

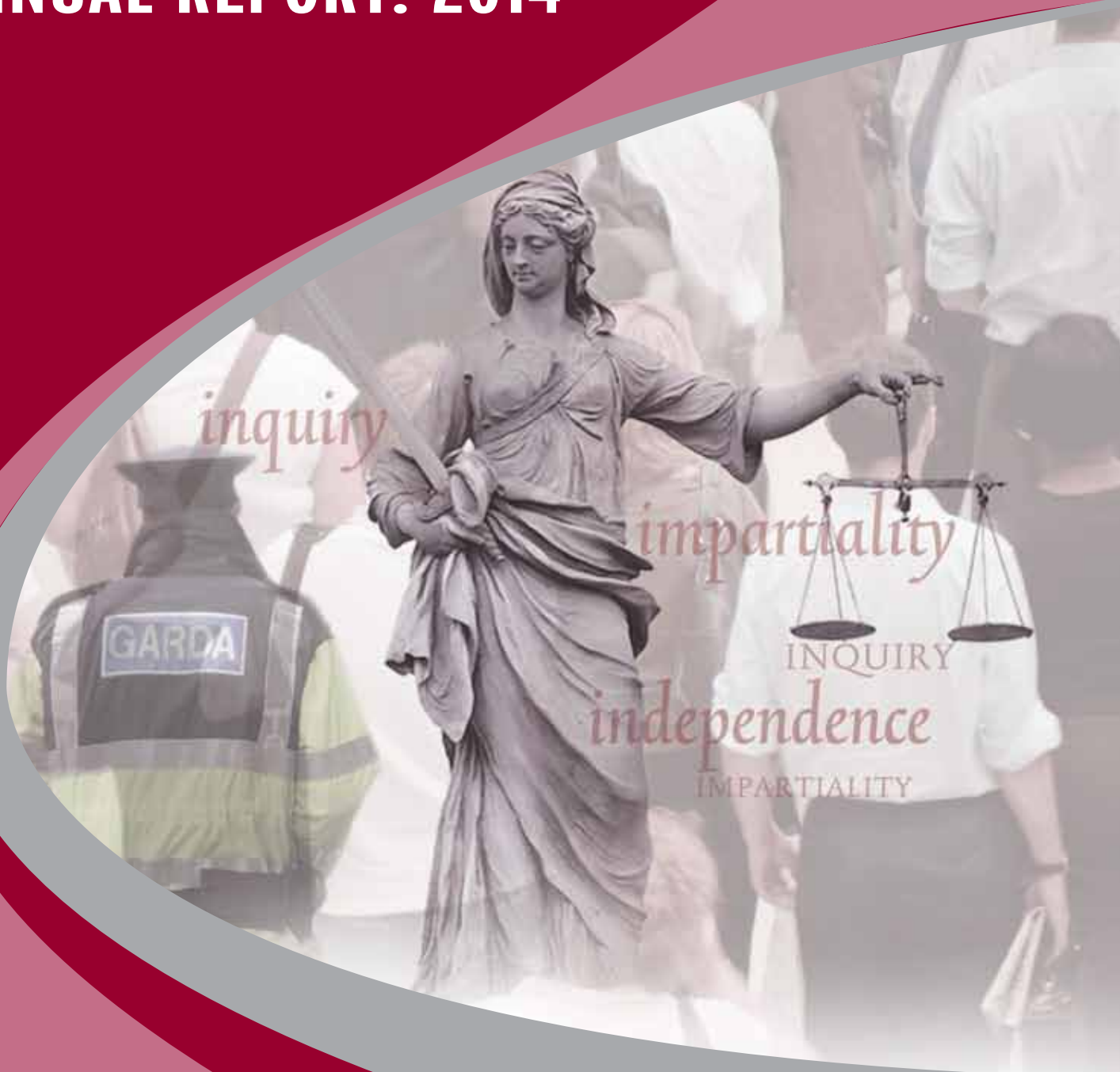


# Garda Ombudsman

INQUIRY INDEPENDENCE IMPARTIALITY

GARDA SÍOCHÁNA OMBUDSMAN COMMISSION

## ANNUAL REPORT: 2014



# GARDA SÍOCHÁNA OMBUDSMAN COMMISSION

## 9<sup>TH</sup> ANNUAL REPORT

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**Note:** Throughout this Report,

- the *Garda Síochána Act 2005* is referred to as "the Act".
- the *Garda Síochána (Discipline) Regulations 2007* are referred to as "the Discipline Regulations".
- the *Memorandum of Understanding, Protocols and Agreement on Operational Matters between the Garda Síochána Ombudsman Commission and An Garda Síochána (23 September 2013)* is referred to as "the Protocols".

## EXECUTIVE SUMMARY

The Introduction of this report summarises several matters which occurred in 2014, in which the Garda Síochána Ombudsman Commission (GSOC) was either directly or indirectly involved, and which were the subject of considerable political and media commentary.

Other significant events of 2014 which have had an impact, and which will continue to have an impact, on GSOC's operations, were the activities around amendments being made to the legislation relating to oversight of the Garda Síochána: two Garda Síochána Amendment Bills were published during the year which will see some changes made to the principal Act governing GSOC's activities. The Commission is hopeful that this marks the beginning of a phase of changes which will enable it to fulfil its functions more effectively. Furthermore, the Protected Disclosures Act 2014 was enacted in July, with the effect of enabling serving members of the Garda Síochána to make disclosures to GSOC.

Notwithstanding the above-mentioned events and developments, the organisation recorded some significant operational achievements in 2014. The first four sections of the Report detail operations in relation to GSOC's four main areas of responsibility:

### **1. To deal with complaints concerning garda conduct.**

In 2014, 7,157 phone calls and 627 visits to the public office were handled; leading to 2,242 formal complaints being opened (11% more than in the previous year), containing 5,124 allegations of garda misconduct. The most common matters complained of were abuse of authority and neglect of duty. After the Dublin Metropolitan Regions, Limerick, Cork City, Cavan/Monaghan and Galway were the Garda Divisions about which most allegations were made. 2,176 complaints were closed and their outcomes are listed and explained.

### **2. To investigate matters in relation to the conduct of gardaí, when it is in the public interest, even if a complaint has not been received.**

Four investigations in the public interest were opened in 2014, two of which concerned allegations in relation to the Fixed Charge Penalty System. All were still underway at 31 December 2014. Furthermore, GSOC had five public interest investigations already underway at the start of 2014 — one was concluded during the year and two others were nearing conclusion at year end.

### **3. To examine any "practice, policy or procedure" of the Garda Síochána.**

One such examination, in relation to dealing with persons who are committed to custody on remand by a court, was commenced on request of the Minister during the year, and was nearing completion by year end.

### **4. To conduct independent investigations, following referral by the Garda Síochána, in circumstances where it appears that the conduct of a garda may have resulted in the death of, or serious harm to, a person.**

60 referrals were received in 2014, of which 14 related to fatalities. The most common circumstances for such referrals were road policing and arrest. After the Dublin Metropolitan Regions, Limerick, Galway, Waterford and Louth were the Garda Divisions from which most referrals were made. 56 such investigations were closed during the year, half of which were able to be closed quite quickly, after initial independent examination showed no evidence of misbehaviour or criminality by a garda. In the remaining cases, full investigations were undertaken and the outcomes are listed and explained.

Section 5 shows the median time taken to close investigations of each type throughout 2014 and explains initiatives taken during the year to reduce time taken to close investigations. There was a reduction in time taken to close criminal investigations and supervised disciplinary

investigations; while time taken to close informal resolution, unsupervised disciplinary and GSOC disciplinary cases increased. The most significant improvements in efficiency were gained by the implementation of a quality control process for criminal investigations and a marked increase in compliance with the Protocols in the provision of information by the Garda Síochána. The Commission believes that these improvements provide excellent building blocks for further considerable improvements in 2015.

Section 6 lists the observations made to the Garda Síochána during the year, when systemic issues came to light during investigations. 28 observations, or recommendations, were made in 2014, with a view to reducing or eliminating the incidence of similar complaints in the future. The Garda Síochána has already provided responses with regard to measures underway to address some of these issues and these are included in the section.

The final section describes our organisation structure and allocation of human resources in 2014. At 31 December 2014, GSOC had 74 out of a sanctioned complement of 86 staff, due to challenges experienced with civil service recruitment. In order to fulfil our objective of further improving organisational efficiency, as well as to take on the new functions of the organisation, addressing human resource difficulties will be imperative for the Ombudsman Commission in 2015.

## INTRODUCTION

2014 was the most turbulent year that the Garda Síochána Ombudsman Commission has experienced since its establishment, with political and media commentary throughout the year.

On 9 February, an article appeared in a Sunday newspaper relating to an investigation, conducted in late 2013, into the possibility that the Ombudsman Commission's headquarters in Abbey Street, Dublin 1, had been subject to unlawful surveillance. There followed extensive media commentary and political interest, during which several contentious issues were discussed publicly. These included whether or not the Commission's offices had indeed been subject to 'bugging'; the Commission's basis for such suspicions, the commencement of a security sweep and subsequent investigation; the Commission's duty with regard to informing certain parties, particularly the Minister for Justice and Equality. These and other associated matters were debated publicly at length, including in the Oireachtas. The Commission appeared before the Joint Oireachtas Committee on Public Oversight and Petitions on 12 February.

7

The controversy raised considerable public concern and ultimately gave rise to the establishment of a non-statutory 'Inquiry into Reports of Unlawful Surveillance of Garda Síochána Ombudsman Commission', by retired Judge John Cooke on 19 February. Judge Cooke's report was published on 4 June<sup>1</sup>. The Commission made a related public statement on 11 June<sup>2</sup> (see link below or Appendix 5).

The Ombudsman Commission was concerned regarding its own internal security, in relation to the apparent release of information to the Sunday newspaper. An internal Inquiry to try to establish if confidential information had been released from within GSOC was conducted by Mr Mark Connaughton SC. Following receipt of the Inquiry's report, the Commission sent it to the Minister for Justice and Equality and issued a public statement, on 10 September<sup>3</sup> (see link below or Appendix 6). A redacted version of the report was published by the Commission on 24 September.<sup>4</sup>

The controversy surrounding the suggestions of unlawful surveillance occurred parallel to public discussion of issues relating to Garda Síochána 'whistle-blowers'. The Ombudsman Commission was not involved directly in those discussions. The government established a non-statutory Inquiry. The Commission was approached by the Inquiry, requesting relevant material, which related to particular investigation files following complaints by members of the public. The Commission sought some assurance from the Inquiry in relation to the protection of data privacy. The Inquiry stated that the issue was raised too late in its work to be addressed, and the material was not provided. The report of the Inquiry, known as the Guerin Report, was published on 6 May on the government website<sup>5</sup>, along with a letter from the Inquiry to the Secretary-General of the Department of the Taoiseach, setting out — among other things — the Inquiry's view on the interaction with the Ombudsman Commission. The Commission issued a statement on 9 May, in the wake of the publication of the Report and associated letter<sup>6</sup> (see link below or Appendix 7).

There followed the departure from office of the Minister for Justice and Equality, Alan Shatter TD, and the Garda Commissioner, Martin Callinan. The Ombudsman Commission met with the new Minister for Justice and Equality, Frances Fitzgerald TD and the then Acting Garda Commissioner, Nóirín O'Sullivan. At these meetings, the Commission sought to make progress toward more effective working relations, while stressing the need for reform and legislative change.

1 <http://gardaombudsman.ie/docs/press/20140611CookeReport.pdf>

2 <http://gardaombudsman.ie/mediaroom/20140611PR.html>

3 <http://gardaombudsman.ie/mediaroom/20140910PR.html>

4 <http://gardaombudsman.ie/docs/publications/ConnaughtonInvestigation.pdf>

5 [http://taoiseach.gov.ie/eng/News/Government\\_Press\\_Releases/Government\\_Publishes\\_Guerin\\_Report.html](http://taoiseach.gov.ie/eng/News/Government_Press_Releases/Government_Publishes_Guerin_Report.html)

6 <http://gardaombudsman.ie/mediaroom/20140509PR.html>

Throughout the Spring, Summer and Autumn, there was discussion about reform in the justice sector, with particular regard to policing matters. The Commission contributed through the submission of recommendations for legislative change, in response to the invitation from the Joint Committee on Justice, Defence and Equality<sup>7</sup>, and appeared before the Committee on 14 May to discuss these proposals in detail. The Commission also participated in the Justice Reform Seminar hosted by Minister Fitzgerald in June and was interviewed by the Independent Review group for its report on the Department of Justice and Equality.

The Protected Disclosures Act 2014 was enacted on 15 July. This had the effect of enabling serving members of the Garda Síochána to make disclosures to GSOC. In 2014, GSOC received, and commenced processing, three such disclosures.

On 20 August, the Commission welcomed the publication by Minister Fitzgerald of the Garda Síochána (Amendment)(No.3) Bill 2014<sup>8</sup>. The Bill was to amend and update the Garda Síochána Act 2005 and other relevant legislation with the main objectives of:

- bringing the Garda Commissioner within the remit of GSOC for the first time;
- extending GSOC's powers in relation to criminal investigations;
- ensuring that the Garda Síochána provides information sought by GSOC for an investigation as soon as practicable; and
- providing greater autonomy for GSOC in examining the Garda Síochána's practices, policies and procedures.

On 7 November, the Commission also welcomed the publication by Minister Fitzgerald of the General Scheme of the Garda Síochána (Amendment) Bill 2014, which provides for the establishment of the new independent Policing Authority. The Commission continued to contribute to the detail of the legislative reform programme throughout the year, meeting with the Minister in late November. The Commission remains of the belief that some complaints, particularly those that relate primarily to quality of public service issues, are best addressed through a managerial rather than a disciplinary response. This approach would also have the beneficial effect of reducing the number of complaints which are investigated using the resource-intensive Discipline Regulations. Discussions were ongoing at the end of 2014.

It is a testament to the dedication and hard work of the staff at GSOC that, amid all the controversy, the organisation made some significant achievements in 2014, which are fully detailed in this report:

We closed 8% more investigations arising from complaints in 2014 than the previous year (we received 11% more). We also initiated four investigations in the public interest and an examination of Garda Síochána practice, policy and procedure, at the request of the Minister. We closed 56 further investigations resulting from referrals.

We reduced the median time taken to complete criminal investigations and supervised disciplinary investigations. This was despite numerous vacancies for much of the year in the Operations Directorate, notably three out of eight Senior Investigating Officer positions.

We developed several initiatives, some in cooperation with the Garda Síochána, with the objective of increasing the speed with which cases can be processed and completed. These have shown positive results and we hope they will continue to bear fruit over the next year.

