by GSOC.

GSOC undertakes that interviews will be conducted with the fullest recognition of persons' human rights and of their rights at law.

GSOC will, where it appoints a Designated Officer to act as a Member-in-Charge, ensure that the appointee is not an officer who has been involved in the investigation.

GSOC will operate a panel of Designated Officers whom it considers suitable and qualified to act as Member-in-Charge.

Where these arrangements are invoked, it will be the responsibility of the Garda Síochána District Officer, or acting District Officer, to make necessary arrangements for facilitation and compliance.

The Gardaí present will comply with all lawful requests from a GSOC officer while he/she is acting as Member-in-Charge.

Protocol on handling of investigations that coincide

3.1 Scenes Management/Shared Incidents Scenes

In any live incident where issues of safety, containment or other emergency continue, control of the scene will remain with the Garda Síochána.

A suitable document of record will be provided and will be completed by Garda Síochána scene commander and senior GSOC D/O, setting out details of such handover and other relevant details such as timing etc.

In cases where Garda Síochána and GSOC both have requirements relating to the collection or preservation of evidence, every reasonable effort will be made to ensure that both interests are met.

In order to ensure that a smooth and appropriate transfer or responsibility of command and control is achieved, Garda Síochána and GSOC operational personnel will, on arrival, fully brief their counterparts on the circumstances of the incident and any legal requirements involved. Liaison arrangements will be agreed on site.

In scenes where the primary control has passed to the GSOC, the senior Designated Officer of the GSOC (D/O) will, following briefing, take overall responsibility for the scene.

It may be necessary for Garda members to remain at the scene and to operate under the direction of the D/O. The D/O will ordinarily pass instructions to Gardaí at the scene through the most senior Garda member present who will ensure compliance with such instructions.

The Garda Síochána recognises that it may also be necessary for GSOC D/O to pass instructions directly to members of the Garda Síochána, in accordance with the powers and duties conferred on the D/O under Section 98.

Where two investigations run in parallel into events of equal seriousness primacy at the scene shall rest with the senior GSOC D/O. However both GSOC and Garda Síochána officers will at all times be cognisant of each others' rights and responsibilities and will give full co-operation in recognising those rights and responsibilities.

At outdoor scenes GSOC D/Os and other personnel will generally wear high-visibility outerwear, clearly identifying them as GSOC personnel.

At indoor scenes GSOC D/Os and other personnel will generally wear an identification tag/ warrant that will be visible at all times.

3.2 Section 102 (1) and the duty to refer:

Section 102(1) requires that the Garda Commissioner shall refer to GSOC 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.

The Act provides, at Section 82, that “conduct” includes both acts and omissions.

The death or serious harm must be the result of the conduct of a member of the Garda Síochána. Therefore:

- a) There is no obligation to refer a case of death or serious harm that occurs prior to Garda contact;
- b) Nor is there a duty to refer in a case of death or serious harm that occurs after the dead or injured person has had contact with a Garda but where such a death or injury is in no way related to the conduct of a member of the Garda Síochána.

The provision speaks of the conduct having resulted in, rather than caused, death or serious harm;

The person killed or seriously harmed may be a civilian or a Garda;

The Garda, whose conduct forms the basis of the Section 102(1) referral may be on or off duty;

The definitive interpretation of any legal provision is, ultimately, a matter solely for the courts - however, the following is the agreed position of both organisations as to the state of the law:

“Serious harm” is defined in Section 82 as follows:

- a) creates a substantial risk of death;
- b) causes serious disfigurement; or
- c) causes substantial loss or impairment of mobility of the body as a whole or of

the function of any particular bodily member or organ;

This definition reflects the content of “serious harm” for the purposes of the Non Fatal Offences Against the Person Act, 1997 (the “1997 Act”).

There is established case law on the definition of serious harm for the purposes of the 1997 Act, including the Judgment of Kearns J in the People (DPP)-v-Kirwan, Court of Criminal Appeal, 28th October 2005.

“loss or impairment of mobility” encompasses effects of long and short duration; “disfigurement” is defined as meaning “to spoil the appearance of” and includes scarring. The age, gender etc of the person disfigured is inconsequential. One may be disfigured on a location of the body that is usually covered by clothing;

“disfigurement” connotes an outcome rather than encompassing a consequence of short duration.

For the purposes of a prosecution under Section 4 of the Non Fatal Offences Against the Person Act, 1997 it must be established that serious harm has been caused. Therefore for the purposes of seeking a direction from the Director of Public Prosecutions and conducting a trial for a Section 4 assault, it is usual practice to wait to assess the outcome of the harm (having regard to any medical treatment given or received), rather than take a decision on the basis of the immediate effect of the injuries sustained.