In addition, we submitted 28 recommendations to the Garda Síochána, relating to issues that had come to light during investigations. We hope that these will inform policy development and policing practice, in turn helping to reduce the number of complaints against gardaí; and assisting in the provision of a high quality policing service to the public.

7 [http://www.gardaombudsman.ie/docs/publications/20140417\\_SubmissionOnLegislation.pdf](http://www.gardaombudsman.ie/docs/publications/20140417_SubmissionOnLegislation.pdf)

8 <http://gardaombudsman.ie/mediaroom/20140820PR.html>

## SECTION 1: COMPLAINTS

### It all starts with **CALLS, VISITS & CORRESPONDENCE**

In 2014, there were **7,157 phone calls** to the GSOC lo-call number, answered by Caseworkers.

99% of calls received were answered within 60 seconds.

**627 people** were also met in our public office.



### A proportion of these are opened as **QUERIES**

In 2014, **3,332** of these were opened in our case system, initially as “queries”.

Once sufficient information is received, a query’s status is immediately upgraded to become a formal complaint.



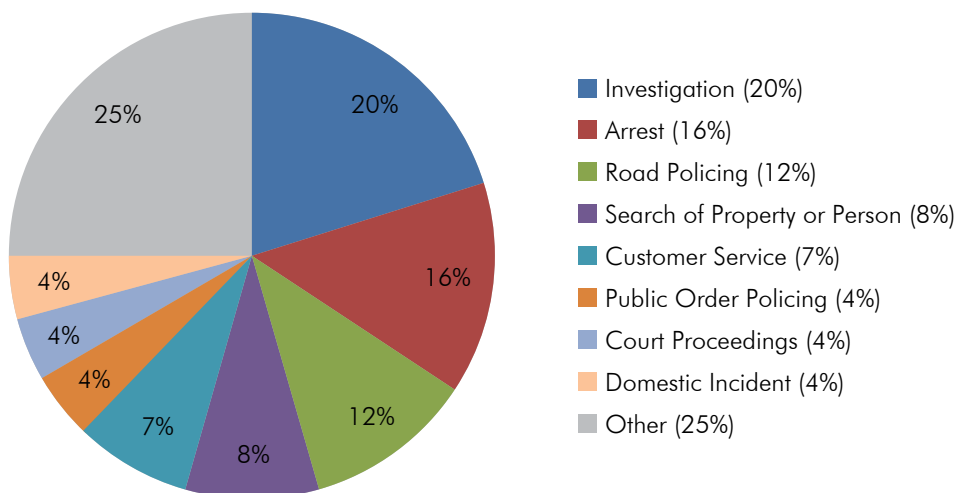
### A proportion of those become **COMPLAINTS**

**2,242** complaints were opened in 2014 – 11% more than in the previous year.

Within these complaints there were **5,124 allegations**, (because there can be several allegations in one complaint).

Find out the profiles of people who made complaints, and of gardaí complained of, in the Appendices.

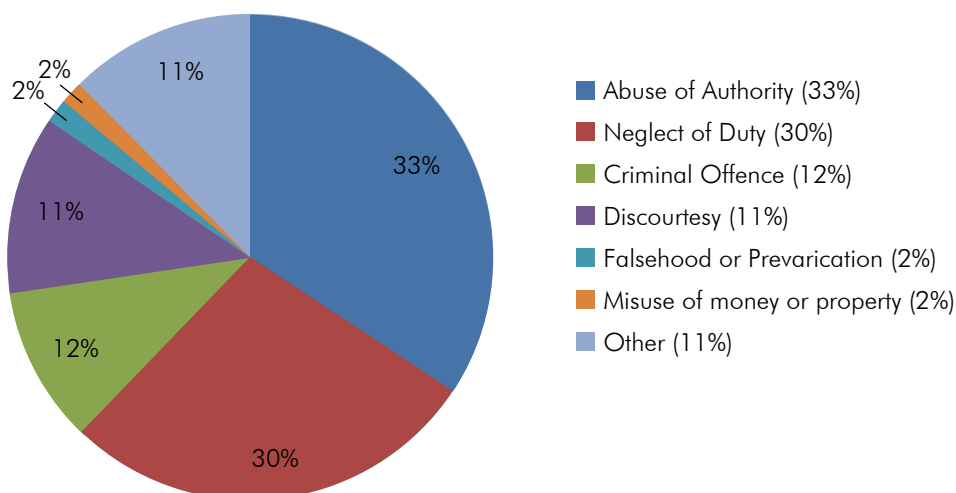
Chart 1. Circumstances of Complaints



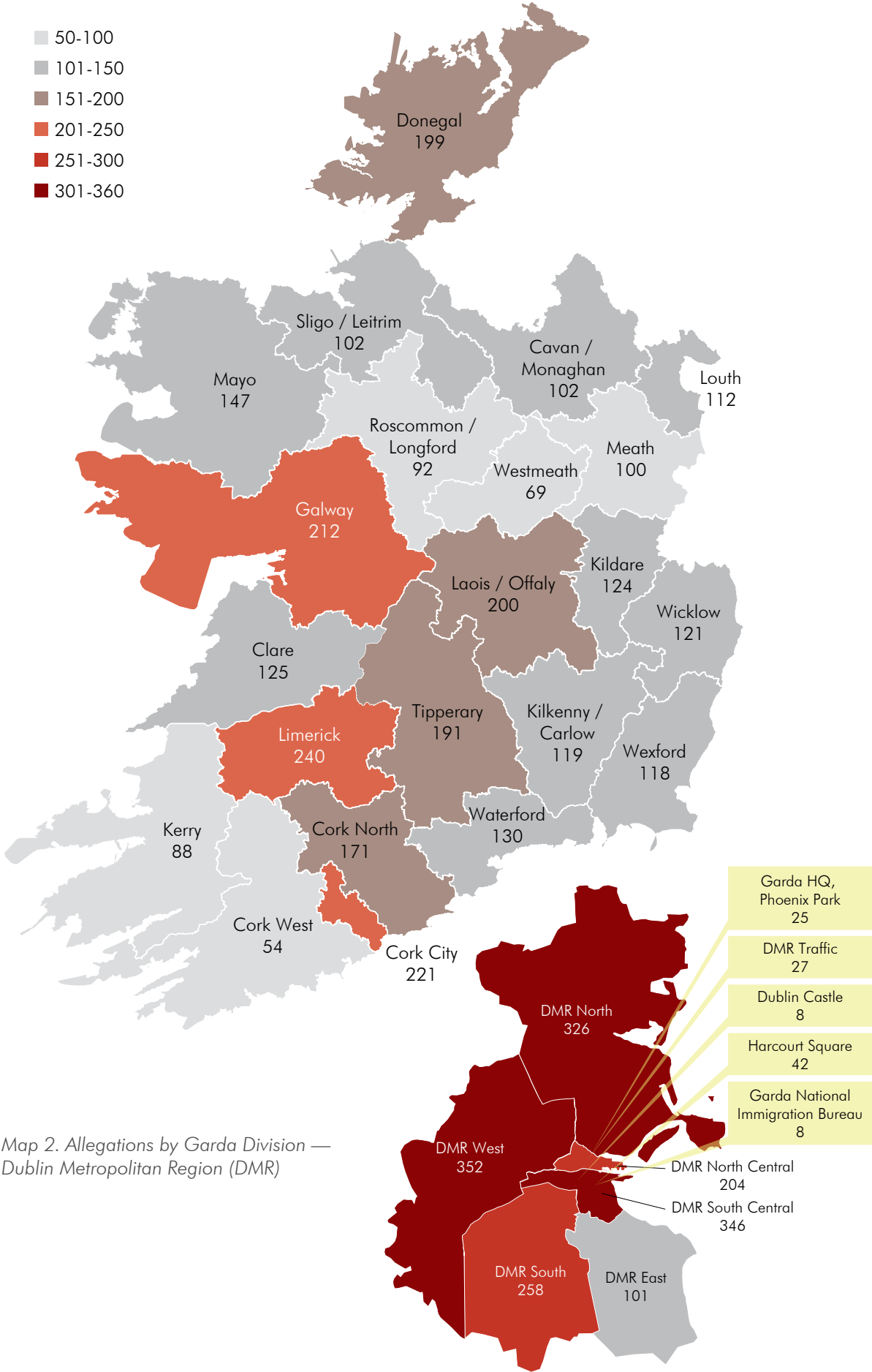
### What do people complain about?

- **Abuse of Authority** — excessive use of force, or an instruction to do something which the person making the complaint believes was beyond the garda's authority to instruct, are the main types of allegation categorised as 'abuse of authority'.
- **Neglect of Duty** — allegations that a garda failed to take an action that could have been reasonably expected — such as returning a phone call at one end of the scale, or properly investigating an alleged serious crime at the other end of the scale — would be typical examples of 'neglect of duty'.
- **Criminal Offences** — a typical example is an allegation of assault.
- **Discourtesy** — complaints around how a garda spoke to or behaved towards a person.

Chart 2. Allegation Types



Map 1. Allegations by Garda Division — excluding Dublin Metropolitan Region (DMR)



Map 2. Allegations by Garda Division — Dublin Metropolitan Region (DMR)



### Complaints are assessed for **ADMISSIBILITY**

Complaints received are assessed against the criteria listed in s.87 of the Act, to decide whether they can be admitted for investigation or not.

At year end, there were 74 cases opened and withdrawn prior to admissibility, or pending admissibility decision.



### Some are **INADMISSIBLE**

**In 2014, 911 of the complaints received were inadmissible.** Chart 3 below shows the reasons.

**The most common reason – with 597 cases – was that, even if proven, the alleged behaviour would not represent a breach of the Discipline Regulations.** This relates to situations where the person making the complaint believes that a garda was doing something that s/he was not allowed to do, but in fact s/he was. Common examples would be complaints by people who have received penalty points or parking fines: they may have grounds to dispute their receipt of these, but GSOC is not the appropriate body to deal with such arguments, as the garda who applied the sanction would not necessarily be in breach of discipline for the fact of having done so.

**The second most common reason not to admit a complaint for investigation was because the complaint was received more than 6 months after the date of the conduct giving rise to the complaint** – the time limit provided by s.84 of the Act. In 2014, **232 complaints** were determined to be inadmissible for this reason.

However, the legislation allows GSOC the discretion to admit a complaint received outside of the time limit, if it considers there are good reasons for doing so. **In 2014, GSOC admitted 42 complaints which were 'out of time' but where it was considered that there was good reason to admit the case** (GSOC has an internal policy and guidelines in relation to these decisions).

#### **Admitting 'out of time' complaints with good reason**

Over the five year period from 2010 to 2014, GSOC has determined that there was good reason to admit approx. 12% of complaints which were 'out of time' each year.

It is clear that there is a practical need for a time limit, because the longer the time between the alleged incident and the making of the complaint and any subsequent investigation, the more difficult it may be – depending on the nature of the alleged offence – to preserve evidence, find potential witnesses, secure accurate statements, etc., and thereby conduct an effective investigation.

Nonetheless, the Ombudsman Commission considers that the above discretion to admit a complaint in appropriate cases, despite it being 'out of time', provides a very important safeguard in the oversight process.

During the course of 2014, the Garda Síochána Amendment (No.3) Bill was published, including provision to extend the time limit for making complaints to 12 months.



**Some are ADMISSIBLE and are INVESTIGATED**  
(see overleaf)

Chart 3. Admissibility Decisions

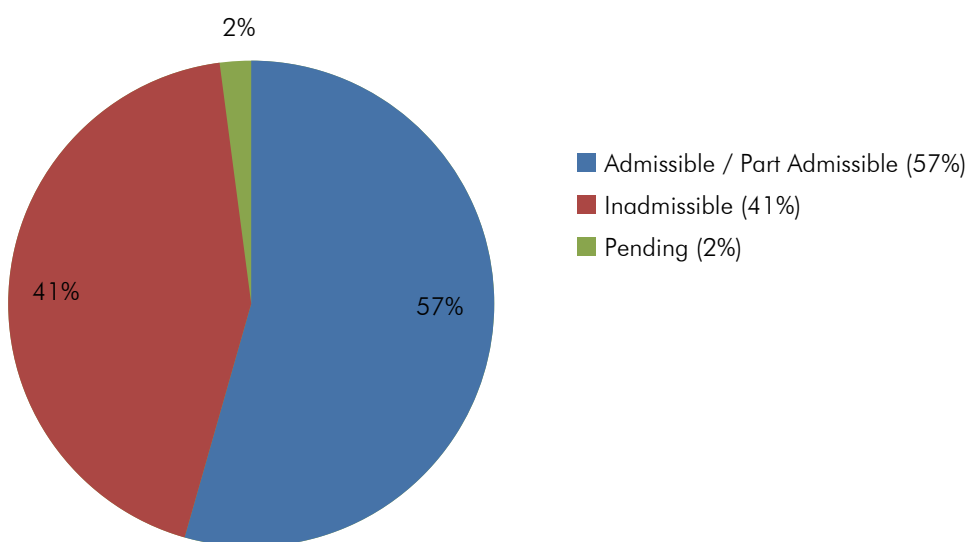
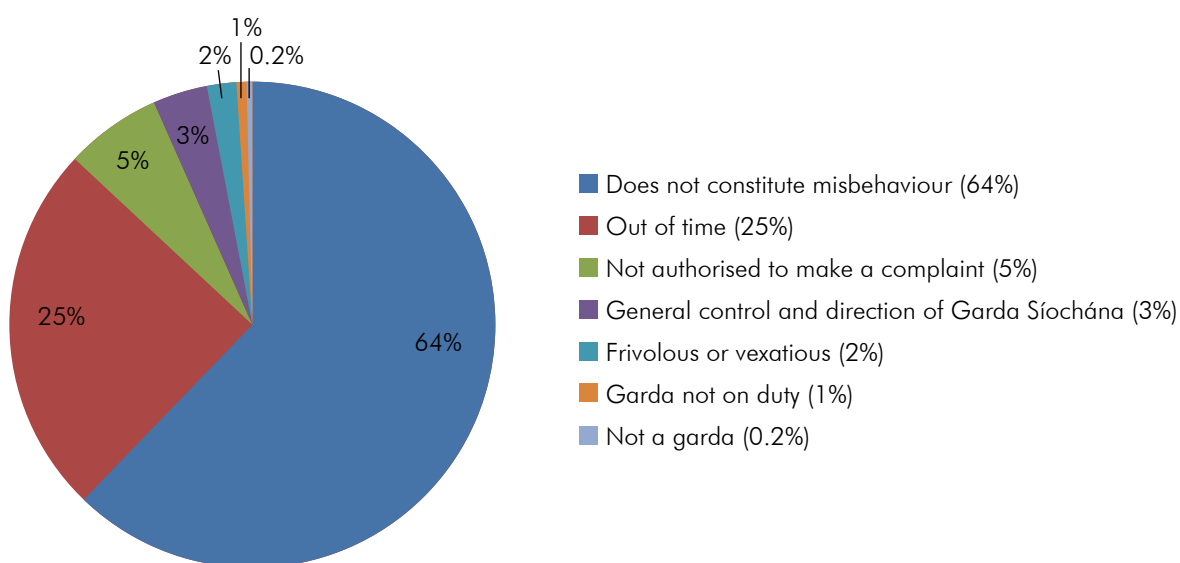


Chart 4. Reasons for Inadmissibility



Some are **ADMISSIBLE** and are **INVESTIGATED**

**1,257 cases contained at least one admissible allegation, so were admitted for investigation and dealt with in one of five ways:**

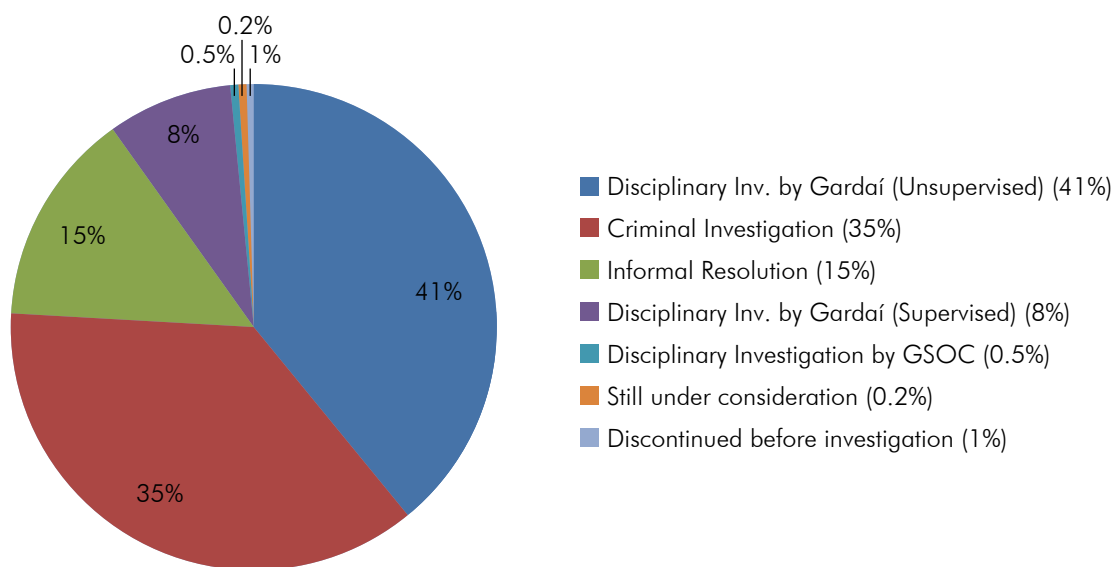
### **Criminal investigations**

#### **Criminal investigation by GSOC**

(allowed for by s.98 of the Act) – All allegations of criminal offences (for example assault) by gardaí are investigated by the Garda Ombudsman's own investigators.

**There were 436 criminal investigations opened in 2014.**

Chart 5. Investigations Opened by Type



A small percentage of cases were dealt with in more than one way – for example some cases start as informal resolution cases or as criminal investigations, but, following initial investigation, become disciplinary investigations.

## Disciplinary investigations

There are four ways allegations of breaches of discipline can be handled:

**Informal resolution** (allowed for by s.90 of the Act) – Sometimes it makes most sense for the Garda Ombudsman to try to work with both parties to resolve a situation informally, e.g. if a person is complaining that their property has not been returned. This can be much quicker than a formal investigation. It is a voluntary process, requiring the consent of both parties.

**186 informal resolution cases were opened in 2014.**

### Disciplinary investigation by the

**Garda Síochána** (s.94) – These are conducted by Garda superintendents (GSIOs) in line with the Discipline Regulations. GSOC can decide whether to supervise the investigation or not. The majority of complaints referred to the Garda Commissioner for investigation under s.94 are unsupervised.

- If it is **unsupervised**, the Protocols between GSOC and the Garda Síochána say that the investigation must be completed and a final report issued within 16 weeks. Typical examples of cases that are investigated in this way would be an allegation that a house was searched without a warrant, or that there was abuse of authority in the manner in which an arrest was conducted. **There were 500 such cases opened in 2014.**
- If it is **supervised**, a designated GSOC investigator may meet with the GSIO to agree the investigation plan, can direct and partake in the investigative actions, and must receive interim reports. The protocols say that supervised disciplinary investigations must be completed and an investigation report provided within 20 weeks. An example might be a more serious allegation of neglect of duty, for example lack of, or insufficient, investigation of a serious crime reported to the gardaí. **There were 94 such cases opened in 2014.**

### Disciplinary investigation by GSOC

**(s.95)** – Certain disciplinary cases may be undertaken by the Garda Ombudsman's own investigators. 6 such cases were opened in 2014.

## Reviews of unsupervised disciplinary investigations

If the person who made the original complaint is dissatisfied with the result of an unsupervised investigation, s.94(10) of the Act provides that they can request GSOC to review the matter. In these reviews, GSOC's role is to establish if the investigation was comprehensive enough and the outcome appropriate. The Garda Commissioner is responsible for the discipline of the Garda Síochána and for conducting investigations under the Discipline Regulations and GSOC has no power to interfere with the decision of the Garda deciding officer i.e. we cannot substitute the decision or finding with a new decision. GSOC only has the power to report to the Garda Commissioner, in circumstances where concerns in relation to how the investigation was conducted and/or its outcome arise.

**125 requests for review were received in 2014 and 117 completed.**

In 13 of these cases, following review, GSOC wrote to the Garda Commissioner concerning the conduct of the investigation and/or the outcome and/or the sanction applied. However, as the disciplinary process has been concluded, it cannot be re-opened and the outcome of the particular investigation stands. (This may be addressed in a review of the Discipline Regulations, which is currently underway.)

In the remainder of cases, no issues of concern arose with the manner in which the complaint had been investigated, the outcome of the investigation or the sanction (if any) applied.



## 2,176 complaints (containing 6,040 allegations) were CLOSED in 2014

...8% more than in the previous year.

1,199 complaints containing 4,311 allegations had been admitted and investigated.

Their outcomes are listed below.

Table 1: Outcomes of complaints closed in 2014

Outcome/ Reason	Explanation	Type of investigation concerned	Number of allegations
Discontinued — Further investigation not necessary or reasonably practicable	The most common scenarios here are (in order of frequency) that there is no independent evidence to prove/corroborate either version of events; the complainant does not cooperate with the investigation; the garda concerned has resigned or retired prior to or in the course of the investigation and there are no criminal allegations; or that the situation has been resolved since.	All types	2,367
No breach of Discipline Regulations identified	The allegations were investigated and the garda whose conduct was complained of was found not in breach of discipline.	Disciplinary investigation by the Garda Síochána (s.94) or by GSOC (s.95)	1,228
Allegation withdrawn	The person who made the complaint communicated a decision not to pursue it.	All types	292
No misbehaviour identified following criminal investigation	The most common scenario here is that there is no independent evidence to prove the allegation(s) made.	Criminal investigation by GSOC (s.98)	251
Breach of Discipline Regulations identified and sanction applied	A range of sanctions may be applied depending on the gravity of the breach found (see box). The application of any sanction is a matter for the Garda Commissioner.	Disciplinary investigation by the Garda Síochána (s.94) or by GSOC (s.95)	114
Referred to the DPP	If there is evidence that an offence may have been committed following criminal investigation, a file is sent to the DPP, who takes a decision whether to prosecute or not. If there has been death, the file will generally be sent to the DPP, even if there is no evidence of any offence. (See box for further detail on legal activities in 2014.)	Criminal investigation by GSOC (s.98)	30
Informally resolved	The matter was resolved to the satisfaction of both parties.	Informal resolution (s.90)	22
Garda Discipline Regulations no longer apply	The garda subject of a disciplinary investigation retired or resigned prior to, or during, the investigation.	Disciplinary investigation by the Garda Síochána (s.94) or by GSOC (s.95)	7

### Legal activities in 2014, following criminal investigations

(Note: Some of these activities concern investigations following referrals, rather than complaints – see section 4.)

#### Files sent to the Director of Public Prosecutions (DPP) in 2014

- 26 files were sent to the DPP, including files relating to four members of the public.
- The DPP directed prosecutions in four cases, relating to three gardaí and two others.

#### Cases before the criminal courts in 2014 on foot of GSOC investigations

Ten cases, involving ten gardaí and three others, came before the courts in 2014. Of these, six trials — involving seven accused persons — have concluded and the court outcomes were as follows:

- One garda member pleaded guilty to s.5 of the Criminal Justice (Public Order) Act, 1994. The Court applied the Probation of Offenders Act, 1907 (s.1(1)) on the basis that the garda pay €500 to charity.
- One member of the public was convicted of providing false and misleading information to GSOC, contrary to s.110 of the Garda Síochána Act 2005 and was fined €500. That person is appealing this conviction.
- The District Court dismissed charges against five garda members in four separate cases.

#### Trials pending

At the end of 2014, matters relating to four accused persons (two gardaí and two members of the public) on foot of GSOC investigations, remain before the courts. Furthermore, the appeals of two convictions (of one garda and one member of the public) are outstanding.

### Sanctions applied by Garda Commissioner in 2014, following disciplinary investigations

Advice – 48  
Reduction in pay – 42  
Caution – 13  
Warning – 6  
Fine – 2  
Reprimand – 2  
Dismissal – 1

### Outcomes of Informal Resolution cases

12% of cases dealt with via Informal Resolution (IR) were recorded as informally resolved in 2014. The outcome for the majority of IR cases is discontinuation (65% in 2014), following enquiries with both parties, because further investigation was not judged necessary or reasonably practicable. The principal reasons for discontinuation in IR are the same as for discontinuation in general: no independent corroboration available to warrant further investigation; or non-engagement by the complainant. In the remaining 23% of cases in 2014, it was necessary to escalate the case to a formal disciplinary investigation (however all information gained in the course of the IR process is confidential and is not passed on to any subsequent investigation).

In addition to the above outcomes, which were findings in relation to the behaviour of individual gardaí, some investigations highlighted situations where the problem may have arisen due to a systemic or management issue rather than due to the behaviour of an individual. With a view to reducing or eliminating the incidence of similar complaints in the future, 28 observations, or recommendations, in relation to policies, practices, etc. were shared with the Garda Commissioner in 2014 – listed in their totality in Section 6.

## SECTION 2: INVESTIGATIONS IN THE PUBLIC INTEREST

S. 102(4) of the Act provides that *“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” .*

S. 102(5) adds that *“The Minister may, if he or she considers it desirable in the public interest to do so, request the Ombudsman Commission to investigate any matter that appears to the Minister to indicate that a member of the Garda Síochána may have done anything referred to in subsection (4), and the Commission shall investigate the matter.”*

### Opened in 2014

Four investigations in the public interest were opened in 2014, all at the request of the Minister. All were still underway at 31 December 2014.

- The first was received in January from the previous Minister, and it requested that GSOC examine garda behaviour in relation to the operation of the Fixed Charge Penalty System (penalty points system) during a certain time period, which had been the subject of allegations by a garda ‘whistle-blower’, to ascertain whether there was evidence of conduct meriting the recommendation of sanctions under the Disciplinary Regulations, or of the preparation of a file for the DPP. A business case was submitted, outlining the amount of resources required and a corresponding budget. The investigation covers a three-year period, during which approximately one million penalty points notices were issued, of which 76,000 were terminated.
- In May, a second request was received, in relation to a particular set of allegations, by an individual, of neglect of duty. The individual had already complained directly to GSOC, therefore the allegations were already under investigation, however re-categorisation to a public interest investigation served to extend the scope of the investigation beyond the specific allegations made, if appropriate.
- Also in May, a third request was received from the Minister, following receipt of information by her Department alleging corrupt activities by a garda.
- In September, a further request in relation to the operation of the Fixed Charge Penalty System was received. This was similar in scope to the previous request, but covered a new time period, which was the subject of additional allegations. Operationally, this new time period was thus added to the already commenced investigation, increasing its remit. In October, the Minister allocated a budget of €1 million to the original investigation. The first stage of the investigation (analysis stage of the allegations contained in the first time period under investigation) was commenced. At end October, sanction was received from the Minister for Public Expenditure to hire temporary investigators for the next phase. This was to be done via a procurement process by the Office of Government Procurement and, at time of writing, this process was ongoing.

## Ongoing in 2014

Furthermore, GSOC had five public interest investigations already underway at the start of 2014:

- 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 at the end of 2014.
- An investigation into an allegation of assault by a garda. This was concluded in May 2014.
- An investigation into matters arising from the Commission of Investigation Report into the Catholic Diocese of Cloyne. This investigation was nearing conclusion by the end of 2014.
- An investigation to determine if any Garda witnesses committed an offence and/or breach of discipline in the provision of evidence in court. This investigation was nearing conclusion by the end of 2014.
- An investigation following the receipt of information, from a member of the public, in relation to alleged corrupt activities by a garda. This investigation was still underway at the end of 2014.



## SECTION 3: EXAMINATIONS OF PRACTICE, POLICY AND PROCEDURE

S. 106(1) of the Act provides that *“for the purpose of preventing complaints arising in relation to a practice, policy and procedure of the Garda Síochána or of reducing the incidence of such complaints, the Minister may request the Ombudsman Commission to examine the practice, policy or procedure; report to the Minister...; and include in the report the Commission’s recommendations for achieving that purpose.”*

In May 2014, the Minister requested GSOC to examine the practice, policy or procedure employed by the Garda Síochána when dealing with persons who are committed to custody on remand by a court. It is anticipated that a report, which will include recommendations, will be provided to the Minister in the first half of 2015.