However, for the purposes of Section 102(1) of the 2005 Act all that is required, to activate the Garda Commissioner’s duty to refer, is that he forms the view that the conduct of a member “may” have resulted in serious harm. Therefore the threshold of knowledge that is required to activate the duty to refer is lower than in the context of the 1997 Act. The Garda, who is delegated by the Commissioner and who has to consider a referral under Section 102(1), makes the assessment of whether serious harm may have occurred at the time that the circumstances of the matter comes to his/her attention. One does not await the outcome of the medical assessment or intervention or to assess the quality of recovery.

The decision to refer a matter rests solely with the Garda Commissioner - GSOC does not, and cannot in law, have an involvement in that decision.

The Act requires that the Garda Commissioner must refer any matter when he forms a certain view - namely that the matter appears to him to indicate that the conduct of a member of the Garda Síochána may have resulted in death or serious harm - in other words, the duty to refer exists from the time that this view is formed.

Likewise, the decision not to refer a matter is solely for GSOC.

The duty to refer and any subsequent action of GSOC staff are, in law, two separate and distinct (though not unrelated) issues. By this we mean:

- The decision to refer is one for the Garda Commissioner;
- The Act makes no provision for a “provisional” or “courtesy” referral - either the matter is referred or it is not;
- GSOC receives Section 102(1) referrals - there is no question of the Garda Commissioner “calling in” GSOC staff. The actions of GSOC on foot of a Section 102(1) referral is prescribed by the provisions of the Act; and

- The reaction of GSOC to a Section 102(1) referral is a matter for GSOC and its investigation staff, having regard to the provisions of the Act.

Section 102(2)(a) provided that GSOC shall ensure that any matters referred to it by the Garda Commissioner under Section 102(1) are investigated - pursuant to Section 102(3) this will take the form of:

- A Section 91 examination by a GSOC Designated Officer (D/O) in the first instance;
- Followed by an investigation under Section 95 or 98 as appropriate;
- Section 93(1) empowers GSOC to discontinue such an investigation if, having regard to all the circumstances, GSOC considers that further investigation is not necessary or reasonably practicable.

Decisions by GSOC regarding:

- The duration of a Section 91 examination;
- The choice of Section 95 or 98 investigation; and
- The appropriateness / timing of a Section 93 discontinuance;

will be taken on foot of advice from the GSOC Senior D/O on the ground and having regard to the views of his/her line management.

Section 102(2) envisages the scenario where a Section 102(1) referral has not been made but matters come to the attention of GSOC (through any other source) that appear to GSOC 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. Given the mandatory nature of the duty to refer in Section 102(1), subsection (2) is a “sweep up” provision for matters that have not been the basis of a Section 102(1) referral, rather than a substitute.

Garda Headquarters Directive No.: 101/07 of 1 August 2007 has reference.

3.3 Procedures for Emergency/Out of Hours Response from GSOC

GSOC shall at all times provide a round-the-clock response service. GSOC undertakes to have Designated Officers (D/Os) on site within the State as soon as practicable where appropriate.

When an incident occurs that requires immediate and/or ‘out of hours’ response from the GSOC, the following procedures will operate.

The Commissioner of the Garda Síochána will put in place arrangements whereby the

senior Garda Síochána member who is present at, or who is notified of, an incident that requires GSOC response shall have the duty of notifying the District Officer or acting District Officer. He/she will cause the Duty Officer of GSOC to be notified.

GSOC undertakes to keep Garda Command and Control DMR notified at all times of names of the GSOC Duty Officer.

The senior GSOC D/O responding to the incident will, as soon as practicable, establish contact by telephone with the senior Garda member on the scene. He/she will make whatever arrangements may appear necessary with the senior Garda member, pending the arrival of GSOC at the scene. The senior Garda member will become the GS/GSOC Scene Liaison Officer unless another officer is so designated and notified to GSOC by Garda management.

These arrangements shall include: -

- Preservation of the scene
- Preservation of potential exhibits or evidence, including vehicles, firearms, uniforms etc
- Arranging for initial interviews/Reports under Section 39 Garda Síochána Act 2005 with Garda members involved.

The following may be requested: -

- Arranging contact with the appropriate technical/forensic services

3.4 Technical and Forensic Services

In circumstances in which the GSOC requires the assistance of Garda technical, forensic or scenes-of-crime services, the following arrangements shall apply.

The Garda Síochána recognises and is conscious of its obligation under the Garda Síochána Act 2005, when requested, to furnish assistance to GSOC.

Requests for such assistance shall be made by the GSOC D/O through the Garda District Officer, Acting District Officer or senior member at the relevant, Garda Command and Control.

At the location of an incident under GSOC scene control, Garda technical and forensic staff, where deployed, will work subject to the requirements of the senior GSOC D/O.