## SECTION 4: INDEPENDENT INVESTIGATIONS FOLLOWING REFERRAL BY THE GARDA SÍOCHÁNA

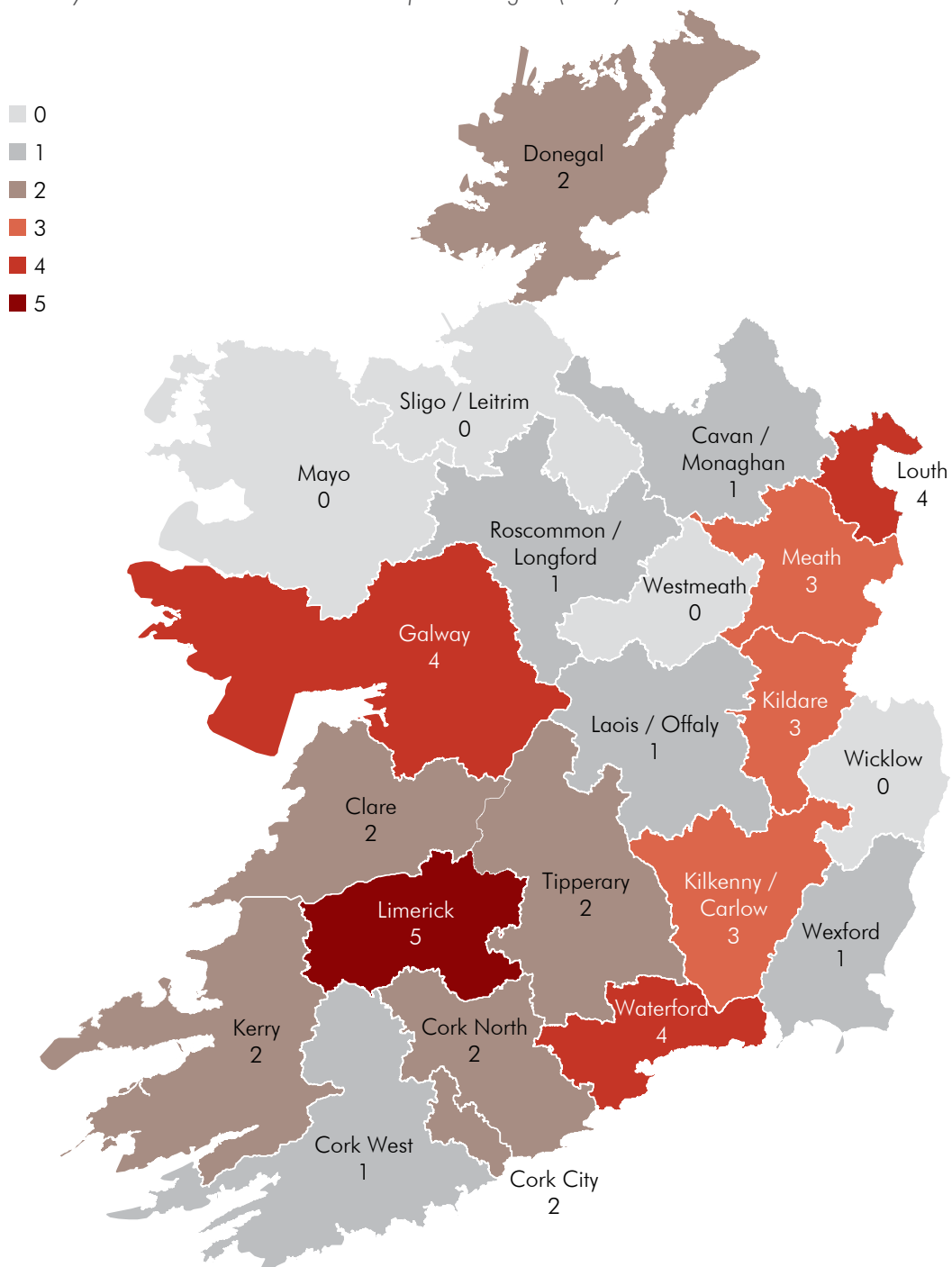
S. 102(1) of the Act provides that the “Garda Commissioner shall refer to the Ombudsman Commission any matter that appears to the Garda Commissioner to indicate that the conduct of a member of the Garda Síochána may have resulted in the death of, or serious harm to, a person”.

This power is delegated by the Garda Commissioner to Superintendents, whose responsibility it is to decide if it is appropriate to refer an incident, in order that it be investigated by an independent body.

GSOC received 60 referrals over the course of 2014, of which 14 related to fatalities.

The most common circumstances leading to referrals to GSOC in 2014 were road traffic incidents.

Map 3. Referrals by Garda Division — Dublin Metropolitan Region (DMR)



Map 4. Referrals by Garda Division — Dublin Metropolitan Region (DMR)

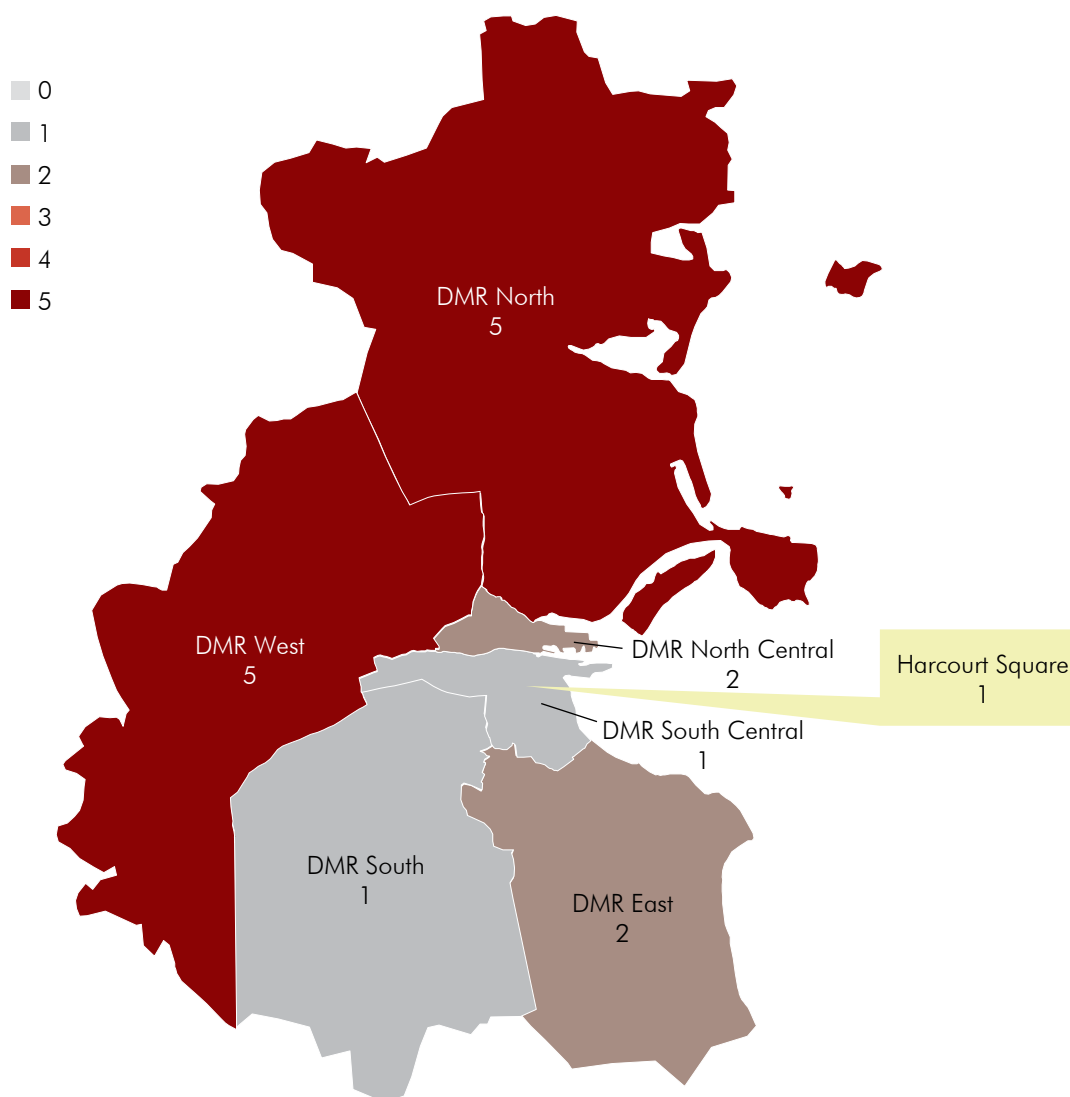
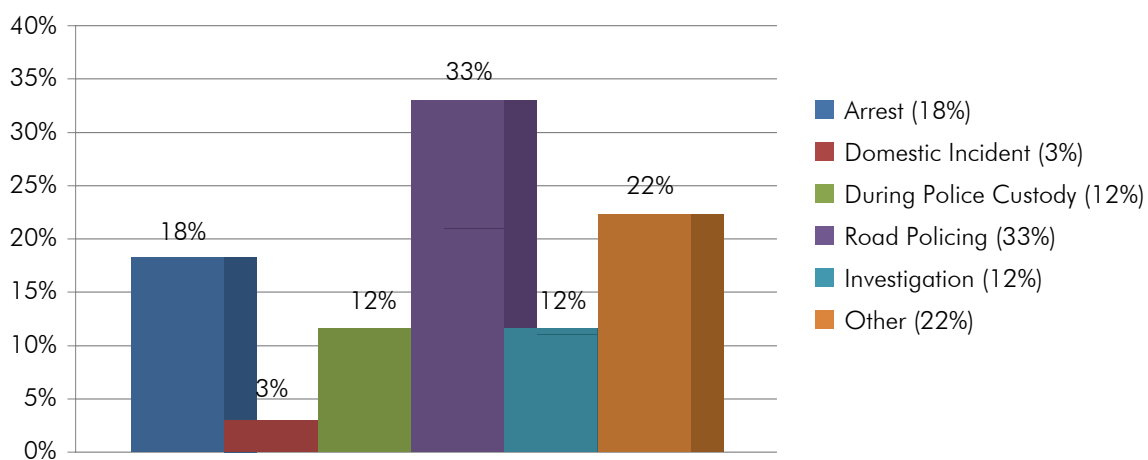


Chart 6. Circumstances in Referrals



## How are these investigations done?

Once GSOC receives a referral from the Garda Síochána, we must investigate the matter.

We aim to respond proportionately, according to the circumstances. It is sometimes the case that, following an initial examination, it is clear that there is no evidence of misbehaviour or criminality by a garda. At the other end of the scale, sometimes it is appropriate that a full criminal investigation be undertaken and the case referred to the DPP.

GSOC closed 56 investigations in 2014, initiated (in 2014 or previous years) as a result of referrals from the Garda Síochána.

If there has been a fatality, there will always be a full investigation initiated, with particular consideration given to whether the state's obligations under Article 2 of the Convention for the Protection of Human Rights by the Council of Europe are engaged, whereby a file should be sent to the DPP.

Table 2: Types of investigation and their outcomes (investigations following referrals, closed in 2014)

Type of Investigation and Outcome	Cases
Case closed after initial examination showed no evidence of misbehaviour or criminality by a garda.	28
Disciplinary investigation undertaken and concluded, finding no evidence of misbehaviour by a garda – no further action taken.	0
Disciplinary investigation undertaken and concluded – sanction applied by the Garda Commissioner.	5
Disciplinary investigation undertaken and concluded – no sanction applied by the Garda Commissioner.	0
Criminal investigation undertaken and concluded, finding insufficient evidence of criminal misconduct by a garda – no further action taken.	10
Criminal investigation undertaken and concluded – referred to the DPP – prosecution directed.	1
Criminal investigation undertaken and concluded – referred to the DPP – no prosecution directed.	10
Case discontinued due to lack of cooperation from the injured party and no other issues of concern.	2
<b>TOTAL</b>	<b>56</b>

## SECTION 5: IMPROVING EFFICIENCY OF INVESTIGATIONS

### Time taken to close investigations by type

#### Criminal investigations

All allegations of criminal offences (for example assault) by gardaí are investigated by the Garda Ombudsman's own investigators. (These investigations are governed by s.98 of the Act.)

At the end of 2014, the median<sup>9</sup> time taken to close criminal investigations was 112 days, a considerable improvement on 2013's final median figure of 155. There had been a relative consistency in closure time throughout the year.

#### Disciplinary investigations

There are four ways allegations of breaches of discipline can be handled:

*Informal resolution* (s.90 of the Act) – Sometimes it makes most sense for the Garda Ombudsman to try to work with both parties to resolve a situation informally, e.g. if a person is complaining that a garda was discourteous, didn't return phone calls, didn't answer letters etc. As can be seen by the median durations, this is quicker than a formal investigation and allows for more flexibility in outcomes.

For informal resolution, the median time taken to close a case was 101 days at the end of 2014, and the timeliness in conducting IR cases was also stable throughout the year. The final figure for 2013 was 96 days.

*Disciplinary investigation by the Garda Síochána* (s.94) – These are referred to the Garda Commissioner and are conducted by Garda superintendents (GSIOs) in line with the Discipline Regulations. They can be supervised by a GSOC Designated Officer, depending on the seriousness and/or nature of the allegation, or investigated without supervision.

- The majority are unsupervised (84% in 2014), and the Protocols between GSOC and the Garda Síochána say that these must be completed and an investigation report provided within 16 weeks (112 days). (A typical complaint dealt with in this manner might allege that a search of a house was conducted without a warrant, or someone was mistreated while being arrested or in garda custody.)

In relation to these unsupervised disciplinary investigations undertaken by the Garda Síochána, the median duration at the end of 2014 was 309 days — indicating a marginal increase when compared to 2013's final median of 308 days. However, it is thought that this marginally higher median in unsupervised cases is as a result of concerted efforts being made to target older cases (through review of processes resulting in changes in practice and through greater dialogue with the Garda Síochána). It should also be noted that the median decreased monthly since March (when it peaked at 325 days).

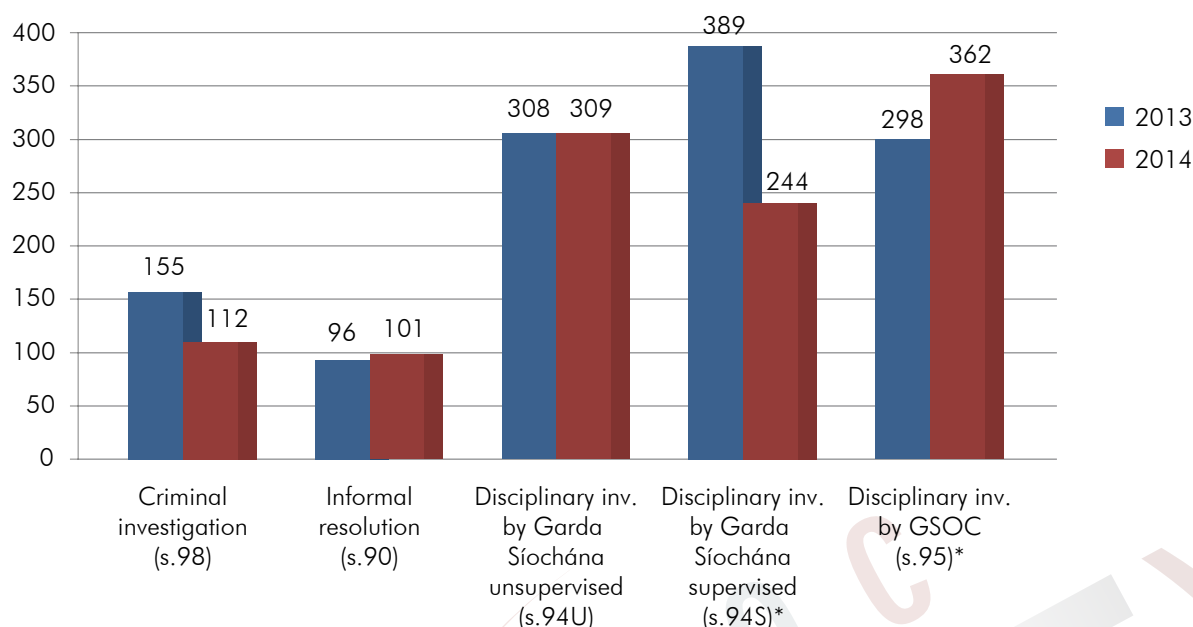
- If they are supervised (16% in 2014), a designated GSOC investigator will meet with the Garda Superintendent to agree the investigation plan, can direct and partake in the investigative actions, and must receive interim reports. The Protocols say that supervised disciplinary investigations must be completed and an investigation report provided within 20 weeks (140 days). (A disciplinary investigation might be supervised because it concerns a serious allegation of neglect of duty, for example, lack of, or insufficient, investigation of a serious crime reported to gardaí.) The median duration for 2014 was 244 days, which was down from 389 in 2013.

9

The statistical median is the number separating the higher half of a data sample from the lower half

*Disciplinary investigation by GSOC (s.95)* – Certain disciplinary allegations may be undertaken by the Garda Ombudsman’s own investigators. A common example would be where a criminal investigation took place, revealing no criminal behaviour, but potential breaches of discipline. There were 11 cases of this type closed in 2014 and the median duration for the year was 362 days. The equivalent for 2013 is 298 days over 12 cases.

Chart 7. Median time taken to close investigations by type at end 2014 (in days)



\*Because of the low numbers of these two types of investigation undertaken, the median duration is based on all investigations undertaken during the year. For the other investigation types, median time taken to close cases is calculated on a monthly basis and the figure given is the median at year end (December 2014).

## Initiatives to reduce time taken to close investigations

### Quality control process for criminal investigations

A review process, implementing standard control measures, was implemented across all criminal investigations during 2014.

Senior Investigating Officers, who head up teams of investigators, receive a weekly list of cases which have been open for 60 days, for action by them during that week. This involves conducting a formal review and assisting the investigator in formulating an action plan. Similarly, the Deputy Director of Investigations receives a weekly list of cases which have been open for 90 days, for action by him during that week; and the Director of Investigations receives a weekly list of cases which have been open for 120 days for action. At this level, the action will involve a presentation of the case, a full review and consideration of a third party review. The warning status on investigations continues until it is no longer relevant.

This new quality control process has resulted in a considerable reduction in median time taken to close criminal investigations, from 155 days in 2013 to 112 days in 2014. Further improvement is expected in 2015, which will be the first full year of the review process. It has improved not only efficiency, but also quality of investigations, both of which are organisational objectives.

### Admissibility decisions

Once sufficient information is provided by a complainant, our aim is to make an admissibility determination on the complaint as soon as possible. The time taken to determine admissibility of complaints is, however, directly related to the particularities of each complaint received.

The number of complaints awaiting admissibility decisions peaked at 285 at the end of May 2014. This was the direct result of a significant increase in the numbers of complaints received, up 14% on the previous year, combined with reduced staff within the Casework Unit. The increase in time taken to process complaints through admissibility (because of the higher volume) had a knock-on effect on the median times taken to close cases, as cases are measured from the day the file opens to the day it is closed.

Concerted efforts were undertaken in the second half of 2014 to streamline GSOC's admissibility process and to reduce the time taken to make admissibility decisions. As a result, the number of cases awaiting admissibility determinations was reduced to 149 by the end of the year.

### **Requests for information from the Garda Síochána**

The Garda Síochána put in place a new administrative system during 2013, whereby requests for documentation from GSOC were to be channelled through a dedicated e-mail address and team, who would be responsible for ensuring that responses were provided within the maximum time limit of 30 days agreed in the Protocols between the two organisations. 2014 is the first full year that we have been able to analyse and report on this system.

This system is used, typically, for routine or mandatory documentation. Examples of things regularly requested are names of garda members involved in an incident complained of; notebook entries made at the time of an incident; custody records and any related documentation; or a copy of a Garda Síochána investigation file related to an incident.

The existence of this system has contributed to efficiency, in that we have received responses to 80% of requests, on average, in 2014, within the time limit of 30 days. While 20% of responses are still not received within the 30 day time limit, this represents a significant improvement in compliance with the Protocols over 2013, when compliance was at 19% (not a full-year figure, as the system was only established mid 2013). It is a positive sign of improved cooperation between the two organisations.

Notwithstanding this marked progress, there is concern that most responses come back quite close to the 30 day time limit; the average time taken to receive a full response was 23 days in 2014. 23 days is quite a long time, considering that the majority of information requested through this system is of a standard nature. These waiting periods contribute significantly to long durations of investigations into even minor matters. So, now that the system has been established and is working effectively, we are in discussions with the Garda Síochána to work towards improving efficiency. In 2015, as well as reporting on rate of compliance with the 30 day time limit, we will also aim to analyse and report on any improvements in efficiency.

It is also important to note that, because of the long response times described above, it is not practical for requests for evidence, or information requests of a time-critical nature, to be processed through this system. In such circumstances, the GSOC Designated Officer makes his/her specific urgent request directly to the relevant District Officer, requesting the return of the information directly to them. (An example of a situation where information requests are typically time-critical would be a request for CCTV footage, or initial accounts in the context of a serious criminal or disciplinary investigation.)

In November 2014, a service level agreement was drafted formalising all of the above arrangements and it is hoped to obtain sign-off on this early in 2015.

### **Unsupervised investigations**

Concerted efforts were made in 2014 to reduce the number of investigations falling outside the timeframe set out in the Protocols. These efforts resulted in the closure of a number of older cases.

A new initiative was launched on 1 December to leverage the knowledge and experience of our two seconded Garda superintendents to try to improve the timeliness of unsupervised disciplinary investigations conducted by Garda Síochána superintendents (GSIOs) under s.94 of the Act.

The initiative was necessary because the median time taken to close unsupervised investigations was going up rather than down (see Chart 7). Statistically, across 2014, more than a third of open investigations were outside the 16 week timeframe agreed in the Protocols.

The idea behind it was that face-to-face discussions between the seconded superintendents and the GSIOs might result in more focused and proportionate investigation of complaints, an increase in the level of information provided to GSOC during the course of the investigations, and a greater understanding within the Garda Síochána of the administrative processes within GSOC.

The six-month pilot programme, agreed with the Garda Síochána, targets cases which still have the potential to be completed within the agreed timeframe of 16 weeks. The superintendents seconded to GSOC visit the Garda superintendents responsible for undertaking these cases, providing them with assistance to facilitate the mutually beneficial goal of proportionate and early closure of investigations. While 8 – 12 week old cases are being targeted specifically, the GSOC superintendents will also take the opportunity to discuss older cases with GSIOs, to identify the reasons for delay and explore possible solutions.

These visits are also viewed as an opportunity to gather feedback to perhaps change our own administrative processes, if it would make the investigation of these cases more efficient.

Feedback from the GSIOs visited in the first month of the pilot and from Garda HRM has been good and communication between these GSIOs and the GSOC case managers improved. If these positive initial signs translate into results by the end of the six-month pilot, this process will be continued and we should be in a position to report more conclusively on its results in the next Annual Report.

## SECTION 6: INFORMING POLICY DEVELOPMENT AND POLICING PRACTICE

Some investigations highlighted situations where the problem may have been due more to a systemic or management issue than to the behaviour of an individual. With a view to reducing or eliminating the incidence of similar complaints in the future, 28 observations, or recommendations, in relation to policies, practices, etc. were shared with the Garda Commissioner in 2014. Five of them concerned Crime Investigation, one concerned Preservation of Evidence, one Property, six Record-Keeping, four Search and eleven Treatment of Detained Persons.

**Note:** This lists only recommendations transmitted across 2014. However, it includes feedback received in relation to these recommendations over the following three months (up until 27 March 2015).

Table 3: Observations brought to the attention of the Garda Síochána in 2014

General subject matter	Specific subject matter	Context
Crime investigation	Investigation of allegations of assaults on police	During an investigation, GSOC discovered that the requirement for an independent sergeant to investigate an assault on a garda member has been repealed, with cancellation of a particular Directive. When enquiries were made during the investigation, Crime Policy responded that a garda member still should not investigate an assault where they are the victim.
Crime investigation	Identification of persons arrested/ Use of AFIS fingerprinting	Investigation of a complaint that a person was summonsed for an offence as a result of mistaken identity. During the course of the investigation, it was discovered that neither AFIS (Automated Fingerprint Identification System), nor fingerprinting in general, were being utilised at Store Street to confirm the identity of arrested persons.
Crime investigation	Guidance & training	An investigation into allegations that a victim of serious crime was not kept properly informed by investigating gardaí.
Crime investigation	CHIS policy	A complaint, which was the subject of both criminal and disciplinary investigations, concerning the use of intelligence in a Garda operation.

Recommendation	Date issued	Feedback received
Recommended that requirement for independent investigation of allegation of assault on garda member be re-instituted (i.e. we do not believe that it is sufficient to say unofficially that a garda should not investigate an assault where they are the victim, and that there should be an official requirement).	24/08/14	Standard acknowledgement of receipt of letter received 29/08/14.
Asked that Garda Síochána consider implementing greater use of AFIS and fingerprints to assist in identification of prisoners.	26/08/14	No response received.
<p>Recommended:</p> <ul style="list-style-type: none"> <li>guidance to members, i.e. the implementation of a national standard, as to frequency that victims of crime should be updated, if a crime investigation becomes lengthy or protracted;</li> <li>further training for members regarding the needs of victims of crime.</li> </ul>	24/11/14	A letter of 05/03/15 from Internal Affairs indicated that matters raised in the investigation report had been forwarded to the appropriate sections for consideration.
Suggested that Garda Síochána CHIS (Covert Human Intelligence Sources) policy be amended to make it explicitly clear that, once a person is considered suitable for possible inclusion in the CHIS programme, and where there have been several interactions regarding the supply of specific information, the assessment process should be referred to the Regional Source Handling Unit. Specific ambiguities in the CHIS policy in relation to the above were highlighted, suggesting that the policy be updated to address these.	19/12/14	In a letter of 13/01/15, it was indicated that these concerns had been forwarded to the AC of Crime & Security.

General subject matter	Specific subject matter	Context
Preservation of evidence	ANPR camera footage	In the course of an investigation, GSOC became aware that relevant video footage was not secured by a member who received a complaint against AGS from a member of the public, despite the complainant having drawn the existence of such material to his attention within hours of the incident. The video footage in question was ANPR footage from a Garda vehicle, and was easily securable. This footage was not secured and was no longer available when GSOC sought the material.
Property	Use of PULSE	Investigation of a complaint with multiple allegations, including that a lost passport handed in to a Garda station was not properly dealt with.
Record-keeping	Recording of incidents on PULSE/ in Garda notebook	Investigation of a complaint alleging assault and use of force against a child, where the garda concerned did not make an entry in his notebook and no PULSE incident was recorded.
Record-keeping	Use of PULSE	A supervised disciplinary investigation following a complaint which alleged Garda inaction in a case where a member of the public reported concerns about the well-being of a friend, who was later found deceased. There was no indication that the Garda response in any way contributed or led to the death.
Record-keeping	Notes regarding dealings with public or complainant & returning of property	<p>An unsupervised disciplinary investigation, subject to a review, following a complaint which alleged that gardaí mishandled/ lost the complainant's property when a protest site was cleared by gardaí.</p> <ul style="list-style-type: none"> <li>• The garda concerned could not produce, when requested, any documentary evidence or notes of his dealings with this particular complainant, or other members of the public, regarding the queries or attempts to reunite property with its rightful owners.</li> <li>• It was discovered in the course of this investigation that a large amount of property was recovered during the operation, and gardaí experienced considerable difficulty in establishing ownership of the items.</li> </ul>
Record-keeping	Garda witness statements/ reports	Investigation of a complaint made by a juvenile, where allegations of maltreatment were made against gardaí involved in a public order incident.

Recommendation	Date issued	Feedback received
Asked Garda Síochána to consider issuing clearer instructions to members regarding their obligations under s.89 of the Act to secure and preserve available evidence when notified that a complaint has been made.	04/11/14	Letter of 12/12/14 from Internal Affairs advised that these comments had been brought to the attention of the Divisional Officer concerned.
Recommended that a reminder be given to members that passports handed in should be recorded on PULSE, and PULSE should be checked for the existence of any other report which may assist in the return of the passport.	03/09/14	Standard acknowledgement of receipt of letter received 05/09/14.
Asked that Garda Síochána consider advising the individual garda that a notebook entry would be pertinent in relation to such matters.	19/09/14	Letter of 17/11/14 from Internal Affairs advised that these comments regarding notebook entries and recording incidents on PULSE had been brought to the attention of the Divisional Officer concerned.
Recommended that: <ul style="list-style-type: none"> <li>the provisions of the relevant Garda directives on missing persons be brought to the attention of all members, highlighting that missing persons reports do not need to be filed by a family member before action can be taken;</li> <li>the Garda PULSE system should be checked in circumstances where persons report concerns over the well-being of an individual, even if a missing persons report is not filed.</li> </ul>	12/12/14	Letter of 04/03/15 indicated that systemic issues highlighted in the investigation report were duly noted and relevant stakeholders had been notified and asked for their views and observations.
Recommends <ul style="list-style-type: none"> <li>offering guidance to the specific garda in keeping records of his contact with members of public.</li> <li>that in future planned Garda operations of this type, a detailed property recovery strategy, with assigned personnel to log and photograph property, be put in place. This process would assist in processing of property and reuniting items to their rightful owners.</li> </ul>	19/12/14	Standard acknowledgement of receipt of letter received 30/12/14.
Strong similarities between reports issued by different gardaí were highlighted, and an observation made that joint crafting of incident reports was against best practice and could leave gardaí open to questions about the integrity of reports.	10/05/14	Standard acknowledgement of receipt of letter received 28/05/14.