GSOC undertakes that instructions on the scene will ordinarily be communicated through the senior Garda member present who will be the GS/GSOC Scene Liaison

Officer. However, if necessary, instructions will be given directly by the GSOC officer.

Garda forensic and technical staff will be responsible for maintaining the chain of evidence and for the preservation of exhibits up to such point as these may be taken over by GSOC officers.

In circumstances where GSOC employs the services of forensic and/or technical personnel who have been designated, under Section 74 to investigate a matter under Section 98 of the Garda Síochána Act 2005, (i.e. specialists who are not members of the Garda Síochána) the Garda Síochána will extend similar co-operation to such personnel.

3.5 Obtaining and Preserving Evidence in relation to complaints

Section 89 refers: Responsibility for the taking of such measures as are necessary or expedient for the purpose of obtaining and preserving evidence relating to the conduct that is the subject of the complaint shall rest with the Garda District Officer, acting District Officer or Garda member nominated by him/her. GSOC shall subsequently take possession of exhibits as required.

The GSOC Designated Officer (D/O) shall specify (by telephone or verbally and confirm in writing) any records, equipment, vehicles, etc., that he/she believes may constitute such evidence. However a failure to so specify shall not release the Garda in question from his/her responsibility to obtain and preserve evidence, in accordance with Section 89.

Transfer of physical evidence and exhibits to GSOC D/Os, where this occurs, shall be recorded and timed and signed for by both GSOC and Garda, in accordance with the rules relating to continuity of evidence and based on the processes set out in 'the Handling and Submission of Exhibits of Potential Mutual Interest' document.

3.6 Evidence/Exhibits required in common between GSOC and AGS

In the event of an exhibit or any form of evidence being required in parallel cases under investigation by AGS and GSOC, the following arrangements shall apply.

Exhibits relating to GSOC investigations shall be so labeled and suitable labels will be supplied to the Garda Síochána, if necessary, by GSOC at incident scene.

However, in cases where GSOC has jurisdiction, a D/O may require the Garda Síochána to give possession of evidence/ exhibits to GSOC.

In such event, suitable arrangements will be made to record and verify the transfer.

A service level agreement has been drawn up and put in place between GSOC and the Forensic Science Laboratory.

Protocol on the sharing of information including evidence.

4.1 Sharing Information /Access to Garda Records,

The Garda Síochána recognises the requirement of GSOC to access the personal records of Gardai who may be part of an investigation or inquiry under the provisions of the 2005 Garda Síochána Act.

Requests for access to Garda HR records from GSOC Designated Officers (D/Os) or Case Officers (C/Os) shall be made through the office of the Assistant Commissioner HRM.

Requests from GSOC for access to policies, action plans or operational orders that may be relevant to an inquiry by GSOC shall be made through Assistant Commissioner Crime and Security (ACCS) and notified to the office of the nominated Assistant Commissioner.

Requests from GSOC for access to criminal records or crime files that may be relevant to an inquiry shall be made through Assistant Commissioner Crime and Security (ACCS).

GSOC D/Os and C/Os shall be responsible for the safe custody, confidentiality and return of any such material within agreed time-frames.

GSOC may make requests for access to Garda HR records or criminal records or crime files that are considered necessary in the investigation of an alleged crime and that may be required urgently. In such cases requests for criminal records or crime files shall be made to the office of the Assistant Commissioner Crime And Security (ACCS) and request for Garda HR records shall be made to the Assistant Commissioner HRM (ACHRM).

The extent of access to high-level criminal intelligence and/or data relating to State security will be determined, on a case-by-case basis by agreement between the Garda Commissioner or his deputy and the Chairman or a member of the Garda Síochána Ombudsman Commission or between the GSOC's Director of Investigations and the Assistant Commissioner Crime and Security. All documentation that is reasonably necessary for the exercise by GSOC of its functions will be provided and having

regard to the provision of Sections 126.

The processes have been set down in the “Information Sharing Protocol”.

4.2 Access to PULSE and other AGS information systems

The processes agreeing access to PULSE and other Garda information systems are set down in Appendix 3 to these protocols, the “Information Sharing Protocol”.

4.3 Sensitive or Security-related Information

Where access to any part of PULSE or any other GS information system may be considered to be sensitive or security related, arrangements will be made to have it viewed or accessed under joint Garda/GSOC presence at Garda HQ or such other agreed location as circumstances may require. Such arrangements will be agreed at Levels 2 or 3 (see Chapter 18 of this document).

4.4 Garda Síochána access to GSOC information

In circumstances in which An Garda Síochána has reason to believe that GSOC has information in relation to criminal or security matters that fall within the remit of the Garda Síochána, requests for access to such information shall be made, in the first instance, from the Assistant Commissioner Crime and Security to the Director of Investigations at GSOC.