General subject matter	Specific subject matter	Context
Searches	Securing of premises following search	Investigation of a complaint in relation to a search where gardai forced entry, following which premises was “secured” by pulling front door closed. The complainant alleged that a sum of money had subsequently gone missing from his home.
Searches	Record-keeping/ Search log	Investigation of a complaint in relation to a search, where multiple allegations were made, including that the premises were left in disarray. It transpired that the search log was only partially and insufficiently completed (N.B. it is not mandatory for police in Ireland to complete a search record).
Searches	Conduct of search	In relation to investigation of a number of complaints about searches having caused damage/ disarray.
Searches	Record-keeping/ notebooks	In relation to investigation of a number of complaints about searches having caused damage/ disarray. Standard of note-taking poor or non-existent during house search – did not properly note the obstructive behaviour of complainant later described in statements.
Treatment of detained persons	Record-keeping & Custody Regulations	In the course of an investigation, it transpired that the Gaoler provided a statement in which she detailed seeing extensive injuries on the prisoner; however the custody record did not reflect the existence of any injuries. (This was an unresolved matter not connected with the subject of the complaint; the issue had no bearing on the complaint investigation but it was considered appropriate to highlight to Garda authorities.)
Treatment of detained persons	Equipment	An investigation following a death in custody.

Recommendation	Date issued	Feedback received
Highlighted that guidance for members as to what is meant by “securing” premises following a search was unclear. Asked that Garda Síochána issue clearer instructions to members as to what is expected of them in securing premises which have been subject of a forced entry, in particular in cases where the sole householder is not present or is arrested, and there is no person immediately available to secure the premises on behalf of the householder.	16/07/14	Standard acknowledgement of receipt of letter received 22/07/14.
Asked that consideration be given to issuing guidance that search logs should be properly completed with accurate information.	17/07/14	Letter of 08/08/14 indicated that issues raised have been notified to relevant Policy Holders within AGS and to Divisional Officer. A further update on 23/08/14 indicated that revised instructions, by way of HQ Directive, have been drafted and are with Commissioner for approval, regarding execution of search warrants, risk assessments and search log requirements.
Recommended that gardaí conducting house searches should be equipped with a camera and should take pictures before and after searches.	17/07/14	Letter of 08/08/14 indicated that issues raised have been notified to relevant Policy Holders within AGS and to Divisional Officer. A further update on 23/08/14 indicated that revised instructions, by way of HQ Directive, have been drafted and are with Commissioner for approval, regarding execution of search warrants, risk assessments and search log requirements.
Recommended that officers be reminded that notes should be made in a timely fashion following incidents.	17/07/14	Letter of 08/08/14 indicated that issues raised have been notified to relevant Policy Holders within AGS and to Divisional Officer. A further update on 23/08/14 indicated that revised instructions, by way of HQ Directive, have been drafted and are with Commissioner for approval, regarding execution of search warrants, risk assessments and search log requirements.
Highlighted to Garda authorities the fact that the custody record was not properly completed.	19/02/14	Confirmation received 06/01/15 that Garda Síochána were investigating the matter as a possible breach of discipline. Subsequent report received 29/01/15 stating that possible breach of discipline under Reg. 14 of the Discipline Regulations was investigated and it was decided that there was no breach of discipline.
Highlighted the non-availability of official leg restraints, and asked that the Garda Síochána consider making these available, so that people can be more safely and effectively restrained where necessary.	08/04/14	Standard acknowledgement of receipt of letter received.

General subject matter	Specific subject matter	Context
Treatment of detained persons	First aid	An investigation following a death in custody.
Treatment of detained persons	Intoxicated prisoners	An investigation following a death in custody.
Treatment of detained persons	Equipment	An investigation following a death in custody.
Treatment of detained persons	Roles & training	An investigation following a death in custody.
Treatment of detained persons	Record-keeping	An investigation following a death in custody.
Treatment of detained persons	Cells	An investigation following a death in custody.

Recommendation	Date issued	Feedback received
Passed on queries raised by a jury as to whether the deceased person should have been brought to a hospital for immediate medical attention, rather than being brought to a Garda station.	08/04/14	Standard acknowledgement of receipt of letter received.
Recommended that intoxicated persons in Garda custody should be breathalysed, in order to risk assess whether a prisoner should receive medical attention.	29/09/14	Letter of 10/11/14 stated that comments have been noted and referred to relevant Policy Owners. In addition, a letter of 11/03/15, received in relation to another case, indicated that a Directive had been drafted regarding the Assessment of Intoxicated Prisoners, and a training programme on the Safe Management of Persons in Custody had been developed.
Recommended that: <ul style="list-style-type: none"> <li>defibrillators be installed in garda custody areas;</li> <li>appropriate training be provided to all gardaí.</li> </ul>	29/09/14	Letter of 10/11/14 stated that comments have been noted and referred to relevant Policy Owners. In addition, a letter of 11/03/15, received in relation to another case, indicated that a Directive had been drafted regarding the Assessment of Intoxicated Prisoners, and a training programme on the Safe Management of Persons in Custody had been developed.
Recommended that: <ul style="list-style-type: none"> <li>all gardaí receive up-to-date first aid training;</li> <li>a specialist Custody Officer role be created, separate from the role of Member in Charge (MIC), and that the Custody Officer should be an Occupational First Aider and of supervisory rank;</li> <li>a training course be created for the role of Custody Officer, with specific emphasis on First Aid Training and the hazards posed by severely intoxicated prisoners.</li> </ul>	29/09/14	Letter of 10/11/14 stated that comments have been noted and referred to relevant Policy Owners. In addition, a letter of 11/03/15, received in relation to another case, indicated that a Directive had been drafted regarding the Assessment of Intoxicated Prisoners, and a training programme on the Safe Management of Persons in Custody had been developed.
Recommended that AGS consider developing an electronic custody record, integrated with PULSE, which would assist in conducting risk assessments on prisoners in future arrests.	29/09/14	Letter of 10/11/14 stated that comments have been noted and referred to relevant Policy Owners. In addition, a letter of 11/03/15, in relation to another case, indicated that the Garda Síochána are considering an ICT Strategy, incorporating an Electronic Custody Record linked to the PULSE system.
Recommended that AGS consider having specific viewing or observation cells for intoxicated or vulnerable persons, to enable gardaí to better assess the condition and risks posed by certain categories of detained persons.	29/09/14	Letter of 10/11/14 stated that comments have been noted and referred to relevant Policy Owners. In addition, a letter of 11/03/15, received in relation to another case, indicated that a Directive had been drafted regarding the Assessment of Intoxicated Prisoners, and a training programme on the Safe Management of Persons in Custody had been developed.

## SECTION 7: STAFFING

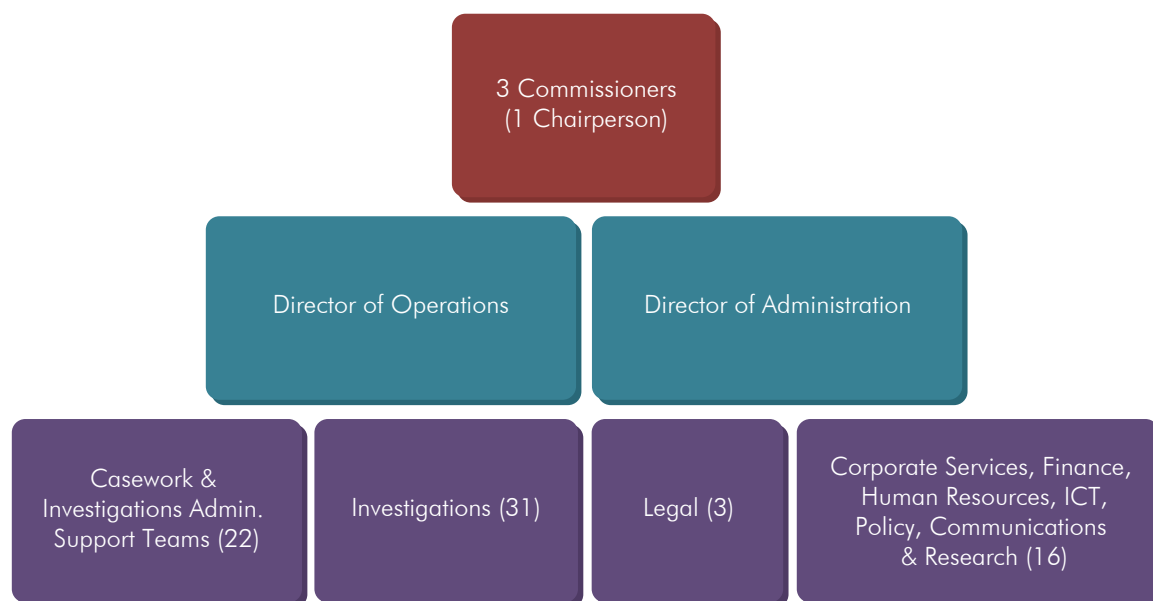
At 31 December 2014, GSOC had 74 staff, of which 20 were employed in its Administration Directorate and 54 in the Operations Directorate. The 3 Commissioners and 2 Superintendents seconded from An Garda Síochána, as well as 2 ICT contractors, were additional to this.

This staffing figure of 74 is well under the organisation's Employment Control Framework figure (ECF) of 86. Difficulties have been encountered as a consequence of time delays incurred in receiving sanction to recruit and recruitment mechanisms imposed, such as redeployment panels.

Even with the full sanctioned staff complement of 86, GSOC would be under-resourced to achieve its objectives of functioning efficiently and to a high level of quality. This is without taking into consideration the marked increase in complaints over the last year; and the increase in workload that is likely to result from the new responsibilities accorded by the already enacted Protected Disclosures Act 2014; and the impending amendments to the Garda Síochána Act 2005.

To enable GSOC to function effectively and efficiently, it is the Commission's opinion that it is imperative that the organisation's ECF be increased to better match its remit, and that the capacity to fill vacancies when they arise be devolved to the organisation.

Chart 8. Human resource allocation and organisation structure



## CONCLUSION

While 2014 was a busy year for many reasons, significant operational achievements were made by the organisation. There were also marked improvements in efficiency and in dialogue and cooperation with the Garda Síochána, which the Commission is hopeful have provided a starting point for further improvements in 2015.

Furthermore, there have been some changes to the legislation governing police oversight, which is a positive development. The Commission is hopeful that this marks the beginning of a phase of constructive conversation and changes which will enable it to fulfil its functions more effectively.

The Garda Síochána Ombudsman Commission as an organisation remains under-resourced, with 12 vacancies out of a sanctioned complement of 86 at end 2014, due to civil service recruitment difficulties. Furthermore, the legislative changes which have been enacted, or are imminent, are likely to have the effect of increasing the organisation's workload. In order to address effectively and efficiently the matters that come into consideration by GSOC as a result of these changes, the Commission will continue, in 2015, to explore possible solutions to staffing difficulties with the Department of Expenditure and Reform.

Finally, the Commission would like to acknowledge that the staff of GSOC, throughout 2014, displayed extraordinary focus on quality public service throughout the unusual and difficult year. We thank them sincerely.



## APPENDIX 1: Profile of complainants

The below charts illustrate the profile of complainants to GSOC in 2014. This is based on an anonymous profile survey which is distributed to all complainants when their complaint is first opened. 40% of complainants (904) responded in 2014.

Chart 9. Gender of Complainants

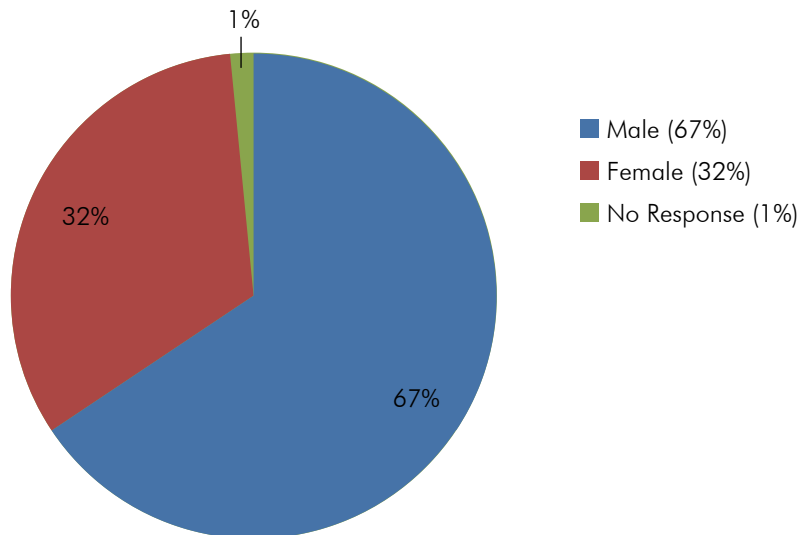


Chart 10. Age Profile of Complainants

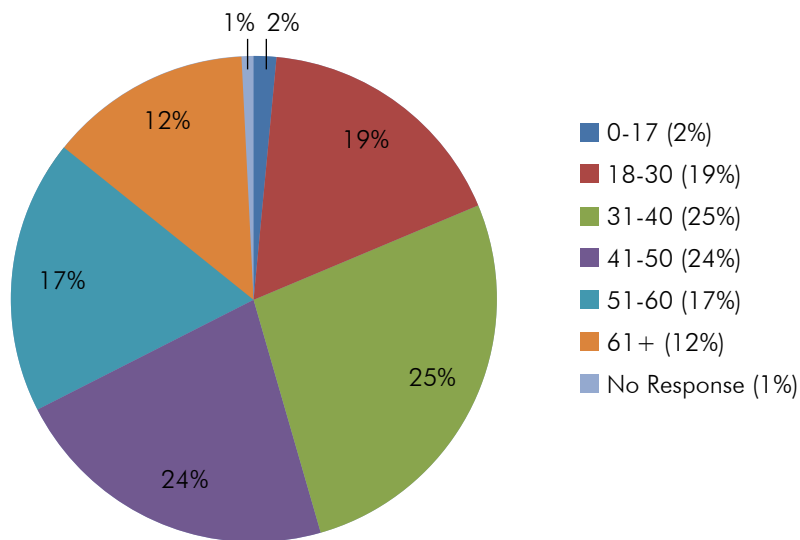


Chart 11. Nationality of Complainants

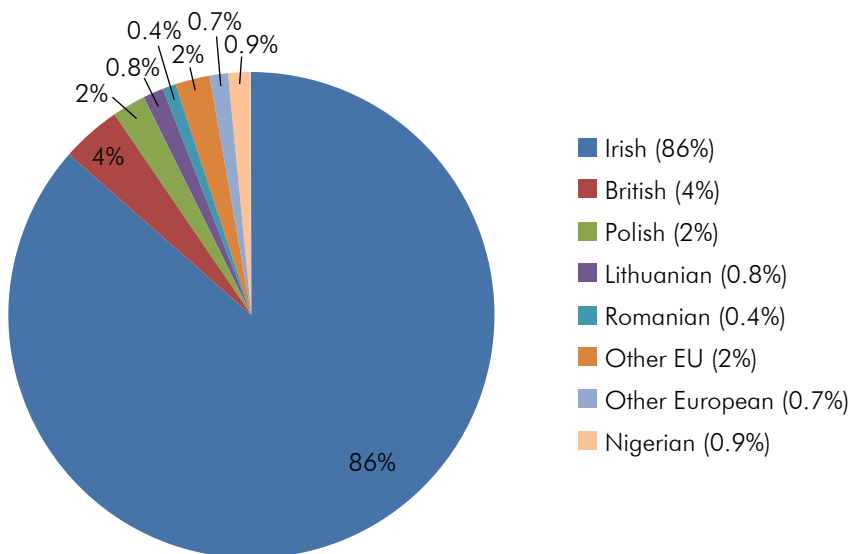


Chart 12. Ethnicity of Complainants

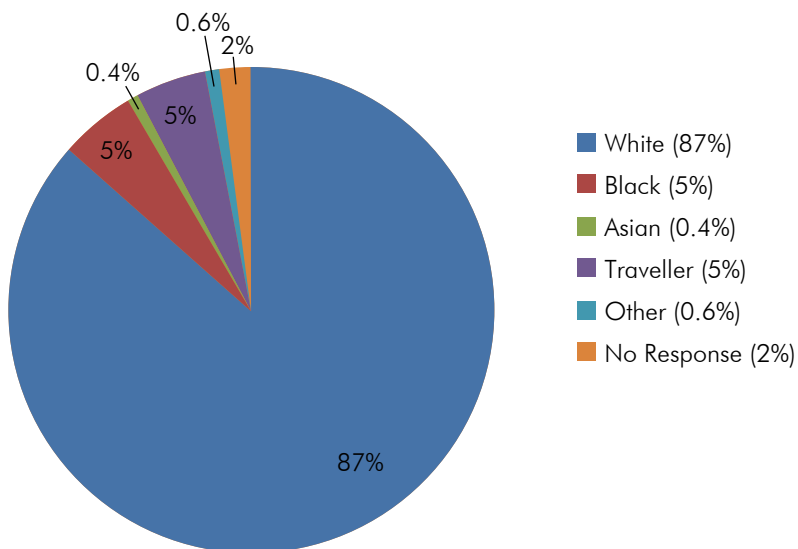


Chart 13. First Language of Complainants

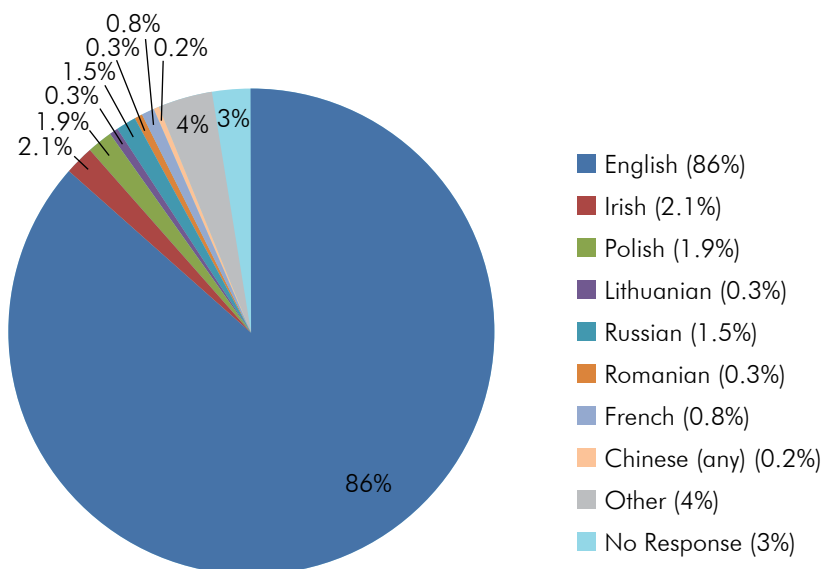


Chart 14. Health/Disability Status of Complainants

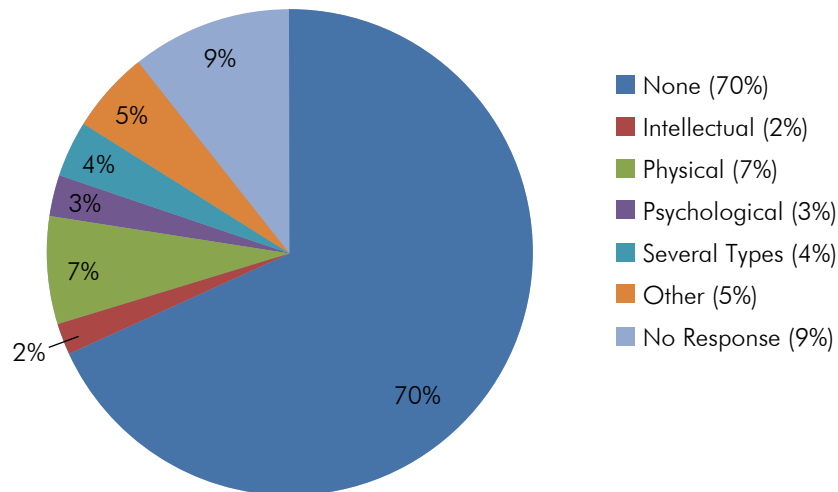


Chart 15. Complainant's Religion

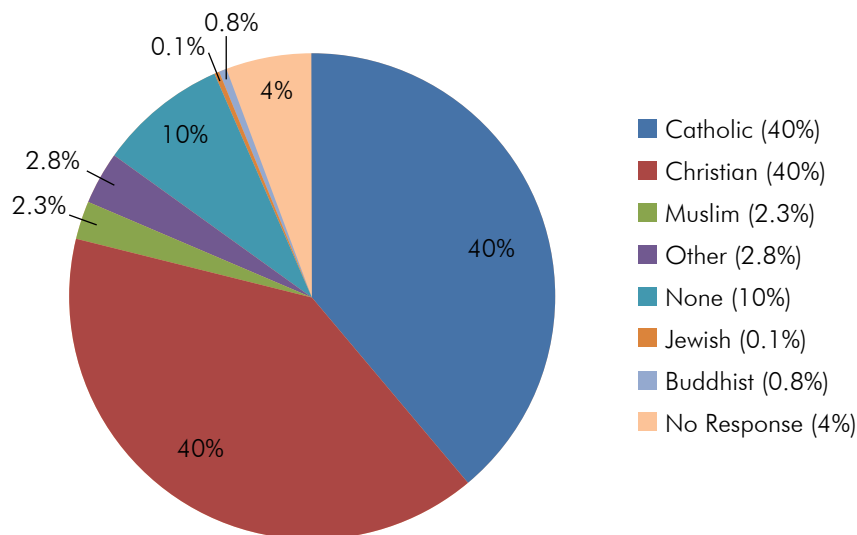


Chart 16. Housing Status of Complainants

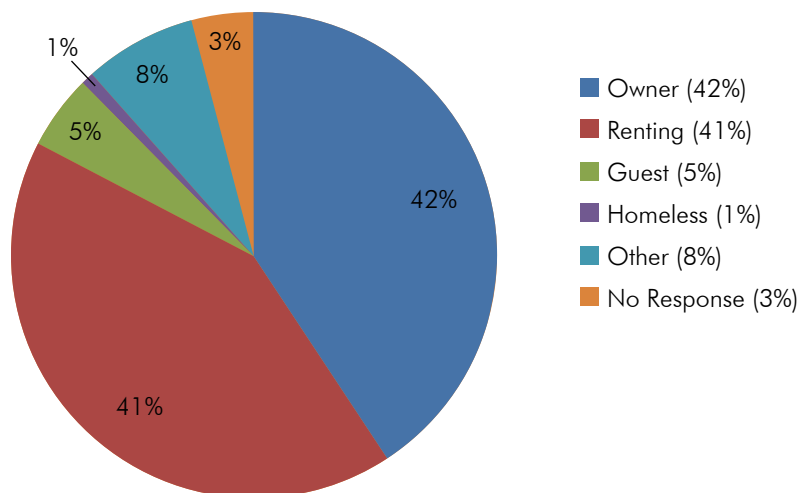


Chart 17. Education Level of Complainants

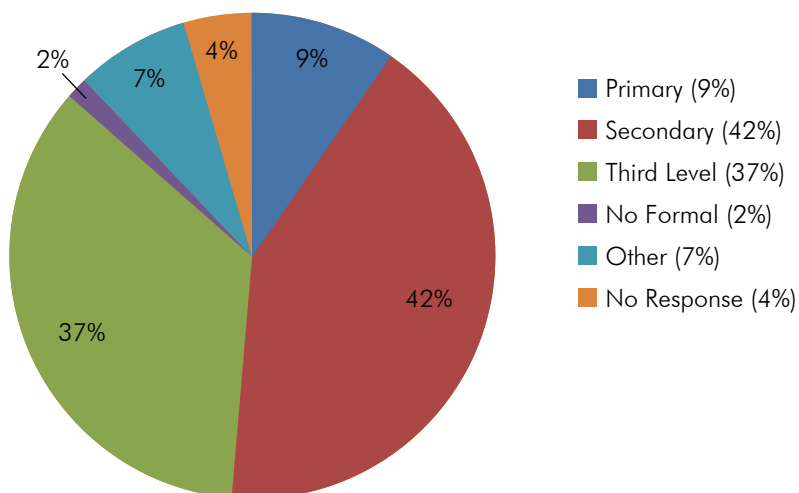


Chart 18. Employment Status of Complainants

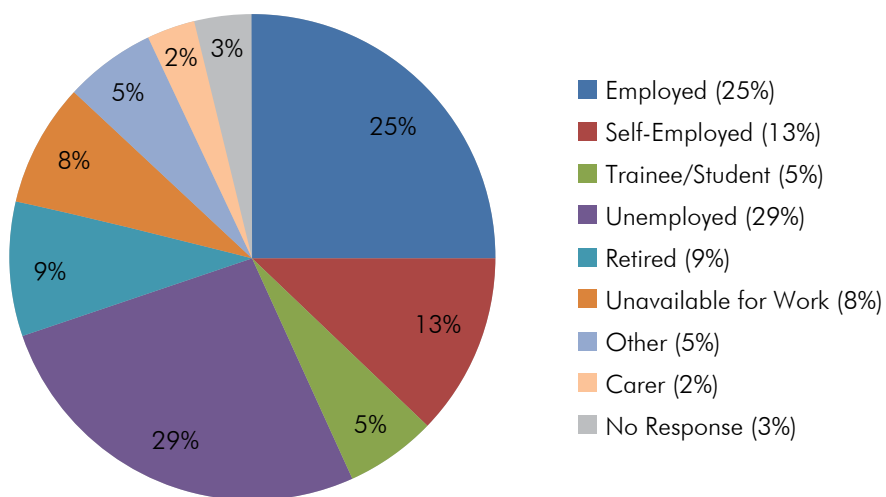
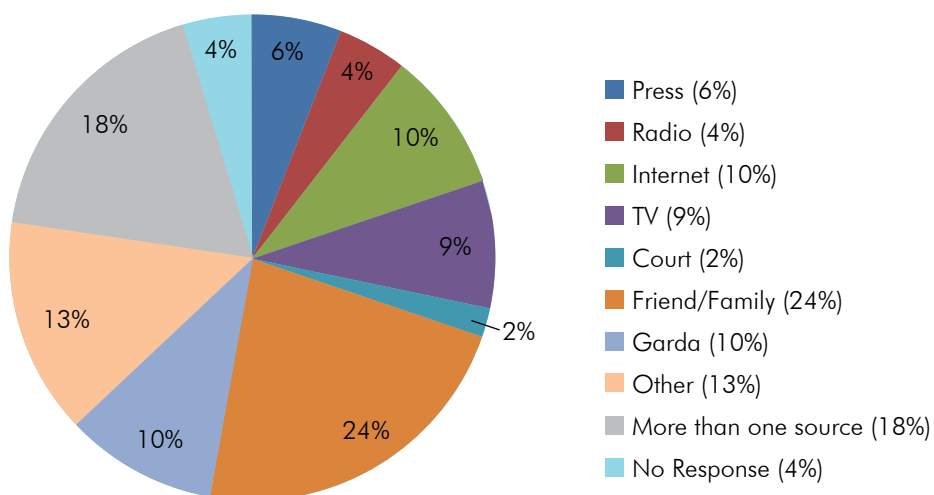


Chart 19. Where Complainants Heard About GSOC



## APPENDIX 2: Profile of gardaí about whom complaints were made in 2014

The below charts show the profile of gardaí complained of, in terms of rank and sex, based on all the admissible allegations investigated in 2014, where identities of gardaí complained of were known.

Chart 20. Rank of Garda

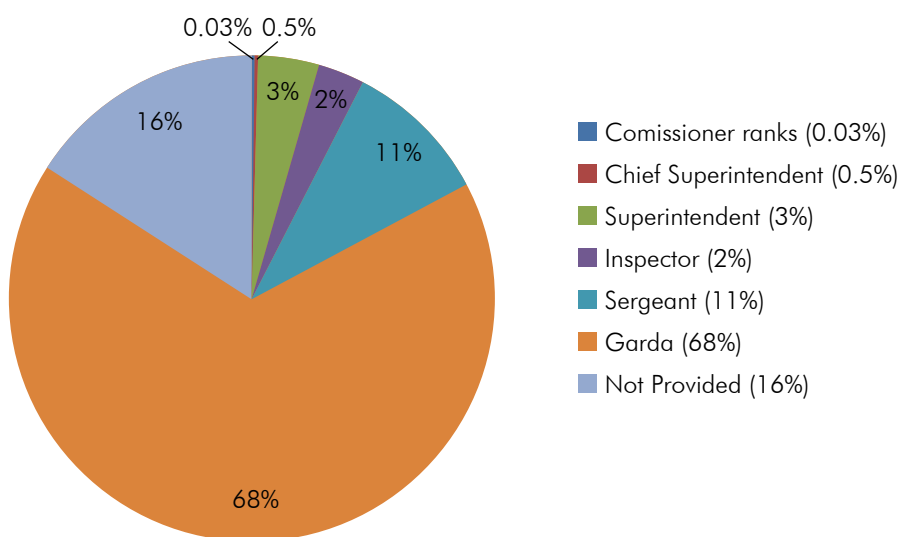
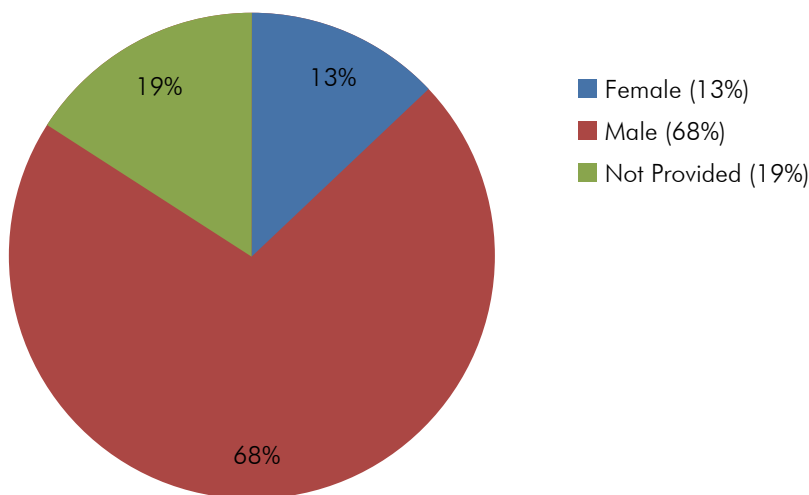


Chart 21. Gender of Garda



## APPENDIX 3: Expenditure 2014

In 2014, GSOC incurred a deficit of €382,693. This relates, almost exclusively, to the unanticipated cost of external legal services, principally as a result of the publication of an article concerning a GSOC investigation in a Sunday newspaper in February 2014. These services included the provision of advices in relation to the non-statutory Inquiry conducted by Judge John Cooke; an internal Inquiry in regard to the alleged leak of information conducted by Mr Mark Connaughton SC; and the non-statutory Inquiry conducted by Mr Seán Guerin SC into matters related to garda 'whistle-blowing' allegations. GSOC received confirmation from the Department of Justice and Equality that additional funding would be made available to cover the unanticipated costs incurred.

Category	Original Budget	Expenditure	
Salaries, Wages & Allowances	€5,338,000	Pay & Allowances	€5,207,026.09
Non-Pay	€2,586,000	Travel & Subsistence	€105,875.12
		Incidental Expenses	€945,054.71
		Postal & Telecommunication Services	€67,099.95
		Office Machinery & Other Office Supplies	€440,372.50
		Office & Premises Expenses	
		Consultancy	€00.00
		Research Expenditure	€0.00
		Appropriation in Aid	-€3429.56
		Non-Pay total	€3,099,666.65
Total Original Budget Allocation 2014	€7,924,000	Total Pay & Non-pay Expenditure 2013	€8,306,692.74
Total Deficit 2014 — €382,692.74			

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

## APPENDIX 4: Staff Training & Development in 2014

### Courses

- Certificate in Public Procurement Training – Institute of Public Administration (IPA)
- Media Skills – Carr Communications
- Sexual Offences Training – Rape Crisis Centre
- Mediation, Dignity at Work and Conflicts Workshop – Resource Employee Relations
- Senior Investigations Officer Accredited Programme – Police Ombudsman for Northern Ireland and Portsmouth University
- Crime Scene Manager Training Course – Police Investigations
- Overview of the Garda Síochána Interviewing Model (GSIM) – Dereen Investigations
- Assistant Investigating Officer (AIO) Induction Training – GSOC
- Prince II Training Course – BT Communications
- Forgate Training – IPOPTIONS
- Monitoring and Reporting Cycle – Sustainable Energy Authority of Ireland
- Stress Management Seminar – Civil Service Employee Assistance Service
- Health and Wellbeing Seminar – Civil Service Employee Assistance Service
- Injury Photography Training – An Garda Síochána
- MA Criminal Justice – IPA
- BSC Business and Legal Studies – DIT
- BA Public Management – IPA
- Diploma in Public Management – IPA
- MSc Forensic Computing and Cybercrime – UCD

### Conferences

- Detainees at Garda Stations and Criminal Law Updates – La Touche Training
- Irish Centre for European Law – ICEL Conference
- Inquests Conference – La Touche Training
- Public Procurement Conference – Public Affairs Ireland
- Redeployment in the Public Sector Conference – Public Affairs Ireland
- Inhouse and Public Sector Annual Conference – Law Society Ireland
- Mediators Institute of Ireland Conference 2014 – MII
- International Mediation Conference – St. Patricks College Maynooth
- European Partners Against Corruption Conference 2014 – EPAC
- National Family Liaison Officer Conference – ACPO
- Public Relations Institute of Ireland National Conference – PRII
- British and Irish Ombudsman Association Annual Meeting
- Irish Ombudsman Staff Conference

## APPENDIX 5: Commission's statement following publication of Cooke Report

GARDA SÍOCHÁNA OMBUDSMAN COMMISSION  
PRESS RELEASE

11 June, 2014  
00:30hrs

### GSOC's response to the Cooke Report

GSOC welcomes the fact that, after months of controversy, the Cooke report finds that the Garda Síochána Ombudsman Commission "acted in good faith".

The report has found that, while certain anomalies raised concerns about security within GSOC –one of which "remains unexplained" – "the evidence does not support the proposition that actual surveillance of the kind asserted in the Sunday Times article took place and much less that it was carried out by members of the Garda Síochána". This in fact mirrors key findings of our own investigation which stated, as per our press release of 10th February, that GSOC was "satisfied that our databases were not compromised" and that "there was no evidence of garda misconduct."

We agree with the Judge's observation that in the "world of covert surveillance and counter surveillance techniques, it is ultimately extremely difficult to determine with complete certainty whether unexplained anomalies of the kinds identified in this instance were or were not attributable to unlawful intrusion". We encountered exactly the same difficulty in our own investigation, which we explained in the public discourse in February of this year. Therefore GSOC decided, at a certain point, that further investigative steps were not reasonably practicable. The Judge subsequently conducted further enquiries, and has drawn more definite conclusions than GSOC's own investigation, with regard to two out of three of the anomalies.

While the report says that our recourse to section 102(4) of the Garda Síochána Act (2005) may possibly have been premature, that opinion should be read, as the report states, "in view of the additional information that has come to light in this Inquiry". We note the clear qualification that "the existing wording is undoubtedly open also to the interpretation hitherto given to it by GSOC".

We note the recommendation that consideration should be given to clarifying certain aspects of the Garda Síochána Act (2005). We are actively engaged in discussions regarding legislative change: we have been calling for examination of that Act for a considerable period of time and have recently made a submission on this to the Joint Oireachtas Committee for Justice & Equality.

We will consider carefully the further recommendations contained in the report in relation to security arrangements. We are happy that the Judge is satisfied that the steps taken by GSOC to rectify security deficiencies that came to light as a result of our investigations are adequate. We agree fully with his recommendation that we should "more frequently carry out a thorough and suitable counter-surveillance examination" of our offices and we plan to do so, in order that complainants and gardaí alike can be fully confident of the security and privacy of data held by GSOC.

ENDS

## **APPENDIX 6: Commission's statement following conclusion of Connaughton Inquiry**

GARDA SÍOCHÁNA OMBUDSMAN COMMISSION  
PRESS RELEASE

10 September, 2014  
15:00hrs

### **Report of a fact-finding investigation into the possible disclosure of confidential information from within GSOC**

The Garda Síochána Ombudsman Commission has received the report of a fact-finding investigation into the circumstances in which confidential information relating to a security sweep process conducted on the Commission's behalf and the follow up actions taken by the Commission, may have been disclosed to a third party.

The investigation was conducted by Mark Connaughton SC. The report details a thorough examination of the facts. The information which appeared in the public domain was compared with all possible source documents, to establish what specific documents and data seemed to have been available to the journalist and what documents were not; and who may have had access to the documents containing information gleaned by the journalist, internally and externally. The investigation included interviews of any current and previous GSOC staff that the senior counsel saw fit (he records that he received co-operation from all). He also had access to e-mail correspondence; photocopier logs; CCTV recordings; documentation pertaining to investigations; internal policies and procedures; and technical analysis of any mobile phones requested (service provided by a specialist firm).

The report was unable to establish individual responsibility for any disclosure, either on the part of an employee of GSOC or any other party. It concludes that it is difficult to identify what additional information could usefully advance matters, short of obtaining the co-operation of the journalist in question, who declined the invitation.

It is the Ombudsman Commission's view that proportionate measures to try to ascertain the facts have been taken. The Commission agrees with the conclusion that it is difficult to identify any further useful measures. In these circumstances, no further action is intended.

The Ombudsman Commission has taken this matter very seriously and has put in place several measures internally to enhance security of information in relation to GSOC's business, since the emergence of this issue. These include both policy and practice and technical measures.

GSOC has forwarded a copy of the report to the Minister for Justice & Equality, Frances Fitzgerald. GSOC does not intend to publish the report because it contains personal data which is impossible to redact effectively.

ENDS

## APPENDIX 7: Commission's statement following publication of Guerin Report

GARDA SÍOCHÁNA OMBUDSMAN COMMISSION  
PRESS RELEASE

9 May, 2014  
17.30hrs

### **GSOC's position on references to GSOC contained in the Guerin Report, published today, 9 May 2014**

There are several references to GSOC in the report to An Taoiseach on a review of the action taken by the Garda Síochána pertaining to certain allegations made by Sergeant Maurice McCabe, which was published today. The following provides clarification where required on these references.

#### **Sections 1.8 and 18.1 of the report note that it was finalised in the absence of the documentation from GSOC.**

Under the Terms of Reference furnished to Mr Guerin, he was requested to conclude his review within 8 weeks "or as soon as possible thereafter". Therefore, while we were aware of the tight timescale, we were not aware of an exact fixed deadline date.

GSOC had marshalled a good deal of documentation, and this was available prior to the Guerin report being finalised. GSOC did, upon concluding this job of work and reviewing the body of documentation to be provided, come to the decision that it would be, in our view, proper to request certain safeguards (Mr Guerin refers to these as 'appropriate safeguards'), prior to releasing documentation, to assure the protection of the rights of people concerned by the cases in question.

#### **Sections 6.82 – 6.130 describe particular linked investigations by GSOC.**

A complainant referred to in this section has a case currently open with GSOC, which is subject both of an investigation and a judicial review. For this reason we are reluctant to discuss the details of the cases – we must be conscious of our duty to protect the rights of both the complainant and the gardaí in question. In fact, this is one of the key matters which we wished to discuss with Mr Guerin, prior to furnishing our documentation.

#### **Section 18.2 notes that the approach adopted by GSOC in described investigations was ultimately broadly similar to that of the Garda Síochána.**

We are unsure of whether this is a criticism of GSOC or simply an observation. So we take this opportunity to clarify that GSOC investigations are often conducted using policing powers conveyed by the Garda Síochána Act (2005). In such cases, in accordance with the Act, GSOC has "all the powers, immunities and privileges conferred and all the duties imposed on any member of the Garda Síochána...". In other words, GSOC is subject to the same rules in conducting investigations as the gardaí, so it should not be surprising that the approach would be "broadly similar".

The same section notes that the final disciplinary recommendation was "consistent with the Garda approach i.e. that individual members of An Garda Síochána should bear responsibility for their conduct of their own investigations".

Here, we would draw attention to the fact that the Garda Síochána Act (2005), under which we operate, focuses on the conduct of individual members. GSOC agrees strongly that it may often be more appropriate to focus on potential issues within the system. In fact, in our recent submission to the Joint Oireachtas Committee on Justice, Equality & Defence recommending legislative amendments, we have proposed that there should be a re-focusing of the objectives of

police oversight to place greater emphasis on resolving potential policy or systemic issues, rather than simply aiming to apportion blame on individuals for specific actions.

In this regard, we would also draw attention to the fact that the report highlighted that “GSOC did give express consideration to the possibility that disciplinary proceedings may be warranted against supervisory and management officers for neglect of their respective duties in those capacities”.

It is regrettable that Mr Guerin’s inquiry did not have sight of GSOC’s documentation. One GSOC investigation report, which we sent to the Garda Síochána and which was referenced in the Guerin report, is of particular relevance. It recommended disciplinary proceedings against some garda members, but it also clearly highlighted evidence of systemic issues which had come to light during our investigation, as follows:

*“The facts presented in this case highlight a failure in communication, training and direction within the Garda Síochána. There are no specific instructions as to who should carry out the necessary enquiries to enable the court to be fully briefed in relation to the status of a particular defendant. The only conclusion is that this must be the responsibility of the investigating officer. The only written instruction directing Gardaí to carry out background checks on an offender is contained in the Crime Investigation Techniques Manual, and relates to pre-interview enquiries. There is also a requirement for criminal record checks to be carried out for the submission of a DPP file.*

*The system that pertained at the time and remains the practice, allows a case to be presented before the Courts by a Garda member who is not the member in charge of the case. The court presenter may not necessarily be the same court presenter at each adjournment. This has the potential flaw of crucial information being overlooked or not brought to the attention of the Courts at a particular time. I was unable to locate any instructions or guidelines issued to court presenters for 2007.*

*There also appears to be anecdotal evidence, as referenced in the Garda Continual Professional Development manual entitled “Objections to Bail” that members are unaware of what objections they can raise in answer to bail applications (Part 3.41). Although the existence of such a manual is a step in addressing this issue, it is apparent from the submissions provided by the various members that there is still a lack of knowledge as to what a Garda should do when preparing for a bail application. The manual contains no explicit instruction for a Garda to carry out relevant checks when a “serious offence” as defined in the Bail Act 1997 is the subject of a bail hearing.”*

We would also highlight that GSOC has, particularly over the last year, made several recommendations addressing policy and guidance issues to the Garda Síochána. We have included many such recommendations in our Annual Report for 2013, which is currently with the Minister for Justice & Equality.

**Section 20.11 makes the point that organisations must find the means of heeding the voice of people like Sergeant McCabe, who highlight potential serious issues and wrongdoing.**

The report is critical of some agencies and says that the same appears to be true of GSOC. We would like to note in this regard that GSOC has met and corresponded with Sergeant McCabe. However, these meetings and correspondence always took place in the context of the fact that GSOC is expressly prohibited by the Garda Síochána Act (2005) from receiving complaints from serving garda members.

ENDS

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